



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

MIGUEL G. NAVARRETE and
MIGUELITO G. NAVARRETE,
JR.,

Complainants,

- versus -

ATTY. CONSTANTE V.
BRILLANTES, JR.,

Respondent.

A.C. No. 13588

Present:

LEONEN, S.A.J., Chairperson,
LAZARO-JAVIER,
LOPEZ, M.,
LOPEZ, J., and
KHO, JR., JJ.

Promulgated:

JAN 23 2023

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D E C I S I O N

KHO, JR., J.:

Before the Court is an administrative complaint¹ for disbarment filed by complainants Miguel G. Navarrete (Miguel) and Miguelito G. Navarrete, Jr. (Miguelito, Jr.; collectively, complainants) against respondent Atty. Constante V. Brillantes, Jr. (respondent) with the Integrated Bar of the Philippines (IBP) for allegedly violating the 2004 Rules on Notarial Practice (2004 Notarial Rules) and Rules 1.01, 1.02, Canon 1, and Rule 10.01, Canon 10 of the Code of Professional Responsibility (CPR).

¹ Rollo, pp. 2-21.

The Facts

Complainants alleged that on October 30, 2004, respondent drafted, prepared, and notarized a Deed of Real Estate Mortgage² (DREM) in favor of a Willy Sebastian (Sebastian) involving the property co-owned by them (complainants) with their elder brother, Michael Dinno Navarrete (Dinno). They claimed that the DREM was executed without their knowledge and that respondent falsified and made it appear therein that they (complainants) were of legal age when in fact, Miguel was only 15 years old and Miguelito, Jr. was 13 years old at the time of the DREM's execution. Further, complainants alleged that respondent deliberately allowed complete strangers to sign their names as MGN and MGN, Jr., respectively, on the DREM.³

Complainants asserted that respondent's notarization of the DREM served as evidence that he knowingly and deliberately took part in the fraud committed against them by Sebastian. Further, they claimed that respondent defended the fraud committed by Sebastian, respondent's client, before the courts and the offices of our legal system.⁴

In support of their allegations, complainants attached copies of the following documents, among others: (a) Transfer Certificate of Title No. (TCT) T-1077136;⁵ (b) their birth certificates showing that Miguel was born on March 14, 1989, while Miguelito, Jr. was born on May 22, 1991;⁶ (c) the DREM and its Amendment;⁷ (d) TCTs issued in favor of Sebastian;⁸ (e) complainants' respective IDs;⁹ (f) complainants' Joint Reply-Affidavit in the criminal complaint for estafa through falsification they (complainants) filed against respondent;¹⁰ (g) the Community Tax Certificates (CTCs) and IDs presented to respondent as proof of identity of the persons who pretended to be them (complainants) as signatories to the DREM;¹¹ (h) respondent's Comment/Opposition to their Petition for Review with the Department of Justice;¹² and (i) their Amended Complaint and Second Amended Complaint before the trial court in the civil case they filed against Sebastian for the cancellation of the mortgage, extrajudicial foreclosure sale, and title.¹³

In his Answer,¹⁴ respondent denied violating the 2004 Notarial Rules and the CPR, asserting that he in fact ascertained the identities of the persons

² Id. at 26-29.

³ Id. at 954.

⁴ Id.

⁵ Id. at 22-23.

⁶ Id. at 24-25.

⁷ Id. at 26-29.

⁸ Id. at 30-38.

⁹ Id. at 135-136.

¹⁰ Id. at 137-139.

¹¹ Id. at 47-51.

¹² Id. at 167-189.

¹³ Id. at 74-88.

¹⁴ Id. at 425-445.

who appeared before him when he prepared and notarized the DREM by having them present their CTCs and IDs, which he photocopied. Together, these documents confirmed the identities of the persons as Miguel and Miguelito, Jr. and that they were both of legal age. Additionally, respondent claimed that he merely copied the information in the property's TCT which explicitly states that complainants were of legal age.¹⁵

Respondent likewise averred that the persons who appeared before him were in fact accompanied by Miguelito R. Navarette, Sr. (Miguelito, Sr.), complainants' father who introduced the former as his sons, and Dinno, who acknowledged them as his brothers.¹⁶ Respondent likewise pointed out that complainants, together with Miguelito, Sr., Dinno, Alexander R. Navarrete, and Michael Leandro A. Navarrete, executed an Extrajudicial Settlement of Estate¹⁷ in July 2003 where they (complainants) likewise represented themselves as "of legal age" and by virtue of which, TCT No. T-077136 were issued in complainants' and Dinno's names. In this respect, respondent noted that the signatures of the persons who claimed to be Miguel and Miguelito, Jr. in the DREM are similar to complainants' signatures in the said Extrajudicial Settlement of Estate – signatures which complainants never questioned.¹⁸

Moreover, respondent pointed out that it was Atty. Rolando B. Bernardo who notarized the Amended DREM and not him, but complainants did not administratively charge the former.¹⁹ Respondent also claimed that in the civil cases they filed against him and his client, complainants never questioned – in any of the pleadings they filed before the court – the validity of the DREM on the ground that they were minors at the time of its execution.²⁰

Further, respondent asserted that the filing of the administrative complaint was merely an afterthought. In this regard, respondent pointed out that the DREM was executed and notarized on October 20, 2004 or almost twelve (12) years before the filing of the administrative complaint on October 7, 2016. Thus, respondent argued that the filing of the complaint is intended to harass and coerce him to convince his client to amicably settle or withdraw the civil case filed by complainants against his client pending before the Regional Trial Court of Bacoor, Cavite.²¹

Finally, respondent averred that this is the first time that an administrative case had been filed against him in his over 25 years of

¹⁵ Id. at 426-430.

¹⁶ Id. at 427-428.

¹⁷ Id. at 194-196.

¹⁸ Id. at 432.

¹⁹ Id. at 425-426.

²⁰ See Complaint, Amended Complaint, and Second Amended Complaint, id. at 62-64, 74-79, and 80-88, respectively.

²¹ Id. at 426 and 431.

practice.²² He added that at the time of the execution of the DREM, the 2004 Notarial Rules had just been enacted²³ and hence, it was not clear what constituted competent evidence of identity. In this respect, he pointed out that said Rules did not enumerate the documents considered as competent evidence of identity, which was in fact why he required the signatories to present their CTCs and IDs and had them sign the Notarial Register.²⁴

In support thereof, respondent presented copies of the following documents: (a) TCT No. T- 1077136;²⁵ (b) CTCs showing that Miguel was born on March 14, 1981, while Miguelito, Jr. was born on May 22, 1982;²⁶ (c) Affidavits executed by Sebastian and Guadencia P. Zaplan, Sebastian's broker, stating that they, together with complainants and their father, Miguelito, Sr., went to respondent's law office on October 30, 2004 requesting him to prepare and execute the DREM;²⁷ (d) copies of the IDs presented by the persons who claimed to be Miguel and Miguelito, Jr.;²⁸ (e) the DREM and Amendment to the DREM;²⁹ (f) the complaints filed by complainants in the civil case;³⁰ and (g) the Extrajudicial Settlement of Estate.³¹

The IBP Report and Recommendation

In a Report and Recommendation³² dated June 15, 2018, the IBP Investigating Commissioner (IC) recommended that respondent be suspended from the practice of law for six (6) months and that his incumbent notarial commission, if any, be revoked. The IC found that respondent's act of preparing and notarizing the DREM "either without the presence of the affiants or with their forged signatures" confirmed his intent to do falsehood and violate applicable laws.³³

In a Resolution³⁴ dated October 4, 2018, the IBP Board of Governors adopted the above findings and recommendation of the IC with modification, recommending the imposition of the following penalties: (a) suspension from the practice of law for a period of one (1) year, (b) immediate revocation of respondent's notarial commission, if any; and (c) disqualification from being commissioned as a notary public for a period of two (2) years.³⁵

²² Id. at 430.

²³ A.M. No. 02-8-13-SC, effective on August 1, 2004.

²⁴ *Rollo*, p. 437.

²⁵ Id. at 447-450.

²⁶ Id. at 451-452.

²⁷ Id. at 453-460.

²⁸ Id. at 464-465.

²⁹ Id. at 466-469.

³⁰ See Complaint, Amended Complaint, and Second Amended Complaint, id. at 476-478, 486-487, and 491-499, respectively.

³¹ Id. at 194-196.

³² Id. at 953-956. Penned by Commissioner Gilbert L. Macatangay.

³³ Id. at 955.

³⁴ Id. at 951-952.

³⁵ Id. at 951.

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In an Extended Resolution³⁶ dated July 3, 2022, the IBP Board of Governors explained the modified penalty, declaring that complainants were minors at the time of the execution of the DREM and what were presented as competent proofs of identity, as indicated in the acknowledgment portion, were mere CTCs. While respondent claimed that he required the signatories to the DREM to present valid proofs of identification, *i.e.*, IDs issued by the University of Perpetual Help of Rizal and MRN Construction, the pictures in these IDs are those of matured persons, not those of then minors Miguel and Miguelito, Jr. Evidently, respondent violated the 2004 Notarial Rules when he performed a notarial act without requiring from the signatories therein the presentation of competent evidence of identity, as defined under Section 12 therein.³⁷

The Issue Before the Court

The sole issue for the Court's resolution is whether or not grounds exist to hold respondent administratively liable in this case.

The Court's Ruling

The Court affirms and adopts the findings and recommendations of the IBP with modifications, as will be explained hereunder.

Time and again, the Court has emphasized that “notarization is not an empty, meaningless or routinary act, but one invested with substantive public interest. Notarization converts a private document into a public document, making it admissible in evidence without further proof of its authenticity. Thus, a notarized document is, by law, entitled to full faith and credit upon its face. It is for this reason that a notary public must observe with utmost care the basic requirements in the performance of his notarial duties; otherwise, the public's confidence in the integrity of a notarized document would be undermined.”³⁸ In this light, the Court has ruled that notaries must inform themselves of the facts they certify to; most importantly, they should not take part or allow themselves to be part of illegal transactions.³⁹

In this regard, the 2004 Rules on Notarial Practice provides that a notary public should not notarize a document unless the signatory to the document is in the notary's presence personally at the time of the notarization, ***and personally known to the notary public or otherwise identified through***

³⁶ Id. at 957-961. Penned by CBD Task Force Commissioner Roland B. Beltran.

³⁷ Id. at 958-960.

³⁸ *Triol v. Agcaoli, Jr.*, 834 Phil. 154, 158 (2018) [Per J. Perlas-Bernabe, *En Banc*], citing *Vda. de Miller v. Miranda*, 772 Phil. 449, 455 (2015) [Per J. Perlas-Bernabe, First Division].

³⁹ Id. at 159.

competent evidence of identity.⁴⁰ Section 12, Rule II of the same rules defines “competent evidence of identity” as follows:

Section 12. *Competent Evidence of Identity.* – The phrase “competent evidence of identity” refers to the identification of an individual based on:

- (a) at least **one current identification document issued by an official agency bearing the photograph and signature of the individual;**⁴¹ or
- (b) the oath or affirmation of one credible witness not privy to the instrument, document or transaction who is personally known to the notary public and who personally knows the individual, or of two credible witnesses neither of whom is privy to the instrument, document or transaction who each personally knows the individual and shows to the notary public documentary identification. (Emphases and underscoring supplied)

Evidently, based on these Rules, notaries public should not notarize a document unless the person who signed the same is the very person who executed and personally appeared before them to attest to the contents and the truth of what are stated therein. This requirement, in turn, is fulfilled by the presentation by the attesting person of competent evidence of identity.

In this case, respondent was duly found by the IBP to have been remiss in the faithful observance of his duties as a notary public when he failed to properly confirm the identity of the persons claiming to be Miguel and Miguelito, Jr. through the competent evidence of identity required by the 2004 Notarial Rules. Case law settles that a community tax certificate or *cedula* is no longer considered as a valid and competent evidence of identity not only because it is not included in the list of competent evidence of identity under the Rules; even more, **a CTC does not bear the photograph and signature of the persons appearing before them** – requirements which the 2004 Notarial Rules deem as the more appropriate and competent means by which notaries public can ascertain the person’s identity.⁴²

⁴⁰ See Section 2 (b), Rule IV of the 2004 Notarial Rules.

⁴¹ Rule II, Section 12 was eventually amended by A.M. No. 02-8-13-SC on February 19, 2008. It now specifically enumerates the acceptable identification documents, *viz.*:

Section 12. *Competent Evidence of Identity.* – The phrase “competent evidence of identity” refers to the identification of an individual based on:

- (a) at least one current identification document issued by an official agency bearing the photograph and signature of the individual, such as but not limited to, passport, driver's license, Professional Regulations Commission ID, National Bureau of Investigation clearance, police clearance, postal ID, voter's ID, Barangay certification, Government Service and Insurance System (GSIS) e-card, Social Security System (SSS) card, Philhealth card, senior citizen card, Overseas Workers Welfare Administration (OWWA) ID, OFW ID, seaman's book, alien certificate of registration/immigrant certificate of registration, government office ID, certification from the National Council for the Welfare of Disabled Persons (NCWDP), Department of Social Welfare and Development (DSWD) certification; or
- (b) x x x x.

⁴² *Heirs of Herminigildo A. Unite v. Guzman*, 834 Phil. 724, 731 (2018) [Per J. Perlas-Bernabe, Second Division]; and *Dandoy v. Endayan*, 832 Phil. 132, 140 (2018) [Per J. Perlas-Bernabe, Second Division].

Indeed, the records plainly show that complainants were still minors at the time of the execution of the DREM on October 30, 2004. Hence, they could not have been the persons who appeared before respondent and represented themselves as Miguel and Miguelito, Jr., to sign and execute the DREM. Had respondent been more circumspect in performing his duties and asked for identification documents issued by an official agency bearing their photograph and signature as required by the 2004 Notarial Rules, he would have immediately discovered that the persons before him were not the persons whom they purported to be. Thus, by accepting the CTCs presented by the persons who claimed to be complainants as evidence of identity, respondent made it appear that complainants personally appeared before him and subscribed the DREM in violation of the 2004 Notarial Rules.

Notably, while respondent claimed to have further verified the identity of the persons who represented themselves as Miguel and Miguelito, Jr. by asking them to present their respective IDs, it bears pointing out that the IDs presented by them were issued by mere private institutions, *i.e.*, the University of Perpetual Help of Rizal and MRN Construction, and hence, not the identification documents issued by an official agency required by the 2004 Notarial Rules.

Moreover, it bears pointing out that the statements made by Miguelito, Sr. and Dinno as regards the identity of the persons who claimed to be complainants likewise do not comply with the 2004 Notarial Rules' requirements on competent evidence of identity. Section 12 clearly states that the credible witness/es making the oath as to the identity of the individual subscribing the document must: *(a) not be a privy to the document, etc.; (b) personally know/s the individual/s subscribing; and (c) either (i) be personally known to the notary public, or (ii) show to the notary public a photograph-and-signature-bearing identification document issued by an official agency.*

Here, Dinno was privy to the DREM, and the records are bereft of any evidence showing that the other witnesses to the document were personally known to respondent or had shown to respondent the documentary identification that the 2004 Notarial Rules require.

Verily, under the facts and circumstances of this case, and given the clear and explicit requirements of the 2004 Notarial Rules, it is quite surprising to the Court that respondent still failed to comply with the foregoing mandates despite his admission that said Rules were already in effect at the time the DREM was executed and notarized. It bears stressing that under the 2004 Notarial Rules, **the identification document that must be presented must (i) be issued by an official agency and (ii) bear the photograph and signature of the individual.**

On this score, it is well to note that in the realm of legal ethics, a breach of the Notarial Rules would generally also constitute a violation of the CPR, considering that an erring lawyer who is found to be remiss in their functions as a notary public is also considered to have violated their oath as a lawyer, particularly, to uphold and obey the law and its legal processes, as well as to do no falsehood nor engage in an unlawful, dishonest, and deceitful conduct.⁴³ Thus, Rule 1.01, Canon 1 and Rule 10.01, Canon 10 of the CPR categorically state:

CANON 1 – A LAWYER SHALL UPHOLD THE CONSTITUTION, OBEY THE LAWS OF THE LAND AND PROMOTE RESPECT FOR LAW AND LEGAL PROCESSES.

Rule 1.01 – A lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct.

x x x x

CANON 10 – A LAWYER OWES CANDOR, FAIRNESS AND GOOD FAITH TO THE COURT.

Rule 10.01 – A lawyer shall not do any falsehood, nor consent to the doing of any in court; nor shall he mislead, or allow the Court to be misled by any artifice. (Emphases and underscoring supplied)

The foregoing notwithstanding, the Court finds that respondent's actions were tempered by the fact that the duplicate copy of TCT No. T-1077136 under the names of complainants and Dinno, and from which respondent obtained the pertinent information needed for the preparation of the DREM, explicitly stated that complainants were of legal age. Thus, there was nothing in the said title that could have put respondent on notice that complainants, the part owners of the property, were still minors at the time of the DREM's execution and could not have been the same persons appearing before him to execute it – more so since Miguelito, Sr., complainants' father, and Dinno, complainants' brother, with whom they co-owned the property, ostensibly confirmed the identity of the persons who appeared before respondent as complainants. Further, the signatures of complainants in the Extrajudicial Settlement of Estate – wherein they were likewise represented as "of legal age" – uncontestably appeared to be the same. Finally, it bears noting that based on the available records, this is the first time that respondent had been administratively charged for violation of the 2004 Notarial Rules, as well as the CPR, in his over 25 years of practice. Consequently, under these circumstances, while it is evidently clear that respondent failed to comply with the law and its legal processes, the Court is hard-pressed to conclude that respondent engaged in unlawful, dishonest, immoral, or deceitful conduct so as to hold him liable for violating Rule 1.01, and Rule 10.01, Canon 10 of the CPR.

⁴³ *Triol v. Agcaoil, Jr.*, supra note 38, at 159; citations omitted.

In sum, the Court finds that respondent violated the 2004 Notarial Rules when he notarized documents without ascertaining the identity of the persons who sought for such notarization. Verily, respondent's actions undermined the integrity of the office of a notary public and degraded the function of notarization, as well as caused damage to those directly affected by the same. As such, it is only proper that he be administratively sanctioned.⁴⁴

As to the proper penalty to be imposed on respondent, prevailing jurisprudence⁴⁵ instructs that an erring lawyer who violates the 2004 Notarial Rules must be meted with the following penalties: (a) immediate revocation of their notarial commission, if any; (b) disqualification from being commissioned as notary public for two (2) years; and (c) suspension from the practice of law for six (6) months. Guided by the foregoing and to serve as a reminder to notaries public to observe with utmost care the basic requirements in the performance of their duties, the imposition of the penalties of suspension from the practice of law for a period of six (6) months, disqualification from being commissioned as a notary public for two (2) years, and revocation of the existing commission, if any, against respondent are only just and proper under the circumstances.⁴⁶

ACCORDINGLY, the Court finds respondent Atty. Constante V. Brillantes, Jr. **GUILTY** of violating the 2004 Rules on Notarial Practice. He is hereby **SUSPENDED** from the practice of law for a period of six (6) months effective upon receipt of this Decision. Moreover, his notarial commission, if any, is hereby **IMMEDIATELY REVOKED**, and he is **DISQUALIFIED** from being commissioned as a notary public for a period of two (2) years. He is **STERNLY WARNED** that a repetition of the same offense or similar acts in the future shall be dealt with more severely.

The suspension from the practice of law, the disqualification from being commissioned as notary public, and the revocation of his notarial commission, if any, shall take effect immediately upon receipt of this Decision by respondent. He is **DIRECTED** to immediately file a Manifestation to the Court that his suspension has started, copy furnished all courts and quasi-judicial bodies where he has entered his appearance as counsel.

Let copies of this Decision be furnished to the Office of the Bar Confidant to be appended to respondent's personal record as an attorney; the

⁴⁴ Id. at 161.

⁴⁵ See the following cases where the Court imposed similar penalty for similar violation of the 2004 Rules on Notarial Practice: *Uy v. Apuhin*, 839 Phil. 708 (2018) [Per J. Caguioa, Second Division]; *Malvar v. Baleros*, 807 Phil. 16 (2017) [Per J. Reyes, Third Division]; *Ko v. Uy-Lampasa*, A.C. No. 11584 (Formerly CBD Case No. 12-3604), March 6, 2019 [Per J. Caguioa, Second Division]; *Heir of Herminigildo Unite v. Guzman*, 834 Phil. 724 (2018) [Per J. Perlas-Bernabe, Second Division]; and *Ong v. Bihis*, A.C. No. 13054 (Formerly CBD Case No. 07-2039), November 23, 2021 [Per J. Caguioa, First Division].


⁴⁶ *Triol v. Agcaoli, Jr.*, supra note 38, at 162.

Integrated Bar of the Philippines for its information and guidance; and the Office of the Court Administrator for circulation to all courts in the country.

SO ORDERED.


ANTONIO T. KHO, JR.
Associate Justice

WE CONCUR:


MARVIC M.V.F. LEONEN
Senior Associate Justice
Chairperson


AMY C. LAZARO-JAVIER
Associate Justice


MARIO V. LOPEZ
Associate Justice


JHOSEP V. LOPEZ
Associate Justice

Atcho