



REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
Manila

SECOND DIVISION

**NOTICE**

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **22 June 2020** which reads as follows:*

**“A.C. No. 11146 (*Juliet W. Prieto v. Atty. Carlos M. Taminaya*)** –Juliet W. Prieto (complainant) filed a verified complaint<sup>1</sup> against the respondent, Atty. Carlos M. Taminaya (respondent), before the Commission on Bar Discipline (CBD) of the Integrated Bar of the Philippines (IBP) seeking his disbarment for representing conflicting interests and for violating the Rules of Notarial Practice (Notarial Rules).

***Version of the Complainant***

Complainant alleged that sometime in 1998, she hired respondent as legal adviser and counsel of her then business Diamond Ace Glass Supply and Aluminum Trading (Diamond Ace). As legal counsel for Diamond Ace, complainant claimed that respondent prepared the following pleadings and/or position papers, to wit:

1. Complaint-Affidavit for Reckless Imprudence Resulting in Damage to Property against Pedro R. Javierfer;
2. Answer in NLRC Case No. 01-07-04-160-98, *Jose Mararac v. Diamond Ace and/or Juliet Prieto*, dated December 22, 1998;
3. Supplemental Position Paper in the same NLRC case abovementioned, dated June 12, 1998;
4. Position Paper in NLRC Case No. 1-7-1-0019-03, *Fortunato Meneses v. Diamond Ace and/or Jhonny Prieto*, dated April 2, 2003;
5. Affidavit of Perlita C. Veloria in support of Position Paper in no. 3, also dated April 2, 2003;
6. Supplemental Position Paper in NLRC Case No. 1-7-10-0182-2008 D.C., dated December 10, 2008;
7. Manifestation in NLRC Case No. 1-7-10014-2000, *Danny LBoy B. Biason v. Diamond Ace and/or Julieta W. Prieto*, dated May 12, 2002;
8. Position Paper in the same NLRC Case No. 1-7-0014-2000, dated

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<sup>1</sup> *Rollo*, pp. 3-5.

March 20, 2000.

Complainant maintained that the above documents were all signed before the respondent in Dagupan City, which was outside the jurisdiction of his office, and not in San Carlos City as the documents purported to show. Moreover, complainant claimed that the said documents were not sworn to contrary to what appeared thereon.<sup>2</sup>

Complainant further alleged that while the attorney-client relationship between her and the respondent was still subsisting, respondent allegedly orchestrated the filing of an illegal dismissal case by 14 of her former employees against Diamond Ace in violation of the trust and confidence reposed upon him as her counsel.<sup>3</sup>

Lastly, complainant asserted that respondent was guilty of malpractice or unauthorized private practice since the latter was with the government service as a lawyer in the Public Attorney's Office (PAO) and later on as an Assistant Prosecutor with the Department of Justice (DOJ) when he accepted and rendered legal service to complainant for a fee without the authority or permission of the DOJ.<sup>4</sup>

#### *Version of the Respondent*

In his Answer,<sup>5</sup> respondent admitted that he was hired in 1998 as legal adviser of Diamond Ace.<sup>6</sup> However, in his Position Paper,<sup>7</sup> he subsequently denied having rendered legal services for complainant. Respondent claimed that he only administered her oath as a Public Prosecutor. He justified that as a Public Prosecutor, it was his duty to administer oaths after ascertaining the identity of the person before him and the signature in the document presented to him.

Respondent further claimed that he had already retired from government service when he acted as counsel for Diamond Ace's 14 former employees. He averred that he represented these former employees since one of them was his nephew.<sup>8</sup>

On September 27, 2011, complainant filed the present disbarment case before the IBP for malpractice, representing conflicting interests and for violating the Notarial Rules.

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<sup>2</sup> Id. at 109.

<sup>3</sup> Id. at 4.

<sup>4</sup> Id. at 109.

<sup>5</sup> Id. at 28-29.

<sup>6</sup> Id. at 28.

<sup>7</sup> Id. at 134-136.

<sup>8</sup> Id. at 28.



***Report and Recommendation of the IBP***

In his Report and Recommendation<sup>9</sup> dated May 16, 2014, Investigating Commissioner Eduardo Q. Ang, Jr. (Investigating Commissioner) found that respondent did not engage in unauthorized practice of law. The Investigating Commissioner noted that:

Unfortunately, the evidence presented failed to disclose when Atty. Taminaya was employed as a PAO lawyer and as a Prosecutor, and when his employment was terminated. There may be issues as to the propriety of Atty. Taminaya in notarizing documents not directly related to his functions as prosecutor but then, the documents presented only [show] that he notarized the same in his capacity as prosecutor. x x x<sup>10</sup>

Moreover, the Investigating Commissioner found no evidence to establish that respondent acted as complainant's attorney. He observed that

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There was no direct evidence that would point to Atty. Taminaya as counsel for Prieto. The mere act of notarizing one's document does not automatically make the notary public his or her counsel.<sup>11</sup>

The Investigating Commissioner concluded that since respondent did not act as complainant's counsel, the former could not have violated the conflict of interest rule.

With regard to the issue of violation of the Notarial Rules, the Investigating Commissioner observed that respondent never denied complainant's allegations that he notarized the subject documents in Dagupan City, a place outside the jurisdiction of his notarial commission in San Carlos City. The Investigating Commissioner found that respondent violated Rule IV, Section 2 of the Notarial Rules which prohibit a notary public from performing a notarial act outside his regular place of work or business.

The Investigating Commissioner recommended that respondent be suspended from Notarial Practice for a period of two (2) years.

In Resolution No. XXI-2015-188<sup>12</sup> dated February 21, 2015, the IBP Board of Governors adopted and approved the report and recommendation of the Investigating Commissioner, with modification in that aside from disqualifying respondent from being commissioned as Notary Public for two (2) years, respondent should also be suspended from the practice of law for three (3) months.

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<sup>9</sup> Id. at 160-164.

<sup>10</sup> Id. at 163.

<sup>11</sup> Id.

<sup>12</sup> Id. at 158.

### *Our Ruling*

After a careful review of the records, the Court adopts the findings of the IBP with modification as to the recommended penalty.

Time and again, the Court has held that the act of notarizing a document is not a mechanical, empty, and meaningless act. In *Spouses Frias v. Abao*,<sup>13</sup> we held that:

It is invested with substantive public interest that only those who are qualified or authorized may act as notaries public. It must be emphasized that the act of notarization by a notary public converts a private document into a public document making that document admissible in evidence without further proof of authenticity. A notarial document is by law entitled to full faith and credit upon its face, and for this reason, notaries public must observe with utmost care the basic requirements in their duties.

In the present case, respondent was found to have notarized documents outside the territorial jurisdiction of his commission. It was established that respondent notarized documents in Dagupan City outside his jurisdiction in San Carlos City in violation of the Notarial Rules.

Rule IV, Section 2 of the Notarial Rules provides:

Rule IV Powers and Limitations of Notaries Public

x x x x

Section 2. Prohibitions. –

- (a) A notary public shall not perform a notarial act outside his regular place of work or business; provided, however, that on certain exceptional occasions or situations, a notarial act may be performed at the request of the parties in the following sites located within his territorial jurisdiction:
- (1) public offices, convention halls, and similar places where oaths of office may be administered;
  - (2) public function areas in hotels and similar places for the signing of instruments or documents requiring notarization;
  - (3) hospitals and other medical institutions where a party to an instrument or document is confined for treatment; and
  - (4) any place where a party to an instrument or document requiring notarization is under detention.
- (b) A person shall not perform a notarial act if the person involved as

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<sup>13</sup> A.C. No. 12467, April 10, 2019.



signatory to the instrument or document –

- (1) is not in the notary's presence personally at the time of the notarization; and
- (2) is not personally known to the notary public or otherwise identified by the notary public through competent evidence of identity as defined by these Rules.

While there are exceptions to this rule as listed above, none is applicable to respondent's case. Respondent clearly violated the Notarial Rules against notarizing documents outside of his regular place of work or business.

The Court has always stressed that lawyers should not engage in unlawful or dishonest conduct. This is explicitly proscribed by Rule 1.01, Canon 1 of the Code of Professional Responsibility (CPR).<sup>14</sup> Respondent thus violated Canon 1, which commands a lawyer to obey the laws, specifically the Notarial Rules in this case, when he notarized documents outside his territorial jurisdiction. By making it appear that he was properly commissioned in Dagupan City when he was in fact not, he committed a deliberate falsehood which is also proscribed by Rule 1.01 of the CPR.

The Court had already disciplined a number of lawyers for notarizing documents outside their territorial jurisdiction or with an expired license. In *Laquindanum v. Quintana*,<sup>15</sup> the Court suspended a lawyer for six (6) months and was disqualified from being commissioned as notary public for a period of two (2) years because he notarized documents outside the area of his commission, and with an expired commission.

**ACCORDINGLY**, the Court finds respondent Atty. Carlos M. Taminaya **GUILTY** of violation of the 2004 Rules of Notarial Practice and the Code of Professional Responsibility. The Court hereby (1) **SUSPENDS** him from the practice of law for six (6) months; (2) **REVOKES** his incumbent commission as notary public, if any; and (3) **PROHIBITS** him from being commissioned as notary public for a period of two (2) years. He is **WARNED** that a repetition of the same or similar acts will be dealt with more severely.

The suspension in the practice of law, revocation of notarial commission, and disqualification from being commissioned as a notary public shall take effect immediately upon receipt of this Resolution by respondent Taminaya. He is **DIRECTED** to immediately file a Manifestation to the Court that his suspension has started, copy furnished

<sup>14</sup> Rule 1.01 - A lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct.

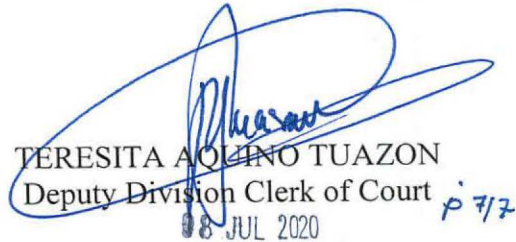
<sup>15</sup> 608 Phil. 727-739 (2009).

all courts and quasi-judicial bodies where he has entered his appearance as counsel.

Let copies of this Resolution be furnished the Office of the Bar Confidant to be appended to respondent Taminaya’s personal record as an attorney, the 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.”** (Gaerlan, J., on leave)

Very truly yours,



TERESITA AQUINO TUAZON  
Deputy Division Clerk of Court  
08 JUL 2020 P 7/7

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