



Republic of the Philippines
Supreme Court
 Manila

FIRST DIVISION

RE: RESOLUTION* DATED A.C. No. 11889
AUGUST 30, 2017 IN OMB-C-C- [Formerly CBD Case No. 18-
13-0357, ETC., 5671]

Complainant,

Present:

- versus -

GESMUNDO, C.J., *Chairperson*
 HERNANDO,**

ATTY. EDITHA P. TALABOC, ZALAMEDA,
ATTY. DELFIN R. AGCAOILI, ROSARIO, and
JR., and ATTY. MARK S. MARQUEZ, JJ.
OLIVEROS,

Respondents. **Promulgated:**

NOV 13 2024

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DECISION

ROSARIO, J.:

This disciplinary action stemmed from the alleged irregular notarization of various documents subject of criminal complaints for plunder; violation of Republic Act No. 3019,¹ Republic Act No. 6713,² Republic Act No. 9184,³ and Article 172⁴ of the Revised Penal Code; and malversation

* Erroneously indicated as "Resolution" instead of "Joint Order." See rollo, p. 44.

** On official business.

¹ Republic Act No. 3019 (1960), Anti-Graft and Corrupt Practices Act.

² Republic Act No. 6713 (1989), Code of Conduct and Ethical Standards for Public Officials and Employees.

³ Republic Act No. 9184 (2003), Government Procurement Reform Act.

⁴ REV. PEN. CODE, art. 172 states:

ARTICLE 172. *Falsification by Private Individuals and Use of Falsified Documents.* — The penalty of *prisión correccional* in its medium and maximum periods and a fine of not more than [Php 1 million] shall be imposed upon:

1. Any private individual who shall commit any of the falsifications enumerated in the next preceding article in any public or official document or letter of exchange or any other kind of commercial document; and

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through falsification of documents against several persons, including respondents, Atty. Editha P. Talaboc (Atty. Talaboc), Atty. Delfin R. Agcaoili, Jr. (Atty. Agcaoili), and Atty. Mark S. Oliveros (Atty. Oliveros; Atty. Talaboc et al.), docketed and consolidated as OMB-C-C-13-0357 before the Office of the Ombudsman (OMB).⁵

Complainants⁶ in the case before the OMB alleged:

The MOAs were “notarized” by [Ben Hur Luy (Luy)], who forged the signatures of [Atty. Talaboc et al.] and used their registers, stamps[,] and seals. [Atty. Oliveros], [Janet Lim Napoles’s (JLN)] wedding godson, was aware of the use of his name, register[,] and seal, and JLN paid for his “services” in cash or checks issued in his name. On the other hand, the names, registers, stamps[,] and seals of [Atty. Talaboc] and [Atty. Agcaoili] were provided by one Tess Rodino. JLN issued checks in the names of the latter two notaries public which were picked up by Tess Rodino and/or her husband.⁷

.....

In blatant violation of the rules on notarial practice, [Attys. Talaboc, Agcaoili, and Oliveros] allowed, for a fee, the use of their notarial seals, stamps, and registers and the forging of their signatures in documents used for the release and liquidation of the [PHP 900 million] Malampaya Fund.⁸

In the Joint Resolution⁹ recommending that disciplinary action be taken against Atty. Talaboc et al. for violation of the rules on notarial practice (Complaint), the OMB made the following pronouncement:

[Atty. Talaboc et al.] did not notarize the documents used in the request and release of the PHP 900 million Malampaya Fund, as proven by the testimony of the witnesses. There is likewise insufficient proof that they had knowledge or were part of the scheme. They should, however, be recommended for disciplinary action to the Supreme Court of the

2. Any person who, to the damage of a third party, or with the intent to cause such damage, shall in any private document commit any of the acts of falsification enumerated in the next preceding article.

Any person who shall knowingly introduce in evidence in any judicial proceeding or to the damage of another or who, with the intent to cause such damage, shall use any of the false documents embraced in the next preceding article or in any of the foregoing subdivisions of this article, shall be punished by the penalty next lower in degree.

⁵ *Rollo*, pp. 642–643.

⁶ The complainants in OMB-C-C-13-0357 are the National Bureau of Investigation, represented by Medardo De Limos, Levito D. Baligod, and Lourdes P. Benipayo.

⁷ *Rollo*, p. 90.

⁸ *Id.* at 99–100.

⁹ *Id.* at 74–207. The December 19, 2016 Joint Resolution in OMB-C-C-13-0357 was signed by the Special Panel per Ombudsman Office Order No. 616, Series of 2014, composed of Acting Director and Chairperson Maricel M. Marcial-Oquendo, Graft Investigation & Prosecution Officer III and Member Anjuli Larla A. Tan-Eneran, Graft Investigation & Prosecution Officer II and Member Voltaire B. Africa, and Graft Investigation & Prosecution Officer II and Member Expedito O. Allado, Jr., and approved by Ombudsman Conchita Carpio Morales.

Philippines, through the Office of the Bar Confidant, for violating the rules on notarial practice when they allowed the use of their signatures, notarial seals, and notarial registers in return for a fee or retainer.¹⁰

Motions for reconsideration of the foregoing Joint Resolution were filed, which the OMB resolved in its Joint Order.¹¹ The recommendation that disciplinary action be taken against Atty. Talaboc et al. for violation of the rules on notarial practice was reiterated.¹²

Accordingly, copies of the Joint Resolution and Joint Order of the OMB, as well as certified photocopies of pertinent documents, were forwarded to this Court through the Office of the Bar Confidant.¹³ In the Court's Resolution,¹⁴ the matter was referred to the IBP for investigation, report, and recommendation.¹⁵

The IBP-CBD ordered Atty. Talaboc et al. to submit their respective answers to the OMB's Complaint,¹⁶ but only Atty. Agcaoili submitted an Answer.¹⁷

A Notice of Mandatory Conference¹⁸ scheduled on December 3, 2019 was sent to the parties, but only counsel for the OMB appeared on said date and submitted its Mandatory Conference Brief.¹⁹ The mandatory conference was reset to January 28, 2019.²⁰ Atty. Talaboc moved to reset the conference to February 25, 2019.²¹ On the rescheduled mandatory conference held on March 4, 2019, counsel for the OMB appeared, and on the part of the respondents, only Atty. Agcaoili was present. Considering the absence of Atty. Talaboc and Atty. Oliveros, and the denial made by Atty. Agcaoili, the mandatory conference was terminated and Atty. Talaboc et al. were required

¹⁰ *Id.* at 153.

¹¹ *Id.* at 39–73. The August 30, 2017 Joint Order in OMB-C-C-13-0357 was signed by the Special Panel per Ombudsman Office Order No. 616, Series of 2014, composed of Acting Director and Chairperson Maricel M. Marcial-Oquendo, Acting Director and Member Joefferon B. Toribio, Graft Investigation & Prosecution Officer III and Member Anjuli Larla A. Tan-Eneran, Graft Investigation & Prosecution Officer II and Member Voltaire B. Africa, and Graft Investigation & Prosecution Officer II and Member Expedito O. Allado, Jr., and approved by Ombudsman Conchita Carpio Morales.

¹² *Id.* at 69.

¹³ *Id.* at 37.

¹⁴ *Id.* at 208–209. The Notice of the January 31, 2018 Resolution was signed by Misael Domingo C. Battung III, Deputy Division Clerk of Court, Third Division.

¹⁵ *Id.*

¹⁶ *Id.* at 211. The June 13, 2018 Order in CBD Case No. 18-5671 was issued by Commissioner Jose V. Cabrera of the Commission on Bar Discipline, Integrated Bar of the Philippines.

¹⁷ *Id.* at 213–214.

¹⁸ *Id.* at 222–223. The October 26, 2018 Notice of Mandatory Conference in CBD Case No. 18-5671 was issued by Commissioner Jose V. Cabrera of the Commission on Bar Discipline, Integrated Bar of the Philippines.

¹⁹ *Id.* at 221. Minutes of the Hearing dated December 3, 2018; 225–232. Mandatory Conference Brief for the Office of the Ombudsman.

²⁰ *Id.* at 224. Minutes of the Hearing dated December 3, 2018.

²¹ *Id.* at 234–236. Respectful Motion to Re-set Hearing (Set on January 28, 2019 at 9:00 [a.m.]).

to submit their respective verified position papers within a non-extendible period of 10 days from March 4, 2019.²²

In its Position Paper,²³ the OMB alleged that Talaboc et al. should be held administratively liable for violation of the 2004 Rules on Notarial Practice²⁴ (Notarial Rules) for the following reasons: (1) Atty. Talaboc et al., who were commissioned notaries public in 2009 and 2010, with the exception of Atty. Agcaoili, performed notarial acts outside their place of work or business by allowing these acts to be performed on their behalf by employees at JLN Corporation Office, using their stamps, seals, registers, and specimen signatures, in contravention of Rule IV, Section 2(a)²⁵ of the Notarial Rules; (2) they allowed such notarial acts to be performed even without the signatories of the said documents appearing personally before them, and considering that the proofs of identities as appearing in the notarized documents were merely Community Tax Certificates (*cedula*), Atty. Talaboc et al. violated Rule IV, Section 2(b)²⁶ of the Notarial Rules; and (3) Atty. Talaboc et al. profited from the said scheme despite their notarial acts being unlawful and improper, thereby violating Section 4(a)²⁷ of the Notarial Rules.²⁸

The OMB submitted the following documents in support of its position: (1) copies of the documents allegedly notarized by Atty. Oliveros;²⁹ (2) a list of the documents allegedly notarized by Atty. Talaboc et al. with the names of the signatories and notarization details;³⁰ and (3) Certifications from the respective cities where Atty. Talaboc et al. were commissioned as a notary public.³¹

²² *Id.* at 242–243. The March 4, 2019 Order in CBD Case No. 18-5671 was issued by Commissioner Jose V. Cabrera of the Commission on Bar Discipline, Integrated Bar of the Philippines.

²³ *Id.* at 325–330.

²⁴ SC Administrative Matter No. 02-8-13-SC, August 1, 2004, Re: 2004 Rules on Notarial Practice.

²⁵ NOTARIAL PRAC. RULE, sec. 2(a), states:

SEC. 2. *Prohibitions.* — (a) A notary public shall not perform a notarial act outside his regular place of work or business[.]

²⁶ NOTARIAL PRAC. RULE, sec. 2(b), states:

SEC. 2. *Prohibitions.* —

.....
(b) A person shall not perform a notarial act if the person involved as 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.

²⁷ NOTARIAL PRAC. RULE, sec. 4(a), states:

SEC. 4. *Refusal to Notarize.* — A notary public shall not perform any notarial act described in these Rules for any person requesting such an act even if he tenders the appropriate fee specified by these Rules if:

(a) the notary knows or has good reason to believe that the notarial act or transaction is unlawful or immoral[.]

²⁸ *Rollo*, pp. 645–646.

²⁹ *Id.* at 415–636.

³⁰ *Id.* at 332–391.

³¹ *Id.* at 392–395, 397–398, 404–405.

In his Belated Position Paper (with Apology),³² Atty. Agcaoili denied notarizing the questioned documents. He alleged that in all his notarial acts, he would always ascertain the identities and qualifications of the persons involved in the documents and have them produce valid and authorized identification documents. He also stated that all his notarial paraphernalia were kept in a safe and locked drawer in his office.³³

Atty. Agcaoili averred that in the investigation conducted by the National Bureau of Investigation (NBI) on Luy, to determine who signed above the name “Delfin Agcaoili, Jr.” as notary public, Luy admitted that he was the one who did so.³⁴ Atty. Agcaoili also averred that based on the resolutions of the OMB, it was JLN or Luy who would request one of their employees to prepare a spurious affidavit of loss and present the same to be notarized. After the affidavit of loss has been notarized, the culprit would look for another person who could manufacture/imitate the dry seal and rubber stamp of the notary public.³⁵

Atty. Talaboc filed several motions for extension to file position paper,³⁶ but failed to do so.

Atty. Oliveros did not file any pleading or motion to contradict the charge against him. Records show that all the notices sent to Atty. Oliveros at the address provided by the OMB were returned unserved.³⁷ The IBP then sent its March 4, 2019 Order, directing Atty. Talaboc et al. to file their respective position papers, to Atty. Oliveros’s residence, as appearing in the IBP records.

Report and Recommendation of the IBP Commission on Bar Discipline

In his Report and Recommendation,³⁸ the IBP CBD Investigating Commissioner (Investigating Commissioner) found Atty. Talaboc et al. guilty of violating the Notarial Rules. The recommendation of the Investigating Commissioner reads:

WHEREFORE, premises considered, it is respectfully **RECOMMENDED** that Atty. Editha P. Talaboc, Atty. Delfin R. Agcaoili Jr., and Atty. Mark S. Oliveros be found **GUILTY** of violating the 2004

³² *Id.* at 280–284.

³³ *Id.* at 281–282.

³⁴ *Id.* at 282.

³⁵ *Id.* at 282–283.

³⁶ *Id.* at 247–249, 270–272, 277–279.

³⁷ *Id.* at 212, 218, 223, 240.

³⁸ *Id.* at 642–650. The February 10, 2021 Report and Recommendation in CBD Case No. 18-5671 was penned by Commissioner Lucky M. Damasen of the Commission on Bar Discipline, Integrated Bar of the Philippines, Pasig City.

Rules on Notarial Practice and accordingly they be **SUSPENDED** from the practice of law for a period of [six] months. Likewise, it is also recommended that their notarial commission, if any, be **IMMEDIATELY REVOKED**, and they be **DISQUALIFIED** from being commissioned as notaries public for a period of [two] years.

RESPECTFULLY SUBMITTED.³⁹ (Emphasis in the original)

The Investigating Commissioner noted that there are 95 documents that appeared to have been notarized by Atty. Oliveros, 132 documents by Atty. Talaboc, and 104 documents by Atty. Agcaoili.⁴⁰ In all the questioned documents, only the *cedula* was written as proof of identities of the parties to the documents, while some do not indicate any competent evidence of identity at all.⁴¹

According to the Investigating Commissioner, the findings of the OMB, as encapsulated in its Joint Resolution, will lead a reasonably prudent person to believe that Atty. Oliveros had actual knowledge that his name and notarial details were being used by JLN Corporation, through Luy, to notarize the questionable documents, while Attys. Agcaoili, Jr., and Talaboc were negligent in safekeeping their notarial details.⁴² The Investigating Commissioner concluded that Atty. Talaboc et al. may have allowed JLN Corporation to use their names and notarial details to facilitate the notarization of the questionable documents, in blatant violation of the Notarial Rules.⁴³ Atty. Talaboc et al. even profited from the same, as they were allegedly paid in cash or checks issued in their names.⁴⁴

The Investigating Commissioner held that Atty. Talaboc et al. cannot claim full deniability and be exculpated from administrative liability because the documents notarized in their name bore their notarial seals.⁴⁵ He also found that no justifiable reasons were given by Atty. Talaboc et al. to prove that they performed their mandatory duties as notaries public, as set forth in the Notarial Rules, which include the duty to safeguard their notarial seals to prevent possible tampering or misuse.⁴⁶ According to the Investigating Commissioner, had Atty. Talaboc et al. been more vigilant in the performance of their notarial duties, their notarial seals would not have been affixed in the questioned documents. Their failure to do so constitutes a transgression of the Notarial Rules, for which they must be held administratively liable.⁴⁷

³⁹ *Id.* at 650.

⁴⁰ *Id.* at 647.

⁴¹ *Id.*

⁴² *Id.* at 647-648.

⁴³ *Id.* at 648.

⁴⁴ *Id.*

⁴⁵ *Id.* at 649.

⁴⁶ *Id.* at 649-650.

⁴⁷ *Id.*

*Resolution of the IBP Board of
Governors*

In Resolution No. CBD-XXV-2022-03-21,⁴⁸ passed on March 17, 2022, the IBP Board of Governors resolved as follows:

*RESOLVED, to APPROVE and ADOPT, as it is hereby APPROVED and ADOPTED, the Report and Recommendation of the Investigating Commissioner to impose upon each of Respondents Atty. Editha P. Talaboc, Atty. Delfin Agcaoili Jr., and Atty. Mark S. Oliveros the following penalties: - i) SUSPENSION from the practice of law for Six (6) Months, ii) IMMEDIATE REVOCATION of their Notarial Commissions, if subsisting, and iii) DISQUALIFICATION from being commissioned as a Notary Public for Two (2) Years.*⁴⁹ (Emphasis in the original)

The Court's Ruling

After a judicious review of the records, We set aside the findings and recommendation of the IBP.

In *Tan v. Atty. Alvarico*,⁵⁰ the Court reiterated the ruling that lawyers are presumed to have performed their duties in accordance with their oath and that the complainant has the burden to prove otherwise by substantial evidence:

An attorney enjoys the legal presumption that [they are] innocent of the charges against [them] until the contrary is proved, and that as an officer of the Court, [they are] presumed to have performed [their] duties in accordance with [their] oath. In disbarment proceedings, the quantum of proof is substantial evidence and the burden of proof is on the complainant to establish the allegations in [the] complaint.

Substantial evidence is defined under Section 6, Rule 133 of the 2019 Amendments to the 1989 Revised Rules on Evidence as “that amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion,” while burden of proof is defined under Section 1, Rule 131 as “the duty of a party to present evidence on the facts in issue necessary to establish [their] claim or defense by the amount of evidence required by law.”

The basic rule is that reliance on mere allegations, conjectures and suppositions will leave an administrative complaint with no leg to stand on. Charges based on mere suspicion and speculation cannot be given credence. Thus, failure on the part of complainant to discharge [the] burden of proof by substantial evidence requires no other conclusion than that which stays

⁴⁸ *Id.* at 640–641.

⁴⁹ *Id.*

⁵⁰ 888 Phil. 345 (2020) [Per C.J. Peralta, First Division].

the hand of the Court from meting out a disbarment order.⁵¹ (Citations omitted)

In *Zara v. Atty. Joyas*,⁵² the Court held that mere allegation is not equivalent to proof:

Reliance on mere allegations, conjectures and suppositions will leave an administrative complaint with no leg to stand on. After all, basic is the rule that mere allegation is not equivalent to proof and charges based on mere suspicion, speculation or conclusion cannot be given credence.⁵³

The Court also held in *Kang Tae Sik v. Atty. Tan*⁵⁴ that a lawyer enjoys the legal presumption of innocence until the contrary is proved:

The Court may not simply rely on mere allegations, conjectures, and suppositions in making its ruling. More important, it is well-settled that in disbarment cases, a lawyer enjoys the legal presumption of innocence until the contrary is proved. The burden of proof rests with the complainant who must establish the charges against the lawyer with the requisite quantum of proof, i.e., substantial evidence. In fine, complainant must adduce the amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion.⁵⁵ (Citations omitted)

In *National Bureau of Investigation v. Najera*,⁵⁶ the Court stressed that the burden to establish the charges rests upon the complainant:

The quantum of proof in administrative proceedings necessary for a finding of guilt is substantial evidence or such relevant evidence as a reasonable mind may accept as adequate to support a conclusion. The burden to establish the charges rests upon the complainant. The case should be dismissed for lack of merit if the complainant fails to show in a satisfactory manner the facts upon which [their] accusations are based. The respondent is not even obliged to prove [their] exception or defense.⁵⁷ (Citations omitted)

The Court has further ruled that the failure to answer a complaint is not equivalent to an admission of the allegations therein.⁵⁸

In this case, the OMB failed to discharge its burden of proof.

⁵¹ *Id.* at 355–356.

⁵² 853 Phil. 21 (2019) [Per J. Peralta, Third Division].

⁵³ *Id.* at 24–25.

⁵⁴ A.C. No. 13559, March 23, 2023 [Per J. Lazaro-Javier, Second Division].

⁵⁵ *Id.* at 8. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

⁵⁶ 875 Phil. 748 (2020) [Per J. Lopez, First Division].

⁵⁷ *Id.* at 755.

⁵⁸ *De Ere v. Atty. Rubi*, 378 Phil. 377, 379 (1999) [Per J. Panganiban, Third Division].

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A review of the Joint Resolution of the OMB shows that the portion relied on by the Investigating Commissioner for his recommendation are whistleblowers' statements that are merely the allegations of the complainants in OMB-C-C-13-0357. There is no sufficient proof that respondents Attys. Talaboc, Agcaoili, and Oliveros consented to the use of their signatures, notarial seals, and notarial registers in return for a fee. Notably, despite the allegation that respondents allowed the use of their notarial registers in return for a fee or retainer, no notarial register was presented before the IBP. There is also no proof that respondents received money in exchange for the use of their names, notarial details, and notarial paraphernalia.

Moreover, deficiencies and irregularities in the notarial details on the subject documents cast doubt on the validity of notarial commissions used to notarize the same.

Per the summary of the documents notarized in respondents' names,⁵⁹ the contents of the notarial certificates on the documents notarized in respondent Atty. Talaboc's name⁶⁰ do not contain the serial number of her notarial commission, her office address, her IBP chapter, and the place where her professional tax receipt (PTR) number was issued, in violation of Rule VIII, Section 2⁶¹ of the Notarial Rules.

As for the documents notarized in respondent Atty. Agcaoili's name,⁶² these do not reflect his Roll of Attorneys number, the serial number of his notarial commission, his office address, his IBP chapter, and the place where his PTR number was issued.

The documents notarized in respondent Atty. Oliveros's name⁶³ likewise do not reflect the serial number of his notarial commission and his office address. Some do not also have the expiration date of Atty. Oliveros's notarial commission.

⁵⁹ *Rollo*, pp. 332-391.

⁶⁰ *Id.* at 332-355.

⁶¹ NOTARIAL PRAC. RULE, Rule VIII, sec. 2, states:

SEC. 2. *Contents of the Concluding Part of the Notarial Certificate.* - The notarial certificate shall include the following:

- (a) the name of the notary public as exactly indicated in the commission;
- (b) the serial number of the commission of the notary public;
- (c) the words "Notary Public" and the province or city where the notary public is commissioned, the expiration date of the commission, the office address of the notary public; and
- (d) the roll of attorney's number, the professional tax receipt number and the place and date of issuance thereof, and the IBP membership number.

⁶² *Rollo*, pp. 355-370.

⁶³ *Id.* at 370-391.

There are further irregularities evident in the notarial certificates on the documents notarized by respondents Atty. Agcaoili and Oliveros involving the validity of their notarial commissions.

Notarial commissions are valid for two years, per Rule III, Section 11⁶⁴ of the Notarial Rules.

The notarial certificate on the documents notarized in respondent Atty. Agcaoili's name indicate that his commission was valid until December 31, 2009. However, the Certification⁶⁵ dated March 28, 2019 issued by the Clerk of Court VII of the Regional Trial Court (RTC) of Quezon City states that Atty. Agcaoili was commissioned as a notary public from August 7, 2007 to December 31, 2008. The Clerk of Court further certified that respondent Atty. Agcaoili was not commissioned as a notary public in Quezon City since 2009. The RTC would not have issued a commission for only one year, in violation of the Notarial Rules.

Similarly, some of the documents notarized in respondent Atty. Oliveros's name state that his commission was valid until December 31, 2010. The Certification⁶⁶ dated June 16, 2008 issued by Executive Judge Amelia C. Manalastas of the Pasig City RTC certified that respondent Atty. Oliveros was commissioned as a notary public from June 16, 2008 to December 31, 2009, while the Certification⁶⁷ dated March 8, 2010 issued by 1st Vice-Executive Judge Isagani A. Geronimo of the Pasig City RTC certified that respondent Atty. Oliveros was commissioned as a notary public from March 8, 2010 to December 31, 2011. Further, in these documents allegedly notarized by respondent Atty. Oliveros in 2010, the IBP receipt number and the PTR number are incorrectly indicated⁶⁸ and are dated 2008. This is despite the issuance of IBP Receipt No. 807861⁶⁹ on January 7, 2010 and PTR No. 5941889⁷⁰ on January 19, 2010 in respondent Atty. Oliveros's name.

Considering the foregoing, the validity of the notarial seals and stamps used to notarize the subject documents are similarly doubtful.

⁶⁴ NOTARIAL PRAC. RULE, Rule III, sec. 11, states:

SEC. 11. *Jurisdiction and Term.* - A person commissioned as notary public may perform notarial acts in any place within the territorial jurisdiction of the commissioning court for a period of [two] years commencing the first day of January of the year in which the commissioning is made, unless earlier revoked or the notary public has resigned under these Rules and the Rules of Court.

⁶⁵ *Rollo*, p. 393.

⁶⁶ *Id.* at 395.

⁶⁷ *Id.* at 402.

⁶⁸ *Id.* at 399, see IBP Official Receipt with IBP No. 743972 dated February 4, 2008; 400. PTR No. 4425296 dated February 7, 2008.

⁶⁹ *Id.* at 406.

⁷⁰ *Id.* at 407.

Given these circumstances, it cannot be concluded that respondents were negligent in safekeeping their notarial details. There is nothing preventing others from using respondents' names and requesting that notarial stamps and notarial seals be made using their names. Notaries are not immune from identity theft.

The Court is not unaware of its previous rulings penalizing lawyers who claim that someone else notarized documents in their name. However, in those cases, there are factors proving the lawyer's negligence, such as allowing secretaries full access to the notarial paraphernalia,⁷¹ and appearance of the notarized document in the notarial books.⁷² These factors are not present in this case.

We note that in *Rigon v. Atty. Subia*,⁷³ the Court found Atty. Subia to be negligent in the handling of his affairs as a notary public, further pronouncing as follows:

Indeed, assuming that another person may have forged Atty. Subia's signature, the mere fact that Atty. Subia's notarial seal appears on the document and considering that he failed to deny the authenticity of the same, he bears the accountability and responsibility for the use thereof even if such was done without his consent and knowledge. Furthermore, the perpetrator of the alleged forgery knew of the details of the notarial register of Atty. Subia. Indubitably, there was negligence on the part of Atty. Subia in the handling of his affairs as a notary public.⁷⁴

It must be emphasized that the instant case differs from *Rigon* as there is substantial evidence here that respondents' signatures were forged.

We also note that respondent Atty. Agcaoili was penalized in *Triol v. Atty. Agcaoili*⁷⁵ for notarizing a document without the signatories personally appearing before him and without the requisite notarial commission in 2011.⁷⁶ He was also penalized in *Dionisio, Jr. v. Paderna*⁷⁷ for notarizing a document in 2010 without confirming the identities of the signatories thereof. Unfortunately, it was not established in these cases that respondent Atty. Agcaoili's signature was forged, unlike in this case.

⁷¹ See *Recio v. Atty. Fandiño*, 796 Phil. 289, 298 (2016) [Per J. Jardeleza, Third Division]; *Atty. Angeles, Jr. v. Atty. Bagay*, 749 Phil. 114, 120 (2014) [Per J. Mendoza, Second Division]; *Judge Laquindanum v. Atty. Quinana*, 608 Phil. 727, 737 (2009) [Per C.J. Puno, *En Banc*]; *Sps. Santuyo v. Atty. Hidalgo*, 489 Phil. 257, 261–262 (2005) [Per J. Corona, Third Division].

⁷² *Castelo v. Atty. Ching*, 805 Phil. 130, 139 (2017) [Per J. Caguioa, First Division].

⁷³ 881 Phil. 588 (2020) [Per J. Delos Santos, Second Division].

⁷⁴ *Id.* at 598.

⁷⁵ 834 Phil. 154 (2018) [Per J. Perlas-Bernabe, *En Banc*].

⁷⁶ *Id.* at 160.

⁷⁷ A.C. No. 12673, March 15, 2022 [Per J. Dimaampao, *En Banc*].

The foregoing notwithstanding, the conduct of respondents Attys. Talaboc and Oliveros in the course of the proceedings before the IBP does not escape the Court's attention.

Respondent Atty. Talaboc, despite filing several motions for extension to file an answer, failed to file her answer. Respondent Atty. Oliveros did not also file an answer. Neither of them presented any defense on the complaint against them. Neither did they attend the mandatory conference set by the IBP. Although some of the IBP's directives were returned unserved on respondent Atty. Oliveros, it is presumed that he received the March 4, 2019 Order, pursuant to Rule 131, Section 3(v)⁷⁸ of the Rules of Court. In the absence of any contrary evidence, a letter duly directed and mailed is presumed to have been received in the regular course of mail.⁷⁹

In the recent case of *Kelley v. Atty. Robielos III*,⁸⁰ Atty. Robielos was held liable for violation of Canon III, Section 2⁸¹ of the Code of Professional Responsibility and Accountability⁸² (CPRA) for failing to comply with the directives of the IBP-CBD to file his answer, to attend the required mandatory conferences, and to file his position paper despite due notice.⁸³ For his brazen disregard of the lawful orders and processes of the IBP-CBD, Atty. Robielos was found guilty of a less serious offense under Canon VI, Section 34(c)⁸⁴ of the CPRA, and was fined PHP 35,000.00, pursuant to Canon VI, Section 37(b)⁸⁵ of the same rules.

⁷⁸ RULES OF COURT, Rule 131, sec. 3(v) states:

SEC. 3. *Disputable Presumptions.* — The following presumptions are satisfactory if uncontradicted, but may be contradicted and overcome by other evidence:

(v) That a letter duly directed and mailed was received in the regular course of the mail[.]

⁷⁹ *Valmonte v. Quesada, Jr.*, 867 Phil. 247, 250 (2019) [Per J. Hernando, Second Division].

⁸⁰ A.C. No. 13955, January 30, 2024 [*Per Curiam, En Banc*].

⁸¹ CANON III, sec. 2, states:

Sec. 2. *The responsible and accountable lawyer.* — A lawyer shall uphold the constitution, obey the laws of the land, promote respect for laws and legal processes, safeguard human rights, and at all times advance the honor and integrity of the legal profession.

As an officer of the court, a lawyer shall uphold the rule of law and conscientiously assist in the speedy and efficient administration of justice.

As an advocate, a lawyer shall represent the client with fidelity and zeal within the bounds of the law and the CPRA.

⁸² SC Administrative Matter No. 22-09-01-SC (April 11, 2023), Code of Professional Responsibility and Accountability.

⁸³ *Kelley v. Robielos III*, A.C. No. 13955, January 30, 2024 [*Per Curiam, En Banc*] at 7–8, 10. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

⁸⁴ CANON VI, sec. 34(c) states:

Sec. 34. *Less serious offenses.* — Less serious offenses include:

(c) Violation of Supreme Court rules and issuances in relation to Bar Matters and administrative disciplinary proceedings, including willful and deliberate disobedience of the orders of the Supreme Court and the IBP[.]

⁸⁵ CANON VI, sec. 37(b) states:

Sec. 37. *Sanctions.* —

(b) If the respondent is found guilty of a less serious offense, any of the following sanctions, or a combination thereof, shall be imposed:

For their failure to comply with the IBP's directives, respondents Atty. Oliveros and Talaboc are guilty of violation of Canon III, Section 2 of the CPRA, for which they must be penalized.

Records show that this is Atty. Oliveros's first offense, a mitigating circumstance under Canon VI, Section 38(a)(1)⁸⁶ of the CPRA. Pursuant to Canon VI, Section 39⁸⁷ of the CPRA, if one or more mitigating circumstances and no aggravating circumstances are present, a fine of not less than half of the minimum prescribed under the CPRA may be imposed. Thus, a fine of PHP 17,500.00 is meted on respondent Atty. Oliveros for his failure to comply with the IBP's March 4, 2019 Order.

As for respondent Atty. Talaboc, this marks her third instance of failing to comply with the Court's and the IBP's directives to submit her responsive pleadings. In *Completo v. Talaboc*,⁸⁸ she was fined PHP 10,000.00 for repeatedly failing to heed the Court's directive for her to file her comment on the complaint, despite the fact that she herself even sought additional time to do so. In *Sia Su v. Talaboc*,⁸⁹ she was suspended for three months for her repeated failure to comply with the Court's Resolutions and the IBP's directives. In both cases, Atty. Talaboc was sternly warned that a repetition of the same or similar acts would be dealt with more severely.

Since the aggravating circumstance of previous administrative liabilities is present in respondent Atty. Talaboc's case, the Court may impose the penalties of suspension or fine for a period or amount not exceeding double the maximum prescribed under the CPRA. Thus, the penalty of suspension for six months is imposed on respondent Atty. Talaboc for her

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- (1) Suspension from the practice of law for a period within the range of one (1) month to six (6) months, or revocation of notarial commission and disqualification as notary public for less than two (2) years;
 - (2) A fine within the range of P35,000.00 to P100,000.00.

⁸⁶ CANON VI, sec. 38(a)(1) states:

Sec. 38. *Modifying circumstances.* — In determining the appropriate penalty to be imposed, the Court may, in its discretion, appreciate the following mitigating and aggravating circumstances:

(a) Mitigating circumstances:

- (1) First offense, except in charges of gross misconduct, bribery or corruption, grossly immoral conduct, misappropriating a client's funds or properties, sexual abuse, and sale, distribution, possession and/or use of illegal drugs or substances[.]

⁸⁷ CANON VI, sec. 39 states:

Sec. 39. *Manner of imposition.* — If one (1) or more aggravating circumstances and no mitigating circumstances are present, the Supreme Court may impose the penalties of suspension or fine for a period or amount not exceeding double of the maximum prescribed under this Rule. The Supreme Court may, in its discretion, impose the penalty of disbarment depending on the number and gravity of the aggravating circumstances.

If one (1) or more mitigating circumstances and no aggravating circumstances are present, the Supreme Court may impose the penalties of suspension or fine for a period or amount not less than half of the minimum prescribed under the CPRA.

If there are both aggravating and mitigating circumstances present, the Supreme Court may offset each other.

⁸⁸ A.C. No. 8414 (Notice), February 13, 2023 [Second Division].

⁸⁹ A.C. No. 8538 (Notice), February 17, 2020 [First Division].

failure to comply with the IBP's directives despite being granted extensions and a resetting.

The Court has repeatedly declared that notarization is not an empty, meaningless, routinary act, but is one invested with substantive public interest.⁹⁰ However, with the proliferation of fake notaries public,⁹¹ it behooves the Court, as well as the IBP, to determine a lawyer's liability for alleged violation of Notarial Rules on a case-by-case basis.

Executive Judges of multi-*sala* RTCs and Judges of single-*sala* RTCs are reminded of their duty under the Notarial Rules to closely monitor the activities of notaries public under their administrative jurisdiction.⁹² The IBP is also directed to be more proactive in pursuing fake notaries public.

The Office of the Court Administrator (OCA) is ordered to remind all concerned judges to comply with OCA Circular No. 291-2023,⁹³ which enjoined them to create their own Task Force *Honesto Notario* to monitor notaries public within their respective administrative jurisdictions.

The Executive Judges of the Regional Trial Courts of Manila, Quezon City, and Pasig, where the respondents are allegedly commissioned as notaries public, together with the OCA and the IBP, are tasked to investigate the circumstances surrounding the notarial services rendered in respondents' names.

ACCORDINGLY, the Court **DISMISSES** the administrative complaint against respondent Atty. Delfin R. Agcaoili, Jr. for lack of merit.

Respondent Atty. Editha P. Talaboc is found **GUILTY** of violation of Canon III of the Code of Professional Responsibility and Accountability. She is **SUSPENDED** from the practice of law for six months, effective from the date of her receipt of this Decision. She is **STERNLY WARNED** that a repetition of the same offense or similar act shall be dealt with more severely. She is **DIRECTED** to immediately file a Manifestation to the Court that her

⁹⁰ *Kiener v. Atty. Amores*, 890 Phil. 578, 585 (2020) [Per J. Hernando, Third Division].

⁹¹ Jeffrey Damicog, *IBP urges public to report fake lawyers*, MANILA BULL., August 10, 2020, available at <https://mb.com.ph/2020/08/10/ibp-urges-public-to-report-fake-lawyers/> (last accessed on July 4, 2024); Punto News Team, *CIDG nabs 5 for fake notarial services*, PUNTO! CENTRAL LUZON, February 27, 2024, available at <https://punto.com.ph/cidg-nabs-5-for-fake-notarial-services/> (last accessed on July 4, 2024); Punto News Team, *2 women nabbed for fake notarial services*, PUNTO! CENTRAL LUZON, June 30, 2023, available at <https://punto.com.ph/2-women-nabbed-for-fake-notarial-services/> (last accessed on July 4, 2024).

⁹² NOTARIAL PRAC. RULE, Rule XI, sec. 2, states:

Rule XI, Sec. 2. *Supervision and Monitoring of Notaries Public.* — The Executive Judge shall at all times exercise supervision over notaries public and shall closely monitor their activities.

⁹³ OCA Administrative Circular No. 291-2023, August 18, 2023, Guidelines in Monitoring Strict Compliance to the 2004 Rules on Notarial Practice and Creation of Task Force *Honesto Notario*.

suspension has started, a copy furnished to all courts and quasi-judicial bodies where she has entered her appearance as counsel.

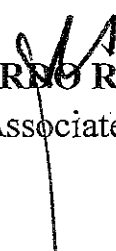
Respondent Atty. Mark S. Oliveros is found **GUILTY** of violation of Canon III of the Code of Professional Responsibility and Accountability. He is **ORDERED** to pay a fine in the amount of PHP 17,500.00 for failure to comply with the directives of the Integrated Bar of the Philippines – Commission on Bar Discipline. He is **STERNLY WARNED** that a repetition of the same offense or similar act shall be dealt with more severely. Payment of the fine shall be made within 10 days from the receipt of this Decision and he is **ORDERED** to submit to the Court proof of his payment within 10 days from payment.

Let copies of this Decision be furnished to the Office of the Bar Confidant, to be appended to the personal records of Atty. Editha P. Talaboc and Atty. Mark S. Oliveros; the Integrated Bar of the Philippines National Office, and the local chapter to which they belong; and the Office of the Court Administrator for dissemination to all courts throughout the country for their guidance and information.

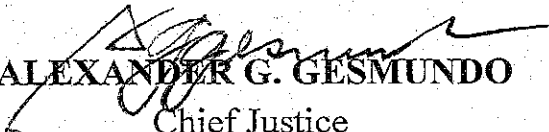
The Office of the Court Administrator is **ORDERED** to remind all concerned judges to comply with OCA Circular No. 291-2023.

The Executive Judges of the Regional Trial Courts of Manila, Quezon City, and Pasig, in cooperation with the Office of the Court Administrator and Integrated Bar of the Philippines, are **ORDERED** to investigate the circumstances surrounding the notarial services rendered in the names of Attys. Editha P. Talaboc, Delfin R. Agcaoili, Jr., and Mark S. Oliveros.

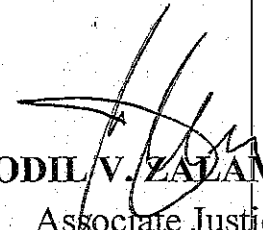
SO ORDERED.

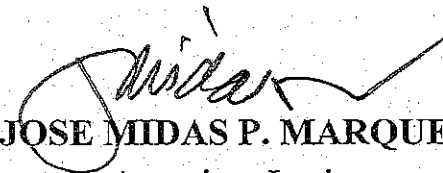

RICARDO R. ROSARIO
Associate Justice

WE CONCUR:


ALEXANDER G. GESMUNDO
Chief Justice
Chairperson

On official business
RAMON PAUL L. HERNANDO
Associate Justice


RODIL V. ZALAMEDA
Associate Justice


JOSE MIDAS P. MARQUEZ
Associate Justice