



Republic of the Philippines  
**Supreme Court**  
Manila

SUPREME COURT OF THE PHILIPPINES  
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**FORTUNATO C. DIONISIO, JR.** A.C. No. 12673  
**and FRANKLIN C. DIONISIO,** [Formerly CBD Case No. 13-  
Complainants, 3900]

Present:

GESMUNDO, C.J.,  
PERLAS-BERNABE,  
LEONEN,  
CAGUIOA,  
HERNANDO,\*  
LAZARO-JAVIER,  
INTING,  
ZALAMEDA,  
LOPEZ, M.,  
GAERLAN,  
ROSARIO,  
LOPEZ, J.,  
DIMAAMPAO,  
MARQUEZ,  
KHO, JR., JJ.

- versus -

**ATTYS. MIGUEL G. PADERNAL** Promulgated:  
**and DELFIN R. AGCAOILI, JR.,**  
Respondents. March 15, 2022

x-----  
*Miguel G. Padernal*  
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**DECISION**

**DIMAAMPAO, J.:**

**“Each and every Notary Public plays a crucial role in combating identity theft. They serve as our front line of defense and the public is safer because of the job they do.”<sup>1</sup>**

\* NO PART.

<sup>1</sup> Kenneth Lee Salazar, Former Secretary of the Interior, United States of America. Cited in “What Are Notary Public/Commissioner of Oaths and Why Do You Need Them?” <<https://lpro.ca/blog/f/what-are-notarycommissioner-of-oaths-and-why-do-you-need-them>>, accessed on 22 December 2021.

*J*

With the flourish of the proverbial mighty pen, this Court hopes to dispel the all too familiar notion that notarization is merely a mechanical act. Owing to the pervasive effect of notarial acts on the public's daily transactions, a notary public is expected to faithfully perform the sacrosanct duties that come with the grant of a notarial commission, such as the ascertainment of the identity of any person who comes before them to avail of their services.

At the crosshairs of the instant disciplinary proceedings is the administrative liability of respondents Atty. Miguel G. Padernal (Atty. Padernal) and Atty. Delfin R. Agcaoili, Jr. (Atty. Agcaoili, Jr.; collectively, respondents) for violation of the Code of Professional Responsibility (CPR) and the 2004 Rules on Notarial Practice (Notarial Rules).

Stripped of unnecessary verbiage, the preventient facts of this case are as follows:

In their *Complaint*<sup>2</sup> dated 10 July 2013 docketed as CBD Case No. 13-3900 before the Commission on Bar Discipline (CBD) of the Integrated Bar of the Philippines (IBP), Fortunato C. Dionisio, Jr. (Fortunato) and Franklin C. Dionisio (Franklin; collectively, complainants) avowed that they founded a partnership named FCD Pawnshop and Merchandising Company (now known as FCDionisio General Merchandising Company) together with their sister, Felicitas Dionisio-Juguilon (Felicitas) and their departed mother, Adelaida C. Dionisio (Adelaida).<sup>3</sup> A parcel of land covered by Transfer Certificate of Title (TCT) No. (168302) S-3664<sup>4</sup> was then registered under the name of the said partnership. Upon the expiry of its term, complainants entrusted the liquidation and winding up of the partnership's affairs to Atty. Rowena S. Dionisio (Rowena), Franklin's daughter-in-law.<sup>5</sup>

At the interstice, Atty. Padernal notarized on 12 February 2010 a *Real Estate Mortgage*<sup>6</sup> executed by FCDionisio General Merchandising Company and Union Bank of the Philippines (Union Bank) wherein the aforementioned realty was proffered as security for a loan taken out by Sunyang Mining Corporation in the amount of ₱20,000,000.00. Concomitantly, Atty. Agcaoili, Jr. notarized a *Partner's Certificate*<sup>7</sup> on even date, authorizing the said mortgage. Much to the astoundment of complainants, they later discovered that the subject lot was foreclosed and sold at public auction with Union Bank emerging as the winning bidder.<sup>8</sup>

Contrary to what appeared in both the *Real Estate Mortgage* and the *Partner's Certificate*, complainants maintained that they, together with Felicitas, did not personally appear on 12 February 2010 before respondents.<sup>9</sup>

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<sup>2</sup> *Rollo*, pp. 2-5.

<sup>3</sup> *Id.* at 2.

<sup>4</sup> *Id.* at 11-15.

<sup>5</sup> *Id.* at 2-3.

<sup>6</sup> *Id.* at 17.

<sup>7</sup> *Id.* at 18.

<sup>8</sup> *Id.* at 3.

<sup>9</sup> *Id.* at 4.

Significantly, on the said date, Felicitas was away from the Philippines based on her travel records<sup>10</sup> obtained from the Bureau of Immigration. Complainants also posited that the presentation of community tax certificates, as indicated in the subject documents, should not have passed muster in determining whether they had indeed personally appeared before respondents together with their sister Felicitas.<sup>11</sup>

For his part, Atty. Padernal admitted having notarized the *Real Estate Mortgage* between FCDionisio General Merchandising Company and Union Bank.<sup>12</sup> Still and all, he asserted that he was introduced to complainants and their sister Felicitas by Eduardo V. Enriquez III and Michelle Y. Fulgencio who were from the Business Line Department of Union Bank. Complainants and their sister Felicitas showed their respective identification cards before signing the *Real Estate Mortgage* in his presence and one Reziel Bo Simo, among others, namely: Franklin's Senior Citizen ID, Fortunato's SSS ID, and Felicitas' Postal ID.<sup>13</sup>

Upon the other hand, Atty. Agcaoili, Jr. neither filed his verified *Answer* and *Position Paper* nor attended the mandatory conference which was scheduled on 27 February 2014.<sup>14</sup>

Following an assiduous scrutiny of the parties' submissions, the IBP Investigating Commissioner Leo B. Malagar (Investigating Commissioner) rendered a *Report and Recommendation*<sup>15</sup> dated 22 May 2017 finding respondents to have violated Canon 1<sup>16</sup> of the CPR in relation to the Notarial Rules when they notarized the documents in question without properly establishing the identity of Felicitas. The Investigating Commissioner gave credence to complainants' avowal that Felicitas was out of the country on 12 February 2010 when Atty. Padernal and Atty. Agcaoili, Jr. notarized the *Real Estate Mortgage* and the *Partner's Certificate*, respectively. Congruously, the Investigating Commissioner recommended that respondents' existing notarial commissions, if any, be revoked; and that they be disqualified from being commissioned as notaries public for a period of one (1) year with stern warning that a repetition of the same or similar offense will be dealt with more severely.<sup>17</sup>

Thence, the IBP Board of Governors issued a *Resolution*<sup>18</sup> dated 7 December 2017 adopting the factual findings of the Investigating Commissioner, but modifying his recommendation by: (a) increasing the period of respondents' disqualification from being commissioned as notaries

<sup>10</sup> Id. at 40-41.

<sup>11</sup> Id. at 224 and 227-228.

<sup>12</sup> Id. at 47.

<sup>13</sup> Id. at 55-57, 181-184, and 251-252.

<sup>14</sup> Id. at 218.

<sup>15</sup> Id. at 299-304.

<sup>16</sup> CANON 1 – A lawyer shall uphold the Constitution, obey the laws of the land and promote respect for law and legal processes.

<sup>17</sup> *Rollo*, p. 304.

<sup>18</sup> Id. at 377.

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public from one (1) year to two (2) years; and (b) suspending respondents from the practice of law for one (1) year.

Unperturbed, Atty. Padernal moved for reconsideration<sup>19</sup> which the IBP Board of Governors denied *via* the *Resolution*<sup>20</sup> dated 19 January 2019. Notably, respondents filed no *Petition for Review* before the Court.

After a perspicacious evaluation of the records, this Court affirms respondents' liability for their parallel transgressions of the CPR and the Notarial Rules. *However, in deference to prevailing jurisprudence, a further modification of the penalties recommended by the IBP Board of Governors against respondents is apropos.*

Prefatorily, it is a time-honored principle that notarization is not an empty, meaningless, and routinary act.<sup>21</sup> It is one heavily impressed with public interest,<sup>22</sup> for notarization converts a private document to a public one, making it admissible without further proof of its authenticity.<sup>23</sup> Plain as a pikestaff, a notary public must observe the highest degree of care in complying with the basic requirements in performing his or her duties in order to preserve the public's confidence in the integrity of the notarial system.<sup>24</sup>

In the case at bench, respondents were indubitably remiss in carrying out their functions as notaries public when they notarized the repugned documents on 12 February 2010 without confirming the identities of the persons claiming to be complainants and their sister Felicitas pursuant to the Notarial Rules.

Under Section 2(b)(1) and (2), Rule IV of the Notarial Rules, a notary public is enjoined from performing a notarial act such as an acknowledgment if the person involved as a 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.

Appositely, the phrase "competent evidence of identity" under Section 12, Rule II of the Notarial Rules 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; or

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<sup>19</sup> Id. at 305-319.

<sup>20</sup> Id. at 378-379.

<sup>21</sup> *Aldea v. Atty. Bagay*, A.C. No. 12733, 14 October 2020.

<sup>22</sup> *Atty. Bartolome v. Atty. Basilio*, 771 Phil. 1, 5 (2015).

<sup>23</sup> *Dandoy v. Atty. Edayan*, 832 Phil. 132, 139 (2018).

<sup>24</sup> *Lopez v. Atty. Mata*, A.C. No. 9334, 28 July 2020.

- (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.

Through this Court's *Resolution* dated 19 February 2008 in A.M. No. 02-8-13-SC, the Notarial Rules were amended to include an extensive catalog of identification documents which met the criteria set forth in Section 12(a), Rule II, such as but not limited to: passport, driver's license, Professional Regulation Commission (PRC) ID, National Bureau of Investigation (NBI) 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 Disable Persons (NCWDP), and Department of Social Welfare and Development (DSWD) certification.

The rationale underlying the aforesaid rules is to enable the notary public to verify the genuineness of the signature of the acknowledging party and to ascertain that the document is the party's free and voluntary act and deed.<sup>25</sup>

Here, an insightful glance at the controverted documents evinces that both respondents irrefragably relied on *Community Tax Certificate Nos. 28611794, 28611795 and 28611796*, ostensibly issued in the names of complainants and their sister Felicitas, when they notarized on 12 February 2010 the *Real Estate Mortgage* and the *Partner's Certificate*. Upon this point, it is jurisprudentially established 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 Notarial Rules; but moreso, it does not bear the photograph and signature of the persons appearing before notaries public, which the Notarial Rules deem as the more appropriate and competent means by which notaries public can ascertain the person's identity.<sup>26</sup> Indeed, reliance on community tax certificates alone is already a punishable indiscretion by a notary public.<sup>27</sup>

Equally unavailing is Atty. Padernal's dependence on the statements made by Michelle Y. Fulgencio<sup>28</sup> and Reziel Bo Simo<sup>29</sup> concerning the identities of complainants and their sister Felicitas, because they were both unquestionably privies to the *Real Estate Mortgage* as witnesses thereto.<sup>30</sup>

<sup>25</sup> See *Sanchez v. Atty. Inton*, A.C. No. 12455, 5 November 2019, 925 SCRA 203, 212.

<sup>26</sup> See *Dandoy v. Atty. Edayan*, *supra* note 23 at 140.

<sup>27</sup> See *Aldea v. Atty. Bagay*, *supra* note 21.

<sup>28</sup> *Rollo*, pp. 181-182.

<sup>29</sup> *Id.* at 183-184.

<sup>30</sup> *Id.* at 186.

Anent the *Partner's Certificate*, suffice it to state that Atty. Agcaoili, Jr. failed to adduce any scintilla of proof that he personally knew the parties involved or that he suitably identified them through competent evidence of identity.

With the foregoing disquisition, there is no quibbling that respondents contravened the Notarial Rules. Since an erring lawyer who is found to be remiss in his functions as a notary public is also considered to have violated their oath as a lawyer, respondents' infractions would unavoidably constitute a violation of the CPR.<sup>31</sup> Not only did they fail to fulfill their solemn oath of upholding and obeying the law and its legal processes, but they also committed an act of falsehood and engaged in unlawful, dishonest, and deceitful conduct.<sup>32</sup> Ineludibly, respondents breached the following provisions<sup>33</sup> of the CPR:

**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 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.

In epitome, owing to their gross negligence in fulfilling their sworn duty to appropriately identify the signatories to a document before performing a notarial act, respondents did not only cause damage to the parties directly affected by the terms of the documents they notarized, but they also undermined the integrity of the office of a notary public and degraded the function of notarization.<sup>34</sup> Failing in their duties, respondents must now bear the commensurate consequences.<sup>35</sup>

*A final cadence.* It is settled in a catena of analogous cases that the following penalties must be meted out against a lawyer who violates the Notarial Rules: (a) suspension from the practice of law for one (1) year; (b) immediate revocation of his or her notarial commission, if any; and (c) disqualification from being commissioned as a notary public for a period of two (2) years.<sup>36</sup> Under the factual milieu of this case, such penalties are equitable against Atty. Padernal.

<sup>31</sup> See *Triol v. Atty. Agcaoili, Jr.*, 834 Phil. 154, 159 (2018).

<sup>32</sup> Id.

<sup>33</sup> *Sanchez v. Atty. Inton*, supra note 25 at 214-215.

<sup>34</sup> See *Dandoy v. Atty. Edayan*, supra note 23 at 142.

<sup>35</sup> See *Aldea v. Atty. Bagay*, supra note 21.

<sup>36</sup> See *Sanchez v. Atty. Inton*, supra note 25 at 215.

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Contrariwise, Atty. Agcaoili, Jr.'s transgressions necessitate stiffer sanctions. The Court takes judicial notice of his previous administrative liability for notarizing a document without the presence of the parties as well as the requisite notarial commission in *Triol v. Atty. Agcaoili, Jr.*,<sup>37</sup> the decretal portion of which reads:

**WHEREFORE**, the Court finds respondent Atty. Delfin R. Agcaoili, Jr. (respondent) **GUILTY** of violating the 2004 Rules on Notarial Practice and the Code of Professional Responsibility. Accordingly, the Court hereby **SUSPENDS** him from the practice of law for a period of two (2) years; **PROHIBITS** him from being commissioned as a notary public for a period of two (2) years; and **REVOKES** his incumbent commission as a notary public, if any. He is **WARNED** that a repetition of the same offense or similar acts in the future shall be dealt with more severely.

The suspension in the practice of law, the prohibition 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 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.**<sup>38</sup>

By committing a substantially comparable offense in this case, Atty. Agcaoili, Jr. was evidently unruffled by the above verdict as he remained obtuse to this Court's dire warning against committing a similar infraction in the future. Tellingly, his failure to comply with the IBP's written directives to file his verified answer and position paper as well as to appear during the mandatory conference<sup>39</sup> demonstrated his defiance towards the authority of the IBP, which ought to be treated as an aggravating circumstance.<sup>40</sup> This treatment should serve as a persistent reminder that the IBP, as the duly designated investigator by this Court, is discharging a public duty in this Court's name and stead, and should be respected in its performance of such duty.<sup>41</sup>

Given the foregoing discourse, and to underscore the paramount character of the obligations appurtenant to a notarial commission, this Court holds that Atty. Agcaoili, Jr. should be suspended anew from the practice of

<sup>37</sup> *Supra* note 31.

<sup>38</sup> *Id.* at 162-163.

<sup>39</sup> *Rollo*, pp. 42 and 218.

<sup>40</sup> See *Atty. Muntuerto, Jr. v. Atty. Alberto*, 850 Phil. 1139, 1151 (2019).

<sup>41</sup> *Id.*

law for a period of five (5) years, and be permanently barred from being commissioned as a notary public in the Philippines.<sup>42</sup>

**WHEREFORE**, respondents Atty. Miguel G. Padernal and Atty. Delfin R. Agcaoili, Jr. are hereby declared **GUILTY** of violating Rule 1.01, Canon 1 and Rule 10.01, Canon 10 of the Code of Professional Responsibility as well as the 2004 Rules on Notarial Practice.

Accordingly, this Court **SUSPENDS** Atty. Miguel G. Padernal from the practice of law for one (1) year, and **PROHIBITS** him from being commissioned as a notary public for two (2) years. Likewise, Atty. Delfin R. Agcaoili, Jr. is **SUSPENDED** from the practice of law for five (5) years and is **PERMANENTLY DISQUALIFIED** from being commissioned as a notary public.

Furthermore, the incumbent commissions as notaries public, if any, of respondents Atty. Miguel G. Padernal and Atty. Delfin R. Agcaoili, Jr. are **REVOKED**. They are **STERNLY WARNED** that a repetition of the same offense or similar acts in the future shall be dealt with more severely.


This *Decision* shall take effect immediately. Respondents Atty. Miguel G. Padernal and Atty. Delfin R. Agcaoili, Jr. are **DIRECTED** to **INFORM** this Court of the date of their receipt of this *Decision* for the purpose of reckoning the period of their respective penalties.

Finally, let copies of this *Decision* be furnished the Office of the Bar Confidant for the updating of the respective personal records as attorneys of Atty. Miguel G. Padernal and Atty. Delfin R. Agcaoili, Jr.; the Integrated Bar of the Philippines, for their information and guidance; and the Office of the Court Administrator, for dissemination to all the courts in the country.

**SO ORDERED.**

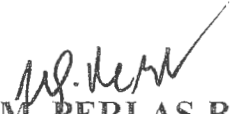
  
JAPAR B. DIMAAMPAO  
Associate Justice


**WE CONCUR:**

  
ALEXANDER G. GESMUNDO  
Chief Justice

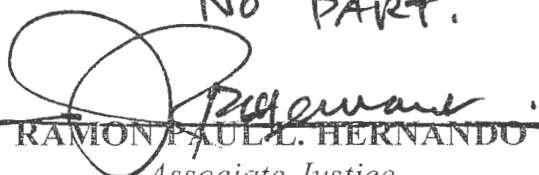
<sup>42</sup> Id.



  
**ESTELA M. PERLAS-BERNABE**  
*Associate Justice*

  
**MARVIC M.V.F. LEONEN**  
*Associate Justice*

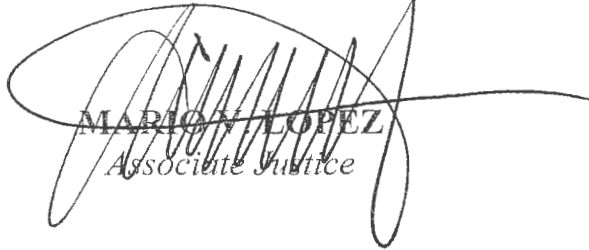
  
**ALFREDO BENJAMIN S. CAGUIOA**  
*Associate Justice*


**NO PART.**  
  
~~**RAMON PAUL L. HERNANDO**~~  
*Associate Justice*

  
**AMY C. LAZARO-JAVIER**  
*Associate Justice*

  
**HENRI JEAN PAUL B. INTING**  
*Associate Justice*

  
**RODIL V. ZALAMEDA**  
*Associate Justice*

  
**MARIO V. LOPEZ**  
*Associate Justice*

  
**SAMUEL H. GAERLAN**  
*Associate Justice*

  
**RICARDO R. ROSARIO**  
*Associate Justice*

  
**JHOSEP V. LOPEZ**  
*Associate Justice*

  
**JOSE MIDAS P. MARQUEZ**  
*Associate Justice*

  
**ANTONIO T. KHO, JR.**  
*Associate Justice*

**CERTIFIED TRUE COPY**

  
**JENNIE LYN C. SAGUID**

**SC Chief Judicial Staff Officer  
Office of the Clerk of Court  
Supreme Court of the Philippines**