

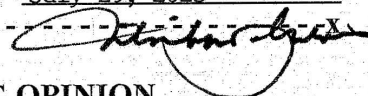
EN BANC

A.C. No. 10317 – MA. SARITA G. GUERRERO, Complainant, v. ATTY. MICHELLE V. GONZAGA and ATTY. REMUS G. GULMATICO, Respondents.

Promulgated:

July 29, 2025

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CONCURRING AND DISSENTING OPINION

CAGUIOA, J.:

The *ponencia* recommends the dismissal of the disbarment complaint against respondents Atty. Michelle V. Gonzaga and Atty. Remus G. Gulmatico (collectively, respondents) for lack of merit. The *ponencia* holds that complainant, Ma. Sarita G. Guerrero (Guerrero), who filed a complaint with Executive Judge Anita Guanzon Chua (Executive Judge Chua) of the Regional Trial Court of Bacolod City against respondents for violations of the 2004 Rules on Notarial Practice, cannot now relitigate this issue through this administrative complaint. According to the *ponencia*, Guerrero's failure to appeal the dispositions of Executive Judge Chua rendered the said rulings final, executory, and immutable.¹

As well, the *ponencia* finds that the present administrative complaint is barred by *res judicata*, observing that "although [Guerrero] attempts to frame the culpability of respondents on their participation in a grand scheme of fraud, the specific wrongful acts committed still relate to their violations of the 2004 Rules on Notarial Practice, which were already considered and penalized in the dispositions of Executive Judge Chua."²

I disagree.

At the outset, it bears emphasis that the present case stems from two (2) complaints filed by Guerrero against respondents before Executive Judge Chua for violations of the 2004 Rules on Notarial Practice. These complaints were filed under the procedure in the said Rules, specifically under Section 1 (c), Rule XI thereof. Ultimately, Executive Judge Chua found respondents administratively liable and meted each of them with the penalties of revocation of their respective notarial commissions and prohibition from being commissioned as notaries public for six months. It should be emphasized, however, that Executive Judge Chua did not impose any other sanctions for violations of the Code of Professional Responsibility and

¹ *Ponencia*, p. 10.

² *Id.* at 11.



Accountability (CPRA) or the Lawyer's Oath for the simple reason that her jurisdiction to discipline notaries public only lies within the confines of the 2004 Rules on Notarial Practice.

Guerrero now comes before the Court, arguing that the sanctions imposed were "not in consonance with the limited findings of the Honorable Executive Judge, being restricted merely to the temporary revocation of the subject notaries' notarial commission for a mere six (6) months [sic] period allegedly due to lack of jurisdiction[.]"³ Consequently, Guerrero claims, she is constrained to raise "the same action before [the] Honorable Supreme Court for the proper disposition of the [disbarment and criminal] charges not acted upon in consonance with the seriousness of the offense committed[.]"⁴

To be sure, Section 1 (c), Rule XI of the 2004 Rules on Notarial Practice allows a verified complaint to be filed by an interested, affected or aggrieved person before the Executive Judge for any allegation of violations of the Rules by a notary public that warrant the revocation of their commission or the imposition of appropriate administrative sanctions. The Executive Judge is also empowered to conduct a summary hearing if the answer of the notary public to the complaint is not satisfactory. Section 1 (c), Rule XI further provides that in either case of dismissal of the complaint or the finding of liability and imposition of appropriate administrative sanctions made by the Executive Judge, the aggrieved party may appeal the decision to the Court for review. As may be clearly gleaned from this Section, the Court's participation in the matter heavily relies on whether an appeal is made by an aggrieved party. To my mind, this may effectively prevent the Court from exercising its supervision over notaries public, who, as the *ponencia* correctly characterizes, are also personnel of the Judiciary.

As this very case illustrates, the Court is precluded from reviewing the rulings of Executive Judge Chua against respondents precisely because they were not appealed at all by either respondents themselves or by Guerrero. As such, respondents were only meted with penalties of revocation of their notarial commissions and prohibition from being commissioned as notaries public for six months, **when in practically every case involving violations of the notarial practice, a concomitant finding of liability as a lawyer under the CPRA is also made.** This is owing to the settled rule that in the realm of legal ethics, a breach of the 2004 Rules on Notarial Practice would also constitute a violation of the CPRA, considering that an erring lawyer who is found to be remiss in his functions as a notary public is considered to have violated their oath as a lawyer as well.⁵ Thus, for instance, under the CPRA, a violation of notarial rules that is attended by bad faith and does not merely involve reportorial requirements is considered a Serious Offense.⁶

³ *Id.* at 4. (Citation omitted)

⁴ *Id.* at 4–5. (Citations omitted)

⁵ See *Re: Order Dated January 7, 2020 of Judge Alajar Suspending Atty. Azarraga's Notarial Commission for One Year*, 895 Phil. 386, 392 (2021) [Per J. Delos Santos, Third Division].

⁶ CODE OF PROF. RESPONSIBILITY & ACCOUNTABILITY, Canon VI, sec. 33(p).



Verily, the Court in *Re: Order Dated January 7, 2020 of Judge Alajar Suspending Atty. Azarraga's Notarial Commission for One Year*⁷ had already observed the need for clarification on the procedure under Sections 1 (c) and (d), Rule XI of the 2004 Rules on Notarial Practice. The Court had suggested therein that “it would be prudent to consider an amendment [of the Rules] to clarify the proper mode and period of appeal and to harmonize the same with the pertinent provisions of Rule 139-B of the Rules of Court.”⁸ I agree with this proposal, which, unfortunately, has yet to be done. I agree, therefore, with the *ponencia* that with the revision of the then CPR, which incorporated various provisions found in other rules such as Rule 139-B of the Rules of Court, the harmonization of Sections 1 (c) and (d), Rule XI of the 2004 Rules on Notarial Practice would have to be made with the pertinent provisions of the new CPRA.⁹ Indeed, this is simply in recognition of the well-settled principle in disciplinary cases that a breach of the 2004 Rules on Notarial Practice would also constitute a violation of the CPRA.

On this score, I further agree with the *ponencia* that for uniformity's sake, it may be more prudent to follow the procedure in all administrative cases against lawyers, in that, the report and recommendation of the Integrated Bar of the Philippines (IBP) or the Office of the Bar Confidant (OBC) should be always elevated to the Court, as a matter of course, for final disposition. This is also regardless of the recommendation of the IBP or the OBC—be it mere admonition or even dismissal.¹⁰ To my mind, the proceeding under the 2004 Rules on Notarial Practice is a species of an administrative case under the CPRA, wherein the participation or non-participation of a complaining party is not indispensable. Again, in this particular case for instance, despite the penalties imposed against them by Executive Judge Chua, respondents benefitted more in not appealing the rulings before the Court since the possible imposition of additional administrative sanctions under the CPRA was altogether averted.

In this regard, I respectfully submit, however, that the Court may still rule on the liabilities of respondents in this case under the CPRA. Notably, while the basis of Guerrero's present disbarment complaint stems from the same facts or incidents that governed the proceedings before Executive Judge Chua under the 2004 Rules on Notarial Practice, the causes of action may be different since the present disbarment complaint is anchored on allegations of malfeasance on the part of respondents as members of the Bar. Specifically, Guerrero alleges “that respondents, through their pleadings, demonstrated a proclivity for falsehood and that they acted as ‘puppets’ of Lacson and his cohorts in their scheme to defraud her from her just share in some contested realties, which warrant not only their disbarment but also their prosecution for criminal charges.”¹¹

⁷ *Supra* note 5.

⁸ *Id.* at 391–392.

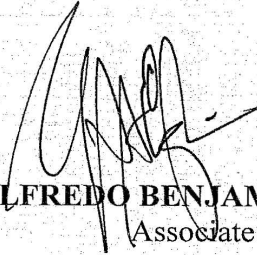
⁹ *See ponencia*, p. 12.

¹⁰ *See id.* at 12–13.

¹¹ *Id.* at 10–11. (Citation omitted)



To my mind, a disposition of the merits of the above allegations may be aided by the disposition made by Executive Judge Chua under the 2004 Rules on Notarial Practice. To recall, the rulings against respondents cleared them from the same allegations of bad faith in notarizing the subject documents and found them liable instead for their negligence in accomplishing their notarial registers. To reiterate, a violation of notarial rules attended by bad faith, except reportorial requirements, is a Serious Offense under the CPRA. In this case, in the absence of bad faith therefore on the part of respondents, what they committed was simple negligence in the performance of duty, which is a Less Serious Offense under the CPRA. It is punishable by: (1) suspension from the practice of law for a period within the range of one month to six months, or revocation of notarial commission and disqualification as notary public for less than two years; or (2) a fine within the range of PHP 35,000.00 to PHP 100,000.00. Under the circumstances of this case, I submit that an imposition of a fine against respondents would be more commensurate. Considering that it appears that this is respondents' first offense, as well, this may be appreciated as a mitigating circumstance in their favor. Accordingly, a reduced fine of PHP 17,500.00 each would suffice.



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice