

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

x



x

CONCURRING AND DISSENTING OPINION

SINGH, J.:

I respectfully submit my Concurring and Dissenting Opinion.

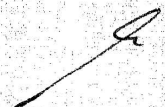
To start off, as pointed out in the Decision, Rule XI of the Notarial Rules is ambiguously worded as to the appropriate manner and period to appeal a decision of an executive judge.¹ This is not the first time the Court has pointed out this gap in the rules. In *Re: Order dated January 7, 2020 of Judge Ignacio I. Alajar suspending Atty. Ely F. Azarraga's Notarial Commission for One (1) Year*, the Court stated:

Following the prescribed remedy under Section 1(c), Rule XI of the 2004 Rules on Notarial Practice, it is reasonable for respondent to appeal the suspension of his notarial commission, which is immediately executory upon his receipt of the Order, with this Court. *Perhaps, for purposes of clarification and guidance to any party meted with disciplinary sanctions pursuant to Sections 1(c) and (d), Rule XI of the 2004 Rules on Notarial Practice, it would be prudent to consider an amendment thereof 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.*

The OBC, in its Report, stated that respondent should have filed a motion for reconsideration of the Order - to which the Court agrees, as this is a remedy available to respondent at the time and is not prohibited by any existing rule. Either way, whether respondent had filed a motion for reconsideration on the Order or directly appealed with this Court, Section 1(c), Rule XI of the 2004 Rules on Notarial Practice clearly provides that the order imposing disciplinary sanctions shall be immediately executory pending appeal.² (Emphasis supplied)

¹ Decision, p. 10.

² 895 Phil. 386, 391–392 (2021) [Per J. Delos Santos, Third Division].



Evidently, the use of the word “appeal” in Rule XI lacks sufficient specificity to guide the bar and the bench.

When a provision of law is ambiguous, the Court need not automatically adhere to its technical meaning which may not serve the purpose and intent of the law. The rationale for this principle was aptly explained in *Social Weather Stations, Inc. v. Commission on Elections*:

First, verba legis or the so-called plain-meaning rule applies only when the law is completely clear, such that there is absolutely no room for interpretation. Its application is premised on a situation where the words of the legislature are clear that its intention, insofar as the facts of a case demand from the point of view of a contemporary interpretative community, is neither vague nor ambiguous. This is a matter of judicial appreciation. It cannot apply merely on a party's contention of supposed clarity and lack of room for interpretation.

.....

Second, statutory construction cannot lend itself to pedantic rigor that foments absurdity. *The dangers of inordinate insistence on literal interpretation are commonsensical and need not be belabored. These dangers are by no means endemic to legal interpretation.* Even in everyday conversations, misplaced literal interpretations are fodder for humor. A fixation on technical rules of grammar is no less innocuous. A pompously doctrinaire approach to text can stifle, rather than facilitate, the legislative wisdom that unbridled textualism purports to bolster.”

Third, the assumption that there is, in all cases, a universal plain language is erroneous. In reality, universality and uniformity of meaning is a rarity. A contrary belief wrongly assumes that language is static.³ (Emphasis supplied).

It is after all a settled principle of statutory construction that the Court should consider the spirit and reason of the statute where adherence to the literal meaning would defeat the purpose of the lawmakers or otherwise lead to absurdity.⁴ Hence, the word “appeal” under Rule XI should be given its ordinary meaning or acceptation, that is, simply a review process, but not necessarily a strict appeal as defined in Rules 40, 41, 42, 43 and 45 of the Rules of Court.

Admittedly, it has been repeatedly emphasized that direct recourse to this Court is looked down upon especially in relation to the principle of non-interference and the orderly administration of justice.⁵ However, this Court must also remain conscious that a trial court may violate the law or otherwise act with such grave abuse of authority as to render its judgments null and void.

³ 757 Phil. 483, 520–521 (2015) [Per J. Leonen, En Banc]

⁴ *Ursua v. Court of Appeals*, 326 Phil. 157, 166 (1996) [Per J. Bellosillo, First Division].

⁵ *Barroso v. Omelio*, 771 Phil. 199, 204–205 (2015) [Per J. Peralta, Third Division] citing *The Diocese of Bacolod v. COMELEC*, 751 Phil. 301, 327–328 (2015) [Per J. Leonen, En Banc].

The remedy for this, as provided in the Rules of Court, is the resort to a higher court with authority to nullify the action of the issuing lower court. This is precisely the judicial power that the 1987 Constitution, under Article VIII, Section 1, paragraph 2, speaks of and which this Court has operationalized through Rule 65 of the Rules of Court.⁶ The remedy of a writ of *certiorari*, therefore, is the more appropriate recourse as a safeguard against the abuse of administrative authority without diminishing the respect ordinarily accorded to such authority.

Further, the filing of a Rule 65 petition for *certiorari* does not in any way deprive the respondents of due process. Jurisprudence holds that the essence of due process in administrative proceedings is the chance to explain one's side, or seek a reconsideration of the action or ruling complained of. As long as the parties are given the opportunity to be heard before any definitive action is taken, the demands of due process are sufficiently met.⁷

To be sure, there is no argument that a petition for *certiorari* cannot replace an appeal; the two are undeniably distinct and inconsistent. However, the clear intention of the rules here is to provide a review process that is the most suitable to the particular case. Thus, whether the parties avail of a traditional appeal or a special civil action under a petition for *certiorari*, the net effect should ultimately be to provide a review of the questioned act.

Following the foregoing, allowing the present petition is the better recourse to resolve the discord before the Court. This is especially true in light of the apparent conflict between the Notarial Rules and the Code of Professional Responsibility and Accountability (CPRA).

It is settled that a violation of the Notarial Rules also constitutes a violation of the CPRA. However, the two codes provide strikingly different procedures for elevating such violations to this Court.

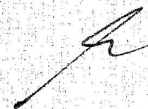
On the one hand, the procedure for penalizing lawyers under the Notarial Rules requires an "appeal" to be made before the Court can properly act on a complaint. Thus, the complaining party or the respondent must appeal the decision to the Court before it can acquire jurisdiction over the same. However, as discussed above, the provision itself does not provide a defined procedure for filing an appeal of the ruling of the executive judge:

Section 1

....

⁶ CONST., art. VIII, sec. 1, par. 2.

⁷ *Quisumbing v. Rosales*, 755 Phil 892, 901 (2015) [Per J. Brion, Second Division].



(c) Upon verified complaint by any interested, affected, or aggrieved person, the notary public shall be required to file a verified answer to the complaint.

If the answer of the notary public is not satisfactory, the Executive Judge shall conduct a summary hearing. If the allegations of the complaint are not proven, the complaint shall be dismissed. If the charges are duly established, the Executive Judge shall impose the appropriate administrative sanctions. *In either case, the aggrieved party may appeal the decision to the Supreme Court for review.* Pending the appeal, an order imposing disciplinary sanctions shall be immediately executory, unless otherwise ordered by the Supreme Court.⁸ (Emphasis supplied)

Under the CPRA, however, a disciplinary complaint may be instituted directly with the Supreme Court:

SECTION 2. *How Instituted.* — Proceedings for the disbarment, suspension, or discipline of lawyers may be commenced by the Supreme Court on its own initiative, or *upon the filing of a verified complaint by the Board of Governors of the IBP, or by any person, before the Supreme Court or the IBP.* However, a verified complaint against a government lawyer which seeks to discipline such lawyer as a member of the Bar shall only be filed in the Supreme Court.

...⁹ (Emphasis supplied)

Given the apparent gap in the Notarial Rules, which the Court has noted in the past, I respectfully propose that the correct interpretation of the above provisions is that where the complaint filed before the Court alleges violations of the CPRA that are distinct from violations of the Notarial Rules, even if they arise from the same facts, a party may file a complaint directly before the Court to initiate disciplinary proceedings against a lawyer. This is correct, regardless of the failure to file an appeal of the decision of the executive judge in the complaint pertaining to the Notarial Rules.

In this case, Guerrero's present Complaint stems from the same facts relied upon in the proceedings before the trial court. However, she now alleges "that Atty. Gonzaga and Atty. Gulmatico, 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."¹⁰

⁸ 2004 RULES ON NOTARIAL PRACTICE, Rule XI, sec. 1, A.M. No. 02-8-13-SC, July 6, 2004.

⁹ CODE OF PROFESSIONAL RESPONSIBILITY AND ACCOUNTABILITY, Canon VI, sec. 2, A.M. No. 22-09-01-SC, April 11, 2023.

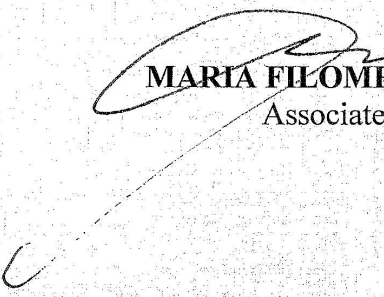
¹⁰ Decision, p.11.



Clearly, the Complaint before the Court is anchored on violations of the CPRA, rather than the Notarial Rules. The cause of action here is separate from those resolved by the Executive Judge under the provisions of the Notarial Rules. The issue here is whether Atty. Gonzaga and Atty. Gulmatico have exhibited conduct unfit for a lawyer and which warrant their disbarment. Therefore, this case should not be dismissed on the ground that the complainant failed to appeal the rulings of the Regional Trial Court, since this is clearly meant to be a new case independent of the other.

While the above explanation sufficiently resolves the procedural issue in the present case, it is only a partial solution to the conflicting rules. I agree that the Notarial Rules should be amended to conform with the CPRA. The CPRA is intended to be the definitive code governing the discipline of lawyers. Therefore, the CPRA procedure for the initiation of disciplinary proceedings should prevail over the Notarial Rules. I, thus, concur that the way forward is to amend the Notarial Rules to state that executive judges may continue to penalize lawyers for violations of the Notarial Rules through the revocation or suspension of their notarial commission. However, where the executive judge finds that the lawyer's conduct requires the imposition of other penalties under the CPRA, he or she must submit a report and recommendation to the Court, akin to the procedure stated in Sections 25 and 26, Canon VI of the CPRA.¹¹

Therefore, I vote to allow the Petition and that the same should be resolved on the merits.



MARIA FILOMENA D. SINGH
Associate Justice

¹¹ CODE OF PROFESSIONAL RESPONSIBILITY AND ACCOUNTABILITY, Canon VI, secs. 25–26, A.M. No. 22-09-01-SC, April 11, 2023.