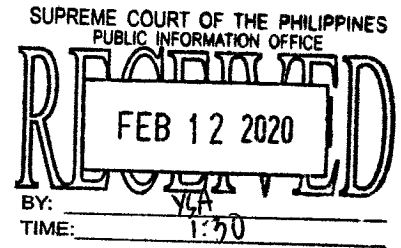




Republic of the Philippines
Supreme Court
Manila



THIRD DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated **December 2, 2019**, which reads as follows:

“A.C. No. 9285 [formerly CBD Case No. 15-4547] (*Salvador Liked v. Atty. Lauro D. Gacayan*). – The instant disbarment case¹ was filed by complainant Salvador Liked (Liked), against respondent Atty. Lauro Gacayan (Gacayan), for violation of the 2004 Rules on Notarial Practice (Notarial Law) by failing to indicate the identification card details of the affiants, particularly the number and the date of issuance and validity.

Facts of the Case

On September 23, 2011, Gacayan notarized the affidavits² of John K. Likigan (Likigan), Provincial Agriculturist of Mt. Province, and Theodore Marrero (Marrero), Provincial Accountant of Mt. Province, as the witnesses of Representative Maximo Dalog (Dalog) in a disbarment case entitled “*Jupiter³ Dominguez v. Rep. Maximo Dalog*.”

The *jurat* of the affidavit of Likigan provides:

SUBSCRIBED AND SWORN to before me this 23rd day of September, 2011 by the affiant who exhibited to me his Temporary Philippine Driver’s License which is a competent evidence of his identity as required by the 2004 Notarial Law[.]

WITNESS MY HAND AND SEAL.⁴

The *jurat* of the affidavit of Marrero states:

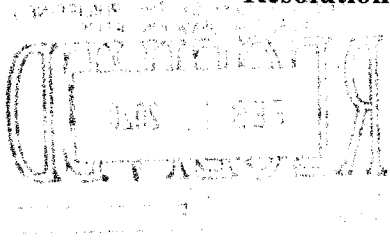
SUBSCRIBED AND SWORN to before me this 23rd day of September, 2011 by the affiant who exhibited to me his

¹ Rollo, pp. 1-2.

² Id. at 3-4.

³ Also referred to as “Juniper” in some parts of the *rollo*.

⁴ Rollo, p. 3.



Philippine Driver's License which is a competent evidence of his identity as required by the 2004 Notarial Law. GSIS ID NO. 006-0056-2553-6⁵

On October 31, 2011, Liked pointed out in his affidavit/request for investigation that Gacayan clearly violated the Notarial Law when the latter failed to indicate the license numbers and the dates of expiration of the identification cards of affiants Likigan and Marrero. He asserted that it was dangerous to omit the dates of expiration of the identification cards of the affiants because of the possibility that the identification cards have already expired.⁶

On April 2, 2012, Gacayan filed his Comment.⁷ Gacayan narrated that Dalog defeated Jupiter Dominguez (Dominguez) in the elections. Since the defeat of Dominguez as Mt. Province Representative in the 2010 elections, he and Liked filed several cases against Dalog, which were either dismissed or denied by the courts. In all these cases, Gacayan was the legal counsel for Dalog.⁸

Gacayan described Liked as the "attack dog"⁹ and a close associate of Dominguez as shown by his possession of the affidavits of Likigan and Marrero for a case where Liked was not even a party.¹⁰

As to the allegations of Liked, Gacayan interposed that he strictly complied with the Notarial Law.¹¹ He admitted that he did not include the expiration dates of the identification cards but Likigan and Marrero personally exhibited to him their current identification cards bearing their photographs and signatures.¹² To prove the validity of the said identification cards, Gacayan attached in his comment the driver's license and the Unified Multi-Purpose ID (GSIS ID)¹³ of Marrero and temporary license of Likigan.¹⁴ In the driver's license of Marrero, the expiry date was "2013-08-17" while the temporary license of Likigan indicated that the expiry date was "07/15/2014."¹⁵

Gacayan further alleged that he personally knew Likigan and Marrero for several years before the execution of their affidavits. He recalled that as the legal counsel for Dalog, there were numerous instances when he had lunch and dinner with Likigan and Marrero, together with Dalog.¹⁶

⁵ Id. at 4.
⁶ Id. at 1-2.
⁷ Id. at 6-16.
⁸ Id. at 6-7.
⁹ Id. at 6.
¹⁰ Id. at 10.
¹¹ Id. at 12.
¹² Id. at 13.
¹³ Id. at 15.
¹⁴ Id. at 16.
¹⁵ Id. at 15-16.
¹⁶ Id. at 10.

On April 10, 2014, Liked filed his Answer to Comment of Respondent.¹⁷ Liked denied that he was the “attack dog” of Dominguez.¹⁸

The Integrated Bar of the Philippines Commission on Bar Discipline (IBP-CBD) scheduled the mandatory conference/hearing on June 19, 2015.¹⁹ On June 18, 2015, Gacayan filed an Urgent Ex-Parte Motion to Reset Hearing (with Apology)²⁰ asking for a resetting of the mandatory conference due to a scheduled hearing in another case. On June 25, 2015, Liked filed a Waiver-Manifestation,²¹ stating that he was waiving his right to participate in the preliminary conference because he was sick and was financially incapable to attend the conference.

On November 13, 2015,²² another mandatory conference/hearing was conducted but only Liked attended. The IBP-CBD then terminated the mandatory conference and directed the parties to submit their verified position papers.²³

Recommendation of the IBP Commissioner and Board of Governors

On June 30, 2017, the Investigating Commissioner submitted a report²⁴ recommending that Gacayan be reprimanded.²⁵ According to the Investigating Commissioner, the Notarial Law explicitly provided that notaries public are required to certify that the party to every document acknowledged before them has presented the proper residence certificate, and to enter its number, place of issue, and date as part of the certification. Such formalities are mandatory due to the degree of importance and evidentiary weight attached to notarized documents.²⁶

Therefore, Gacayan violated the Notarial Law when he failed to indicate the document notations of the driver’s license and GSIS ID of Likigan and Marrero. Although Gacayan explained that he personally knew Likigan and Marrero, he still failed to indicate with particularity the number of each identification card presented to him as competent evidence of the affiants’ identities.²⁷

In an Extended Resolution²⁸ dated December 14, 2018, the IBP Board of Governors reversed the recommendation of the Investigating

¹⁷ Id. at 54-56.

¹⁸ Id. at 54.

¹⁹ Id. at 92.

²⁰ Id. at 93-94.

²¹ Id. at 97.

²² Id. at 102.

²³ Id. at 104.

²⁴ Id. at 156-160.

²⁵ Id. at 160.

²⁶ Id. at 158.

²⁷ Id. at 159-160.

²⁸ Id. at 161-166.

Commissioner and resolved to dismiss the complaint on the ground that Gacayan personally knew the affiants.²⁹ Therefore, Gacayan substantially complied with the requirements of the Notarial Law.

The IBP Board of Governors ruled that a notary public must be satisfied that the affiant is personally known to him or her has a proper identification card when he or she notarizes a document.³⁰

In this case, Gacayan was able to prove that he personally knew the affiants although he failed to indicate in the *jurat* the phrase, "*affiants are personally known to me.*" Gacayan was also able to substantially comply with the Notarial Law when he attached the copies of competent evidence of identity of the affiants. These identification cards clearly show that they were valid at the time of the notarization. Marrero's license indicated that the expiry date was on August 17, 2013 and his GSIS ID was a lifetime ID, while Likigan's driver's license indicated the expiry date of September 15, 2014.³¹

Ruling of the Court

After a perusal of the records of the instant case, the Court finds the recommendation of the Board of Governors proper under the circumstances.

A.M. No. 02-8-13-SC, February 19, 2008, amended Section 12 (a), Rule II of the 2004 Rules on Notarial Practice, requiring the presentation of competent evidence of identity, to wit:

Sec. 12. Component Evidence of Identity. The phrase "competent evidence of identity" 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, such as but not limited to, passport, driver's license, Professional Regulations Commission ID, National Bureau of Investigation 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), Department of Social Welfare and Development (DSWD) certification;

²⁹ Id. at 166.

³⁰ Id. at 165-166.

³¹ Id. at 166. The IBP Board mistakenly wrote "December 29, 2011."

x x x x

As a general rule, the affiant must present his or her identification card issued by an official agency, bearing his or her photograph and signature. However, this is not an iron clad rule.

In *Jandoquile v. Atty. Revila, Jr.*³² and in *Reyes v. Glaucoma Research Foundation, Inc.*,³³ the Court stated that “[i]f the notary public knows the affiants personally, he need not require them to show their valid identification cards.”

In *Jorge v. Marcelo*,³⁴ the Court held that no details of the competent evidence of identity are inconsequential simply because its presentation may be excused or dispensed with. If it is not required for the affiant to show competent evidence of identity in case he or she is personally known to the notary public, with more reason that it is unnecessary to state the details of such competent evidence of identity in the notarial certificate.

In this case, Gacayan has complied with the 2004 Notarial Law when he notarized the affidavits of Likigan and Marrero. He was able to establish that he personally knew the affiants, since as a legal counsel for Dalog, he attended several occasions with Likigan and Marrero, who were provincial officials at that time. As to the failure to indicate the number and expiry date of the identification cards of the affiants, this is inconsequential because aside from the fact that Gacayan personally knew the affiants, he was able to prove that copies of competent evidence of identity were presented to him at the time of notarization. To establish such fact, Gacayan attached to his Comment the copies of the driver’s licenses of Likigan and Marrero and the GSIS ID of the latter. There was indeed a clear showing that at the time of the notarization on September 23, 2011, Likigan’s driver’s license was valid until September 15, 2014 and Marrero’s driver’s license was valid until August 17, 2013. Likewise, Marrero’s GSIS ID – being a lifetime ID – was also valid.

Thus, Gacayan did not commit any violation of the Notarial Law.

WHEREFORE, the Court hereby **DISMISSES** the disbarment complaint against Atty. Lauro D. Gacayan for lack of merit.

³² 708 Phil. 337, 341 (2013).

³³ 760 Phil. 779, 786 (2015).

³⁴ G.R. No. 232989, March 18, 2019.

SO ORDERED." (Gesmundo, J., on official business; Lazaro-Javier, J., designated as Additional Member of the Third Division per Special Order No. 2728.)

Very truly yours,

Mis DC Batt
MISAEAL DOMINGO C. BATTUNG III
Deputy Division Clerk of Court
1/31/2020

Mr. Salvador Liked
Complainant
Balintaugan, Bauko
2621 Mountain Province

Atty. Lauro D. Gacayan
Respondent
GACAYAN PAREDES AGMATA & ASSOCIATES LAW OFFICES
11-B Urbano Street
2600 Baguio City

Atty. Amor P. Entila
Assistant Bar Confidant
OFFICE OF THE BAR CONFIDANT
Supreme Court, Manila

Director for Bar Discipline
INTEGRATED BAR OF THE PHILIPPINES
Dona Julia Vargas Avenue
Ortigas Center, 1600 Pasig City

JUDICIAL & BAR COUNCIL
Supreme Court, Manila

PUBLIC INFORMATION OFFICE
Supreme Court, Manila
[For uploading pursuant to A.M. 12-7-1-SC]

LIBRARY SERVICES
Supreme Court, Manila

A.C. No. 9285

/joy

(245)
URES