



Republic of the Philippines  
**Supreme Court**  
Manila

**SECOND DIVISION**

**EHRENFREL C. AZARRAGA,**  
Complainant,

**A.C. No. 13678 [Formerly  
CBD Case No. 18-5805]**

- versus -

**Present:**  
LEONEN,  
LAZARO-JAVIER,  
LOPEZ, M.,  
LOPEZ, J., and  
KHO, Jr.,

**ATTY. EDUARDO L. JALBUNA,**  
Respondent.

**Promulgated:**

**FEB 22 2023**

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**DECISION**

**LOPEZ, J., J.:**

This Court resolves a Complaint<sup>1</sup> for disbarment filed by Ehrenfrel C. Azarraga (Azarraga) against Atty. Eduardo L. Jalbuna (Atty. Jalbuna) for violation of Sections 1 and 2, Rule VI of the 2004 Rules on Notarial Practice, for violation of Republic Act No. 10173 or the Data Privacy Act of 2012 (Data Privacy Act), and for violation of Canon 1, Rule 1.01 of the Code of Professional Responsibility.

**The Antecedents**

Atty. Jalbuna was the lawyer of Teresita S. Larraga (Teresita) and her corporation Panaderia de Molo, Inc. Although Teresita had other children, namely, Heather L. Maloto, Patrick S. Larraga, Gemma L. Lee, and Therese L. Azarraga (Therese), it was her daughter Hyacinth Larraga Catral (Hyacinth) who took care of her.<sup>2</sup>

<sup>1</sup> Rollo, p. 2-9.

<sup>2</sup> *Id.* at 538.

On separate dates, Teresita sold portions of her parcel of land known as Lot 506 located at Barangay Bolong, Santa Barbara, Iloilo to Anstay Realty and Development Corporation (Anstay Realty), Wivico Corporation (Wivico), and Wilcon Builders Depot, Inc. (Wilcon Inc.), as shown by the documents on record. The deeds of absolute sale in favor of Anstay Realty and Wivico were signed and executed by Hyacinth, who was authorized by a Special Power of Attorney (SPA) where Teresita affixed her thumbprint. This SPA was notarized by a certain Atty. Jade Villanueva (Atty. Villanueva) from the law office of Atty. Jalbuna.<sup>3</sup>

After this sale, trouble erupted between Hyacinth and the other children, particularly Therese. On May 02, 2015, Therese purportedly took their mother forcibly.<sup>4</sup>

On August 12, 2015, Therese filed an action for guardianship over their mother. Another action was filed by Therese and three other siblings against Hyacinth and the buyer Wilcon Inc., questioning the sale of a portion of Lot 506. Hyacinth filed her Answer through her lawyer, Atty. Jalbuna, and one of the attachments therein was the medical certificate, dated May 11, 2015, issued by Dr. Anna Nina Natalia L. Tayo, which is the document subject in this case.<sup>5</sup> The medical certificate states in part:

To Whom It May Concern:

This is to certify that Mrs. Teresita Larraga, 75 y.o., has been under my care since July 16, 2012 up to the present.

Since her first admission from stroke (July 10, 2012), up to the last admission Feb. 06, 2015 her mental status examination is w/in normal limit.

This is issued per request.

(signed)<sup>6</sup>

One of the many cases filed against Atty. Jalbuna was for the revocation of his notarial commission before the Office of the Executive Judge of the Regional Trial Court (RTC) of Iloilo. Atty. Jalbuna admitted that he did not enter the medical certificate with notarial data "Doc. No. 239; Page 49; Book No. LXV; Series of 2015" in his notarial register, and that a different document was listed as "Document 239." He stated that it may have been a lapse on his work but it was an honest error that cannot be construed as misconduct.<sup>7</sup>

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

<sup>4</sup> *Id.* at 538-539.

<sup>5</sup> *Id.* at 539.

<sup>6</sup> *Id.* at 443.

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

After due proceedings, Executive Judge Victor E. Gelvezon rendered a Resolution dated April 30, 2019, the dispositive portion of which reads as follows:

WHEREFORE, the undersigned finds that the three respondents Atty. Eduardo Jalbuna, Atty. Jade Villanueva and Atty. Arthur Lastimoso have violated and/or committed acts in violation of their duties and responsibilities as commissioned Notaries Public. Accordingly, each of them should be sanctioned as follows:

1. Respondent Atty. Eduardo Jalbuna, while he has no intention to renew his commission as Notary Public, is hereby suspended or disqualified from being commissioned as Notary Public for a period of two (2) years effective from date of receipt of this Order for violation of Section (b-2 and 3) and Section 2 (a-1 to 6) Rule VI, 2004 Rules on Notarial Practice.

x x x x

All other respondents are also warned that repetition of similar infractions or any other violation of the 2004 Rules on Notarial Practice will be subject of a more severe sanction.

SO ORDERED.<sup>8</sup>

Several other cases were filed by one faction against the other. Atty. Jalbuna was caught in the middle of a family dispute not only as counsel but as a party litigant, either as complainant or respondent, in the barrage of cases the family members filed against each other.<sup>9</sup>

In the present Complaint for disbarment,<sup>10</sup> Azarraga alleged two causes of action before the Integrated Bar of the Philippines, as follows:

#### FIRST CAUSE OF ACTION

2. Atty. Eduardo Jalbuna was a Notary Public for the City of Iloilo in 2015;

....

5. Respondent Atty. Jalbuna, in violation of the above provisions of the Notarial Law, made it appear that he notarized a Medical Certificate of Dra. Anna Nina Natalia L. Tayo and in that document he claimed that the same was entered in his Notarial Registry as Doc. No. 239; Page 49; Book No. LXV; Series of 2015; A copy of the medical certificate is hereto attached as Annex "A" of this petition;

<sup>8</sup> *Id.* at 544.

<sup>9</sup> *Id.* at 539.

<sup>10</sup> *Id.* at 2-9.

6. However, a verification with the Notarial Section of the Office of the Clerk of Court of the Regional Trial Court of Iloilo shows that the document entered as Doc. No. 239; Page 49; Book No. LXV Series of 2015 is not the Medical Certificate of Dra. Tayo, but a Secretary’s Certificate signed by certain Consuelo Real . . .

7. Thus, respondent Jalbuna caused it [to] appear that Dra. Tayo appeared before him to subscribe and swear to the truthfulness of her Medical Certificate, when in truth and in fact, no such thing happened . . .

....

9. The non-entry of the Medical Certificate was malicious considering that the contents thereof were used by Atty. Jalbuna as counsel of my sister-in-law, Hyacinth Laraga Catral, to justify that my mother-in-law, Teresita S. Laraga, had the capacity to sign the documents in 2015 when in truth and in fact she was already mentally and physically incapable to do so[.]<sup>11</sup>

SECOND CAUSE OF ACTION

....

15. In gross violation of the Data Privacy Act, and with malice [sic] afterthought, said Eduardo L. Jalbuna, sometime in April, 2017, in cooperation with her secretary, Elizabeth Espinosa, obtained and retrieve[d] from the Philippine Statistics Authority, a copy of the marriage contract between me and my former wife, Elizabeth Soliven (which marriage was already nullified).

16. Atty. Jalbuna used the marriage certificate and made it appear that I am still married to Elizabeth Soliven and maliciously insinuated that my relationship with my present wife, Therese Laraga-Azarraga, is illegal and [a] scandalous one.

17. That neither I nor my former wife Elizabeth Soliven were informed, were asked, nor consented to the retrieval of the said marriage contract with the Philippine Statistics Authority, and, thus, the processing (as defined under the Data Privacy Law) thereof, is not one of those allowed under the said law.

18. Under the Code of Professional Responsibility for Lawyers, it provides that:

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[.]<sup>12</sup>

<sup>11</sup> *Id.* at 2-4.

<sup>12</sup> *Id.* at 5-7.

In his defense, Atty. Jalbuna responded that this case is part of a series of cases filed against him by Azarraga and his supposed wife after Teresita sold her property. He asserted that Azarraga falsely represented himself to be married to Therese to “dip his finger on a property or over transactions of that property of Teresita, whom Azarraga is not related to.”<sup>13</sup>

With regard to the first cause of action, Atty. Jalbuna claimed that he mistakenly put a notarial number in the medical certificate, which he believed was not necessary, in order not to “deface or make dirty”<sup>14</sup> the medical certificate with an erasure, he did not erase the notarial entry in the said certificate. As it turned out, this notarial entry in the medical certificate was used on a different document notarized by Atty. Jalbuna on May 19, 2015. He claimed that, in the first place, the notarial entry on a medical certificate was not necessary. He also asserted that the non-reporting of an oath in the medical certificate is not an immoral or unlawful conduct nor an act of falsification. He stated that he did not have to submit a copy of his oath, as it was not a document that conferred or vested a right or an obligation among parties.<sup>15</sup> He further explained that the Office of the Executive Judge had already taken cognizance of the administrative complaint and the Decision thereon is akin to double jeopardy.<sup>16</sup>

As to the second cause of action, Azarraga, together with his alleged wife, had already filed two complaints before the National Privacy Commission. He reasserted that the documents obtained from the Philippine Statistics Authority are public records and released for legitimate purpose to be used as documentary evidence to prove that Therese is single and not married contrary to her claim before Branch 14, RTC, Roxas City in her petition for guardianship over the person and property of Teresita. He stated that “there is nothing unlawful, dishonest, or deceitful for [Atty. Jalbuna] to secure documents related and relevant to the cases”<sup>17</sup> and that Atty. Jalbuna “continues to foster falsehood to the general public and grossly misrepresented that complainant and Therese in all their dealings with the government and private sector that they are lawfully married when in fact they are not.”<sup>18</sup> He emphasized that Azarraga also filed a complaint before the Manila City Prosecutors Office against him involving the same issue of the alleged processing of personal information, which the prosecutor’s office dismissed.<sup>19</sup>

The Report and Recommendation of the Commission on Bar Discipline of the Integrated Bar of the Philippines provides in part:

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<sup>13</sup> *Id.* at 20.

<sup>14</sup> *Id.* at 21.

<sup>15</sup> *Id.*

<sup>16</sup> *Id.* at 544.

<sup>17</sup> *Id.* at 23.

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

<sup>19</sup> *Id.* at 22.

With regards to the Medical Certificate which is the subject matter of this case, Dr. Anna Nina L. Tayo stated in her Counter-Affidavit, dated June 04, 2018, that she swore under oath on the authenticity of her signature and the truthfulness of the contents of the Medical Certificate she issued on the condition of her patient[,] Mrs. Teresita Larraga, 75 years old. There is no reason to doubt her statement. She could have denied issuing the Medical Certificate, if only to escape the filing of any complaint against her. The fact that she stood by her Medical Certificate, even at the risk of being made to answer several criminal and administrative complaints against her, made her declaration believable.

....

It was likewise established by substantial evidence that respondent Atty. Jalbuna obtained from the Philippine Statistics Authority a copy of the marriage contract between the Complainant and his former wife Elizabeth Soliven, without the consent of the couple. Respondent Atty. Jalbuna attached the Marriage Contract to his Judicial Affidavit (Complaint) in the following complaints he filed against Therese Larraga Azarraga: 1) NPS Docket XV-07-INV-17G-04250, captioned Eduardo Jalbuna versus Therese Larraga, for violation of CA No. 142, as amended by RA 6085, and for Perjury against Therese Larraga; and 2) NPS Docket No. XV-10-INV-17D-00195, captioned Eduardo L. Jalbuna versus Therese Azarraga, for Falsification of Public Documents.<sup>20</sup>

The Commission on Bar Discipline concluded that Atty. Jalbuna indeed violated the rules on notarial practice, stating thus:

As to the first issue – whether or not respondent Atty. Eduardo L. Jalbuna violated the 2004 Rules on Notarial Practice (or “2004 Notarial Rules”) in connection with the notarization of the Medical Certificate issued by Dr. Anatalia Nina L. Tayo – the answer is in the affirmative.

The notary public is mandated to record every notarial act in his notarial register with the following data: 1) entry number and page number; 2) the date and time of day of the notarial act; and several other information. When respondent Atty. Jalbuna took the oath of Dr. Tayo, he was required to enter the required data or information in his notarial register, a requirement which respondent Atty. Jalbuna admittedly failed to comply.

The 2004 Notarial Rules further require that a notary public shall not perform the notarial act outside of his regular place of work or business. It was established that the oath of Dr. Tayo was taken not at Atty. Jalbuna’s office but at the Iloilo Mission Hospital where Dr. Tayo was doing her outpatient clinic. Although there are some exceptions to this place of notarization requirement, this situation does not fall under any of the exceptions.

For these infractions, respondent Atty. Jalbuna has to suffer the corresponding penalty. However, these violations were the subject of an administrative complaint filed before the Office of the Executive Judge of the Regional Trial Court of Iloilo City where, after proceedings, the

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<sup>20</sup> *Id.* at 543–545.

Executive Judge imposed on respondent Atty. Jalbuna the appropriate sanction or penalty[.]

.....

After having been penalized by the Honorable Executive Judge for his infraction of the 2004 Notarial Rules, can respondent Atty. Jalbuna still be subjected to another penalty for the same infraction of the 2004 Rules on Notarial Practice? The answer will lie on whether or not his actions which constitute as violative of the 2004 Notarial Rules also violate the provisions of the Code of Professional Responsibility.

According [to] the Complainant, respondent Atty. Jalbuna also violated Canon 1, specifically Rule 1.01 by engaging in unlawful, dishonest, immoral or deceitful conduct. An examination of the evidence submitted by both parties would show that Atty. Jalbuna's omission to record the Medical Certificate in his Notarial Register and taking Dr. Tayo's oath at the Iloilo Mission Hospital would not rise to the level of unlawfulness, dishonesty, immorality or deceit. Dr. Tayo declared that she appeared before Atty. Jalbuna and swore to an oath regarding the authenticity and truthfulness of the contents of her Medical Certificate. Hence, there is no question that the Medical Certificate was authentic and issued by Dr. Tayo and that the latter took an oath before Atty. Jalbuna.

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Based on the foregoing, and for having been penalized by the Office of the Executive Judge of the Regional Trial Court of Iloilo City, it is undersigned's recommendation that Atty. Jalbuna cannot be punished again for the same act and/or omission. In as much as Atty. Jalbuna did not commit any other violation, it is recommended that no other additional penalty be imposed on him.<sup>21</sup> (Citations omitted)

The Commission on Bar Discipline, on the other hand, absolved Atty. Jalbuna from the purported unlawful practice of unauthorized processing of sensitive personal information.

As to the second issue – whether or not Atty. Jalbuna violated the Code of Professional Responsibility when he requested for the Marriage Contract of the Complainant and his former wife and the Complainant's Certificate or No Marriage (or "CENOMAR") and used the same in several cases that Atty. Jalbuna filed, the answer is in the negative.

.....

Furthermore, the Complainant has also filed a complaint before the National Privacy Commission, the specialized government office tasked to safeguard an individual's right to privacy. That agency should be allowed to have this final say in the matter.

WHEREFORE, premises considered, the undersigned respectfully makes the following recommendations:

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<sup>21</sup> *Id.* at 546–547.

1. To CONFIRM the penalty imposed by the Honorable Office of the Executive Judge of the Regional Trial Court of Iloilo City, i.e. disqualification from being commissioned as Notary Public for a period of two (2) years effective from receipt of the Resolution, dated April 30, 2019, and to DIRECT the respondent Atty. Jalbuna to SERVE the penalty if he has not yet done so;
2. To DIRECT the respondent Atty. Jalbuna to inform the IBP when he started serving said penalty;
3. To DISMISS the other complaints against him.

Respectfully recommended.<sup>22</sup>

This was later adopted by the Integrated Bar of the Philippines Board of Governors (Board).

### Issue

Whether respondent Atty. Eduardo L. Jalbuna should be administratively liable for the acts complained of, namely: (a) violation of the 2004 Rules on Notarial Practice; and (b) violation of the Code of Professional Responsibility.

### This Court's Ruling

#### *Irregularities in the Notarial Details violate the 2004 Rules on Notarial Practice*

In this case, Atty. Jalbuna admittedly committed two lapses in relation to the medical certificate: (1) by indicating two different documents—the medical certificate and a certain, unrelated secretary's certificate—as “Doc. No. 239;” and (2) failing to enter the medical certificate in the Notarial Register.

Atty. Jalbuna alleged that he was not required to report the medical certificate as it was a document that did not confer a right or an obligation among the parties. We cannot give credence to this argument.

The 2004 Rules on Notarial Practice provides what must be included in the Notarial Register and what constitutes a notarial act:

SECTION 7. *Notarial Act and Notarization.* — “Notarial Act” and “Notarization” refer to any act that a notary public is empowered to perform under these Rules.

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<sup>22</sup> *Id.* at 547–548.



Rule VI  
Notarial Register

Section 1. *Form of Notarial Register.* — (a) A notary public shall keep, maintain, protect and provide for lawful inspection as provided in these Rules, a chronological official notarial register of notarial acts consisting of a permanently bound book with numbered pages.

Section 2 (e). The notary public shall give each instrument or document executed, sworn to, or acknowledged before him a number corresponding to the one in his register, and shall also state on the instrument or document the page/s of his register on which the same is recorded. No blank line shall be left between entries.

Verily, Atty. Jalbuna's contentions were misguided. The notarization of the medical certificate contradicts his position that, in the first place, the notarial entry on a medical certificate was not necessary.

He also stated that he did not have to submit a copy of his oath, as it was not a document that conferred or vested a right or an obligation among the parties. This does not change the fact that he affixed his notarial certificate and seal on the medical certificate to give an impression that an individual appeared in person; is personally known to the notary public or identified through competent evidence of identity; and avowed under penalty of law to the whole truth of the contents of the instrument.<sup>23</sup>

Given Atty. Jalbuna's lapses in the documentation of his notarial acts, the Commission on Bar Discipline was justified in its recommendation to confirm the penalty imposed by the Office of the Executive Judge of the RTC of Iloilo City, which disqualified him from reappointment as a notary public for a period of two years effective from receipt of the Resolution dated April 30, 2019. Such sanction from an executive judge is authorized under Administrative Matter No. 03-8-02-SC, or the Guidelines on the Selection and Designation of Executive Judges and Defining their Powers, Prerogatives and Duties, which provides that executive judges may impose appropriate administrative sanctions against erring notaries public, including, but not limited, to the nonrenewal, withdrawal, revocation, or cancellation of their commissions.<sup>24</sup>

The violations of the Rules on Notarial Practice are not to be taken lightly. Jurisprudence emphasizes the role of a notary public in maintaining public trust, and their corresponding obligations:

It is well to stress that notarization is not a meaningless act, but is one imbued with substantial public interest. This is because "a notarized document is entitled to full faith and credit" under the law. A notary public,

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<sup>23</sup> 2004 Rules on Notarial Practice, Rule II, sec. 2.

<sup>24</sup> Administrative Matter No. 03-8-02-SC, sec. 4(f), February 15, 2004.

such as respondent, is thus mandated to discharge with faithfulness the sacred duties of his profession, and to strictly comply with the parameters set forth under the Notarial Rules. Otherwise, the public's confidence in the integrity of a notarized document would be undermined. (Citations omitted)<sup>25</sup>

It appears from the record that Atty. Jalbuna has not submitted any manifestation as to whether he has served the penalty imposed by the Office of the Executive Judge of the RTC of Iloilo City. The sanction is thereby reiterated, unless Atty. Jalbuna is able to produce a manifestation that the penalty had already been served.

We modify, however, the penalty recommended by the Board considering that the liability for negligence in notarial duties is compounded by the fact that Atty. Jalbuna is also a lawyer:

Respondent's failure to perform his duty as a notary public resulted not only damage to those directly affected by the notarized document but also in undermining the integrity of a notary public and in degrading the function of notarization. He should, thus, be held liable for such negligence not only as a notary public but also as a lawyer. The responsibility to faithfully observe and respect the legal solemnity of the oath in an acknowledgment or *jurat* is more pronounced when the notary public is a lawyer because of his solemn oath under the Code of Professional Responsibility to obey the laws and to do no falsehood or consent to the doing of any. Lawyers commissioned as notaries public are mandated to discharge with fidelity the duties of their offices, such duties being dictated by public policy and impressed with public interest.<sup>26</sup> (Citations omitted)

In the comparable case of *Pajarillo v. Atty. Yanto*,<sup>27</sup> the latter was found to have committed irregularities in his notarization of special powers of attorney. Instead of affixing different notarial details for each of the two documents, which involved separate cases, his office staff indicated the same notarial details for both. In that case, this Court meted a penalty of suspension from the practice of law for three months, a revocation of his notarial commission, and a disqualification from reappointment as a notary public for three months. This Court explained thus:

By failing to record proper entries in the notarial register, respondent not only violated the Notarial Rules but also the [Code of Professional Responsibility (CPR)]. Specifically, he failed to comply with his duty under Canon 1 of the CPR to uphold and obey the laws of the land, *i.e.*, the Notarial Rules, and to promote respect for law and legal processes. So, too, respondent's delegation to the office staff of his notarial function is a direct violation of Rule 9.01, Canon 9 of the CPR, which provides that "[a] lawyer

<sup>25</sup> *Carandang v. Ramirez, Jr.*, A.C. No. 13343, September 14, 2022 [Per J. Inting, Third Division] at 6. This pinpoint citation refers to the copy of the Resolution uploaded to the Supreme Court website.

<sup>26</sup> *Agbulos v. Viray*, 704 Phil. 1, 8-9 (2013) [Per J. Peralta, Third Division].

<sup>27</sup> A.C. No. 13332, August 10, 2022 [Per J. Dimaampao, Third Division].

shall not delegate to any unqualified person the performance of any task which by law may only be performed by a member of the Bar in good standing.”

Based on the circumstances obtaining in the case at bench, respondent should be made liable not only as a notary public who failed to discharge his duties as such but also as a lawyer who exhibited utter disregard for the integrity and dignity owing to the legal profession.

It cannot be stressed enough that notarial duties, as with lawyer duties, ought to be carried out with not just a modicum of competence. When lawyers applied to be commissioned notaries, and when they were subsequently appointed as such, they swore under oath to preserve the sanctity of the notarial process. The legal effect of notarization — how it transforms a private document into a self-authenticating public document that provides evidentiary convenience — should constantly remind notaries public that there is a need on their part to be particularly thorough in keeping the accuracy, integrity, and truthfulness of their notarial records. Not holding fast to this solemn duty will undermine the public’s faith and confidence in the notarial system and the legal profession in general.<sup>28</sup> (Citation omitted)

Considering the similar nature of Atty. Jalbuna’s infractions in this case—that is, placing incorrect notarial details on the documents and failing to record a notarized document in the notarial register, We are constrained to mete out the same penalty of suspension from the practice of law for three months.

*Atty. Jalbuna is not liable under the Data Privacy Act in this Case, and Consequently not liable under the Code of Professional Responsibility*

The Code of Professional Responsibility provides that a lawyer must obey all laws:

Chapter I. The Lawyer and Society

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.

Deciding whether a lawyer fails to obey the laws of the land or promote respect for law, as quoted, necessitates a determination on the alleged violation of the law.

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<sup>28</sup> *Id.* at 5–6. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

Azarraga alleges that Atty. Jalbuna committed the following crime under the Data Privacy Act:

SECTION 25. *Unauthorized Processing of Personal Information and Sensitive Personal Information.* — (a) The unauthorized processing of personal information shall be penalized by imprisonment ranging from one (1) year to three (3) years and a fine of not less than Five hundred thousand pesos (Php 500,000.00) but not more than Two million pesos (Php 2,000,000.00) shall be imposed on persons who process personal information without the consent of the data subject, or without being authorized under this Act or any existing law.

(b) The unauthorized processing of personal sensitive information shall be penalized by imprisonment ranging from three (3) years to six (6) years and a fine of not less than Five hundred thousand pesos (Php 500,000.00) but not more than Four million pesos (Php 4,000,000.00) shall be imposed on persons who process personal information without the consent of the data subject, or without being authorized under this Act or any existing law.<sup>29</sup>

The above provision can be parsed in order to determine liability under this specific provision of the Data Privacy Act:

1. The accused processed the information of the data subject;
2. The information processed constitutes personal information or sensitive personal information;
3. That the processing was done without the consent of the data subject, or without being authorized under this act or any existing law.

Applying the above elements to this case, the questions are: Does requesting, obtaining, and using a marriage certificate in relation to a legal proceeding constitute “processing”? Is the information in a marriage certificate considered personal information or sensitive personal information under the Act? Finally, assuming that Atty. Jalbuna’s act of requesting, obtaining, and attaching a marriage certificate constitutes processing under the Act, is it considered lawful and authorized under the Act? These shall be discussed *in seriatim*.

“Processing” is defined by the same Act in the following manner:

SECTION 3. *Definition of Terms.* — Whenever used in this Act, the following terms shall have the respective meanings hereafter set forth:

....

(j) *Processing* refers to any operation or any set of operations performed upon personal information including, but not limited to, the collection,

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<sup>29</sup> Republic Act No. 10173, sec. 25, Data Privacy Act of 2012.



recording, organization, storage, updating or modification, retrieval, consultation, use, consolidation, blocking, erasure or destruction of data.<sup>30</sup>

Simply stated, processing refers to the use of personal or sensitive personal information at any point of its life cycle, which begins from the collection of the information from individuals until its destruction. It bears pointing out that there is nothing in the provision, the Data Privacy Act, or its Implementing Rules and Regulations that limits “processing” to digital means. The Data Privacy Act governs not just the processing of personal information in digital platforms but also those found in documents, such as the subject marriage certificate in this case. Where the law does not distinguish, We should not distinguish.

In this case, Atty. Jalbuna requested and consequently obtained the subject documents from the Philippine Statistics Authority in order to look into the personal circumstances of Azarraga and, in view of the Petition for guardianship proceedings she filed for their mother Teresita, to oppose Azarraga’s moral fitness as such guardian.

Given this, Atty. Jalbuna’s actions of collecting, storing, and using the sensitive personal information of Azarraga as evidence to support their allegations in the guardianship case is considered processing of sensitive personal information.

Under the Data Privacy Act, sensitive personal information refers to information:

- 1) About an individual’s race, ethnic origin, *marital status*, age, color, and religious, philosophical or political affiliations;
- 2) About an individual’s health, education, genetic or sexual life of a person, or to any proceeding for any offense committed or alleged to have been committed by such person, the disposal of such proceedings, or the sentence of any court in such proceedings;
- 3) Issued by government agencies peculiar to an individual which includes, but not limited to, social security numbers, previous or current health records, licenses or its denials, suspension or revocation, and tax returns; and
- 4) Specifically established by an executive order or an act of Congress to be kept classified.<sup>31</sup> (Emphasis supplied)

Among the information that can be found in the marriage certificate, Azarraga particularly assails Atty. Jalbuna’s act of processing the former’s marital status. Hence, the information processed by Atty. Jalbuna relevant to this case is classified as sensitive personal information. Concomitantly,

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<sup>30</sup> Republic Act No. 10173, sec. 3.

<sup>31</sup> Republic Act No. 10173, sec. 3(1).

Section 13 of the Data Privacy Act governs the determination on whether Atty. Jalbuna's actions are considered lawful.

At the outset, We clarify that lawyers without appropriate authorization can no longer request or obtain a person's marriage certificate from the Philippine Statistics Authority without authorization from such person. This is clear from the Philippine Statistics Authority's policies, as provided in its Memorandum Circular No. 2019-16<sup>32</sup> dated June 11, 2019, pursuant to previous Memorandum Circular Nos. 2017-050 (MC 2017-050)<sup>33</sup> and 2017-09.<sup>34</sup>

For guidance, Memorandum Circular No. 2019-16 provides their policies as regards the authorized access to documents from the same Authority:

[T]he presentation of valid identification (ID) cards/identity documents of the document owners in the issuance of civil registry documents/certifications at all PSA Serbilis Outlets, LGU-BREQs Partners and other PSA-authorized institutions/establishments must be strictly implemented.

Likewise, [an] authorized representative must also be required to present the original and photocopy of the ID of the document owner aside from the presentation of authorization letter/Special Power of Attorney. Moreover, the requesting party/authorized representative must also show that the original and shall provide a photocopy of his/her ID (front and back) to the PSA . . .

[B]elow is the list of valid IDs that are acceptable for the issuance of birth/marriage/death documents, and CENOMAR/Advisory on Marriage including authentication of civil registry documents[.]<sup>35</sup>

Based on Azarraga's allegation, Atty. Jalbuna obtained the marriage certificate "sometime in April 2017," apparently before the Philippine Statistics Authority limited the authorized persons who can request for copies of certificates of birth, marriage, and death. Although MC 2017-050 was issued on April 17, 2017, Azarraga's vague allegation that the act was done "sometime in April 2017" does not suffice to prove that MC 2017-050 had

<sup>32</sup> Strict Implementation of the Presentation of Valid Identification (ID) Cards/Identity Documents in the Issuance of Civil Registry Documents/Certifications from the PSA, PHILIPPINE STATISTIC AUTHORITY, *available at* [https://psa.gov.ph/sites/default/files/MC2019-16%20Strict%20Implementation%20of%20the%20Presentation%20of%20Valid%20ID%20Card\\_Identity%20Documents%20in%20the%20Issuance%20of%20CRDs\\_Certifications%20from%20the%20PSA.pdf](https://psa.gov.ph/sites/default/files/MC2019-16%20Strict%20Implementation%20of%20the%20Presentation%20of%20Valid%20ID%20Card_Identity%20Documents%20in%20the%20Issuance%20of%20CRDs_Certifications%20from%20the%20PSA.pdf) (last accessed on February 16, 2023).

<sup>33</sup> Release of Certificate of Death, Certificate of Marriage, Certificate of No Marriage, and Advisory on Marriages, dated April 17, 2017.

<sup>34</sup> Issuance of Original and Certified True Copy of Certificate of Live Birth, Certificate of Marriage and Certificate of Death, dated June 19, 2017.

<sup>35</sup> PSA Circular No. 2019-16 (2019).

already been in effect at that point in time. As the case of *Asuncion v. Salvado*<sup>36</sup> provides:

It must be stressed . . . that a lawyer “enjoys the legal presumption that he is innocent of charges against him until the contrary is proved. The burden is on the complainant to establish his case by substantial evidence—“that amount of relevant evidence that a reasonable mind might accept as adequate to support a conclusion.”<sup>37</sup> (Citations omitted)

Having determined that Atty. Jalbuna did not violate the rules or procedures of the PSA when he obtained Azarraga’s birth certificate, his actions shall be evaluated based on the Data Privacy Act.

The Data Privacy Act provides the rule with regard to the processing of sensitive personal information:

SECTION 13. *Sensitive Personal Information and Privileged Information.*  
— The processing of sensitive personal information and privileged information shall be prohibited, except in the following cases:

x x x x

(f) *The processing concerns such personal information as is necessary for the protection of lawful rights and interests of natural or legal persons in court proceedings, or the establishment, exercise or defense of legal claims, or when provided to government or public authority.*<sup>38</sup> (Emphasis supplied)

Based on the above, Section 13(f) of the same Act contemplates three different instances of lawful processing:

- (a) The processing of personal information is necessary for the protection of lawful rights and interests of natural or legal persons in court proceedings;
- (b) The processing of personal information is necessary for the establishment, exercise or defense of legal claims; or
- (c) The processing concerns personal information that is provided to government or public authority.

In this case, the subject marriage certificate was used as documentary evidence before Branch 14, RTC of Roxas City, in relation to the petition for guardianship over the person and property of Teresita. Atty. Jalbuna explained that the documents were obtained to determine the moral fitness of Therese as the guardian of his client. Given that the Philippine Statistics Authority had not yet issued and implemented its policies on limited access to documents at

<sup>36</sup> A.C. No. 13242, July 5, 2022 [*Per Curiam, En Banc*] at 8. This citation refers to the copy of the Decision uploaded to the Supreme Court website.

<sup>37</sup> *Id.*

<sup>38</sup> Republic Act No. 10173, sec. 13(f), Data Privacy Act of 2012.

the time of controversy, Atty. Jalbuna's act of obtaining the documents and the consequent use thereof is considered as the processing of personal information necessary for the protection of lawful rights and interest of natural or legal persons in court proceedings, under Section 13(f).

It bears emphasis, however, that the same actions moving forward, will not be treated the same way, considering the superseding limitations issued by the Philippine Statistics Authority, which now govern the matter. A lawyer requesting for certain information from a government agency remains to be subject to that agency's guidelines for the release of such information. To quote Canon 19 of the Code of Professional Responsibility a lawyer shall represent his client with zeal *within the bounds of the law*.

This is not to say, however, that lawyers are given unabated discretion to obtain information from repositories of personal information, such as government agencies, which do not yet have any policy on the matter. Section 11 of the Act provides basic, all-encompassing principles for the processing of information: (1) transparency, (2) legitimate purpose, and (3) proportionality.

Transparency is explained in paragraph (a) of Section 11 as collecting personal information for *specified and legitimate purposes determined and declared* before, or as soon as reasonably practicable.

Legitimate purpose as referred to in paragraph (b) of Section 11 pertains to processing that is done fairly and lawfully.

Finally, proportionality as required under paragraph (c) of Section 11 entails that the personal information sought must be *necessary for purposes for which it is to be used*. Paragraph (d) adds that it must be *adequate and not excessive in relation to the purposes* for which they are collected and processed. Paragraph (e), also contemplating proportionality, requires that the personal information must only be retained by the lawyer for as long as necessary for the fulfillment of the purposes for which the information was obtained.

As a final note, We reiterate Our statement in the case of *People v. Cadajas*,<sup>39</sup> which provided that while violation of privacy is governed by the Data Privacy Act, its admissibility shall be governed by the rules on relevance, materiality, authentication of documents, and the exclusionary rules under the Rules on Evidence.

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<sup>39</sup> G.R. No. 247348, November 16, 2021 [Per J. Lazaro-Javier, *En Banc*].



All the above premises considered, We affirm the recommendation of the Integrated Bar of the Philippines to dismiss the charge against Atty. Jalbuna for unauthorized processing under the Data Privacy Act. Consequently, at the time he obtained Azarraga's marriage certificate, it cannot be said that he engaged in unlawful, dishonest, immoral, or deceitful conduct.

However, with regard to his violation under the Rules on Notarial Practice, he is hereby meted the penalty of suspension from the practice of law for three months.

**FOR THESE REASONS**, the disbarment complaint against respondent Atty. Eduardo L. Jalbuna in relation to the alleged violation of the Data Privacy Act and Canon 1 of the Code of Professional Responsibility is **DISMISSED**.

With respect to the charge of his violation of the Rules on Notarial Practice, We **AFFIRM** the findings of the Board of Governors which adopted the penalty earlier imposed by the Executive Judge of the Regional Trial Court of Iloilo City, i.e., 1) immediate revocation of his Notarial Commission, if subsisting; and 2) disqualification from being commissioned as a notary public for a period of two years, if he has not actually started serving the penalty. This Decision shall not be construed to penalize him twice for the same infraction. In addition, he is also meted the penalty of **SUSPENSION** from the practice of law for a period of three months.

The immediate revocation of his Notarial Commission, if subsisting, the disqualification from being commissioned as a notary public, if he has not actually started serving the same and the suspension from the practice of law 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 attached to the personal record of Atty. Eduardo L. Jalbuna; the Office of the Court Administrator, for dissemination to all lower courts; and the Integrated Bar of the Philippines, for proper guidance and information.

**SO ORDERED.**


  
**JHOSEP V. LOPEZ**  
Associate Justice

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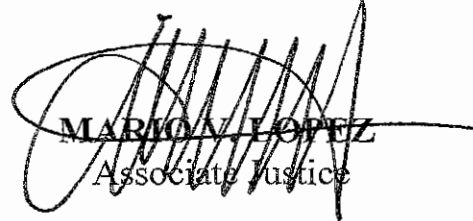
**WE CONCUR:**




**MARVIC MARIO VICTOR F. LEONEN**  
Senior Associate Justice  
Chairperson



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



**MARIONA LOPEZ**  
Associate Justice



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