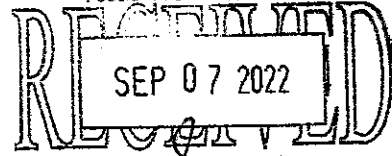




SUPREME COURT OF THE PHILIPPINES
PUBLIC INFORMATION OFFICE



Republic of the Philippines
Supreme Court
Manila

BY: *[Signature]*
TIME: *2:43*

SECOND DIVISION

BERNALDO E. VALDEZ,
Complainant,

A.C. No. 12443

Present:

- versus -

PERLAS-BERNABE, S.A.J.,
Chairperson,
HERNANDO,
ZALAMEDA,
ROSARIO, and
MARQUEZ, JJ.

ATTY. WINSTON B. HIPE,
Respondent.

Promulgated:

MAR 14 2022

[Signature]

X ----- X

DECISION

PERLAS-BERNABE, J.:

Before the Court is an administrative complaint¹ for disbarment filed by Bernaldo E. Valdez (complainant) against respondent Atty. Winston B. Hipe (respondent) with the Office of the Bar Confidant of the Supreme Court for allegedly violating the lawyer's oath and the 2004 Rules on Notarial Practice.

¹ Complaint-affidavit dated January 22, 2019; *rollo*, pp. 1-3.

[Handwritten mark]

The Facts

Complainant alleged that he received a copy of an affidavit² executed by respondent in support of a counter-affidavit filed by a certain Atty. Calberito M. Caballero, in response to his complaint-affidavit. He claimed that in said affidavit, respondent stated that he notarized the Verification and Certification of Non-Forum Shopping (*Verification/Certification*) executed by Arnold Pe, Pearl Marjorie Pe, and Evaristo Pe, containing the following notarial details: “*Doc. No. 379; Page No. 76; Book No. XXXI; Series of 2016,*” which he might have failed to report in his Notarial Report due to inadvertence.³ Complainant, however, pointed out, that as per the Certification⁴ dated February 9, 2018 issued by the Office of the Clerk of Court of the Regional Trial Court of Quezon City (OCC-RTC), the document adverted to by respondent refers to an Affidavit of Circumstances of Death,⁵ not the *Verification/Certification, viz:*

THIS IS TO CERTIFY that per available records on file with this office as of this date, **ATTY. WINSTON B. HIPE** has submitted his Notarial Reports (Book No. XXXI) covering the period April 1, 2016 to May 11, 2016.

IT IS FURTHER CERTIFIED that **Doc. No. 379; Book No. XXXI; Series of 2016 REFERS** to an **Affidavit (Circumstances of Death)** executed by Helen G. Mesa notarized on April 11, 2016 and **NOT** the requested Verification and Certification of Non-Forum Shopping allegedly executed by Arnold Pe, Evaristo Pe and Pearl Marjorie Pe as shown in the herein attached certified true xerox copy of his Notarial Registry (loose leaf), and the said Affidavit (Circumstances of Death).⁶ (Emphases supplied)

Thus, he filed the administrative case against respondent for violation of the Notarial Rules.

In support of his allegations, complainant attached copies of the affidavit⁷ and the complaint containing the *Verification/Certification*,⁸ as well as the Affidavit of Circumstances of Death⁹ and loose leaf of respondent's Notarial Register,¹⁰ including the OCC-RTC Certification.¹¹

² Id. at 11.

³ Id. at 1.

⁴ Executed by Clerk of Court VII/Ex-Officio Sheriff Gregorio C. Tallud; id. at 8.

⁵ Executed by a certain Helen C. Mesa, dated April 11, 2016; id. at 9.

⁶ Id. at 8.

⁷ Id. at 11.

⁸ See id. at 4-7.

⁹ Id. at 9.

¹⁰ Id. at 10.

¹¹ Id. at 8.

In a Resolution¹² dated March 18, 2019, the Court required respondent to file a comment within ten (10) days from notice.

In his Comment dated June 11, 2019,¹³ respondent admitted executing the affidavit, as well as notarizing the *Verification/Certification* on April 11, 2016. He likewise acknowledged that he might have failed to include the *Verification/Certification* in his notarial report submitted to the OCC-RTC. However, he alleged that said failure was not made in bad faith, but was rather due to mere inadvertence and his heavy volume of work as a legal consultant of the Public Assistance and Legal Aid Office under the Office of the City Mayor of Quezon City.¹⁴ Further, he stressed that the complaint points only to a single incident involving a document over which he had no interest nor participation, and in fact, this was the first time in his more than eighteen (18) years as notary public that he has been administratively charged.¹⁵ Finally, he apologizes for the mistake, and promises to be more circumspect in the performance of his duties as a notary public, and thus prays for the Court's kindness and empathy,¹⁶ especially given his advanced age.¹⁷

The Issue Before the Court

The sole issue for the Court's resolution is whether or not grounds exist to hold respondent administratively liable in this case.

The Court's Ruling

Time and again, the Court has reminded lawyers that notarization is not an empty, meaningless, and routinary act, but one invested with substantive public interest.¹⁸ Notarization converts a private document into a public document, making it admissible in evidence without further proof of its authenticity.¹⁹ Thus, a notarized document is, by law, entitled to full faith and credit upon its face. It is for this reason that notaries public must observe with utmost care the basic requirements in the performance of their notarial duties; otherwise, the public's confidence in the integrity of a notarized document would be undermined.²⁰

In keeping with the faithful observance of their duties, notaries public are required to keep, maintain, protect, and provide for lawful inspection, a

¹² Id. at 12.

¹³ Id. at 14-19.

¹⁴ See id. at 14-15.

¹⁵ Id.

¹⁶ Id. at 15-16.

¹⁷ Id. at 14. Respondent stated that he is already seventy-eight (78) years old.

¹⁸ *Roa-Buenafe v. Lirazan*, A.C. No. 9361, March 20, 2019, 897 SCRA 449, 456.

¹⁹ Id.

²⁰ Id. at 456-457.

chronological official notarial register of notarial acts.²¹ Further, Section 2, Rule IV of the 2004 Rules on Notarial Practice enumerates the details that notaries public must record in the notarial register at the time of the notarization, viz:

RULE VI
NOTARIAL REGISTER

x x x x

SEC. 2. Entries in the Notarial Register. — (a) **For every notarial act, the notary shall record in the notarial register at the time of notarization the following:**

- (1) the entry number and page number;
- (2) the date and time of day of the notarial act;
- (3) the type of notarial act;
- (4) the title or description of the instrument, document or proceeding;
- (5) the name and address of each principal;
- (6) the competent evidence of identity as defined by these Rules if the signatory is not personally known to the notary;
- (7) the name and address of each credible witness swearing to or affirming the person's identity;
- (8) the fee charged for the notarial act;
- (9) the address where the notarization was performed if not in the notary's regular place of work or business; and
- (10) any other circumstance the notary public may deem of significance or relevance.

x x x x

(e) **The notary public shall give to 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.

x x x x

(g) At the end of each week, the notary public shall certify in his notarial register the number of instruments or documents executed, sworn to, or acknowledged, or protested before him; or if none, this certificate shall show this fact. (Emphases supplied)

In this case, it is clear that the *Verification/Certification* was not included in his notarial report for the April 11, 2016 to May 11, 2016 period based on respondent's own admission, as well as on the Certification issued by the OCC-RTC. It is evident, too, that the same notarial details had been assigned to two (2) distinct documents. Given the evidentiary value accorded to notarized documents, respondent's failure to record the document in his notarial register amounts to falsely making it appear that the document was notarized when, in fact, it was not.²² The non-appearance of the document or

²¹ See Section 1, Rule IV of the 2004 Rules on Notarial Practice.

²² See *De Vera v. Navarro*, A.C. No. 12912, January 18, 2021.

instrument in the notarial records without any copy therein creates doubt whether such document or instrument was indeed notarized. It also effectively removed the credit and full faith which notarization generates on notarized documents.²³

Considering the evidence on record, particularly, respondent's own admission of violating the 2004 Rules on Notarial Practice, the principle of *res ipsa loquitur* finds application, making him administratively liable. In several cases, the Court has not hesitated to discipline lawyers without further inquiry or resort to any formal investigation where the facts on record sufficiently provided the basis for the determination of their administrative liability.²⁴ Indubitably, the foregoing facts and evidence sufficiently convince the Court that respondent was remiss in his duties as a notary public. Respondent's omission caused prejudice and injury to the signatories of the *Verification/Certification* for purposes of filing an action before the proper court. Undeniably, this failure on the part of respondent constitutes a transgression of the 2004 Rules on Notarial Practice, for which he must be held administratively liable.

The Court has not shied away in subjecting erring lawyers who were remiss in their duties as notaries public to disciplinary action. The failure to enter the notarial acts in one's notarial register, as in this case, constitutes dereliction of a notary public's duties which warrants the following: (1) revocation of notarial commission; (2) disqualification from being commissioned as notary public; and (3) suspension from the practice of law—the terms of which vary based on the circumstances of each case.²⁵ Among the circumstances that may affect the terms of the penalty is the number and/or gravity of the infraction or violations committed.²⁶ Other circumstances or factors established by case law include the respondent's length of service, the respondent's acknowledgement of his or her infractions and feeling of remorse, family circumstances, humanitarian and equitable considerations, including the respondent's advanced age.²⁷

²³ See *De Vera v. Navarro*, A.C. No. 12912, January 18, 2021.

²⁴ See *Cabalida v. Atty. Lobrido*, A.C. No. 7972, October 3, 2018, 881 SCRA 321, 355.

²⁵ See *Orenia v. Gonzales*, A.C. No. 12755, October 7, 2020.

²⁶ See the following cases where the Court imposed a six-month suspension for the practice of law, as well as two-year disqualification from being a notary public: *Malvar v. Baleros*, 807 Phil. 16, 31 (2017) and *De Vera v. Navarro*, A.C. No. 12912, January 18, 2021.

The Court in the following cases, on the other hand, imposed a one-year suspension from the practice of law with two-year disqualification from being a notary public: *Re: Order Dated December 5, 2017 In Adm. Case No. NP-008-17*, A.C. No. 12274, October 7, 2020 and *Buenafe v. Liraza*, A.C. No. 9361, March 20, 2019, 897 SCRA 449.

Meanwhile, the Court imposed a three-month suspension from the practice of law and one-year disqualification from being a notary public in the following cases: *Orenia v. Gonzales*, A.C. No. 12766, October 7, 2020 and *Rico v. Attys. Madrazo, Tan, and Delante*, A.C. No. 7231, October 1, 2019. Notably, in these cases, the Court imposed only a three-month suspension from the practice of law even though the respondents were found to have delegated the task of recording the notarial acts in the notarial register to their respective secretaries and/or committed falsehoods, in addition to their failure to record the subject notarial acts in their notarial register.

²⁷ See *Rayos v. Hernandez*, 558 Phil. 228, 231-235 (2007).


In this case, it is evident that respondent is found guilty of a single infraction for which no malice or bad faith was shown. Additionally, the following circumstances in respondent's case merit the Court's appreciation: (1) respondent has been serving as a notary public for more than eighteen (18) years; (2) this is the first time respondent has been found administratively liable per the available records; (3) respondent has admitted and acknowledged his infraction, and has, in fact, apologized for his violation and vows to be more circumspect in the performance of his duties as a notary public; and (4) respondent's advanced age. Taking these circumstances together and following case law, the Court is convinced to accord respondent a degree of leniency.

WHEREFORE, the Court finds respondent Atty. Winston B. Hipe (respondent) **GUILTY** of violating the 2004 Rules of Notarial Practice. Accordingly, he is **SUSPENDED** from the practice of law for a period of one (1) month, effective upon receipt of this Decision. Moreover, his notarial commission, if any, is hereby **IMMEDIATELY REVOKED**, and he is **DISQUALIFIED** from being commissioned as a notary public for a period of one (1) year. He is **STERNLY WARNED** that a repetition of the same offense or similar acts in the future shall be dealt with more severely.

Respondent 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: (1) the Office of the Bar Confidant to be appended to respondent's personal record as an attorney; (2) the Integrated Bar of the Philippines for its information and guidance; and (3) the Office of the Court Administrator for circulation to all courts in the country.

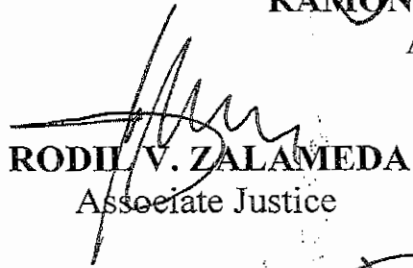
SO ORDERED.


ESTELA M. PERLAS-BERNABE
Senior Associate Justice

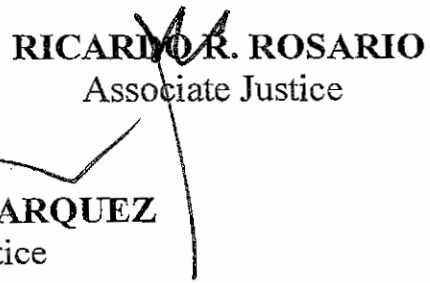
WE CONCUR:



RAMON PAUL L. HERNANDO
Associate Justice



RODIL V. ZALAMEDA
Associate Justice



RICARDO R. ROSARIO
Associate Justice



JOSE MIDAS P. MARQUEZ
Associate Justice