

EN BANC

[A.M. No. P-17-3705, February 06, 2018]

**OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS.
PAULINO I. SAGUYOD, BRANCH CLERK OF COURT, REGIONAL
TRIAL COURT, BRANCH 67, PANIQUI, TARLAC, RESPONDENT.**

RESOLUTION

PERLAS-BERNABE, J.:

This administrative case arose from a Memorandum^[1] dated May 29, 2017 submitted by the complainant Office of the Court Administrator (OCA), which adopted the Audit Team's Report^[2] dated May 9, 2017 in connection with A.M. No. RTJ-15-2404,^[3] recommending, *inter alia*, that respondent Branch Clerk of Court Paulino I. Saguyod (BCC Saguyod) of the Regional Trial Court of Paniqui, Tarlac, Branch 67 (RTC) be directed to explain why he should not be held administratively liable for notarizing several documents submitted to the court without observing the provisions of A.M. No. 02-8-13-SC (*Re: 2004 Rules on Notarial Practice*).^[4]

The Facts

In the Report, the Audit Team examined 1,194 cases decided by former Judge Liberty O. Castañeda (Judge Castañeda) of the RTC where BCC Saguyod was also stationed.^[5] After the conduct of investigation, not only did the Audit Team find fault with the way Judge Castañeda proceeded with the cases she handled, they also discovered that BCC Saguyod had been notarizing a multitude of documents filed before the RTC in connection with the various cases before it without properly observing the Court's appropriate guidelines.^[6] Particularly, the Audit Team observed that BCC Saguyod violated Section (f) of the Resolution dated August 15, 2006 in A.M. No. 02-8-13-SC as he notarized said documents without any certification that there are no available notaries public within the Municipality of Paniqui, Tarlac.^[7] Thus, the Audit Team recommended - with such recommendation being adopted by the OCA - that BCC Saguyod be made to explain as to why he should not be held administratively liable for such act.^[8]

In his Explanation^[9] dated July 31, 2017, BCC Saguyod claimed that he performed said act in good faith and without any monetary consideration.^[10] Citing Section 41,^[11] Chapter 10, Book I of the Administrative Code of 1987 which authorizes clerks of courts to administer oaths, he thought that he was doing an important function which is vital to the prompt and sound administration of justice.^[12] Nonetheless, BCC Saguyod profusely apologized for notarizing documents without strictly adhering to the provisions of the Rules on Notarial Practice, and even manifested that after the Audit Team called his attention on the matter, he had already refrained from subscribing any other document filed before the RTC out of fear of committing

the same mistake.^[13]

The OCA's Report and Recommendation

In a Memorandum^[14] dated December 14, 2017, the OCA recommended that BCC Saguyod be found guilty of inefficiency and incompetence in the performance of official duties, and accordingly, be meted the penalty of suspension from the service for a period of one (1) year, with a warning that a repetition of the same or similar offense shall warrant dismissal from service.^[15]

The OCA found that BCC Saguyod readily admitted to notarizing various documents filed before the RTC without complying with Section (f) of the Resolution dated August 15, 2006 in A.M. No. 02-8-13-SC, and even when some of these documents were not completely accomplished by the concerned parties.^[16] In this regard, the OCA found that BCC Saguyod's defenses that he did not charge notarization fees and that there are no available notaries public in Paniqui, Tarlac do not deserve credence, because: (a) his act of notarizing without compliance with the Court's aforesaid resolution directly makes him liable thereunder; and (b) there are other petitions filed before the RTC which are notarized by notaries public based in Paniqui, Tarlac.^[17]

Finally, in recommending the proper penalty, the OCA pointed out that a mere fine would not suffice, considering the number of times BCC Saguyod repeatedly violated A.M. No. 02-8-13-SC, and the fact that he even went out of his way to notarize documents that were incomplete or sorely lacking in material details. Thus, the OCA recommended that a suspension from service for one (1) year be meted on him, pursuant to the Revised Rules on Administrative Cases in the Civil Service.^[18]

The Issue Before the Court

The essential issue in this case is whether or not BCC Saguyod should be held administratively liable for notarizing various documents submitted to the RTC in connection with the cases filed before it.

The Court's Ruling

The Court adopts the findings and the recommendation of the OCA that BCC Saguyod must be held administratively liable for inefficiency and incompetence in the performance of official duties.

Inefficiency involves specific acts or omission on the part of the employee which results in the damage to the employer or to the latter's business.^[19] It is akin to neglect of duty,^[20] which is the failure of an employee or official to give proper attention to a task expected of him or her, signifying a disregard of a duty resulting from carelessness or indifference.^[21]

In this case, BCC Saguyod readily admitted to notarizing hundreds, if not thousands, of various documents which were submitted before the RTC where he is stationed. As a Clerk of Court, BCC Saguyod's acts of notarization should comply with Section (f) of the Resolution dated August 15, 2006 in A.M. No. 02-8-13-SC, which reads:

A.M. No. 02-8-13-SC (Re: 2004 Rules on Notarial Practice). The Court resolved to:

x x x x

(f) AUTHORIZE the Clerks of Court of the Regional Trial Courts to notarize not only documents relating to the exercise of their official functions but also private documents, subject to the following conditions: (i) all notarial fees charged in accordance with Section 7(o) of the Rule 141 of the Rules of Court, and, with respect to private documents, in accordance with the notarial fee that the Supreme Court may prescribe in compliance with Section 1, Rule V of the Rules on Notarial Practice, shall be for the account of the Judiciary; and (ii) they certify in the notarized documents that there are no notaries public within the territorial jurisdiction of the Regional Trial Court[.]

Under this provision, Clerks of Courts of various Regional Trial Courts are authorized to notarize not only documents relating to their official functions, but also private documents; provided, that: (a) the notarial fees received in connection thereto shall be for the account of the Judiciary; and (b) they certify in said documents that there are no available notaries public within the territorial jurisdiction of the Regional Trial Court where they are stationed.

Here, aside from maintaining that he did not receive compensation for notarizing documents, BCC Saguyod claims that he only did so because: (a) there are no notaries public available within the Municipality of Paniqui, Tarlac; and (b) he believed in good faith that he was authorized to do so. However, and as correctly pointed out by the OCA, such claim is belied by the fact that there are other documents filed before the RTC which are duly subscribed by notaries public based in the same municipality. Furthermore, BCC Saguyod cannot feign good faith in performing the aforesaid acts of notarization, as he repeatedly did so even on those documents which were not completely accomplished by the concerned parties. In light of BCC Saguyod's repeated violations of Section (f) of the Resolution dated August 15, 2006 in A.M. No. 02-8-13-SC, the OCA correctly recommended that he be found administratively liable for inefficiency and incompetence in the performance of official duties.

Anent the proper penalty to be meted on BCC Saguyod, Section 46 (B) (4) of the Revised Rules on Administrative Cases in the Civil Service^[22] classifies inefficiency and incompetence in the performance of official duties as a grave offense, punishable by suspension of six (6) months and one (1) day to one (1) year for the first offense, and dismissal from service for the second offense. Since it appears that this is just BCC Saguyod's first offense of such nature, the Court deems it appropriate to impose on him the penalty of suspension for a period of one (1) year, with a stern warning that a repetition of the same or similar offense shall result in his dismissal from service.

As a final note, it must be stressed that "Public officers must be accountable to the people at all times and serve them with the utmost degree of responsibility and efficiency. Any act which falls short of the exacting standards for public office, especially on the part of those expected to preserve the image of the judiciary, shall not be countenanced. It is the imperative and sacred duty of each and everyone in