

EN BANC

[A.M. No. 09-6-1-SC, January 21, 2015]

RE: VIOLATION OF RULES ON NOTARIAL PRACTICE

DECISION

MENDOZA, J.:

This case stemmed from three (3) letter-complaints for Violation of Rules on Notarial Practice endorsed to the Office of the Bar Confidant (*OBC*) for appropriate action. The first letter-complaint,^[1] dated March 2, 2009, was filed by the commissioned notaries public within and for the jurisdiction of Lingayen, Pangasinan, namely, Atty. Butch Cardinal Torio, Atty. Nepthalie Pasiliao, Atty. Dominique Evangelista, and Atty. Elizabeth C. Tugade (*complainants*) before the Executive Judge of the Regional Trial Court, Lingayen, Pangasinan (*RTC-Lingayen*) against Atty. Juan C. Siapno, Jr. (*Atty. Siapno*) for notarizing documents without a commission.

In their letter, complainants alleged that Atty. Siapno was maintaining a notarial office along Alvear Street East, Lingayen, Pangasinan, and was performing notarial acts and practices in Lingayen, Natividad and Dagupan City without the requisite notarial commission. They asserted that Atty. Siapno was never commissioned as Notary Public for and within the jurisdiction of Lingayen, Natividad and Dagupan City. Instead, he applied and was commissioned to perform notarial functions by Executive Judge Anthony Sison of the RTC, San Carlos City, Pangasinan from March 22, 2007 to December 31, 2008. His notarial commission, however, was never renewed upon expiration. Complainants presented evidence supporting their allegations such as the pictures of Atty. Siapno's law office in Lingayen, Pangasinan; and documents to prove that Atty. Siapno performed acts of notarization in Lingayen, Natividad and Dagupan City, to wit: (1) Addendum to Loan and Mortgage Agreement^[2] showing that the Promissory Note was notarized before Atty. Siapno in Lingayen, Pangasinan in 2007; (2) Deed of Absolute Sale,^[3] dated January 24, 2008, notarized in Natividad, Pangasinan; (3) Joint Affidavit of Two Disinterested Persons Re: Given Name and Date of Birth,^[4] dated January 6, 2009, notarized in Dagupan City; and (4) Acknowledgement of Debt,^[5] dated January 24, 2008, notarized in Dagupan City.

Complainants also averred that Atty. Siapno had delegated his notarial authority to his secretaries, Mina Bautista (*Bautista*) and Mary Ann Arenas (*Arenas*), who wrote legal instruments and signed the documents on his behalf.

On March 17, 2009, the RTC-Lingayen forwarded the said letter-complaint to the Office of the Court Administrator (*OCA*)^[6] which, in turn, indorsed the same to the OBC.

The second letter-complaint^[7] was filed by Audy B. Espelita (*Espelita*) against Atty.

Pedro L. Santos (*Atty. Santos*). It alleged that in 2008, Espelita lost his driver's license and he executed an affidavit of loss which was notarized by Atty. Santos. The said affidavit, however, was denied for authentication when presented before the Notarial Section in Manila because Atty. Santos was not commissioned to perform notarial commission within the City of Manila.

The third letter-complaint^[8] came from a concerned citizen reporting that a certain Atty. Evelyn who was holding office at Room 402 Leyba Bldg., 381 Dasmariñas Street, Sta. Cruz, Manila, had been notarizing and signing documents for and on behalf of several lawyers.

In its Resolution,^[9] dated June 9, 2009, the Court directed the Executive Judge of the RTC-Lingayen to conduct a formal investigation on the complaint against Atty. Siapno and Executive Judge Reynaldo G. Ros (*Judge Ros*) of the RTC-Manila to conduct a formal investigation on the alleged violation of the Notarial Law by Atty. Santos, and the illegal activities of a certain Atty. Evelyn, and thereafter, to submit a report and recommendation thereon.

Re: Complaint against Atty. Siapno

With regard to the complaint against Atty. Siapno, the Executive Judge conducted a hearing wherein the complainants affirmed the allegations in their letter-complaint. For his part, Atty. Siapno denied the accusations and averred that the law office in Lingayen, Pangasinan, was not his and that Bautista and Arenas were not his secretaries.^[10]

In her Report and Recommendation,^[11] the Executive Judge found that Atty. Siapno was issued a notarial commission within the jurisdiction of Lingayen, Pangasinan, from January 20, 2003 to December 31, 2004 and February 8, 2005 to December 3, 2006. His commission, however, was cancelled on June 8, 2006 and he was not issued another commission thereafter. The Executive Judge found Atty. Siapno to have violated the 2004 Rules on Notarial Commission when he performed notarial functions without commission and recommended that he be fined in the amount of Fifty Thousand Pesos (*P50,000.00*).

The Court agrees with the findings of the Executive Judge but not to the recommended penalty.

A review of the records and evidence presented by complainants shows that Atty. Siapno indeed maintained a law office in Lingayen, Pangasinan, just beside the law office of one of the complainants, Atty. Elizabeth Tugade. It was also proven that Atty. Siapno notarized several instruments with an expired notarial commission outside the territorial jurisdiction of the commissioning court. Section 11, Rule III of the 2004 Rules on Notarial Practice provides that:

Jurisdiction and Term – A person commissioned as notary public may perform notarial acts in any place within the territorial jurisdiction of the commissioning court for a period of two (2) years commencing the first day of January of the year in which the commissioning is made, unless earlier revoked or the notary public has resigned under these Rules and the Rules of Court.