



Republic of the Philippines  
Supreme Court  
Baguio City

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated April 17, 2023 which reads as follows:*

**“A.C. No. 12916 (Re: Resolution dated September 9, 2020 in Petition No. CLT-20-2885 vs. Atty. Calixto A. Baculo).** — Before this Court is an administrative complaint against Atty. Calixto A. Baculo (Atty. Baculo) on the recommendation<sup>1</sup> of the Office of the Bar Confidant (OBC) in connection with the Resolution<sup>2</sup> dated 9 September 2020 of the Regional Trial Court (RTC) Branch 42, Pinamalayan, Mindoro Oriental, in Petition No. CLT20-2885. In the aforesaid resolution, the RTC found Atty. Baculo guilty of indirect contempt for notarizing documents without the personal appearance of the signatory.<sup>3</sup>

In *Re: Petition for Issuance of New Owner’s Duplicate Copy of Original Certificate of Title No. RP-4094*, docketed as Petition No. CLT20-2885, several documents signed by Beatriz Marquez Arcasitas (Arcasitas), were submitted to the RTC. One of the documents submitted was an Affidavit of Loss of an Original Certificate of Title (OCT) sought to be reconstituted in the proceedings. On 4 August 2020, Arcasitas manifested in court that she did not personally appear before the notary public, Atty. Baculo, when the Affidavit of Loss was notarized.<sup>4</sup> For this reason, the RTC initiated *motu proprio* contempt proceedings against Atty. Baculo.<sup>5</sup>

In a Subpoena<sup>6</sup> dated 11 August 2020, the RTC directed Atty. Baculo to appear in court and comment on the allegation of Arcasitas. Mrs. Romana Baculo, wife of Atty. Baculo, appeared in the latter’s stead and submitted an explanation letter<sup>7</sup> dated 4 September 2020, supposedly executed by

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

<sup>2</sup> Id. at 1– 7. Penned by Presiding Judge Erwin Y. Dimayacyac.

<sup>3</sup> Id. at 7.

<sup>4</sup> Id. at 1.

<sup>5</sup> Id.

<sup>6</sup> Id. at 2.

<sup>7</sup> Id. at 2–4.

Atty. Baculo. The RTC learned that Mrs. Baculo had prepared and signed the letter purportedly executed by Atty. Baculo. Thus, she was cited for contempt of court and sentenced to suffer imprisonment for three days. Mrs. Baculo verbally pleaded for reconsideration, which was granted on the condition that Atty. Baculo would personally appear in court to explain his case.<sup>8</sup> Thereafter, Atty. Baculo appeared in court and admitted that he notarized the Affidavit of Loss without the presence of Arcasitas.<sup>9</sup>

In the Resolution<sup>10</sup> dated 9 September 2020, the RTC ruled that Atty. Baculo violated Canon 10,<sup>11</sup> Rules 10.01,<sup>12</sup> and 10.03,<sup>13</sup> Code of Professional Responsibility, in relation to Rule II, Sec. 2,<sup>14</sup> 2004 Rules on Notarial Practice. Atty. Baculo consented to the falsehood that Arcasitas personally appeared before him and signed the Affidavit of Loss in his presence before notarizing the document. His actions were improper conduct that degraded the administration of justice<sup>15</sup> because he knew that the Affidavit of Loss concerning a lost certificate of title is a vital piece of evidence in the petition to reconstitute an OCT. The RTC ruled that Atty. Baculo is guilty of indirect contempt for committing acts under Rule 71, Sec. 3, pars. (a) and (d), Rules of Court.<sup>16</sup> He was severely reprimanded for his contemptuous acts and ordered to pay a fine of PhP 8,000.00 in place of imprisonment. The RTC also ordered that all documents previously notarized and those to be notarized by Atty. Baculo be not admitted due to its loss of trust and confidence in him as a notary public.<sup>17</sup>

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<sup>8</sup> Id. at 4.

<sup>9</sup> Id. at 5.

<sup>10</sup> Id. at 1–7.

<sup>11</sup> CANON 10 - A lawyer owes candor, fairness and good faith to the Court.

<sup>12</sup> Rule 10.01- A lawyer shall not do any falsehood, nor consent to the doing of any in Court, nor shall he mislead, or allow the Court to be misled by any artifice.

<sup>13</sup> Rule 10.03 - A lawyer shall observe the rules of procedure and shall not misuse them to defeat the ends of justice.

<sup>14</sup> Rule II Definitions.

Sec. 2. *Affirmation or Oath* – The term “Affirmation” or “Oath” refers to an act in which an individual on a single occasion:

a) appears in person before the notary public;  
b) is personally known to the notary public or identified by the notary public through competent evidence of identity as defined by these Rules; and  
c) x x x

<sup>15</sup> *Rollo*, p. 6.

<sup>16</sup> Rule 71 Contempt.

x x x x

Sec. 3. *Indirect Contempt to be punished after charge and hearing.* - After a charge in writing has been filed, and an opportunity given to the respondent to comment thereon within such period as may be fixed by the court and to be heard by himself or counsel, a person guilty of any of the following acts may be punished for indirect contempt:

(a) Misbehavior of an officer of a court in the performance of his official duties or in his official transactions;

x x x x

(d) Any improper conduct tending, directly or indirectly, to impede, obstruct, or degrade the administration of justice.

<sup>17</sup> *Rollo*, p. 7.



Because of the 9 September 2020 Resolution, the OBC recommended the filing of an administrative case against Atty. Baculo<sup>18</sup> which the Court adopted in the Resolution dated 7 December 2020.

In his Comment dated 01 March 2021, Atty. Baculo admitted notarizing the Affidavit of Loss without the presence of Arcasitas. Claiming good faith, Atty. Baculo initially demanded Arcasitas's physical presence. However, he accommodated the request of Arcasitas's daughter-in-law to notarize the document even in the absence of Arcasitas upon learning that the latter was advanced in age and could not travel the long distance from Bansud, Oriental Mindoro, to Calapan City. Aside from demanding competent evidence of Arcasitas's identity, he felt assured by the fact that Atty. Larry Quinton (Atty. Quinton), Arcasitas's attorney-in-fact, "would not endorse a document for notarization unless it was, in fact, executed by the person who signed it."<sup>19</sup> Atty. Baculo notarized the document because of his good relationship with Atty. Quinton. Further, the notarization of the document did not cause any damage or prejudice to any person. Arcasitas admitted at the proceedings in Petition No. CLT20-2885<sup>20</sup> that she signed the Affidavit of Loss and "directed her daughter-in-law to notarize the same." Arcasitas benefited from the notarization because she used it to support her petition to reconstitute the OCT.<sup>21</sup> Finally, Atty. Baculo appealed to the leniency of the Court in rendering punishment because he is 83 years old and suffering from severe chronic obstructive pulmonary disease. He also presented a receipt for payment of the PhP 8,000.00 fine imposed by the RTC as proof that he served his sentence in the indirect contempt case.<sup>22</sup>

In its Report and Recommendation dated 13 December 2022, the OBC recommended extending compassion in imposing the penalty for Atty. Baculo's violation of notarizing a document without the personal appearance of the signatory. Considering that Atty. Baculo is in the "twilight of his years," suffering from a chronic illness, and admitted his fault, the OBC recommended a prohibition from rendering notarial services for three months as a penalty. The OBC also recommended that "ONLY documents notarized by Atty. Calixto A. Baculo **PRIOR to February 10, 2020** be not admitted" because the RTC's Order of non-admission of all documents was too harsh.<sup>23</sup>

In line with the notary public's principal function of authenticating documents, Rule IV, Sec. 2 (b), 2004 Rules on Notarial Practice, is explicit that a person shall not perform a notarial act if the signatory: (1) is not personally in the notary's presence at the time of the notarization; **and** (2) is not personally known to the notary public or otherwise identified by the notary public through competent evidence of identity. The foregoing is

<sup>18</sup> Id. at 9.

<sup>19</sup> Comment dated 1 March 2021, p. 3.

<sup>20</sup> Id. at 4.

<sup>21</sup> Id.

<sup>22</sup> Id. at 5. See Annexes "5" and "6".

<sup>23</sup> *Rollo*, unpaginated. Report and Recommendation, p.3.



mandatory because a notary affixing one's notarial seal on an instrument converts the same from a private document to a public document. The notarized instrument is then legally given full credit upon its face without further proof of its execution and delivery.<sup>24</sup> The notarial seal on a document ensures the integrity of the notarized document and the act or acts it embodies.<sup>25</sup> Thus, the notary public must discharge one's duties with accuracy and fidelity.<sup>26</sup>

The Court stresses that the careless practice of some lawyers of notarizing documents without requiring the physical presence of the affiants is perilous to the public interest since there may be a likelihood that the documents are spurious or that the affiants are not who they purport to be.<sup>27</sup> Here, it is fortunate for Atty. Baculo that Arcasitas did not deny executing the Affidavit of Loss. Nonetheless, it does not excuse Atty. Baculo's failure to observe his essential duties as a notary public because his acts would damage the public interest. As discussed, the notarized instrument is legally given full credit upon its face without further proof of its execution and delivery. Courts, administrative agencies, and the public at large, must be able to rely upon the acknowledgment or affirmation executed by a notary public and appended to a private instrument.<sup>28</sup>

On this note, the Court understands the RTC's apprehension in admitting in evidence the documents notarized by Atty. Baculo, more particularly, when he admitted to subsequently notarizing other documents relevant to the case for the reconstitution of an OCT without Arcasitas's appearance.<sup>29</sup> However, the Court agrees with the OBC that it may be too harsh to order the exclusion of all documents notarized by Atty. Baculo. It is undisputed that Atty. Baculo notarized only three documents<sup>30</sup> without the personal appearance of Arcasitas. Neither this Court nor the RTC can presume that all documents notarized by Atty. Baculo lacked the personal appearance of the signatory. It would be unreasonable to treat all of the documents notarized by Atty. Baculo as non-compliant with the requirements for authentication, absent additional proof. The negligence in notarizing three documents of Arcasitas, by itself, is not proof that Atty. Baculo did not comply with the rules on notarial practice for all the documents he notarized or will notarize.

Still, Atty. Baculo's failure to perform his primary duties has undermined the integrity of a notary public and degraded the function of

<sup>24</sup> *Ferguson v. Ramos*, 808 Phil. 777, 783 (2017), citing *Gonzales v. Ramos*, 499 Phil. 345, 350 (2005).

<sup>25</sup> *Ladrera v. Osorio*, A.C. No. 10315, 22 January 2020.

<sup>26</sup> *Ferguson v. Ramos*, *supra*, at 783.

<sup>27</sup> *Agbulos v. Viray*, 704 Phil. 1, 8 (2013).

<sup>28</sup> *Ferguson v. Ramos*, *supra*.

<sup>29</sup> Comment dated March 1, 2021. See Annex "1".

<sup>30</sup> Affidavit of Loss, Special Power of Attorney, and Verification and Certification [of Non-forum Shopping]



notarization.<sup>31</sup> His negligence falls short of a lawyer's standards under the Code of Professional Responsibility, particularly to obey and to promote respect for the law and legal processes<sup>32</sup> and not to do any falsehood.<sup>33</sup> It is only proper that he be administratively sanctioned.

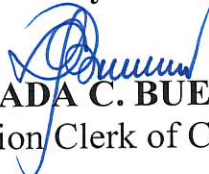
As to the penalty, the Court considers the circumstances that this is Atty. Baculo's first administrative case since his admission to the bar in 1961, that he is advanced in age, and that affiant Arcasitas had admitted the execution of the documents. The recommendation of the OBC suspending Atty. Baculo as a notary public for three months is well taken. Moreover, while he may have paid the fine of PhP 8,000.00 to the RTC, such payment will not preclude the Court from imposing a separate fine for violating the Code of Professional Responsibility. The PhP 8,000.00 fine is Atty. Baculo's penalty for the indirect contempt case, which is separate and distinct from the fine imposed by the Court in the amount of PhP 5,000.00 for violating the Code of Professional Responsibility.

**ACCORDINGLY**, respondent Atty. Calixto A. Baculo is **SUSPENDED** for three months as a Notary Public for his infraction above mentioned. He is also ordered to **PAY THE FINE of PhP 5,000.00**. He is further **WARNED** that the commission of a similar infraction will be dealt with more severely.

Let copies of this Resolution be furnished the Office of the Bar Confidant, to be appended to Atty. Calixto Baculo's personal record. Further, let copies of this Resolution be furnished the Integrated Bar of the Philippines and the Office of the Court Administrator, which is directed to circulate this Resolution to all courts in the country for their information and guidance.

**SO ORDERED."**

**By authority of the Court:**

  
**LIBRADA C. BUENA**  
Division Clerk of Court

by:

**MARIA TERESA B. SIBULO**  
Deputy Division Clerk of Court

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**JUN 08 2023**

<sup>31</sup> *Agbulos v. Viray, supra.*

<sup>32</sup> Canon 1- A lawyer shall uphold the constitution, obey the laws of the land and promote respect for law and for legal processes.

<sup>33</sup> Rule 10.01- A lawyer shall not do any falsehood, nor consent to the doing of any in court; nor shall he mislead, or allow the Court to be misled by any artifice.

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