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Accordingly, in the absence of a clear and convincing evidence, the complaint for disbarment should be dismissed.

WHEREFORE, the administrative complaints against Attys. Frankie O. Magsalin III and Pablo R. Cruz, in **A.C. No. 7687**; and the administrative complaint against Attys. Frankie O. Magsalin III, Peter Andrew S. Go and Pablo R. Cruz, in **A.C. No. 7688**, are hereby **DISMISSED**.

SO ORDERED.

Carpio (Chairperson), del Castillo, Villarama, Jr.,[*] and *Leonen, JJ.,* concur.

SECOND DIVISION

[A.C. No. 8103. December 3, 2014]

ATTY. AURELIO C. ANGELES, JR., PROVINCIAL LEGAL OFFICER, BATAAN CAPITOL, BALANGA CITY, BATAAN, *complainant, vs.* **ATTY. RENATO C. BAGAY,** *respondent.*

SYLLABUS

1. LEGAL ETHICS; NOTARIES PUBLIC; A PERSON COMMISSIONED AS A NOTARY PUBLIC TAKES FULL RESPONSIBILITY FOR ALL THE ENTRIES IN HIS NOTARIAL REGISTER; RATIONALE.— A person who is commissioned as a notary public takes full responsibility for all the entries in his notarial register. He cannot relieve himself of this responsibility by passing the buck to his secretary. x x x Respondent should remember that a notarial commission is a

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[*] Designated Acting Member in lieu of Associate Justice Arturo D. Brion, per Special Order No. 1888, dated November 28, 2014.

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privilege and a significant responsibility. It is a privilege granted only to those who are qualified to perform duties imbued with public interest. As we have declared on several occasions, notarization is not an empty, meaningless, routinary act. It is invested with substantive public interest, such that only those who are qualified or authorized may act as notary public. The protection of that interest necessarily requires that those not qualified or authorized to act must be prevented from imposing upon the public, the courts, and the administrative offices in general. It must be underscored that notarization by a notary public converts a private document into a public document, making that document admissible in evidence without further proof of its authenticity. Thus, notaries public must observe with utmost care the basic requirements in the performance of their duties. Otherwise, the confidence of the public in the integrity of public instruments would be undermined.

2. ID.; ID.; ID.; VIOLATION; IMPOSABLE PENALTY; CASE AT BAR.— As to his plea of leniency, the Court cannot consider it. Respondent claims that for the 21 years that he has been practicing law, he acted as a notary public without any blemish and this was his first and only infraction. His experience, however, should have placed him on guard and could have prevented possible violations of his notarial duty. By his sheer negligence, 18 documents were notarized by an unauthorized person and the public was deceived. Such prejudicial act towards the public cannot be tolerated by this Court. Thus, the penalty of revocation of notarial commission and disqualification from reappointment as Notary Public for two (2) years is appropriate. Because of the negligence of respondent, the Court also holds him liable for violation of the Code of Professional Responsibility *(CPR).* His failure to solemnly perform his duty as a notary public not only damaged those directly affected by the notarized documents but also undermined the integrity of a notary public and degraded the function of notarization. He should, thus, be held liable for such negligence not only as a notary public but also as a lawyer. Where the notary public is a lawyer, a graver responsibility is placed upon his shoulder by reason of his solemn oath to obey the laws and to do no falsehood or consent to the doing of any. x x x Considering the facts and circumstances of the case, an additional penalty of suspension from the practice of law for three (3) months is in order.

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D E C I S I O N

MENDOZA, *J.*:

Subject of this disposition is the September 28, 2013 Resolution[1] of the IBP Board of Governors which reads:

> RESOLVED to ADOPT and APPROVE, as it is hereby unanimously ADOPTED and APPROVED, the Report and Recommendation of the Investigating Commissioner x x x and finding the recommendation fully supported by the evidence on record and the applicable laws and rules and considering the Respondent guilty of negligence in the performance of his notarial duty, Atty. Renato C. Bagay's Notarial Commission is hereby immediately REVOKED. Further, he is DISQUALIFIED from reappointment as Notary Public for two (2) years.

It appears from the records that this case stemmed from the letter,[2] dated June 11, 2008, submitted by Atty. Aurelio C. Angeles, Jr. *(Atty. Angeles, Jr.)*, the Provincial Legal Officer of Bataan, to Hon. Remigio M. Escalada, Jr. *(Executive Judge)*, Executive Judge of the Regional Trial Court of Bataan against Atty. Renato C. Bagay *(respondent)*, for his alleged notarization of 18 documents at the time he was out of the country from March 13, 2008 to April 8, 2008. The notarized documents were as follows:

1. Deed of Donation executed by and between Renato Macalinao and Loida C. Macalinao and Trisha Katrina Macalinao, notarized on April 3, 2008;
2. Deed of Donation executed by and between Renato S. Sese and Sandy Margaret L. Sese, notarized on March 25, 2008;
3. Deed of Absolute Sale executed by and between Josefina A. Castro married to Eduardo Samson and Thelma Medina and Gina Medina notarized on April 3, 2008;
4. Deed of Absolute Sale executed by Rowena Berja, notarized on March 17, 2008;

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[1] *Rollo*, p. 78.

[2] *Id*. at 9-10.

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5. Deed of Donation executed by and between Crispulo Rodriguez and Luisa Rodriguez Jorgensen, notarized on April 8, 2008;
6. Extra Judicial Settlement of Estate with Waiver of Rights executed by the wife and sons of Rodrigo Dy Jongco, notarized March 19, 2008;
7. Deed of Absolute Sale executed by and between Sps. Rolando and Nelia Francisco and Violeta Hernandez, notarized on April 3, 2008;
8. Deed of Absolute Sale executed by and between Josefina Baluyot and Carmelita Padlan, notarized on April 3, 2008;
9. Deed of Absolute Sale executed by Gregorio Limcumpao and Simeona Limcumpao, notarized on March 27, 2008;
10. Deed of Absolute Sale executed by and between Sps. Eusebio and Libertad Bacricio and Carlos Tamayo married to Teresa Tamayo notarized on March 18, 2008;
11. Deed of Absolute Sale executed by and between Natividad S. Consengco and Sps. Gilvert and Johanna Gervacio, notarized March 18, 2008;
12. Deed of Absolute Sale executed by and between the Rural Bank of Pilar and Mila Gatdula, notarized on April 2, 2008;
13. Deed of Absolute Sale executed by and between Natividad Cosengco and Sps. Jay and Helen Zulueta, notarized on March 18, 2008;
14. Deed of Absolute Sale executed by Cipriano and Salvacion Violago, notarized on April 1, 2008;
15. Deed of Absolute Sale executed by Sahara Management and Development Corporation, notarized on March 26, 2008;
16. Deed of Absolute Sale executed by and between Danilo Arellano, Luzviminda Ramos and Sps. Fernando and Agnes Silva, notarized on March 18, 2008;
17. Deed of Absolute Sale executed by and between Vicente Banzon married to Elizabeth Banzon and Sps. Dommel and Crystal Lima, notarized on April 2, 2008; and
18. Deed of Absolute Sale executed by and between Marilyn T. Casupanan and Dominador M. Manalansan notarized on March 14, 2008.

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These documents were endorsed to the Provincial Legal Office by the Provincial Treasurer who had information that they were notarized while respondent was outside the country attending the Prayer and Life Workshop in Mexico. The letter contained the affidavits of the persons who caused the documents to be notarized which showed a common statement that they did not see respondent sign the documents himself and it was either the secretary who signed them or the documents came out of the office already signed. Upon verification with the Bureau of Immigration, it was found out that a certain Renato C. Bagay departed from the country on March 13, 2008 and returned on April 8, 2008. The copy of the Certification issued by the Bureau of Immigration was also attached to the letter.[3]

The Executive Judge referred the matter to the IBP, Bataan Chapter, and the latter endorsed the same to the IBP National Office for appropriate action. The latter endorsed it to the Commission on Bar Discipline *(CBD).*

When CBD Director Alicia Risos-Vidal *(Atty. Risos-Vidal)* required Atty. Angeles, Jr. to formalize the complaint, the latter replied on September 30, 2008 stating, among others, that his June 11, 2008 Letter was not intended to be a formal complaint but rather "a report on, and endorsement of, public documents by Atty. Bagay while he was out of the country,"[4] and that any advice on how to consider or treat the documents concerned would be welcome.

On December 3, 2008, Atty. Risos-Vidal opted to endorse the matter to the Office of the Bar Confidant for appropriate action.[5]

This Court, in its Resolution,[6] dated February 2, 2009, resolved to note the letter of Atty. Angeles, Jr., dated September 30, 2008, and require respondent to comment on the said letter.

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[3] *Id*. at 10.

[4] *Id*. at 2.

[5] *Id*. at 1.

[6] *Id*. at 58.

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In his comment,[7] dated 27 March 2009, respondent claimed that he was not aware that those were documents notarized using his name while he was out of the country. Upon his own inquiry, he found out that the notarizations were done by his secretary and without his knowledge and authority. The said secretary notarized the documents without realizing the import of the notarization act. Respondent apologized to the Court for his lapses and averred that he had terminated the employment of his secretary from his office.

The Court then referred the case to the IBP for investigation, report and recommendation. When the case was called for mandatory conference on September 16, 2009, only respondent appeared. Atty. Angeles filed a manifestation reiterating his original position and requesting that his attendance be excused.[8] The mandatory conference was terminated and the parties were directed to file their respective position papers. Only respondent submitted a position paper,[9] to which he added that for 21 years that he had been practicing law, he acted as a notary public without any blemish on record dutifully minding the rules of the law profession and notarial practice.

The Report and Recommendation[10] of Atty. Felimon C. Abelita III *(Atty. Abelita III)* as Investigating Commissioner found that the letter of Atty. Angeles, Jr., dated June 11, 2008, was not verified, that most of the attachments were not authenticated photocopies and that the comment of respondent was likewise not verified. Atty. Abelita III, however, observed that respondent's signature on his comment appeared to be strikingly similar to the signatures in most of the attached documents which *he admitted were notarized in his absence by his office secretary.* He admitted the fact that there were documents that were notarized while he was abroad and his signature was affixed by his office secretary who was not aware

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[7] *Id.* at 59-60.

[8] *Id.* at 67.

[9] *Id.* at 72-74.

[10] *Id.* at 79-81.

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of the import of the act. Thus, by his own admission, it was established that by his negligence in employing an office secretary who had access to his office, his notarial seal and records especially pertaining to his notarial documents without the proper training, respondent failed to live up to the standard required by the Rules on Notarial Practice.

Finding respondent guilty of negligence in the performance of his notarial duty which gave his office secretary the opportunity to abuse his prerogative authority as notary public, the Investigating Commissioner recommended the immediate revocation of respondent's commission as notary public and his disqualification to be commissioned as such for a period of two (2) years.

The IBP Board of Governors adopted and approved the said recommendation in its Resolution,[11] dated September 28, 2013.

Respondent filed a motion for reconsideration[12] of the said resolution of the IBP. He contended that by admitting and owning up to what had happened, but without any wrongful intention, he should be merited with leniency. Moreover, he claimed that he only committed simple negligence which did not warrant such harsh penalty.

On May 4, 2014, the IBP Board of Governors denied the motion for reconsideration of respondent stating:

> RESOLVED to DENY Respondent's Motion for Reconsideration, there being no cogent reason to reverse the findings of the Commission and the resolution subject of the motion, it being a mere reiteration of the matters which had already been threshed out and taken into consideration. Thus, Resolution No. XX-2013-85 dated September 28, 2013 is hereby affirmed.[13]

On August 1, 2014, the Director for Bar Discipline endorsed the May 4, 2014 Resolution of the IBP Board of Governors to the Office of the Chief Justice for appropriate action.

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[11] *Id*. at 78.

[12] *Id*. at 82-86.

[13] *Id*. at 90.

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The sole issue to resolve in this case is whether the notarization of documents by the secretary of respondent while he was out of the country constituted negligence.

The Court answers in the affirmative.

Respondent admitted in his comment and motion for reconsideration that the 18 documents were notarized under his notarial seal by his office secretary while he was out of the country. This clearly constitutes negligence considering that respondent is responsible for the acts of his secretary. Section 9 of the 2004 Rules on Notarial Practice provides that a "Notary Public" refers to any person commissioned to perform official acts under these Rules. A notary public's secretary is obviously not commissioned to perform the official acts of a notary public.

Respondent cannot take refuge in his claim that it was his secretary's act which he did not authorize. He is responsible for the acts of the secretary which he employed. He left his office open to the public while leaving his secretary in charge. He kept his notarial seal and register within the reach of his secretary, fully aware that his secretary could use these items to notarize documents and copy his signature. Such blatant negligence cannot be countenanced by this Court and it is far from being a simple negligence. There is an inescapable likelihood that respondent's flimsy excuse was a mere afterthought and such carelessness exhibited by him could be a conscious act of what his secretary did.

Respondent must fully bear the consequence of his negligence. A person who is commissioned as a notary public takes full responsibility for all the entries in his notarial register.[14] He cannot relieve himself of this responsibility by passing the buck to his secretary.

As to his plea of leniency, the Court cannot consider it. Respondent claims that for the 21 years that he has been practicing law, he acted as a notary public without any blemish

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[14] *Judge Laquindanum v. Quintana*, 608 Phil. 727, 736 (2009).

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and this was his first and only infraction. His experience, however, should have placed him on guard and could have prevented possible violations of his notarial duty. By his sheer negligence, 18 documents were notarized by an unauthorized person and the public was deceived. Such prejudicial act towards the public cannot be tolerated by this Court. Thus, the penalty of revocation of notarial commission and disqualification from reappointment as Notary Public for two (2) years is appropriate.

Because of the negligence of respondent, the Court also holds him liable for violation of the Code of Professional Responsibility *(CPR)*. His failure to solemnly perform his duty as a notary public not only damaged those directly affected by the notarized documents but also undermined the integrity of a notary public and degraded the function of notarization. He should, thus, be held liable for such negligence not only as a notary public but also as a lawyer.[15] Where the notary public is a lawyer, a graver responsibility is placed upon his shoulder by reason of his solemn oath to obey the laws and to do no falsehood or consent to the doing of any.[16]

Respondent violated Canon 9 of the CPR which requires lawyers not to directly or indirectly assist in the unauthorized practice of law. Due to his negligence that allowed his secretary to sign on his behalf as notary public, he allowed an unauthorized person to practice law. By leaving his office open despite his absence in the country and with his secretary in charge, he virtually allowed his secretary to notarize documents without any restraint.

Respondent also violated his obligation under Canon 7 of the CPR, which directs every lawyer to uphold at all times the integrity and dignity of the legal profession. The people who came into his office while he was away, were clueless as to the illegality of the activity being conducted therein. They expected that their documents would be converted into public documents.

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[15] *Agbulos v. Viray,* A.C. No. 7350, February 18, 2013, 691 SCRA 1, 8.

[16] *Ang v. Gupana,* A.C. No. 4545, February 5, 2014.

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Instead, they later found out that the notarization of their documents was a mere sham and without any force and effect. By prejudicing the persons whose documents were notarized by an unauthorized person, their faith in the integrity and dignity of the legal profession was eroded.

Considering the facts and circumstances of the case, an additional penalty of suspension from the practice of law for three (3) months is in order.

Respondent should remember that a notarial commission is a privilege and a significant responsibility. It is a privilege granted only to those who are qualified to perform duties imbued with public interest. As we have declared on several occasions, notarization is not an empty, meaningless, routinary act. It is invested with substantive public interest, such that only those who are qualified or authorized may act as notary public. The protection of that interest necessarily requires that those not qualified or authorized to act must be prevented from imposing upon the public, the courts, and the administrative offices in general.[17]

It must be underscored that notarization by a notary public converts a private document into a public document, making that document admissible in evidence without further proof of its authenticity. Thus, notaries public must observe with utmost care the basic requirements in the performance of their duties. Otherwise, the confidence of the public in the integrity of public instruments would be undermined.[18]

Let this serve as a reminder to the members of the legal profession that the Court will not take lightly complaints of unauthorized acts of notarization, especially when the trust and confidence reposed by the public in our legal system hang in the balance.

WHEREFORE, the recommendation of the Integrated Bar of the Philippines is **ADOPTED** with **MODIFICATION**. Finding

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[17] *Agadan v. Kilaan,* A.C. No. 9385, November 11, 2013, 709 SCRA 1, 10.

[18] *Talisic v. Rinen,* A.C. No. 8761, February 12, 2014.

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Atty. Renato C. Bagay grossly negligent in his duty as a notary public, the Court **REVOKES** his notarial commission and **DISQUALIFIES** him from being commissioned as notary public for a period of two (2) years. The Court also **SUSPENDS** him from the practice of law for three (3) months effective immediately, with a **WARNING** that the repetition of a similar violation will be dealt with even more severely.

The respondent is **DIRECTED** to report the date of his receipt of this Decision to enable this Court to determine when his suspension shall take effect.

Let copies of this Decision be furnished to Office of the Bar Confidant to be appended to Atty. Renato C. Bagay's personal record; the Integrated Bar of the Philippines; and all courts in the country for their information and guidance.

SO ORDERED.

Carpio (Chairperson), del Castillo, Villarama, Jr.,[*] and *Leonen, JJ.*, concur.

SECOND DIVISION

[G.R. No. 156577. December 3, 2014]

ALEJANDRO C. RIVERA, *petitioner, vs.* **PEOPLE OF THE PHILIPPINES,** *respondent.*

[G.R. No. 156587. December 3, 2014]

ALFREDO Y. PEREZ, JR., *petitioner, vs.* **PEOPLE OF THE PHILIPPINES,** *respondent.*

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[*] Designated Acting Member in lieu of Associate Justice Arturo D. Brion, per Special Order No. 1888, dated November 28, 2014.