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SECOND DIVISION

[A.M. No. P-99-1338. November 18, 1999]

ESTELA P. VALLES, *complainant, vs.* **NILA ARZAGA-QUIJANO, Clerk of Court II, MCTC Araceli-Dumaran, Palawan,** *respondent.*

SYNOPSIS

Complainant charged respondent with malfeasance, abuse of authority and graft and corrupt practices. Complainant claimed that respondent, together with two hundred (200) others filed a Petition before the Palawan Division Superintendent of the Department of Education, and Culture and Sports (DECS) to remove her as teacher of the Araceli National High School and that the petition was subscribed and sworn before respondent notwithstanding the fact that she is one of the signatories to the said petition. Upon careful examination of the letter-complaint, the respondent's letter-comment and the evaluation and recommendation of the Court Administrator, the Court ruled that the respondent should be fined for negligence. The Court stressed that as *ex officio* notary public or a public officer authorized to administer oath, respondent cannot subscribe a document in which she is one of the affiants. According to the Court, affixing one's signature to the instrument and the authentication of the same are two different acts which must be accomplished not by a single individual.

SYLLABUS

POLITICAL LAW; ADMINISTRATIVE LAW; PUBLIC OFFICERS AND EMPLOYEES; COURT PERSONNEL; RESPONDENT FINED FOR LACK OF DILIGENCE IN THE OBSERVANCE OF THE NOTARIAL LAW; AS *EX-OFFICIO* NOTARY PUBLIC OR A PUBLIC OFFICER AUTHORIZED TO ADMINISTER OATH, RESPONDENT CANNOT SUBSCRIBE A DOCUMENT IN WHICH SHE IS ONE OF THE AFFIANTS.— Upon careful examination of the letter-complaint, the respondent's letter-comment, the respective accompanying papers submitted by the parties, and the evaluation and recommendation of the Court Administrator,

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the Court is of the considered opinion that the respondent should be fined for negligence. As *ex-officio* notary public or a public officer authorized to administer oath, respondent cannot subscribe a document in which she is one of the affiants. Being one of the signatories to the letter-petition, she cannot administer the oath with reference thereto. She cannot sign the document and afterwards subscribe the same herself. Affixing one's signature to the instrument and the authentication of the same are two (2) different acts which must be accomplished not by a single individual.

DECISION

BUENA, *J.*:

Complainant Estela P. Valles, in a sworn letter-complaint[1] dated June 2, 1997 addressed to the Court Administrator, Supreme Court charged respondent Nila Arzaga-Quijano, Clerk of Court II, MCTC Araceli-Dumaran, Palawan with malfeasance, abuse of authority and graft and corrupt practices.

Complainant claims that respondent together with two hundred (200) others filed a Petition[2] before the Palawan Division Superintendent of the Department of Education, Culture and Sports (DECS) to remove her as teacher of the Araceli National High School and that the petition was subscribed and sworn before respondent Nila Arzaga-Quijano notwithstanding the fact that she is one of the signatories to the said petition.

On November 24, 1997[3], the letter-complaint was referred to the respondent for her Comment.

The pertinent portions of the respondent's Comment read:

"Admittedly, my signature among other signatures, appears in the petition-letter. But significantly, the signatures are a part of the body

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[1] Letter-Complaint, *Rollo*, p. 1.

[2] Petition Letter, *Rollo*, pp. 4-8.

[3] Endorsement signed by Officer-In-Charge Reynaldo L. Suarez, *Rollo*, p. 10.

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of the petition and hence, the person represented by the signatures are not the signatories to the petition. Evidently, the petition-letter itself shows that the signatory is the Parents Teachers Community Association of Araceli National High School. Needless to state that the signatures do not even come under the complimentary close of the petition-letter.

"In the honest belief that the PTCA President was the signatory-representative of the Parents Teachers Community Association, I administered the oath, including those of other affiants in other affidavits of witnesses in a case for Malicious mischief against Ms. Estela P. Valles, *et al.* pending in our sala. Thus, there is nothing wrong in having administered the oath while my signature appears in the body of the letter.

"The environmental circumstances surrounding the administration of the subscription and oath must also be considered. When the PTCA President appeared before me, it was about 12:00 o'clock noon and there were still a lot of work to do and people to attend to. The office atmosphere likewise added to the haste in administering the oath. The disturbing tug of the hungry stomach cannot be ignored also.

"It is well to point out that the letter-complaint against me is aimed at taking retributive punishment for her being one of the supporters in the move to oust her from the Araceli National High School, Araceli, Palawan. The complainant, in so filing the complaint, has nothing in her mind, much less in the complaint, than to get back at me. The complaint deserves no attention at all."[4]

Upon careful examination of the letter-complaint, the respondent's letter-comment, the respective accompanying papers submitted by the parties, and the evaluation and recommendation of the Court Administrator, the Court is of the considered opinion that the respondent should be fined for negligence.

As *ex-officio* notary public or a public officer authorized to administer oath, respondent cannot subscribe a document in which she is one of the affiants.

Art. 22 of the Notarial Law states:

[4] Letter-comment, *Rollo*, p. 11.

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"Art. 22. *No notary can authenticate a contract which contains a provision in his favor*, or to which any of the parties interested is a relative of his within the fourth civil degree or second of affinity."[5] (italics ours)

Being one of the signatories to the letter-petition, she cannot administer the oath with reference thereto. She cannot sign the document and afterwards subscribe the same herself. Affixing one's signature to the instrument and the authentication of the same are two (2) different acts which must be accomplished not by a single individual.

The function of a notary public is, among others, to guard against any illegal or immoral arrangements.[6] That function would be defeated if the notary public were one of the signatories to the instrument. For then, he would be interested in sustaining the validity thereof as it directly involves himself and the validity of his own act. It would place him in an inconsistent position, and the very purpose of the acknowledgment, which is to minimize fraud, would be thwarted.[7]

In the case of *Elipe vs. Fabre*,[8] a court personnel was fined an amount of P2,000.00 for his lackadaisical attitude and inefficiency.

WHEREFORE, a fine of P2,000.00 is hereby imposed on respondent Clerk of Court II Nila Arzaga-Quijano for lack of diligence in the observance of the Notarial Law, with *WARNING* that a repetition of the same or similar offense in the future will be severely dealt with.

SO ORDERED.

Bellosillo, (Chairman), Mendoza, Quisumbing, and *De Leon, Jr., JJ.,* concur.

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[5] *Barreto vs. Cabreza*, 33 Phil.112, 119.

[6] *Balinon v. De Leon*, 50 O.G. 538.

[7] Cf. *Cruz vs. Villasor*, 54 SCRA 31.

[8] 241 SCRA 249 [1995].