

MA. BLYTH B. ABADILLA, COMPLAINANT, VS. JUDGE JOSE C. TABILIRAN, JR., PRESIDING JUDGE, 8TH MCTC, MANUKAN AND JOSE DALMAN, 9TH JUDICIAL REGION, MANUKAN, ZAMBOANGA DEL NORTE, RESP...

A.M. No. MTJ-92-716. October 25, 1995

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/0b2f4939c2ba/>

PER CURIAM:

"We have a list of these crooked judges whose actuaciones have been found to be patently wrong and indefensible. There ought to be no objection or compunction in weeding them out from the service. If they are not booted out now, it will take from here to eternity to clean this Augean stable."^[1]

Indeed, our judicial structure is supposed to be manned by magistrates chosen for their probity, integrity, impartiality, dedication and learning. And so, any judge wanting in any of these qualities should be broomed off and out of the bench in order to improve the judicial landscape. Screening off the misfits, considering the great number of judges and justices in the country at present, is the arduous and Herculean task of this Court. The effort if dramatized with rectitude and sincerity should bring about the strengthening of the people's abiding faith in democracy and the integrity of our courts of justice.

The herein administrative case arose from complaint, dated September 8, 1992, filed by Ma. Blyth B. Abadilla, a Clerk of Court assigned at the sala of respondent, Judge Jose C. Tabiliran, Jr., of the 8th Municipal Circuit Trial Court, Manukan, Zamboanga del Norte. Respondent stands charged with "gross immorality, deceitful conduct, and corruption unbecoming of a judge."

In her verified complaint, complainant Abadilla, in respect to the charge of gross immorality on the part of the respondent, contends that respondent had scandalously and publicly cohabited with a certain Priscilla Q. Baybayan during the existence of his legitimate marriage with Teresita Banzuela. Adding ignominy to an ignominious situation, respondent allegedly shamefacedly contracted marriage with the said Priscilla Baybayan on May 23, 1986. Complainant claims that this was a bigamous union because of the fact that the respondent was then still very much married to Teresita Banzuela.

Furthermore, respondent falsely represented himself as "single" in the marriage contract (Exh. "A") and dispensed with the requirements of a marriage contract by invoking cohabitation with Baybayan for five years.

Of persuasive effect on the charge of immorality is the fact that, earlier, respondent's wife filed a complaint in the case entitled, Teresita B. Tabiliran vs. Atty. Jose C. Tabiliran, Jr., 115 SCRA 451. Respondent stood charged therein for abandoning the family home and living with a certain Leonora Pillarion with whom he had a son.

In respect of the charge of deceitful conduct, complainant claims that respondent caused to be registered as "legitimate", his three illegitimate children with Priscilla Baybayan, namely:

Buenasol B. Tabiliran born on July 14, 1970

Venus B. Tabiliran born on Sept. 7, 1971

Saturn B. Tabiliran born on Sept. 20, 1975

by falsely executing separate affidavits stating that the delayed registration was due to inadvertence, excusable negligence or oversight, when in truth and in fact, respondent knew that these children cannot be legally registered as legitimate.

The following acts are alleged to have constituted the charge of corruption:

(1) Utilizing his office time, while being a judge, in the private practice of law by the preparation and notarization of documents, out of which he charged fees beyond the authorized rates allowed as Ex-Officio Notary Public. These acts which, according to the charge, amount to the private practice of law, prejudice public interest.

Complainant submitted the following documents in support of these allegations:

a) Affidavit of Ponciana Geromo (Annex "B"), attesting to the fact that respondent Judge Tabiliran prepared a Simultaneous Deed of Sale, (Annex "C", Doc. No. 901, Page No. 77, Book No. V, Series of 1991 of Ex-Officio Notary Public Jose C. Tabiliran, Jr.) and collect P600.00 from the vendees (par. 10(a) a-1 Complaint, p. 9 records);

b) Receipt prepared under instruction of the respondent showing that he received P250.00 thru MCTC Aide Ely O. Inot for preparation and notarization of Joint Affidavit declaring the correct ages of Carlo Manzano, Lodmila Cinco, Kadapi Amad, Jul Samud and Amman Eddai dated November 12, 1991, when the legal fees therefor should have been P10.00 only (Annex "D") (par. 10(a) a-2 Complaint, p. 9 records);

c) Another receipt (Annex "E") prepared thru the direction of the respondent dated November 12, 1991, showing that said respondent received from Reynaldo Subebe the sum of P150.00 for preparation and notarization by him of a Joint Affidavit declaring the correct age of Agata Luna, Rosie Miranda and Jose Juneser Adrias (par. 10 (a) a-c Complaint, p. 9 records);

d) Still another receipt (Annex "F") dated November 12, 1991, signed by the respondent himself showing that he received from Nelly Baradas the sum of P50.00 for preparation and notarization of Joint Affidavit attesting to the correct age of one Luzviminda Jacoba (par. 10(a) a-d Complaint, p. 9 records);

e) Another receipt (Annex "G" dated November 12, 1991, issued by the respondent, showing that he received from Torres P. Modai the sum of P50.00, thru the same Ely O. Inot, MCTC Aide, for preparation of Joint Affidavit attesting to the correct age of Flores Jalampangan (par. 10 (a) a-e Complaint, pp. 9 & 10 records).

(2) Accepting bribes from parties-litigants in his Court as supported by an affidavit (Annex "M") executed by a certain Calixto Calunod, a court aide, stating that he saw Edna Siton, complainant in a criminal case tried by respondent, hand over to the latter a bag of fish and squid which respondent Judge received.

(3) Preparing an Affidavit of Desistance in a case filed with his sala out of which he collected the amount of P500.00 from the accused Antonio Oriola, as supported by the affidavits of Arcelita Salvador, the complainant therein, and Benito Sagario, one of the persons present when the accused perpetrated the acts aforesaid. (Submitted as Annexes "I" and "J", respectively.)

Complainant manifests that the commission by the respondent of the foregoing acts renders him unfit to occupy the exalted position of a dispenser of justice. By the example shown by the respondent, the public had allegedly lost confidence in the administration of justice, perceiving as is evident to see that the person occupying the position of a judge lacks the morality and probity required of one occupying such a high office.

Respondent, in his comment, dated December 25, 1992, declared that his cohabitation with Priscilla Baybayan is not and was neither bigamous nor immoral because he started living with Priscilla Baybayan only after his first wife had already left and abandoned the family home in 1966 and, since then, and until the present her whereabouts is not known and respondent has had no news of her being alive. He further avers that 25 years had already elapsed since the disappearance of his first wife when he married Priscilla Baybayan in 1986.

Respondent cited Sec. 3(w), Rule 131 of the Rules of Court and Art. 390 of the Civil Code in order to show the legality of his acts:

"After the absence of seven years, it being unknown whether or not the absentee still lives, he is considered dead for all purposes except for those of succession." (Rule 131, Sec. 3(w), Rules of Court.)

"After an absence of seven years, it being unknown whether or not the absentee still lives, he shall be presumed dead for all purposes, except for those of succession." (Art. 390, Civil Code.)

The case of *Jones vs. Hortiguella*, 64 Phil. 179, where this Court held that for the purpose of the civil marriage law, it is not necessary to have the former spouse judicially declared an absentee is to respondent's mind, a case in point.

He admits that he indicated in his marriage contract that he was then "single", but he denied the charge that he acted with deceit or false misrepresentation, claiming that, since there were only three words to choose from, namely: Single, Widow or Divorced, he preferred to choose the word "single", it being the most appropriate. Besides, both he and Priscilla executed a joint affidavit wherein his former marriage to Banzuela was honestly divulged.

On the charge of corruption, respondent submitted certifications (Annexes "4" & "5") from the Mayor of Manukan, Zamboanga del Norte, attesting to the fact that there was no Notary Public in Manukan and, as such, respondent may be allowed to notarize documents. He denied having charged exorbitant fees. He claims that all the amounts received by him were used to subsidize office expenses, since the funds he had been receiving from the municipal government were not enough to cover expenses in maintaining his office. Respondent submitted a certification (Annex "6") from the Accounting Department of the Municipal Government of Manukan to the effect that his yearly expenditures were more than the yearly appropriations.

Respondent finds support in Canon 4, Rule 4.01 of the Code of Judicial Conduct which states:

"A Judge may, with due regard to official duties, engage in activities to improve x x x the administration of justice."

Respondent vehemently denies the charge of bribery claiming that it was inconceivable for him to receive a bag full of fish and squid since his residence was 42 kilometers from Jose Dalman where his courtroom or office was located. It takes one an hour and a half by bus to reach Katipunan and so, by the time he reaches his house, the fish and the squid should have become rotten. In support of his denials, respondent submitted as Annex "8", an affidavit of Ely D. Inot, their court Interpreter who declared:

xxx xxx xxx

"3. That last June 6, 1991, I was with the Municipal Judge, Jose C Tabiliran, Jr., from the morning until we went home in the afternoon and we in fact dined together in the local Canderia of Jose Dalman as it is the usual ways of the Judge to eat lunch together with the court personnel;

4. That when we went home in the afternoon of that day we were also together riding in a bus, the Lillian Express and until I drop in Roxas and he proceeded to Katipunan where his residence is;

5. That all the time during that day I did not noticed him bringing anything except his 'Hand Bag' which he used to carry in going to the office;" (Annex "8", Affidavit of Ely O. Inot, December 17, 1992.)

xxx xxx xxx

Finally, respondent tags as a fabricated lie the charge that he prepared an Affidavit of Desistance in a case pending in his sala and thereafter charged the accused, Antonio Oriola, the sum of P500.00 for legal services. The complainant, he said, was the one who induced Arcelita Salvador (the complainant in the rape case) to execute an affidavit (Annex "I") in support of the charge of corruption against respondent.

Complainant's filing of the present case was motivated by revenge and resentment because, earlier, respondent filed an administrative case (A. M. No. P--91-597) against her for "Insubordination and Serious Misconduct". The Supreme Court decided to reprimand her with a warning that a repetition of her acts will be severely dealt with. Respondent claims that the complainant had nevertheless repeatedly continued to do acts of insubordination in the following manner:

- 1) She continues to keep court records and has kept refusing to hand them over to respondent inspite of verbal and written orders;
- 2) She refused to receive a memorandum from the Vice-Mayor requiring the Clerk of Court to submit an Annual report;
- 3) She refused to prepare the said annual report required of her as Clerk of Court;
- 4) She continue to refuse to obey just and lawful orders of the Court.

On April 12, 1993, by resolution of this Court En Banc, the herein administrative case was referred to Executive Judge Jesus O. Angeles of the Regional Trial Court, Dipolog City, for investigation, report and recommendation. Judge Angeles found respondent guilty only on two (2) counts of corruption: (1) for acting as notary public and collecting fees for his services; and (2) for preparing an affidavit of desistance in a case pending in his Court and receiving payment for it.

In his report and recommendation dated August 3, 1993, Executive Judge Angeles found that:

ON GROSS IMMORALITY:

In contracting marriage with Priscilla Q. Baybayan on May 23, 1986, (p. 13 of the records), respondent did not hide the fact that he was married to Teresita T. Banzuela, having disclosed it in his affidavit jointly executed with Priscilla Q. Baybayan on May 23, 1986 (p. 115 of the records), particularly paragraph 4 thereof which reads:

"4. That affiant Jose C. Tabiliran, Jr., was formerly married to Teresita T. Banzuela but who left and abandoned their family home sometime in 1965 in Katipunan, Zamboanga del Norte, and until now at present her whereabouts is not known."

It was therefore a marriage contracted under Article 83 (2) of the Civil Code which, although bigamous, remains valid until automatically terminated by the recording of the affidavit of reappearance of the absent spouse (Art. 42, Family Code). Respondent's assertion that since 1965 to the present, his first wife Teresita T. Banzuela had left their conjugal dwelling and did not return, her whereabouts being unknown, was not controverted. Living as husband and wife pursuant to an authorized bigamous marriage, respondent cannot be said to be acting in an immoral and scandalous manner, and the immoral stigma of extra-marital union since 1969 duly declared in their aforesaid joint affidavit, may be considered cleansed by their marriage in 1986, if Art. 1395 of the Civil Code on ratification on contracts in general is allowed to be applied, it being ratification of marital cohabitation. Article 76

of Civil Code, now Art. 34 of the Family Code was intended to facilitate and encourage the marriage of persons who have been living in a state of concubinage for more than five years (Tolentino, Civil Code, Book I, 1974 Ed., p. 245, cited in Ernesto L. Pineda, Family Code, 1992 Ed., p. 38). Indicating his civil status in the marriage contract as "single" is hardly considered a misrepresentation of fact, specially to the solemnizing officer, Municipal Mayor Jacinto C. Ruedas, Jr. to whom the aforesaid joint affidavit was submitted.

ON DECEITFUL CONDUCT:

Respondent's children begotten with Priscilla Q. Baybayan, namely: Buenasol B. Tabiliran, Venus B. Tabiliran and Saturn B. Tabiliran, all of whom were born before their marriage, were disclosed and made known to the solemnizing officer and the latter himself, in his affidavit dated May 23, 1986 (p. 116 of the records) which supports the marriage contract of respondent with Priscilla Q. Baybayan, having shown such fact.

Exhibit P which purports to be an affidavit of Lydia T. Zanoria dated May 27, 1993, consisting of three pages, was submitted by the complainant for the purpose of proving her charge that the respondent falsely executed his three separate affidavits, namely: Exhibit K dated May 24, 1983 regarding the late registration of birth of his daughter Buenasol B. Tabiliran; Exhibit M dated May 28, 1988 regarding the late registration of birth of his third child Saturn B. Tabiliran; and his affidavit dated May 27, 1988, Exhibit O, in reference to the late registration of birth of his second child Venus B. Tabiliran, stating inadvertence, excusable negligence or oversight as the reasons for the delayed registration of their births, without however presenting said affiant Mrs. Zanoria, consequently denying respondent the opportunity to cross examine her. Her affidavit is not among those brought out in the pre-hearing conference, and was not discussed during the hearing itself, submitting it only after the investigation proper was terminated. The supposed affiant claimed she was the government midwife who attended to the births of respondent's three children, denying, as the affidavit shows, negligence, inadvertence or oversight on her part to register their birth on time. Not having been presented for respondent to confront her, or an opportunity to do so, Exhibit P cannot be considered evidence of the charge. An affidavit is hearsay unless the affiant is presented (People vs. Villeza, 127 SCRA, 349), or admitted by the party against whom it is presented.

ON CORRUPTION:

1. Acting as Notary Public during office hours, and collecting fees:

Respondent has admitted having prepared the documents and collected fees, in the instances specified in par. 10 of the complaint, namely: (1) affidavit of Ponciana Geromo; (2) Joint Affidavit of Carlo Manzano, Lodmila Cinco, Kadapi Amad, Jul Samud and Amman Eddai; (3) Joint Affidavit of Agata Luna, Rosie Miranda and Jose Juneser Adrias; (4) Joint Affidavit on the correct age of Luzviminda Jacoba; and (5) Joint Affidavit on the correct age of Flores Jalampangan, but not necessarily on the accuracy of the amounts therein stated as having been collected by him from them (please see Pre-Hearing Order of May 20, 1993 of the Investigating Judge). Seeking justification of his acts, respondent submitted Annexes 4 & 5 of his comments (pp. 118 and 119, records) which are certifications of Manukan Mayor Eugene U. Caballero attesting that in the absence of a Notary Public in Manukan town, respondent who is a Judge thereat was allowed "to prepare and ligalize (sic) documents."

He declared "the fees derived from the preparation and notarization of documents were mostly used by respondent to buy supplies and materials of his Office", explaining that his office needs cannot be sustained by the appropriations of the local government which are inadequate. On page 120 of the records, his Annex 6 shows a shortage in his appropriations for supplies. And supplies from the Supreme Court can only be obtained if secured personally but has to assume the expenses for transportation, freight and handling.

Respondent Judge maintains that the Code of Judicial conduct does not prohibit him from acting as Notary Public,

and the fees he has received were much lower than the rates prescribed by the Integrated Bar of the Philippines, Zamboanga del Norte Chapter, submitting Annex 3, p. 117 of the records, to prove it.

Further justifying his act under Canon 4, Rule 4.01 of the Code of Judicial Conduct which provides that a judge may, with due regard to official duties, engaged in activities to improve the administration of justice, respondent claims that due to his efforts, he was able to secure an extension room of his office covering a floor area of 24 square meters, from the Sangguniang Pampook of Region IX based in Zamboanga City, costing P19,000.00 per certification shown in his Annex 7 (page 121 of the records).

In the light of 1989 Code of Judicial Conduct vis a vis the power of Municipal Trial Court Judges and Municipal Circuit Trial Court Judges to act in the capacity of Notary Public Ex-Officio, the Honorable Supreme Court in A.M. No. 89-11-1303, MTC, Dec. 19, 1989, has ruled:

"MTC and MCTC Judges assigned to municipalities or circuits with no lawyers or notaries public may, in their capacity as notary public ex-officio perform any act within the competency of a regular Notary Public, provided that: (1) all notarial fees charged be for the account of the Government and turned-over to the municipal treasurer (Lapeña, Jr. vs. Marcos, Adm. Matter No. 1969-MJ, June 29, 1982, 114 SCRA 572); and (2) certification be made in the notarized documents attesting to the lack of any lawyer or notary public in such municipality or circuit."

Although absence of a notary public commissioned for, and residing in Manukan town, even in Jose Dalman which is within his circuit is confirmed, respondent Judge while he may be justified in so acting as notary public, did not, however, comply with requirement No. 1 which obliged him to charge for the account of the Government and turn-over to the municipal treasurer all notarial fees. And there is no way of determining the truth of his assertion that the notarial fees he collected were "mostly used" to buy supplies and materials for his office, absent any accounting.

2. Accepting Bribe from Parties-litigants:

Admitting the existence of Annex H found on page 21 in the records, respondent, however, denied the imputation therein contained by affiant Calixto Calunod that he received a sando bag full of fish and squid from a certain Edna Siton who had a case with respondent's court as complainant in a certain criminal case. Instead of calling the affiant himself, complainant presented the Court Interpreter Ely O. Inot, who "confirmed that there was squid and fish contained in a plastic bag which was left in Aseniero Carenderia by a person unknown to her and some members of the Court staff. When informed by the carenderia owner that the stuff was intended for Judge Tabiliran, the latter told them to cook it, and they afterwards partook of it without the Judge who already boarded the passenger bus". (Record of Proceedings, p. 1, par. No. 1, dated June 11, 1993). Being her witness, complainant is bound by her testimony. This particular charge is, therefore, not proved.

3. Preparing Affidavit of Desistance and Collecting Fee for his Services:

Under this count, two affidavits both sworn before 2nd Asst. Provincial Fiscal Valeriano B. Lagula were submitted: one by Arcelita Salvador, complainant in an attempted rape case who was categorical in her declaration that respondent Judge asked and received from Pitoy Oriola, brother of accused Antonio Oriola the amount of P500.00 after the Judge prepared the affidavit of desistance and motion to dismiss which he made her sign (Annex I, p. 40 records). Benito Sagario who was present executed another separate affidavit, Annex J found on page 41 in the records, confirming it. In admitting the affidavit, respondent, however, denied the imputation, asserting that it is false, but without confronting them or presenting witnesses to dispute their accusation. He could have demanded that the affiants, including the persons they mentioned were present in the transaction, namely: accused Antonio Oriola, his brother Pitoy Oriola, Ignacio Salvador, and INC Minister Antonio Caluña be

required to appear for his confrontation, but respondent chose not, contented himself only with the explanation that it was just the handiwork of complainant Abadilla and her husband, a major in the military who is an active member of the Iglesia Ni Cristo of which affiant Arcelita Salvador also belonged, which is bare and unsubstantiated. No other conclusion can be drawn other than holding, as the Investigating Judge does, that this particular charge is true. Evidently, Judge Tabiliran wants to avoid meeting them by way of confrontation. If he is innocent, and is certain the charge is fabricated, he will surely raise hell to insist that he confronts them face to face. Clearly, his deportment betrays his insistence of innocence.

On Respondent's Counterclaim:

It was not proven. On the contrary, the controverting evidence shows that the records of Criminal Case No. 2279 referred to in his Annex 9, p. 123 of the records, were not in the possession of complainant. Quite obviously, Ely O. Inot, respondent's Court Interpreter tried to cover up the fact that the same were already being kept by Judge Tabiliran before he issued the memorandum, Annex 9. Complainant, who is respondent's Clerk of Court was not, therefore, in a position to comply with his Order.

Also, Mrs. Abadilla's failure to prepare the annual report of the Court in 1992 as called for in Annexes 10 and 10-A was, contrary to respondent's claim, not by reason of her obstinate refusal to obey her superior but, by sheer impossibility to comply, considering that monthly reports upon which the annual report shall be based, were not prepared by her, not because of her refusal to do so which is among those included in her job description, but because the Judge himself took the work from her for no other reason than to establish the false impression that the complainant is disobedient to the Judge, and does not attend to her duties.

By and large, there is no harmony in their office. Complainant and respondent are not in talking terms. They are hostile to each other. Respondent's complaint that Mrs. Abadilla spat saliva in front of him whenever they meet each other; destroying the Court dry seal by throwing it at him one time she was mad; showing face; and sticking out her tongue to him, are all puerile acts which the undersigned cannot conclude as sufficiently established even with the testimony of Mrs. Ely O. Inot which is far from being definite and categorical, whose actuation is understandable because Judge Tabiliran, being her superior, has moral ascendancy over her (Record of Proceedings, June 11, 1993).

The undersigned believes that the problem is on Judge Tabiliran, and not on Mrs. Abadilla, who has been in the service as Clerk of Court under a previous Judge of the same Court for quite long without any complaint having been filed. The evidence disputing his counterclaim tends to show that respondent tried to build up a situation of undesirability against his Clerk of Court whom he wanted pulled out from her position in his Court.

Other Matters Not Covered By The Complaint And Comments:

The authority to investigate being confined only to matters alleged in the complaint on the basis of which respondent filed his comments, other matters not therein covered which complainant brought out by way of presenting documentary exhibits, (from Exhibit AAA to HHH), are not subject of this report and recommendation.

RECOMMENDATION:

The charge of GROSS IMMORALITY and DECEITFUL CONDUCT have not been proven, but the undersigned believes evidence is sufficient to sustain a pronouncement of guilt on two counts of CORRUPTION, namely: acting as notary public and collecting fees for his services in preparing affidavit of desistance of a case in his Court. Likewise, acts of oppression, deceit and false imputation against his Clerk of Court are found duly established.

WHEREFORE, suspension of the respondent Judge from the service for a period of three months is recommended.

THE FOREGOING CONSIDERED, We hold the respondent culpable for gross immorality, he having scandalously and openly cohabited with the said Priscilla Baybayan during the existence of his marriage with Teresita B. Tabiliran.

Contrary to his protestations that he started to cohabit with Priscilla Baybayan only after his first wife, Teresita Tabiliran, had long abandoned him and the conjugal home in 1966, it appears from the record that he had been scandalously and openly living with said Priscilla Baybayan as early as 1970 as shown by the fact that he begot three children by her, namely Buenasol, Venus and Saturn, all surnamed Tabiliran. Buenasol was born on July 14, 1970; Venus was born on September 7, 1971; while Saturn was born on September 20, 1975. Evidently, therefore, respondent and Priscilla Baybayan had openly lived together even while respondent's marriage to his first wife was still valid and subsisting. The provisions of Sec. 3(w) of the Rules of Court and Art. 390 of the Civil Code which provide that, after an absence of seven years, it being unknown whether or not the absentee still lives, the absent spouse shall be considered dead for all purposes, except for those of succession, cannot be invoked by respondent. By respondent's own allegation, Teresita B. Tabiliran left the conjugal home in 1966. From that time on up to the time that respondent started to cohabit with Priscilla Baybayan in 1970, only four years had elapsed. Respondent had no right to presume therefore that Teresita B. Tabiliran was already dead for all purposes. Thus, respondent's actuation of cohabiting with Priscilla Baybayan in 1970 when his marriage to Teresita B. Tabiliran was still valid and subsisting constitutes gross immoral conduct. It makes mockery of the inviolability and sanctity of marriage as a basic social institution. According to Justice Malcolm: "The basis of human society throughout the civilized world is that of marriage. It is not only a civil contract, but is a new relation, an institution on the maintenance of which the public is deeply interested. Consequently, every intendment of the law leans toward legalizing matrimony." (Civil Code 1993 Ed., Volume 1, p. 122, Ramon C. Aquino).

By committing the immorality in question, respondent violated the trust reposed on his high office and utterly failed to live up to the noble ideals and strict standards of morality required of the law profession. (*Imbing v. Tiongson*, 229 SCRA 690).

As to respondent's act of eventually marrying Priscilla Baybayan in 1986, We are not in a position to determine the legality thereof, absent all the facts for a proper determination. Sufficient for Our consideration is the finding of the Investigating Judge, that the said marriage is authorized under Art. 83 (2) of the Civil Code.

With respect to the charge of deceitful conduct, We hold that the charge has likewise been duly established. An examination of the birth certificates (Exhs. "J", "L", & "M") of respondent's three illegitimate children with Priscilla Baybayan clearly indicate that these children are his legitimate issues. It was respondent who caused the entry therein. It is important to note that these children, namely, Buenasol, Venus and Saturn, all surnamed Tabiliran, were born in the year 1970, 1971, and 1975, respectively, and prior to the marriage of respondent to Priscilla, which was in 1986. As a lawyer and a judge, respondent ought to know that, despite his subsequent marriage to Priscilla, these three children cannot be legitimated nor in any way be considered legitimate since at the time they were born, there was an existing valid marriage between respondent and his first wife, Teresita B. Tabiliran. The applicable legal provision in the case at bar is Article 269 of the Civil Code of the Philippines (R.A. 386 as amended) which provides:

Art. 269. Only natural children can be legitimated. Children born outside of wedlock of parents who, at the time of the conception of the former, were not disqualified by any impediment to marry each other, are natural.

Legitimation is limited to natural children and cannot include those born of adulterous relations (*Ramirez vs.*

Gmur, 42 Phil. 855). The Family Code (Executive Order No. 209), which took effect on August 3, 1988, reiterated the above-mentioned provision thus:

Art. 177. Only children conceived and born outside of wedlock of parents who, at the time of the conception of the former, were not disqualified by any impediment to marry each other may be legitimated.

The reasons for this limitation are given as follows:

- 1) The rationale of legitimation would be destroyed;
- 2) It would be unfair to the legitimate children in terms of successional rights;
- 3) There will be the problem of public scandal, unless social mores change;
- 4) It is too violent to grant the privilege of legitimation to adulterous children as it will destroy the sanctity of marriage;
- 5) It will be very scandalous, especially if the parents marry many years after the birth of the child. (The Family Code, p. 252, Alicia V. Sempio Diy).

It is clear, therefore, that no legal provision, whether old or new, can give refuge to the deceitful actuations of the respondent.

It is also erroneous for respondent to state that his first wife Teresita disappeared in 1966 and has not been heard from since then. It appears that on December 8, 1969, Teresita filed a complaint against respondent entitled, *Tabiliran vs. Tabiliran* (G.R. No. 1155451) which was decided by this Court in 1982. In the said case, respondent was sued for abandonment of his family home and for living with another woman with whom he allegedly begot a child. Respondent was, however, exonerated because of the failure of his wife to substantiate the charges. However, respondent was reprimanded for having executed a "Deed of Settlement of Spouses To Live Separately from Bed", with a stipulation that they allow each of the other spouse to live with another man or woman as the case may be, without the objection and intervention of the other. It was also in the same case where respondent declared that he has only two children, namely, Reynald Antonio and Jose III, both surnamed Tabiliran, who are his legitimate issues. Thus, his statements in his affidavits marked as Exhs. "M-4" and "O-4" that Saturn and Venus are his third and second children respectively, are erroneous, deceitful, misleading and detrimental to his legitimate children.

With respect to the charge of corruption, We agree with the findings of the Investigating Judge that respondent should be found culpable for two counts of corruption: (1) acting as Notary Public; and (2) collecting legal fees in preparing an Affidavit of Desistance of a case in his court.

Respondent himself admitted that he prepared and notarized the documents (Annexes "C", "D", "E", "F" and "G") wherein he charged notarial fees. Though he was legally allowed to notarize documents and charge fees therefor due to the fact that there has been no Notary Public in the town of Manukan, this defense is not sufficient to justify his otherwise corrupt and illegal acts.

Section 252 of the Notarial Law expressly provides thus:

SEC. 252. Compensation of Notaries Public - No fee, compensation, or reward of any sort, except such as is expressly prescribed and allowed by law, shall be collected or received for any service rendered by a notary public. Such money collected by notaries public proper shall belong to them personally. Officers acting as notaries public ex-officio shall charge for their services the fees prescribed by law and account therefor as for Government funds. (Notarial Law, Revised Administrative Code of the Philippines, p. 202.)

Respondent's failure to properly account and turn over the fees collected by him as Ex-Officio notary to the municipal government as required by law raises the presumption that he had put such fund to his personal use.

With respect to the charge that respondent prepared an Affidavit of Desistance in a rape case filed before his sala for which he collected the amount of P500.00 from the complainant therein, respondent merely denied the said imputation but failed to offer any evidence to support such denial. Denial, if unsubstantiated by clear and convincing evidence, is a negative and self-serving evidence which deserves no weight in law and cannot be given greater evidentiary value over the testimony of credible witnesses who testify on affirmative matters (*People v. Amaguin*, 229 SCRA 166). It is unfortunate that respondent had failed to adhere to, and let this remind him once again of Canon 2 of the Code of Judicial Conduct, to wit:

Canon 2

A judge should avoid impropriety and the appearance of impropriety in all activities.

WHEREFORE, the Court finds respondent Judge Jose C. Tabiliran, Jr. guilty of gross immorality, deceitful conduct and corruption and, consequently, orders his dismissal from the service. Such dismissal shall carry with it cancellation of eligibility, forfeiture of leave credits and retirement benefits, and disqualification from re-employment in the government-service, all without prejudice to criminal or civil liability.

SO ORDERED.

Narvasa, C.J., Feliciano, Padilla, Regalado, Davide, Jr., Romero, Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Francisco, and Hermosisima, Jr., JJ., concur.
Panganiban, J., no part.

[1] Justice Juvenal K. Guerrero in *De La Llana vs. Alba*, G.R. No. 57883, 12 March 1982.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.