

JOSE C. MACIAS, ET AL. COMPLAINANTS, VS. MANUEL EB. PACANA, MANUEL EB. VILLAMIL, MOUSILLINE ERIBERTO PACANA, AGUSTIN V. TAN, JULITA V. TAN ANG, JACINTO V. TAN, ODONA V. TAN, EUF...*A.M. No. 3048. June 03, 1991*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/a-m-no-3048/>**PER CURIAM:**

The original Complaint, dated 5 May 1987, and the Amended Complaint, dated 4 March 1988, filed by petitioner Jose C. Macias on his own behalf and that of his co-complainants, implicated: (1) Judge Alejandro B. Pallugna, Municipal Judge of Magsaysay, Misamis Oriental, and later City Judge of Gingoog City, same province; (2) Judge Severo Malvar, District Judge of the then Court of First Instance of Misamis Oriental, Branch VIII; (3) Judge Eulalio Rosete of the same Court, Branch V, Cagayan de Oro City; (4) former Judge Federico Alfonso, later Court of Appeals Justice; (5) Respondent lawyers; and (6) some private parties.

On 31 January 1989, the Court dismissed the complaint against three of the Judges for having become moot and academic. The Judges were: Judge Malvar, who had retired on 3 November 1978; Judge Rosete, who had also retired on 12 February 1985, and died not long after; and former Court of Appeals Justice Federico Alfonso, whose resignation was accepted by the President on 31 July 1986.

On 14 September 1989, the Court: (1) denied reconsideration of the said Resolution; (2) referred the case against Judge Pallugna and respondent lawyers to the Integrated Bar of the Philippines (IBP) for investigation, report and recommendation; and (3) informed Complainants that their remedy against respondent private parties was before the civil Courts.

On 18 October 1990, in the absence of any report from the IBP, the Court recalled the records therefrom and referred the case to the Chief Attorney of this Court for report and recommendation.

In the interim, on 15 October 1990, respondent, Atty. Potenciano R. de los Reyes, Jr., moved to dismiss the Complaint and Amended Complaint against him for being baseless in fact and in law. In another pleading, dated 22 January 1991, he prays that he be dropped as a party respondent in this case.

As required, the Chief Attorney submitted her Report on 15 March 1991 and has recommended that Respondent Judge Pallugna be suspended for six (6) months for unauthorized notarization of private documents, and that the Complaint against respondent lawyers, including movant Atty. Potenciano R. de los Reyes, Jr., be dismissed.

The Court has noted that in complainants' Amended Complaint of 11 January 1991, still filed without the assistance of counsel, they had dropped their charges against respondent lawyers stating that the latter, will be charged in the proper forum.

The records disclose that Complainants had also charged Judge Pallugna before the Tanodbayan, docketed as TBP No. 85-01271, wherein respondent Judge was accused of having engaged in the practice of law and absenteeism. The pleadings were forwarded to this Court and docketed as AM No. R-545-MTJ. In the resolution of 4 September 1990, the Court dismissed that case for lack of sufficient evidence to substantiate the charges and for

failure to prosecute.

In this administrative case, complainants pray that Judge Pallugna be disbarred or dismissed from the service for: (1) unauthorized practice of law, and violation of the Canons of Judicial Ethics on "avoidance of appearance of impropriety," which resulted in their having been cheated of their inheritance; (2) unauthorized notarization of private documents; and (3) Perjury, for having submitted two inconsistent comments to the investigating bodies, namely, the Tanodbayan and this Court (Rollo, pp. 204-206).

Complainants claim that Respondent Judge engaged in the unauthorized practice of law by appearing, sometime in 1970, (1) for one of the appositors in Spec. Proc. No. 59-M entitled "Re Petition for Intestate Estate of Deceased Moises Villamil, Dr. Agustin V. Tan, Petitioner"; and (2) for having filed Spec. Proc. No. 1089 "For Adoption of Manuel Pacana," both before the Court of First Instance of Misamis Oriental.

The charge of unauthorized practice of law is a settled matter. On 4 September 1990, in A.M. No. 545-MTJ, we had resolved:

"A.M. No. R-545-MTJ (Jose C. Macias vs. Judge Alejandro B. Pallugna, Municipal Trial Court, Gingoog City). - Acting on the sworn position paper of Jose C. Macias charging respondent Judge Alejandro B. Pallugna with engaging in the practice of law and absenteeism, the COURT RESOLVED TO DISMISS this case against the respondent judge for lack of sufficient evidence to substantiate the charges and for complainant's failure to prosecute. Let a copy of this resolution be attached to respondent's personal record."

Indeed, when Respondent Judge filed the questioned adoption proceedings and appeared as counsel for the oppositor in the intestate proceedings, he was authorized to engage in private practice by the then existing law.

Judge Pallugna's acquisition of estate property, alleged to be contrary to judicial ethics, transpired after the proceedings had terminated and the property adjudicated to the legal heirs. When the property was acquired, therefore, it was no longer in litigation. No irregularity can be attributed to him either when he inquired as to the status of Civil Case No. 6644 involving the same property, being a transferee of a Portion thereof.

And as far as the adverse results to Complainants of the two (2) aforementioned cases are concerned, as a result of which they had allegedly lost the inheritance which is their due, the Court notes that Complainants neither appeared in Court to oppose the petitions filed, nor did they take any steps to challenge the judgments rendered, respectively, by the Courts of First Instance of Misamis Oriental, Branches III and VIII.

By and large, therefore, the questionable maneuvers' attributed to Respondent Judge in the handling of the subject cases do not provide sufficient basis for disciplinary action.

Neither is there sufficient evidence that Respondent Judge had perjured himself in the comments he submitted before the Tanodbayan and this Court. When he stated in his Comment before the Tanodbayan that he had been a Judge since 1964 while before this Court he stated that he was a practicing lawyer, what was obviously meant was that as a Municipal Judge during the years involved, he was then authorized to practice law.

The records, however, sufficiently provide a clear basis for a finding of Respondent Judge's administrative liability for unauthorized notarization of three (3) private documents, as follows: (1) Deed of Absolute Sale, dated 10 June 1977, executed by Manuel E. Villamil, conveying a parcel of land to one Marciano Kho; (2) Memorandum of Agreement, dated 8 October 1974, executed by Manuel E. Villamil and Agustin Tan; and (3) Extrajudicial Settlement of the Estate of the late Cristina E. Vda. de Villamil, dated 20 August 1974, executed by Manuel E. Villamil.

It is well settled that Municipal Judges may not engage in notarial work except as Notaries Public ex-officio.

While Municipal Judges, under Section 77 of the Judiciary Act, before its amendment by Rep. Act No. 6031 on 4 August 1969; were permitted to pursue any other occupation or calling after office hours, such authorization excluded engaging in the work of a regular notary public (In re Appointment of Judge Alejandro B. Pallugna, Jr., as Notary Public," L-29321, 29 February 1972, 43 SCRA 446). As Notaries Public ex-officio, they may engage only in the notarization of documents connected with the exercise of their official functions. They may not, as such Notaries Public ex-officio, undertake the preparation and acknowledgment of private documents, contracts and other acts of conveyances, which bear no relation to the performance of their functions as Judges (Adm. Matter No. 89-11-1303 MTC, 1989).

More importantly, Respondent Judge notarized the three (3) private documents after this Court had affirmed, on 29 February 1972, the cancellation of his notarial commission by the then Court of First Instance of Misamis Oriental ("In Re Appointment of Judge Pallugna, Jr., as Notary Public," supra), precisely because of the prohibition against Municipal Judges engaging in notarial work, except only in an ex officio capacity.

WHEREFORE, for unauthorized notarization of three (3) private documents, in complete disregard of the Decision of this Court in his own case, supra, Respondent Judge Alejandro B. Pallugna, Jr., is hereby FINED Ten Thousand (P10,000.00) Pesos, with a stern WARNING that the commission of similar acts in the future will warrant a severer sanction.

The charges against respondent lawyers, including Atty. Potenciano R. de los Reyes, Jr., are hereby DISMISSED, the same having been dropped by Complainants in their Amended Complaint, dated 27 December 1990.

Let copies of this Decision be spread in public respondents' respective personal records.

SO ORDERED.

Fernan, C.J., Narvasa, Melencio-Herrera, Gutierrez, Jr., Cruz, Paras, Feliciano, Gancayco, Padilla, Bidin, Sarmiento, Medialdea, Regalado, and Davide, Jr., JJ., concur.

Grino-Aquino, J., on leave.

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