

DANIEL B. HERNANDEZ, COMPLAINANT, VS. HON. JOSE C. RAZO, RESPONDENT.

Adm. Case No. 221-J. November 26, 1973

Ponente: RUIZ CASTRO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/a33d78078468/>

RUIZ CASTRO, J.:

This is a complaint by Daniel B. Hernandez charging Jose C. Razo, Judge of the Court of First Instance of Albay and Legaspi City, with irregularities and corrupt acts allegedly committed by the latter as a lawyer and as municipal judge of Donsol, Sorsogon.

The complaint, filed with the Department of Justice on June 22, 1971 and amended on February 9, 1972, recites that the respondent --

(1)

Defrauded the complainant of the sum of P1,000, which represented half of the purchase price of two parcels of land as evidenced by a deed of sale (exh. "1") executed by the complainant in favor of one Teobaldo Magdamit, which deed was notarized by the respondent;

(2)

Competed as ex-officio notary public with Atty. Froilan Hernandez and Severino Hernandez (a non-lawyer notary public) by notarizing (a) the mentioned exh. "1"; (b) a deed of sale of a parcel of land (exh. "15") executed by one Rafael Pacheco in favor of one Ciriaco Pacheco; and (c) another deed of sale (exh. "17") executed by Ciriaco Pacheco of the same parcel of land subject-matter of exh. "15" in favor of one Estrella Razo-Rey;

(3)

Being related to the aforementioned Estrella Razo--Rey and Teobaldo Magdamit, not only appeared as their counsel in a contempt proceeding in civil case 1311 of the Court of First Instance of Sorsogon, but also notarized exh. "17";

(4)

"Maneuvered" the execution of the mentioned exhibits "15" and "17" (exhs. "J" and "K", respectively, for the complainant), in order to impede and evade the enforcement of the writ of execution of the final judgment in the said civil case 1311;

(5)

Refused the filing in the municipal court of Donsol, Sorsogon, while he was the judge therein, of a complaint for estafa against Teobaldo Magdamit; and

(6)

Filed an application for his appointment as district judge of the Court of First Instance of Albay in July, 1971 and took his oath of office as district judge on July 24, 1971, knowing that there was then pending the instant administrative case against him.

At the hearing of the complaint conducted by the Hon. Juan O. Reyes of the Court of Appeals, to whom this case was assigned for investigation, the complainant additionally charged that the respondent made several overtures for amicable settlement through then Congressman Rafael Aquino of Sorsogon.

- Anent the first charge, the record shows that by virtue of a decision dated October 10, 1963 of the Court of First Instance of Sorsogon in civil case 1311, entitled "Daniel Hernandez vs. Emiliano Pacheco," in favor of the complainant, and the failure of the defendant therein to satisfy the judgment, the provincial sheriff sold at public auction on May 27, 1964 two parcels of land belonging to Emiliano Pacheco located in Donsol, Sorsogon. These were purchased by the complainant as the highest bidder.

On October 19, 1966 the complainant, through his counsel, Atty. Rafael R. Rañeses, filed a petition to declare in contempt the tenants of Emiliano Pacheco in the aforesaid real properties who apparently refused to vacate the premises. Among those charged were Teobaldo Magdamit and his wife.

An amicable settlement was later reached by the complainant and Teobaldo Magdamit as the former agreed to sell to the latter the two parcels of land for the price of P2,000. On November 28, 1966 the corresponding deed of sale was drawn up and then signed and notarized in the office of the respondent. The deed of sale, which contains an acknowledgment by the complainant that he received the sum of P2,000 from Teobaldo Magdamit, was witnessed by the complainant's counsel and one Eufrosiño Triñanez. Accordingly, on December 2, 1966, the date the contempt motion was to be heard, Atty. Rañeses, with the express conformity of the complainant, filed a motion to exclude from the contempt charge Teobaldo Magdamit and his wife and one Aurelio Magdamit. This motion was approved by the trial court on the same day, with the respondent appearing as counsel for the three whose exclusion was sought.

On the complainant's allegation that the respondent defrauded him of half of the purchase price of the two parcels of land abovementioned, the testimony of his two principal witnesses is to the effect that after the complainant and his wife had signed the deed of sale in the respondent's office, the respondent handed to the complainant an envelope containing only P1,000, and that when the complainant asked the respondent where the rest of the purchase price was, the latter replied that it was in the possession of Atty. Rañeses.

Against the foregoing evidence of the complainant, the respondent adduced in evidence the following: (a) a list of expenses prepared by the complainant which contains a statement that he (the complainant) on November 26, 1966 paid to Atty. Rañeses (his counsel then) the sum of P1,000, although with a notation "without my consent;" (b) a certification from the office of the chief of police of Donsol, Sorsogon that on November 27, 1966 the complainant reported that Atty. Rañeses had taken his money in the amount of P1,000; and (c) the testimony of Atty. Rañeses that after Teobaldo Magdamit placed the purchase money on the respondent's table and the complainant and his wife signed the deed of sale, he counted the money of Teobaldo Magdamit and then took the amount of P1,000.

From the foregoing recitals, it is quite clear that the respondent did not abscond with the money of the complainant. The totality of the evidence adduced by both sides shows that it was not the respondent but Atty. Rañeses who took the money in question.

- The charge that the respondent competed as ex-officio notary public cannot likewise be sustained for the following reasons:

(a)

A certification from the Clerk of the Court of First Instance of Sorsogon states that Atty. Froilan N. Hernandez, Jr. has never been appointed a notary public for and within Sorsogon province prior to September 13, 1971. Exhibits "1", "15" and "17", supra, were executed and notarized prior to the said date.

(b)

Exh. "1" (exh. "T" for the complainant) was notarized by the respondent at the request of the complainant himself and his counsel in civil case 1311 in view of the latter's belief that Severino M. Hernandez, then the only notary public in Donsol, Sorsogon, was disqualified from notarizing the said exh. "1", being a near relative of the complainant. Moreover, the record shows that the respondent did not charge anything for authenticating the said exh. "1" except the amount of P1.50 which was paid into the Government treasury.

(c)

Exh. "15" was, on the other hand, notarized by the respondent because Severino Hernandez was not then in Donsol, Sorsogon.

(d)

It was also explained, in the matter of exh. "17", that this document was notarized by the respondent because of his belief that Severino Hernandez was likewise disqualified from notarizing the said document as the vendee of the land subject-matter thereof was his sister-in-law.

(e)

The two persons with whom the respondent allegedly competed never came forward to complain. Needless to say, municipal judges are authorized by law to act as notaries public ex-officio. Unless this office is abused in a manner that denigrates the high responsibilities of the Bench, it will be unfair to subject municipal judges to disciplinary action simply because on rare occasions they happen to authenticate certain contracts, particularly where, as here, it was proved that there was only one notary public within the municipality.

- With respect to the appearance of the respondent in the contempt proceeding in civil case 1311 as counsel for Teobaldo Magdamit and Estrella Razo-Rey, who are very distant relatives of the respondent, being related to him in the 6th and 7th degree, respectively, there is no law or canon of professional ethics disqualifying a lawyer from appearing as counsel for a person by reason simply of blood or affinity relationship. Incidentally, the respondent was then duly authorized to practise law by the district judge of Sorsogon.[*]

- Anent the charge that the respondent "maneuvered" the execution of exhibits "15" and "17", supra, to impede and evade the due enforcement of the writ of execution issued in civil case 1311, this Court finds no convincing

proof, assuming there was such a maneuver, that the respondent was in any way privy thereto. Mere authentication of the documents is not proof that the notary public knew the truth of the substantive matters described therein, or that he was fully informed about the motivations of the parties making the acknowledgment. Moreover, it appears that there is yet a pending litigation (civil case 2427) in the Court of First Instance of Sorsogon between the complainant, on the one hand, and Emiliano Pacheco and Estrella Razo-Rey, on the other, precisely on the issue of ownership of the land sold under and by virtue of exhibits "15" and "17". The complainant's version therein is that the land in question in that case is the same land sold to him under execution in civil case 1311, while the adverse parties claim that it is an entirely different parcel. At any rate, if the respondent were really a guilty privy as the complainant says he is, it is surprising that the respondent was not impleaded in the said civil case 2427.

- The charge that the respondent refused to accept the filing of a complaint for estafa sought to be filed by the complainant while the former was municipal judge of Donsol, Sorsogon, is also bereft of merit. The declarations of the two principal witnesses of the complainant reveal that the said complaint was refused in the municipal court of Donsol, Sorsogon either in January or May, 1968, at which time the respondent was no longer judge of the said municipality because as of September 1, 1967 he was already City Judge of Legaspi City.

- The sixth charge against the respondent likewise cannot prosper. Although the complaint at bar was received in the Department of Justice on June 22, 1971, it appears that the first indorsement of the Department to the executive district judge of the Court of First Instance of Legaspi City was received by the latter only on July 26, 1971, or two days after the respondent had taken his oath of office as district judge of Albay and Legaspi City, for which reason the executive district judge of Legaspi City informed the Department of Justice that he could no longer investigate the complaint. The respondent himself asserts, not without reason, that he received a copy of the complaint in the case at bar only on September 9, 1971.

- On the alleged attempts by the respondent to settle the case at bar "out of court," the record discloses that it was not he but the former Congressman Rafael Aquino who initiated and then pressed the move toward such end.

We find and so hold that the respondent is not guilty of any of the charges.

ACCORDINGLY, the complaint is hereby dismissed.

Makalintal, C.J., Zaldivar, Fernando, Teehankee, Barredo, Makasiar, Antonio, Esguerra, Fernandez, Muñoz Palma, and Aquino, JJ., concur.

[*] The provisions of article 22 of the Spanish Notarial Law (Ley del Notariado de 28 de Mayo de 1862), cited by the complainant, cannot be a legal basis, assuming their application to the case at bar, for the alleged disqualification of the respondent from notarizing exhibits "1" and "17", supra, because the said article prohibits a notary public from authenticating a contract only when it contains a provision in his favor, or when any of the parties in interest is a relative within the fourth civil degree of consanguinity or second degree by affinity. It has been shown that the respondent's relationship to Teobaldo Magdamit and Estrella Razo-Rey is not within the prohibited range of the said article. This discussion is of course academic, because the Spanish Notarial Law is no longer in force in the Philippines (Philippine Sugar Estate Development Co. vs. Poizat, 48 Phil. 536; Estuart vs. Garcia, Adm. Case No. 212, Feb. 15, 1957).

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.