

RODOLFO G. NAVARRO, COMPLAINANT, VS. JUDGE HERNANDO C. DOMAGTOY, RESPONDENT.

A.M. No. MTJ-96-1088. July 19, 1996

Ponente: ROMERO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/e6445a10fba9/>

ROMERO, J.:

The complainant in this administrative case is the Municipal Mayor of Dapa, Surigao del Norte, Rodolfo G. Navarro. He has submitted evidence in relation to two specific acts committed by respondent Municipal Circuit Trial Court Judge Hernando Domagtoy, which, he contends, exhibits gross misconduct as well as inefficiency in office and ignorance of the law.

First, on September 27, 1994, respondent judge solemnized the wedding between Gaspar A. Tagadan and Arlyn F. Borga, despite the knowledge that the groom is merely separated from his first wife.

Second, it is alleged that he performed a marriage ceremony between Floriano Dador Sumaylo and Gemma G. del Rosario outside his court's jurisdiction on October 27, 1994. Respondent judge holds office and has jurisdiction in the Municipal Circuit Trial Court of Sta. Monica-Burgos, Surigao del Norte. The wedding was solemnized at the respondent judge's residence in the municipality of Dapa, which does not fall within his jurisdictional area of the municipalities of Sta. Monica and Burgos, located some 40 to 45 kilometers away from the municipality of Dapa, Surigao del Norte.

In his letter-comment to the Office of the Court Administrator, respondent judge avers that the office and name of the Municipal Mayor of Dapa have been used by someone else, who, as the mayor's "lackey," is overly concerned with his actuations both as judge and as a private person. The same person had earlier filed Administrative Matter No. 94-980-MTC, which was dismissed for lack of merit on September 15, 1994, and Administrative Matter No. OCA-IPI-95-16, "Antonio Adapon v. Judge Hernando C. Domagtoy," which is still pending.

In relation to the charges against him, respondent judge seeks exculpation from his act of having solemnized the marriage between Gaspar Tagadan, a married man separated from his wife, and Arlyn F. Borga by stating that he merely relied on the Affidavit issued by the Municipal Trial Judge of Basey, Samar, confirming the fact that Mr. Tagadan and his first wife have not seen each other for almost seven years.[1] With respect to the second charge, he maintains that in solemnizing the marriage between Sumaylo and del Rosario, he did not violate Article 7, paragraph 1 of the Family Code which states that: "Marriage may be solemnized by: (1) Any incumbent member of the judiciary within the court's jurisdiction"; and that Article 8 thereof applies to the case in question.

The complaint was not referred, as is usual, for investigation, since the pleadings submitted were considered sufficient for a resolution of the case.[2]

Since the countercharges of sinister motives and fraud on the part of complainant have not been sufficiently proven, they will not be dwelt upon. The acts complained of and respondent judge's answer thereto will suffice and can be objectively assessed by themselves to prove the latter's malfeasance.

The certified true copy of the marriage contract between Gaspar Tagadan and Arlyn Borga states that Tagadan's civil status is "separated." Despite this declaration, the wedding ceremony was solemnized by respondent judge. He presented in evidence a joint affidavit by Maurecio A. Labado, Sr. and Eugenio Bullecer, subscribed and sworn to before Judge Demosthenes C. Duquilla, Municipal Trial Judge of Basey, Samar.[3] The affidavit was not issued by the latter judge, as claimed by respondent judge, but merely acknowledged before him. In their affidavit, the affiants stated that they knew Gaspar Tagadan to have been civilly married to Ida D. Peñaranda in September 1983; that after thirteen years of cohabitation and having borne five children, Ida Peñaranda left the conjugal dwelling in Valencia, Bukidnon and that she has not returned nor been heard of for almost seven years, thereby giving rise to the presumption that she is already dead.

In effect, Judge Domagtoy maintains that the aforementioned joint affidavit is sufficient proof of Ida Peñaranda's presumptive death, and ample reason for him to proceed with the marriage ceremony. We do not agree.

Article 41 of the Family Code expressly provides:

"A marriage contracted by any person during the subsistence of a previous marriage shall be null and void, unless before the celebration of the subsequent marriage, the prior spouse had been absent for four consecutive years and the spouse present had a well-founded belief that the absent spouse was already dead. In case of disappearance where there is danger of death under the circumstances set forth in the provisions of Articles 391 of the Civil Code, an absence of only two years shall be sufficient.

For the purpose of contracting the subsequent marriage under the preceding paragraph, the spouse present must institute a summary proceeding as provided in this Code for the declaration of presumptive death of the absentee, without prejudice to the effect of reappearance of the absent spouse." (Emphasis added.)

There is nothing ambiguous or difficult to comprehend in this provision. In fact, the law is clear and simple. Even if the spouse present has a well-founded belief that the absent spouse was already dead, a summary proceeding for the declaration of presumptive death is necessary in order to contract a subsequent marriage, a mandatory requirement which has been precisely incorporated into the Family Code to discourage subsequent marriages where it is not proven that the previous marriage has been dissolved or a missing spouse is factually or presumptively dead, in accordance with pertinent provisions of law.

In the case at bar, Gaspar Tagadan did not institute a summary proceeding for the declaration of his first wife's presumptive death. Absent this judicial declaration, he remains married to Ida Peñaranda. Whether wittingly, or unwittingly, it was manifest error on the part of respondent judge to have accepted the joint affidavit submitted by the groom. Such neglect or ignorance of the law has resulted in a bigamous, and therefore void, marriage. Under Article 35 of the Family Code, "The following marriage shall be void from the beginning: (4) Those bigamous x x x marriages not falling under Article 41."

The second issue involves the solemnization of a marriage ceremony outside the court's jurisdiction, covered by Articles 7 and 8 of the Family Code, thus:

"Art. 7. Marriage may be solemnized by:

(1) Any incumbent member of the judiciary within the court's jurisdiction;

x x x x x xxx (Emphasis supplied.)

Art. 8. The marriage shall be solemnized publicly in the chambers of the judge or in open court, in the church, chapel or temple, or in the office of the consul-general, consul or vice-consul, as the case may be, and not elsewhere, except in cases of marriages contracted on the point of death or in remote places in accordance with Article 29 of this Code, or where both parties request the solemnizing officer in writing in which case the

marriage may be solemnized at a house or place designated by them in a sworn statement to that effect."

Respondent judge points to Article 8 and its exceptions as the justifications for his having solemnized the marriage between Floriano Sumaylo and Gemma del Rosario outside of his court's jurisdiction. As the aforementioned provision states, a marriage can be held outside of the judge's chambers or courtroom only in the following instances: (1) at the point of death, (2) in remote places in accordance with Article 29 or (3) upon request of both parties in writing in a sworn statement to this effect. There is no pretense that either Sumaylo or del Rosario was at the point of death or in a remote place. Moreover, the written request presented addressed to the respondent judge was made by only one party, Gemma del Rosario.[4]

More importantly, the elementary principle underlying this provision is the authority of the solemnizing judge. Under Article 3, one of the formal requisites of marriage is the "authority of the solemnizing officer." Under Article 7, marriage may be solemnized by, among others, "any incumbent member of the judiciary within the court's jurisdiction." Article 8, which is a directory provision, refers only to the venue of the marriage ceremony and does not alter or qualify the authority of the solemnizing officer as provided in the preceding provision. Non-compliance herewith will not invalidate the marriage.

A priest who is commissioned and allowed by his local ordinary to marry the faithful, is authorized to do so only within the area of the diocese or place allowed by his Bishop. An appellate court Justice or a Justice of this Court has jurisdiction over the entire Philippines to solemnize marriages, regardless of the venue, as long as the requisites of the law are complied with. However, judges who are appointed to specific jurisdictions, may officiate in weddings only within said areas and not beyond. Where a judge solemnizes a marriage outside his court's jurisdiction, there is a resultant irregularity in the formal requisite laid down in Article 3, which while it may not affect the validity of the marriage, may subject the officiating official to administrative liability.[5]

Inasmuch as respondent judge's jurisdiction covers the municipalities of Sta. Monica and Burgos, he was not clothed with authority to solemnize a marriage in the municipality of Dapa, Surigao del Norte. By citing Article 8 and the exceptions therein as grounds for the exercise of his misplaced authority, respondent judge again demonstrated a lack of understanding of the basic principles of civil law.

Accordingly, the Court finds respondent to have acted in gross ignorance of the law. The legal principles applicable in the cases brought to our attention are elementary and uncomplicated, prompting us to conclude that respondent's failure to apply them is due to a lack of comprehension of the law.

The judiciary should be composed of persons who, if not experts, are at least, proficient in the law they are sworn to apply, more than the ordinary laymen. They should be skilled and competent in understanding and applying the law. It is imperative that they be conversant with basic legal principles like the ones involved in instant case.[6] It is not too much to expect them to know and apply the law intelligently.[7] Otherwise, the system of justice rests on a shaky foundation indeed, compounded by the errors committed by those not learned in the law. While magistrates may at times make mistakes in judgment, for which they are not penalized, the respondent judge exhibited ignorance of elementary provisions of law, in an area which has greatly prejudiced the status of married persons.

The marriage between Gaspar Tagadan and Arlyn Borga is considered bigamous and void, there being a subsisting marriage between Gaspar Tagadan and Ida Peñaranda.

The Office of the Court Administrator recommends, in its Memorandum to the Court, a six-month suspension and a stern warning that a repetition of the same or similar acts will be dealt with more severely. Considering that one of the marriages in question resulted in a bigamous union and therefore void, and the other lacked the necessary

authority of respondent judge, the Court adopts said recommendation. Respondent is advised to be more circumspect in applying the law and to cultivate a deeper understanding of the law.

IN VIEW OF THE FOREGOING, respondent Judge Hernando C. Domagtoy is hereby SUSPENDED for a period of six (6) months and given a STERN WARNING that a repetition of the same or similar acts will be dealt with more severely.

SO ORDERED.

Regalado (Chairman), Puno, Mendoza, and Torres, Jr., JJ., concur.

[1] Rollo, pp. 7-8.

[2] Uy v. Dizon-Capulong, A.M. No. RTJ-91-766, April 7, 1993; Montemayor v. Collado, A.M. No. 2519-MTJ, September 10, 1981; Ubongon v. Mayo, A.M. No. 1255-CTJ, August 6, 1980, 99 SCRA 30.

[3] Rollo, p. 12.

[4] Rollo, pp. 10-11.

[5] Article 4, Family Code.

[6] Lim v. Domogas, A.M. No. RTJ-92-899, October 15, 1993, 227 SCRA 258, 263 citing Ubongan v. Mayo, 99 SCRA 30 and Ajeno v. Inserto, 71 SCRA 166.

[7] Galan Realty Co. v. Arranz, A.M. No. MTJ-93-978, October 27, 1994, 237 SCRA 771.

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.