



**Republic of the Philippines**  
**Supreme Court**  
**Manila**

**FIRST DIVISION**

**SAMSON B. SINDON,**  
 Complainant,

**A.M. No. RTJ-20-2576**  
**(formerly OCA IPI No. 18-4864-RTJ)**

Members:

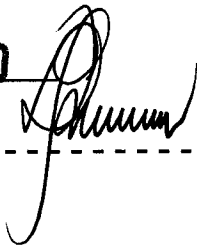
- versus -

**PERALTA, C.J., Chairperson,**  
**CAGUIOA,**  
**J. REYES, JR.,**  
**LAZARO-JAVIER, and**  
**LOPEZ, JJ.**

**PRESIDING JUDGE RAPHIEL F.**  
**ALZATE, REGIONAL TRIAL**  
**COURT, BRANCH 1, BANGUED,**  
**ABRA,**

Promulgated:

Respondent.

**JAN 29 2020** 

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**DECISION**

**LAZARO-JAVIER, J.:**

**The Antecedents**

Complainant Samson Sindon charged respondent Raphiel Alzate, Presiding Judge of the Regional Trial Court (RTC)-Branch 1, Bangued, Abra and Atty. Janice Siganay Querrer, Clerk of Court of the same court with violation of Section 3(e) of Republic Act No. 3019 (RA 3019),<sup>1</sup>

<sup>1</sup> Anti-Graft and Corrupt Practices Act.  
**Section 3. Corrupt practices of public officers.** In addition to acts or omissions of public officers already penalized by existing law, the following shall constitute corrupt practices of any public officer and are hereby declared to be unlawful:



Section 5 of Republic Act No. 6713 (RA 6713)<sup>2</sup> and Section 1 of Rule 137 of the Rules of Court.<sup>3</sup>

In his Complaint dated October 12, 2017, Sindon essentially alleged:

On September 6, 2017, he requested, through his counsel Atty. Jean Phebie De Mesa of the Reynaldo Cortes Law Office, a copy of Judge Alzate's order granting a notarial commission to his wife Atty. Ma. Saniata Liwliwa Gonzales-Alzate. The letter-request was filed in the Office of the Clerk of Court (OCC) before Atty. Querrer. The latter, however, denied the request and suppressed the record.

Judge Alzate and Atty. Querrer conspired in giving unwarranted benefit to a private party, *i.e.*, Atty. Gonzales-Alzate, in violation of Section 3(e) of RA 3019. Atty. Querrer herself prepared the order granting Atty. Gonzales-Alzate's application for notarial commission and handed it to Judge Alzate for approval. They also violated Section 5 of RA 6713 for failure to promptly act on Sindon's request within fifteen (15) days from receipt thereof.

Finally, Judge Alzate violated Section 1 of Rule 137 of the Rules of Court for not recusing himself and sitting on a case or proceeding involving his wife.

In his Comment dated September 5, 2018, Judge Alzate countered:

Sindon's letter-request, through his counsel, was dubious because the name indicated therein as requesting party was Samson Vista, not Samson

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x x x

- (e) Causing any undue injury to any party, including the Government, or giving any private party any unwarranted benefits, advantage or preference in the discharge of his official administrative or judicial functions through manifest partiality, evident bad faith or gross inexcusable negligence. This provision shall apply to officers and employees of offices or government corporations charged with the grant of licenses or permits or other concessions.

x x x

<sup>2</sup> Code of Conduct and Ethical Standards for Public Officials and Employees.

**Section 5. Duties of Public Officials and Employees.** - In the performance of their duties, all public officials and employees are under obligation to:

- (a) Act promptly on letters and requests. - All public officials and employees shall, within fifteen (15) working days from receipt thereof, respond to letters, telegrams or other means of communications sent by the public. The reply must contain the action taken on the request.

x x x

<sup>3</sup> **Section 1. Disqualification of judges.** — No judge or judicial officer shall sit in any case in which he, or his wife or child, is pecuniarily interested as heir, legatee, creditor or otherwise, or in which he is related to either party within the sixth degree of consanguinity or affinity, or to counsel within the fourth degree, computed according to the rules of the civil law, or in which he has been executor, administrator, guardian, trustee or counsel, or in which he has been presided in any inferior court when his ruling or decision is the subject of review, without the written consent of all parties in interest, signed by them and entered upon the record.

A judge may, in the exercise of his sound discretion, disqualify himself from sitting in a case, for just or valid reasons other than those mentioned above.

Sindon; there was no indicated address for the Reynaldo Cortes Law Office; and there was no stated purpose for the request.<sup>4</sup>

The complaint against him was pure harassment. Sindon was an ally of Mayor Jendricks Luna of Lagayan, Abra, a complainant in another administrative case against him (OCA IPI No. 17-4775-RTJ). In fact, on the same day that Atty. De Mesa filed Sindon's letter-request with the OCC, Atty. Gonzales-Alzate asked her for the purpose of the request. Atty. De Mesa admitted she was following Mayor Luna's orders.<sup>5</sup>

Besides, he granted his wife's petition for notarial commission after she had submitted and complied with the requirements therefor. There was nothing in the notarial rules which prohibited the grant of notarial commission to the spouse of the Executive Judge or any relative within any degree of consanguinity or affinity. For this reason, there was also no reason to conceal the records of Atty. Gonzales-Alzate's petition for notarial commission which in any case was part of the public records.<sup>6</sup>

Clerk of Court Atty. Querrer submitted her separate Comment dated September 5, 2018. She stated, in the main:

On September 6, 2017, Atty. De Mesa, an Associate of the Reynaldo Cortes Law Office and Fremelinda Galinada requested the Office of the Clerk of Court for a copy of the order granting a notarial commission to Atty. Gonzales-Alzate. Since Judge Alzate was the Executive Judge, she deemed it prudent to inform him of the request.

Judge Alzate instructed her to ask Atty. De Mesa for the purpose of the request. The latter merely said "napag-utusan." Judge Alzate then told her he wanted to see the request before releasing the order. Judge Alzate was then in his other station in RTC, Cabugao, Ilocos Sur where he served as acting presiding judge.

On September 8, 2017, or two (2) days later, Judge Alzate read the request and directed her to send through mail a copy of the order granting Atty. Gonzales-Alzate's notarial commission. As instructed, she sent the order through mail to the Reynaldo Cortes Law Office.

In her Affidavit<sup>7</sup> dated September 5, 2018, Atty. Gonzales-Alzate corroborated Judge Alzate's statements. She also averred that Sindon was merely forced by Mayor Luna to file the instant administrative complaint against her husband. Mayor Luna had an axe to grind against her because she represented Leonard Donato, a known enemy of Mayor Luna and accused of killing Sindon's wife.

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<sup>4</sup> *Rollo*, pp. 12-13.

<sup>5</sup> *Id.* at 12-15.

<sup>6</sup> *Id.* at 11-12.

<sup>7</sup> *Id.* at 45-50.

On September 10, 2018, Sindon filed a motion to withdraw the complaint. He claimed that no one explained to him the allegations in the complaint. He was merely coaxed into signing it under the impression that it would help the case he filed against the suspected killers of his wife.

**Report and Recommendation of the  
Office of the Court Administrator (OCA)**

In its Report and Recommendation, the OCA, through Court Administrator Jose Midas P. Marquez and Deputy Court Administrator Raul Bautista Villanueva, emphasized that the complaint hinged on the alleged failure of Judge Alzate and Atty. Querrer to promptly act on his request for copy of Judge Alzate's order granting a notarial commission to his wife Atty. Gonzales-Alzate. The OCA noted that the OCC, RTC, Abra received the letter-request on September 6, 2017. On September 11, 2017, or five (5) days later, the OCC mailed the requested order to the Reynaldo Cortes Law Office. Evidently, the request was promptly acted upon within the prescribed fifteen (15)-day period. While Atty. De Mesa was not able to secure copy of the order on the same day she made the request, it did not necessarily mean that there was inaction on the part of respondents, more so, a concealment of the record.

As for the alleged conspiracy to give unwarranted benefit to Atty. Gonzales-Alzate, the OCA found that the same was not sufficiently proved. The Order dated June 30, 2017, granting Atty. Gonzales-Alzate's petition for notarial commission was prepared by a certain "Maal," a stenographer of the RTC-Branch 1, Bangued, Abra. Besides, respondent clerk of court herself had no authority to grant or deny the petition.

With respect to Judge Alzate, however, the OCA found him liable for acting on the petition for notarial commission of his wife Atty. Gonzales-Alzate in violation of Section 1, Rule 137 of the Rules of Court. The OCA, therefore, recommended:

- 1) the instant administrative complaint against Presiding Judge Raphiel F. Alzate, Branch 1, Regional Trial Court, Bangued, Abra, be RE-DOCKETED as a regular administrative matter;
- 2) Judge Raphiel F. Alzate be found GUILTY of VIOLATION OF SECTION 1, RULE 137 OF THE RULES OF COURT, and accordingly be FINED the amount of Eleven Thousand Pesos (P11,000.00), with a STERN WARNING that a repetition of the same or any similar act shall be dealt with more severely; and
- 3) the charges against Atty. Janice Siganay-Querrer, Clerk of Court VI, Office of the Clerk of Court, Regional Trial Court, Bangued, Abra, be DISMISSED for lack of merit.<sup>8</sup>

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<sup>8</sup> *Id.* at 75.



### Core Issues

- 1) What is the effect of Sindon's motion to withdraw the complaint to the present case?
- 2) Can Judge Alzate and Atty. Querrer be held administratively liable for their purported inaction on Sindon's letter-request and for allegedly giving unwarranted benefit to a third party?
- 3) Is Judge Alzate liable for hearing and granting his wife's petition for notarial commission?

### Ruling

**Sindon's motion to withdraw does not deprive the Court of its jurisdiction over case and respondent**

At the outset, Sindon's motion to withdraw the complaint against Judge Alzate and Atty. Querrer cannot deprive the Court of its authority to ascertain their culpability. The main thrust of a disciplinary proceeding against a member of the bar is to determine whether he or she is fit to continue holding the privileges of being an officer of the court. In an administrative proceeding, therefore, a complainant is a mere witness. He or she is not indispensable to the proceedings because there are no private interests involved.<sup>9</sup>

Here, Sindon's desistance does not warrant the dismissal of administrative cases against Judge Alzate and Atty. Querrer. For the Court has a constitutional mandate to supervise the conduct and behavior of all officials and employees of the judiciary in ensuring the prompt and efficient delivery of justice at all times. This mandate cannot be frustrated by any private arrangement of the parties because the issue in an administrative case is not whether the complainant has a cause of action against the respondent, but whether the latter breached the norms and standards of the courts.<sup>10</sup>

On the merits, we adopt in full the OCA's factual findings.

**Judge Alzate and Atty. Querrer cannot be held liable for their purported inaction on Sindon's letter-request**

<sup>9</sup> *Ricafort v. Atty. Medina*, 785 Phil. 911, 921 (2016).

<sup>10</sup> *Lim, Jr. v. Judge Magallanes*, 548 Phil. 566, 572 (2007).



**First**, we address Sindon's accusation that Judge Alzate and Atty. Querrer failed to promptly act on his letter request. The OCA correctly noted that contrary to Sindon's accusation, the request of Sindon's lawyer for copy of the order granting notarial commission to Judge Alzate's wife was actually sent to him by mail five (5) days after he made the request. This complied with Section 5(a) of RA 6713,<sup>11</sup> viz.:

SEC. 5. Duties of Public Officials and Employees. – In the performance of their duties, all public officials and employees are under obligation to:

- (a) Act promptly on letters and requests. – All public officials and employees shall, within fifteen (15) working days from receipt thereof, respond to letters, telegrams or other means of communications sent by the public. The reply must contain, the action taken on the request.

X X X

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**Atty. Querrer was not shown to have engaged in any conspiracy to give unwarranted benefit to Judge Alzate's wife**

**Second**, on Sindon's accusation that Judge Alzate and Atty. Querrer conspired to give unwarranted benefit to Judge Alzate's wife by granting her application for notarial commission, we are in accord with the OCA's finding that Atty. Querrer was not clothed with any discretion to grant or deny the application for notarial commission of Judge Alzate's wife. The fact alone that she was the clerk of court assigned to the sala of Judge Alzate does not make her a co-conspirator of Judge Alzate on matters pending before the latter. *Non sequitur*. Besides, there is no evidence whatsoever showing that Judge Alzate exerted influence or instructed Atty. Querrer in any way for the purpose of ensuring a favorable action on the application of his wife. Too, the fact that Atty. Querrer may have received all the documents submitted by Judge Alzate's wife to the court in connection with her application for notarial commission, is hardly a suspicious, nay irregular action. It was, in fact, done in the performance of Atty. Querrer's duty as clerk of court of the branch presided by Judge Alzate.

**Judge Alzate violated Section 1, Rule 137 of the Rules of Court**

As for Judge Alzate, did he violate Section 1, Rule 137 of the Rules of Court when he did not inhibit himself from acting on his wife's application for notarial commission? The provision reads:

<sup>11</sup> Code of Conduct and Ethical Standards for Public Officials and Employees.

Section 1. Disqualification of judges. — No judge or judicial officer shall sit in any case in which he, or his wife or child, is pecuniarily interested as heir, legatee, creditor or otherwise, or in which he is related to either party within the sixth degree of consanguinity or affinity, or to counsel within the fourth degree, computed according to the rules of the civil law, or in which he has been executor, administrator, guardian, trustee or counsel, or in which he has been presided in any inferior court when his ruling or decision is the subject of review, without the written consent of all parties in interest, signed by them and entered upon the record.

A judge may, in the exercise of his sound discretion, disqualify himself from sitting in a case, for just or valid reasons other than those mentioned above.

Section 5, Canon III of the New Code of Judicial Conduct further provides:

SECTION 5. Judges shall disqualify themselves from participating in any proceedings in which they are unable to decide the matter impartially or in which it may appear to a reasonable observer that they are unable to decide the matter impartially. Such proceedings include, but are not limited to instances where:

- (a) The judge has actual bias or prejudice concerning a party or personal knowledge of disputed evidentiary facts concerning the proceedings;
- (b) The judge previously served as a lawyer or was a material witness in the matter in controversy;
- (c) The judge or a member of his or her family, has an economic interest in the outcome of the matter in controversy;
- (d) The judge served as executor, administrator, guardian, trustee or lawyer in the case or matter in controversy, or a former associate of the judge served as counsel during their association, or the judge or lawyer was a material witness therein;
- (e) The judge's ruling in a lower court is the subject of review;
- (f) The judge is related by consanguinity or affinity to a party litigant within the sixth civil degree or to counsel within the fourth civil degree; or
- (g) The judge knows that his or her spouse or child has a financial interest, as heir, legatee, creditor, fiduciary, or otherwise, in the subject matter in controversy or in a party to the proceeding, or any other interest that could be substantially affected by the outcome of the proceedings.

*Mayor Sales v. Judge Calvin*,<sup>12</sup> citing *Re: Inhibition of Judge Eddie R. Rojas*<sup>13</sup> held:

x x x [T]o “sit” in a case means “to hold court; to do any act of a judicial nature. To hold a session, as of a court, grand jury, legislative body, etc. To be formally organized and proceeding with the transaction of business.” The prohibition is thus not limited to cases in which a judge *hears* the evidence of the parties but includes as well cases where he *acts* by resolving motions, issuing orders and the like. x x x

In *Calvan*, the Court declared that while conducting preliminary investigation may not be construed strictly as “sitting in a case,” the underlying reason behind the disqualification under the Code of Judicial Conduct and Rule 137 equally applies to the conduct of preliminary investigation.

Here, what is involved is the application of Judge Alzate’s wife for notarial commission and Judge Alzate’s action thereon. Section 4, Rule III of the 2004 Rules on Notarial Practice<sup>14</sup> requires the judge in whose sala an application for notarial commission is filed to conduct a summary hearing to determine whether a petition for notarial commission is sufficient in form and substance; whether the allegations contained in the petition are true; and whether the applicant has read and fully understood the Notarial Rules. Here, Judge Alzate’s wife had to personally appear before him in court and prove she was qualified for a notarial commission.

Judge Alzate, however, was disqualified and should have inhibited himself from “sitting in the case” involving his wife pursuant to Rule 137 of the Rules of Court and Section 5, Canon III of the New Code of Judicial Conduct. The case pertained to his wife’s petition for notarial commission requiring him to ascertain first whether the petition was sufficient in form and substance; whether the allegations therein were true; and whether his wife had read and fully understood the Notarial Rules. Surely, these matters required Judge Alzate to exercise his discretion in passing upon whether or not his wife’s compliance with the rules and qualifications to be commissioned as notary public.

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<sup>12</sup> 428 Phil. 1, 9 (2002).

<sup>13</sup> 358 Phil. 790, 795 (1998).

<sup>14</sup> SEC. 4. Summary Hearing on the Petition. - The Executive Judge shall conduct a summary hearing on the petition and shall grant the same if:

- a) the petition is sufficient in form and substance;
- b) the petitioner proves the allegations contained in the petition; and
- c) the petitioner establishes to the satisfaction of the Executive Judge that he has read and fully understood these Rules.





The fact that a petition for notarial commission is summary and non-adversarial in nature does not remove it from the ambit of Section 1, Rule 137 of the Rules of Court. In *Villaluz v. Judge Mijares*,<sup>15</sup> the Court found Judge Mijares to have violated Section 1, Rule 137 of the Rules of Court when she failed to recuse herself from hearing her grandson's petition for correction of entry, albeit it was a non-adversarial proceeding:

Even on the assumption that the petition for correction of entry of respondent's grandson is not controversial in nature, this does not detract from the fact that she cannot be free from bias or partiality in resolving the case by reason of her close blood relationship to him. In fact, bias was clearly demonstrated when she waived the requirement of publication of the petition on the dubious ground of enabling the parents of the minor (her daughter and son-in-law) to save the publication fee as they were then just "starting to have a family."

We emphasize that judges, as officers of the court, have the duty to see to it that justice is dispensed with evenly and fairly. Not only must they be honest and impartial, but they must also *appear* to be honest and impartial in the dispensation of justice. Judges should make sure that their acts are circumspect and do not arouse suspicion in the minds of the public. This Judge Alzate failed to do.<sup>16</sup>

All told, Judge Alzate is guilty of violating the rule on compulsory disqualification. Considering, however, that this is his first offense,<sup>17</sup> reprimand with warning is deemed appropriate under the circumstances.

**WHEREFORE**, Presiding Judge Raphiel F. Alzate of the Regional Trial Court (RTC)-Branch 1, Bangued, Abra is **REPRIMANDED** with **WARNING** that a repetition of the same or similar act shall be dealt with more severely.

**SO ORDERED.**

  
**AMY C. LAZARO-JAVIER**  
Associate Justice

<sup>15</sup> 351 Phil. 836, 852 (1998).

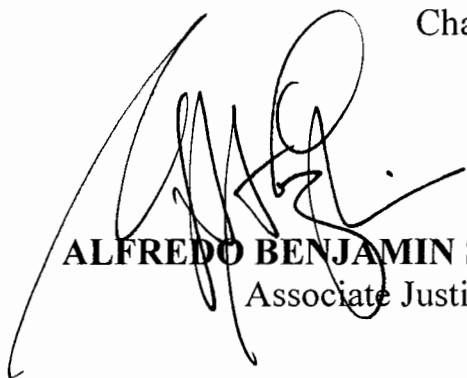
<sup>16</sup> *De la Cruz v. Judge Bersamira*, 402 Phil. 671, 683 (2001).

<sup>17</sup> OCA IPI No. 18-4879-RTJ (*Judge Corpus B. Alzate v. Judge Raphiel F. Alzate*) for gross misconduct and dishonesty and A.M. No. 19-01-15-RTC (*Re: Report on the Judicial Audit conducted in Branch 24, RTC, Cabugao, Ilocos Sur*) are still under review and evaluation.

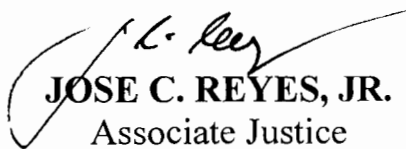
**WE CONCUR :**



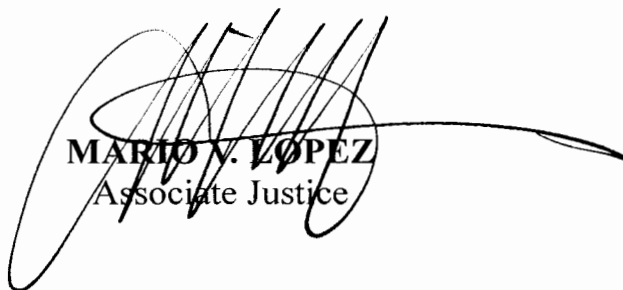
**DIOSDADO M. PERALTA**  
Chief Justice  
Chairperson – First Division



**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice



**JOSE C. REYES, JR.**  
Associate Justice



**MARIO V. LOPEZ**  
Associate Justice