

**SPOUSES LEONARDO DARACAN AND MA. TERESA DARACAN,
PETITIONERS, VS. JUDGE ELI G.C. NATIVIDAD, RTC, BRANCH 48, SAN
FERNANDO, PAMPANGA, RESPONDENT.**

A.M. No. RTJ-99-1447. September 27, 2000

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

On December 18, 1998, the Office of the Chief Justice received from the Spouses Ma. Teresa Daracan and Leonardo Daracan a letter-complaint[1] against Judge Eli G.C. Natividad, Presiding Judge of the Regional Trial Court of San Fernando, Pampanga, Branch 48 for gross ignorance of the law, oppression, gross partiality and knowingly rendering an unjust order for issuance of a writ of preliminary attachment[2] relative to Special Proceedings No. 4183 entitled “In the Matter of the Petition for Guardianship of the Spouses Lorenzo G. Francisco and Lorenza D. Francisco.”[3]

The complaint was indorsed to the Office of the Court Administrator (OCA) which required respondent to comment within ten (10) days from receipt.[4]

In compliance with the OCA directive, respondent filed his comment on May 28, 1998[5] praying for the dismissal of the complaint. Respondent Judge alleges that the writ is the subject of a petition for certiorari filed in the Court of Appeals which was docketed as CA-G.R. SP No. 46169. Respondent Judge also claims that contrary to the allegations of complainants-spouses, they were made involuntary parties of the proceedings prior to the issuance of the writ of attachment by the filing of the Motion to Cite Spouses Daracan for Examination dated November 21, 1997.[6]

The records disclose that in a decision dated March 4, 1998[7] in CA-G.R. SP No. 46169, the Court of Appeals held that the lower court clearly exceeded its jurisdiction in issuing the writ of preliminary attachment since the case pending with the respondent court was for guardianship and not an action falling under any of the grounds enumerated in Section 1, Rule 57 of the 1997 Rules of Court.[8]

A petition for review was subsequently filed with the Court docketed as G.R. No. 134027 entitled “Ma. Elissa Velez, et al. v. CA, et al.” However, the same was thereafter dismissed and the decision therein became final and executory on January 13, 1999.

In its evaluation and report dated April 12, 1999[9] the OCA recommended that -

1.]

the case be docketed as a regular administrative case;

2.]

the parties be required to manifest if they are willing to submit the case for decision on the basis of the pleadings already filed; and thereafter, should they express their willingness that the same be done;

3.]

respondent Judge Eli C. Natividad be declared guilty of Gross Ignorance of the Law and that he be fined in the amount of P3,000.00; and

4.]

respondent be enjoined to exercise greater care and diligence in the performance of his duties as a judge with a warning that a repetition of a similar offense will be dealt with more severely.

In a Resolution dated June 23, 1999,[10] the Court resolved to: a) docket the case as a regular administrative matter; and b) require the parties to manifest if they are willing to submit the case for decision on the basis of the pleadings already filed within ten (10) days from notice.

In a Manifestation dated October 12, 1999,[11] respondent Judge manifested his willingness to submit the case for decision on the basis of the pleadings already filed. However, earlier in a Resolution dated October 6, 1999,[12] the Court considered its Resolution dated June 23, 1999 served upon complainants when the same was returned unserved by the postmaster with a notation "moved."

In a Resolution dated November 29, 1999,[13] the Court noted respondent's manifestation of October 12, 1999 and referred the case to Court of Appeals Associate Justice Salvador J. Valdez, Jr. for investigation, report and recommendation within ninety (90) days from notice.

Thereafter, Justice Valdez submitted a Report and Recommendation dated April 12, 2000 summing the facts thus:

The spouses Ma. Teresa and Leonardo Daracan charged Judge Eli G.C. Natividad, Presiding Judge of the Regional Trial Court, Branch 48, San Fernando, Pampanga, with gross ignorance of the law, oppression, gross partiality and knowingly rendering [an] unjust order, all for issuing a writ of preliminary attachment in Sp. Proc. No. 4183, entitled "In the Matter of the Petition for Guardianship of the Spouses Lorenzo G. Francisco and Lorenza D. Francisco."

The complainants alleged that on November 21, 1997, upon motion of the court-appointed guardian, Lina Francisco-Velez, the respondent Judge issued the subject writ of preliminary attachment against their properties even as they are not parties to the guardianship proceedings. In pursuance of the writ, an order to break open was issued and, thus, Deputy Sheriff Edgardo Zabat of RTC, San Fernando, Pampanga, forced open their department store at midnight on November 26, 1997 and once inside, ransacked, looted and appropriated the merchandise found therein with a value of not less than P6 million without making an inventory. The complainants furthermore averred that "rumors had it that the issuance of the writ of attachment was xxx for a consideration." [14]

Subsequently, on March 4, 1998, the Court of Appeals in CA-G.R. SP No. 46169, entitled: "Spouses Leonardo Daracan and Ma. Teresa Daracan, Petitioners vs. Hon. Ely (sic) G.C. Natividad, etc., et al., Respondents" declared null and void the writ of preliminary attachment on the finding that the respondent judge "clearly exceeded (his) jurisdiction" in issuing it.[15] A petition for review on certiorari was thereafter filed with the Supreme Court but the same was dismissed.[16]

Explaining his side in the instant administrative case, the respondent judge pleaded[17] that he thought all along that under Section 6, Rule 96 of the Revised Rules of Court, he could issue the questioned writ to protect

and preserve the rights of the wards in the light of the sworn assertion of the guardian, Lina Francisco-Velez, that the complainants were indebted to her wards, who were already senile, to the tune of P5 million; that even as the complainants had priorly been cited by the guardian in a motion to require them to appear for examination as debtors of her wards and against whom she (guardian) had initiated the filing of six (6) informations for violation of B.P. Blg. 22, they (complainants) did not appear to oppose the issuance of the writ of preliminary attachment; that the department store of the complainants that the sheriff opened, because the former had abandoned the same,[18] was located at the Franda Mall, a building owned by the wards; and that the opening of the store and the attachment of the items found therein, which were all inventoried, contrary to the claim of the complainants, were done in the presence of a senior police inspector and a kagawad of the barangay.[19] Respondent judge vehemently denied having committed any fraud, dishonesty or corruption. He put forward the submission that, if at all, he merely committed an error of judgment and set forth the prayer that:

WHEREFORE, it is respectively prayed, and considering that the Respondent Judge will be retiring on November 28, 1999 and who has reached the age of walking under the shadow of death and has no other means in life to support his remaining years of his life except the benefits he may be given by the government for his duties or services, and for humanitarian reasons, the case be dismissed.”[20]

At the ensuing investigation, the complainants never appeared despite substituted service[21] and service by mail[22] on them of the notices of investigation. Only the respondent judge appeared and after his oral motion to dismiss[23] had been denied,[24] he adduced evidence as heretofore recapped.

Justice Valdez differed with the findings of the OCA that respondent judge be fined and warned that similar transgressions in the future would be dealt with more severely and instead recommended that the charges against him be dismissed for lack of merit, reasoning thus:

Re: The charges for gross ignorance of the law and/or knowingly rendering unjust order or judgment.

Section 6, Rule 96 of the 1964 Revised Rules of Court under which the respondent judge issued the questioned writ of preliminary injunction provides:

Sec. 6. Proceeding when persons suspected of embezzling or concealing property of ward. - Upon complaint of the guardian or ward, or of any person having actual or prospective interest in the estate of the ward as creditor, heir or otherwise, that anyone is suspected of having embezzled, concealed or conveyed away any money, goods or interest or a written instrument, belonging to the ward or his estate, the court may cite the suspected person to appear for examination, touching such money, goods, interest or instrument and make such orders as will secure the estate against such embezzlement, concealment or conveyance.

In the leading case of Cui vs. Piccio,[25] the foregoing rule was construed as follows:

x x x its purpose is merely to elicit information or secure evidence from the person suspected of having embezzled, concealed or conveyed away any personal property of the ward. In such proceeding the court has no authority to determine the right of property or to order delivery thereof. If after the examination the court finds sufficient evidence showing ownership on the part of the ward, it is the duty of the guardian to bring the proper action.

x x x x x x x x[26]

x x x the jurisdiction of the court in guardianship proceedings, ordinarily, is to cite persons suspected of having embezzled, concealed or conveyed property belonging to the ward for the purpose of obtaining information which may be used in an action later to be instituted by the guardian to protect the right of the ward; and that only in extreme cases, where property clearly belongs to the ward or where his title thereto has already been judicially decided, may the court direct its delivery to the guardian.[27]

On the other hand, the respondent judge justified the disputed writ of preliminary injunction he issued in this wise:

The legal guardian filed a verified Motion To Cite Spouses Leonardo and Teresa Daracan To Appear For Examination and Manifestation With Supplemental Motion praying that upon filing of these pleadings a writ of preliminary attachment be issued.

It appears from the verified motion that the spouses Leonardo and Maria Teresa Daracan is (sic) indebted to the wards amounting to Five Million Pesos (P5,000,000.00).

That when the said spouses was (sic) was (sic) charged by the ward[s] through the legal guardian of Violation of B.P. 22, said spouses started concealing and taking away all the assets real and personal in order to prejudice the wards and considering that the obligation or indebtedness was incurred through fraud, they have been concealing and disposing the property in order to avoid and frustrate the intention of the ward[s] to attach preliminarily their petition.

It was also alleged that Spouses Daracan are leasing a place located at the Franda Mall Building owned by the Franda Corporation of which the wards are the majority stockholders. However, they have been deliberately and by stealth removing all the wares and goods in the said Samut Sari Department Store in order to prejudice the said wards, their creditors.

WHEREFORE, a writ of preliminary attachment is hereby issued in this case in order to stop the further concealment or disposal of the assets of [the] Spouses Daracan in order to prejudice the wards herein as their creditors upon [the] filing of a bond in the amount of three hundred thousand pesos (P300,000.00), let a writ of preliminary attachment be issued in this case directing and ordering the Deputy Sheriff of this Court to seize all the personal properties of the Spouses Daracan and/or real estate within the Province of Pampanga, for safekeeping not to exceed FIVE MILLION PESOS (P5,000,000.00) until further orders from this Court.

SO ORDERED.[28]

It is, therefore, beyond cavil that, as found by the Court of Appeals, the respondent judge “clearly exceeded [his] jurisdiction” in issuing the writ. Inarguably, a guardianship court exercises but a limited jurisdiction that cannot extend to the determination of questions of ownership. Apart from that, the B.P. Blg. 22 cases filed by the wards against the herein complainants can not be utilized by the respondent judge as basis for the issuance of the writ simply because the cases are not before the guardianship court over which he was then presiding. Similarly, the fact that herein complainants were deliberately and by stealth removing all their wares and goods from their store to the prejudice of the wards to whom they (complainants) were indebted to the tune of P5 million is entirely foreign to the guardianship proceedings; and the guardian’s remedy was to institute a collection suit against the complainants in the proper court and therein apply for a writ of attachment.

Be that as it may, the mind feels ill at ease to conclude that respondent judge is guilty of gross ignorance of the law or of knowingly rendering an unjust order. For it has been held that:

x x x if every error of the judge should be punished, then perhaps no judge, however good, competent, honest and dedicated he may be, can ever hope to retire from the judiciary without a blemished record and a tarnished image.[29]

In *Dela Cruz v. Concepcion*,[30] later reiterated in *Wingarts v. Judge Servillano M. Mejia*,[31] this Court had the occasion to expound on the nature and the wisdom behind the twin charges of gross ignorance of the law and/or knowingly rendering an unjust judgment. There we declared thus:

To constitute gross ignorance of the law, the subject decision, order or actuation of the judge in the performance of his official duties must not only be contrary to existing law and jurisprudence but, most importantly, he must be moved by bad faith, fraud, dishonesty or corruption. In the case before us, the

administrative complaint does not even allege that the erroneous decision of respondent was thus motivated.

Knowingly rendering an unjust judgment is both a criminal and an administrative charge. As a crime, it is punished under Art. 204 of the Revised Penal Code the elements of which are: (a) the offender is a judge; (b) he renders a judgment in a case submitted to him for decision; (c) the judgment is unjust; and (d) the judge knows that his judgment is unjust. The gist of the offense therefore is that an unjust judgment be rendered maliciously or in bad faith, that is, knowing it to be unjust.

An unjust judgment is one which is contrary to law or is not supported by evidence or both. The source of an unjust judgment may be error or ill-will. There is no liability at all for a mere error. It is well-settled that a judicial officer, when required to exercise his judgment or discretion, is not liable criminally for any error which he commits, provided he acts in good faith. Bad faith is therefore the ground of liability. If in rendering judgment the judge fully knew that the same was unjust in the sense aforesaid, then he acted maliciously and must have been actuated and prevailed upon by hatred, envy, revenge, greed or some other similar motive. As interpreted by Spanish courts, the term “knowingly” means sure knowledge, conscious and deliberate intention to do an injustice. Mere error therefore in the interpretation or application of the law does not constitute the crime.

The nature of the administrative charge of knowingly rendering an unjust judgment is the same as the criminal charge. Thus, in this particular administrative charge, it must be established that respondent Judge rendered a judgment or decision not supported by law and/or evidence and that he must be actuated by hatred, envy, revenge, greed or some other similar motive.[32]

True it is that subsequently, the far stricter norm of allowing only permissible margins of error has been adopted, thus:

We need not belabor jurisprudence to accommodate respondent’s argument which in effect posits that not every judicial error bespeaks ignorance of the law and that, if committed in good faith, does not warrant administrative sanction. So we have ruled and so we have acted, but only in cases within the parameters of tolerable judgment. Where, however, the issues are so simple and the facts so evident as to be beyond permissible margins of error, to still err thereon amounts to ignorance of the law which, hopefully, was not merely feigned to subserve an unworthy purpose.[33]

Only recently, however, the doctrine of bad faith as the ground for accountability has again come to fore. Mr. Justice Leonardo A. Quisumbing wrote:

x x x To establish her guilt, it is indispensable that the checks she issued for which she was subsequently charged, be offered in evidence because the gravamen of the offense charged is the act of knowingly issuing a check with insufficient funds. Clearly, it was error to convict the complainant on the basis of her letter alone.

Nevertheless, despite this incorrect interpretation of a rule of evidence, we do not find the same as sufficiently constitutive of the charges of gross ignorance of the law and of knowingly rendering an unjust decision. Rather, it is at most an error in judgment, for which, as a general rule, he cannot be held administratively liable. In this regard, we reiterate the prevailing rule in our jurisdiction as established by current jurisprudence: We have heretofore ruled that a judge may be held administratively accountable for every erroneous order or decision he renders. To unjustifiably hold otherwise, assuming that he has erred, would be nothing short of harassment and would make his position doubly unbearable, for no one called upon to try the facts or interpret the law in the process of administering justice can be infallible in judgment. The error must be gross or patent, malicious, deliberate or in evident bad faith. It is only in this latter instance, when the judge acts fraudulently or with gross ignorance, that administrative sanctions are called for as an imperative duty of this Court.

As a matter of public policy then, the acts of a judge in his official capacity are not subject to disciplinary action, even though such acts are erroneous. Good faith and absence of malice, corrupt motives or improper

considerations are sufficient defenses in which a judge charged with ignorance of the law can find refuge.

And in a later case, Mr. Justice Quisumbing was even more trenchant when he said:

The other charges, namely ignorance of the law and issuing an unjust judgment, deserve consideration since the direct contempt order of respondent judge, under the attending circumstances it was issued, appears to be clearly erroneous. The supposedly contemptuous language used in a pleading was not submitted to respondent but filed in another court presided by another judge stationed in Cebu literally miles away from where respondent holds court in Leyte. As this Court ruled in *Ang vs. Castro*:

Use of disrespectful or contemptuous language against a particular judge in pleadings presented in another court or proceeding is indirect, not direct, contempt as it is not tantamount to a misbehavior in the presence of or so near a court or judge as to interrupt the administration of justice.

However, administrative liability for ignorance of the law and/or knowingly rendering an unjust judgment does not immediately arise from the bare fact of a judge issuing a decision/resolution/order later adjudged to be erroneous. Otherwise, perhaps no judge, however competent, honest or dedicated he may be, can ever hope to retire from the judiciary with an unblemished record.

For liability to attach for ignorance of the law, the assailed order, decision or actuation of the judge in the performance of official duties must not only be found erroneous but, most importantly, it must also be established that he was moved by bad faith, dishonesty, hatred, or some other like motive. Similarly, a judge will be held administratively liable for rendering an unjust judgment - one which is contrary to law or jurisprudence or is not supported by evidence - when he acts in bad faith, malice, revenge or some other similar motive. In fine, bad faith is the ground for liability in either or both offenses.

Conversely, a charge for either ignorance of the law or rendering an unjust judgment will not prosper against a judge acting in good faith. Absent the element of bad faith, an erroneous judgment cannot be the basis of a charge for any said offenses, mere error of judgment not being a ground for disciplinary proceedings.[34]

In the case on hand, there is not a scintilla of evidence, not even any remote indication, that the respondent judge, in issuing his erroneous writ of preliminary attachment, was impelled by ill-will, malice, revenge, personal animosity, impulse to do an injustice, greed, corrupt consideration or any other similar motive. On the contrary, the testimony of the respondent stands out un rebutted because of the failure of the complainants to appear despite due notice. He declared that he does not know and had never seen the complainants before.[35] He was prompted to issue the assailed writ of attachment only -

Because these spouses Daracan were renting a big store in the Franda Mall owned and operated by the ward[s] who are now senile. That is the reason why I granted the petition for judicial guardianship. And when they learned that the wards who are the spouses are no longer handling the business in the mall, and there's already a legal guardian, they took away the most valuable items of their big store dealing in dry goods and the store was then Samu't Sari and they left without paying any rentals, without paying their obligation amounting to several millions of pesos padlocked the store and they only left old stocks which are almost valueless and, in fact, the items seized by the sheriff is (sic) intact in the office of the sheriff and despite the notice issued by the sheriff for them to retrieve the same in view of the fact that the preliminary writ of attachment was dissolved, they failed to do so.[36]

and that —

x x x I have been very careful in dealing with this matter as I was on the verge of retiring at that time. In fact, my last working day fell on November 26, 1999. And on that very day when I attended the last day of my public service, that was the time that I suffered the heart attack and I was hospitalized at the Heart Center for two months and until now, I am still under observation and medication and convalescing from my complicated

disease, because my disease were pulmonary disease (sic). I suffer pleurisy of the lungs. However, my kidney again functioned so the dialysis stopped and the only disease now that I am suffering is the lung disease and the pulmonary disease. That is all, Your Honor.[37]

The respondent judge furthermore explained that he was of the impression that the portion of Section 6, Rule 96 of the Revised Rules of Court reading “make such orders as will secure the estate against such embezzlement, concealment or conveyance” authorized him to issue the writ of attachment to preserve the status quo and the real rights of the wards.[38]

Under the obtaining circumstances, it is apropos to quote Justice Quisumbing once more: “It ought to be remembered that bad faith is not presumed and he who alleges the same has the onus of proving it. In this regard, the complainants have not discharged that burden of proof x x x.”[39]

Re: The charges of oppression and gross partiality.

Similarly, there is no factual support to the charges of oppression and partiality. And again, this is for the reason that the complainants, instead of presenting evidence, had played truant from the investigation.

The Court finds the recommendation of Justice Valdez well-taken.

Anent the charges of gross ignorance of the law and knowingly rendering an unjust judgment or order, the Court in *Canson v. Garchitorena*[40] restated the oft-quoted dictum that: “[A]s a matter of public policy, in the absence of fraud, dishonesty or corruption, the acts of a judge in his judicial capacity are generally not subject to disciplinary action, even though such acts are erroneous.”[41] In the recent case of *Santos v. Judge Orlino*,[42] we held:

The fundamental propositions governing responsibility for judicial error were more recently summarized in *In Re: Joaquin T. Borromeo*. [43] There the Court stressed, inter alia, that given the nature of judicial function and the power vested in the Supreme Court and the lower courts established by law, administrative or criminal complaints are neither alternative nor cumulative to judicial remedies where such are available, and must wait on the result thereof. Existing doctrine is that judges are not liable for what they do in the exercise of their judicial functions when acting within their legal powers and jurisdiction.[44] Certain it is that a judge may not be held administratively accountable for every erroneous order or decision he renders.[45] To hold otherwise would render judicial office untenable for no one called upon to try the fact or interpret the law in the process of administering justice can be infallible in his judgment.[46] The error must be gross or patent, deliberate and malicious or incurred with evident bad faith.[47]

Stated succinctly, for administrative liability to attach it must be established that respondent was moved by bad faith, dishonesty, hatred or some other motive[48] and as defined -

Bad faith does not simply connote bad judgment or negligence; it imputes a dishonest purpose or some moral obliquity and conscious doing of a wrong; a breach of a sworn duty through some motive or intent or ill-will; it partakes of the nature of fraud.[49] It contemplates a state of mind affirmatively operating with furtive design or some motive of self-interest or ill-will for ulterior purposes.[50] Evident bad faith connotes a manifest deliberate intent on the part of the accused to do wrong or cause damage.[51]

The record is devoid of any showing that respondent judge was moved by ill-will or bad faith in issuing the writ of preliminary attachment. Complainants have not, in fact, adduced any proof to show that bad faith attended the issuance of the assailed order. To reiterate, bad faith is not presumed and he who alleges the same has the onus of proving it.[52] Viewed vis-à-vis the fact that complainants “played truant to the investigation” instead of presenting evidence to substantiate their charges, the complaint becomes reduced into a bare indictment or mere speculation.

Concededly, administrative proceedings are not strictly bound by formal rules on evidence. It needs be pointed out, however, that the liberality of procedure in administrative actions is still subject to limitations imposed by the fundamental requirement of due process. Indeed, “[T]he Rules even in an administrative case, demand that, if the respondent judge should be disciplined for grave misconduct or any graver offense, the evidence against him should be competent and should be derived from direct knowledge.[53] The judiciary to which the respondent belongs demands no less. Before any of its members could be faulted, it should only be after the presentation of competent evidence, especially since the charge is penal in character.”[54]

To hold a judge liable for knowingly rendering an unjust judgment or order, it must be shown beyond reasonable doubt that the judgment or order is unjust and that it was made with a conscious and deliberate intent to do an injustice.[55] In this regard, it is useful to reiterate the ruling in *Raquiza v. Castaneda, Jr.*[56] which stressed that -

The ground for the removal of a judicial officer should be established beyond reasonable doubt. Such is the rule where the charges on which the removal is sought is misconduct in office, willful neglect, corruption, incompetency, etc. the general rule in regard to admissibility in evidence in criminal trials apply.

In short, this Court can not give credence to charges based on mere suspicion or speculation.[57] For the foregoing considerations, the allegations of oppression and gross partiality must likewise fall in the absence of factual support to substantiate the charges.

WHEREFORE, based on the foregoing, the complaint filed by the Spouses Leonardo Daracan and Ma. Teresa Daracan against Judge Eli G.C. Natividad, Regional Trial Court, Branch 48, San Fernando, Pampanga, is DISMISSED for lack of merit.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Puno, Kapunan, and Pardo, JJ., concur.

[1] Rollo, p. 1.

[2] *Ibid.*, p. 17.

[3] *Id.*, p. 2.

[4] *Id.*, p. 20.

[5] *Id.*, p. 21.

[6] *Id.*, p. 50.

[7] *Id.*, pp. 44-49.

[8] SECTION 1. Grounds upon which attachment may issue. - At the commencement of the action or at any time before entry of judgment, a plaintiff or any proper party may have the property of the adverse party attached as security for the satisfaction of any judgment that may be recovered in the following cases:

(a) In an action for the recovery of a specified amount of money or damages, other than moral or exemplary, on a cause of action arising from law, contract, quasi-contract, delict or quasi-delict against a party who is about to depart from the Philippines with intent to defraud his creditors;

(b) In an action for money or property embezzled or fraudulently misapplied or converted to his own use by a public officer, or an officer of a corporation, or an attorney, factor, broker, agent or clerk, in the course of his

employment as such, or by any other person in a fiduciary capacity, or for a willful violation of duty;

(c) In an action to recover the possession of the property unjustly or fraudulently taken, detained or converted, when the property or any part thereof, has been concealed, removed, or disposed of to prevent its being found or taken by the applicant or an authorized person;

(d) In an action against a party who has been guilty of a fraud in contracting the debt or incurring the obligation upon which the action is brought, or in the performance thereof;

(e) In an action against a party who has removed or disposed of his property or is about to do so, with intent to defraud his creditors; or

(f) In an action against a party who does not reside and is not found in the Philippines, or on whom summons may be served by publication.

[9] Rollo, pp. 58-60.

[10] Ibid., p. 61.

[11] Id., p. 98.

[12] Id., p. 96.

[13] Id., p. 99.

[14] Citing Rollo, p. 1.

[15] Ibid., pp. 44-49; Exhibit 1-C.

[16] Resolution, Velez v. CA, G.R. No. 134027, 24 August 1998.

[17] Rollo, pp. 66-93; Exhibit 2.

[18] Ibid., p. 84; Exhibit 4.

[19] Id., pp. 85-92.

[20] Id., p. 72.

[21] Id., p. 107 (dorsal side), 113.

[22] Id., p. 126 (dorsal side).

[23] Id., p. 143; TSN, 23 February 2000, p. 143.

[24] Cf. Presado v. Genova, 223 SCRA 489 [1993] .

[25] 91 Phil. 712 [1952].

[26] Id., pp. 717-718, citing Moran, Comments on the Rules of Court, Vol. II, 3[rd] ed., pp. 478-479.

[27] Id., p. 720.

[28] Rollo, pp. 82-83; Exhibit 3.

[29] Dela Cruz v. Concepcion, 235 SCRA 597 [1994] .

[30] Ibid.

[31] 242 SCRA 436 [1995] .

- [32] Heirs of the Late Nasser D. Yasin v. Felix, 250 SCRA 545 [1995].
- [33] DBP v. Llanes, 266 SCRA 212 [1997] .
- [34] Guerrero v. Villamor, 296 SCRA 88 [1998] ; emphasis and italics supplied.
- [35] Rollo, p. 154; TSN, 23 February 2000, p. 14.
- [36] Ibid., p. 155.
- [37] Id., pp. 155-156.
- [38] Exhibit 2; Rollo, p. 69;
- [39] Guerrero v. Villamor, supra, p. 99.
- [40] SB-99-9-J, 28 July 1999, 311 SCRA 268.
- [41] Morada v. Judge Tayao, 229 SCRA 723 [1994], citing Louis Vuitton S.A. v. Judge Villanueva, 216 SCRA 121 [1992], citing Mendoza v. Villaluz, 106 SCRA 664 [1981] and Valdez v. Valera, 81 SCRA 246 [1978].

[42] 296 SCRA 101 [1998] .**[43] 241 SCRA 405 [1995] .**

- [44] Alzua v. Johnson, 21 Phil. 308 [1912]; Act 190, Section 9.
- [45] Rodrigo v. Quijano, 79 SCRA 10 [1977] .
- [46] See Lopez v. Corpus, 78 SCRA 374 [1977] ; Pilipinas Bank v. Tirona-Liwag, 190 SCRA 834 [1990].
- [47] Quizon v. Balthazar, 65 SCRA 239 [1975] .
- [48] Guerrero v. Villamor, supra.
- [49] Spiegel v. Beacon Participation, 8 NE 2[nd] Series 895, 1007.
- [50] Air France v. Carrascoso, 18 SCRA 155 [1966] .
- [51] Llorente, Jr. v. Sandiganbayan, 287 SCRA 382 [1998], citing Marcelo v. Sandiganbayan, 185 SCRA 346 [1990] .
- [52] Ford, Philippines v. CA, 267 SCRA 320 [1997] , citing Chua v. CA, 242 SCRA 341 [1995] .
- [53] Raquiza v. Castaneda, 81 SCRA 235 [1978].
- [54] OCA v. Judge Filomeno Pascual, 259 SCRA 604 [1996].
- [55] Naval v. Panday, 275 SCRA 654 [1997] .

[56] 81 SCRA 235 [1978].

- [57] Lambino v. De Vera, 275 SCRA 60 [1997].

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