

**HON. ROBERT Z. BARBERS, SECRETARY OF THE INTERIOR AND
LOCAL GOVERNMENT, JUANITO DE GUZMAN AND LUCIO
MARGALLO IV, PETITIONERS, VS. JUDGE PERFECTO A.S. LAGUIO,
JR., RESPONDENT.**

A.M. No. RTJ-00-1568. February 15, 2001

Ponente: DE LEON, JR., J.

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DE LEON, JR., J.:

Before us is an administrative complaint for alleged violation of Article 204 (Knowingly Rendering Unjust Judgment) of the Revised Penal Code, section 3(e) of Republic Act No. 3019 and sections 4(b) and (c) of Republic Act No. 6713, filed against respondent judge in connection with his acquittal of the accused LAWRENCE WANG y CHEN in Criminal Case Nos. 96-149990, 96-149991 and 96-149992.

On April 10, 1997, complainants ROBERT Z. BARBERS,[1] JUANITO DE GUZMAN and LUCIO MARGALLO IV filed a joint complaint-affidavit with the Office of the Ombudsman charging respondent Judge PERFECTO A.S. LAGUIO, JR., of allegedly violating Article 204 of the Revised Penal Code, section 3(e) of Republic Act No. 3019,[2] and section 4, subsections (b) and (c) of Republic Act No. 6713.[3] Considering the Evaluation Report[4] with recommendation of its Evaluation and Preliminary Investigation Bureau, the Office of the Ombudsman endorsed[5] the case to the Office of the Court Administrator on May 9, 1997. It was pointed out in said Evaluation Report "that respondent is primarily accused of Knowingly Rendering Unjust Judgment."

The administrative complaint stemmed from the acquittal by respondent judge of Lawrence Wang, a Hong Kong national who was apprehended by elements of the Public Assistance and Reaction Against Crime or PARAC, DILG, in Malate, Manila in the early morning of May 17, 1996, the particulars of which are described in the complainants' Joint Complaint-Affidavit[6] dated April 1, 1997, as follows:

At about 7 p.m. on May 16, 1996, members of the PARAC led by P/Sr. Insp. Lucio Margallo, IV effected the arrest of SPO1 VERGEL DE DIOS, ROBERTO ANOBLING and RESTITUTO ARELLANO during an entrapment operation. This trio then called on their cohorts to bring in additional batch of shabu. After four (4) hours, or at about 11 p.m. of May 16, 1996, PIO REDENTOR TECH and JOSEPH JUNIO arrived to deliver 150 grams of shabu. Tech and Junio were likewise arrested at 11 p.m. while they were delivering the shabu to de Dios and company. When interrogated Tech and Junio disclosed that a big transaction of shabu was about to be made at an apartment along Maria Orosa St., Malate, Manila. They also admitted that they worked for Lawrence Wang. Accordingly, the PARAC immediately proceeded to said place and conducted surveillance or stake-out operations. After three (3) hours, or about 2:10 a.m. of the following day, May 17, 1996, the PARAC agents saw a man, previously described by TECH as Wang and identified by a police asset, coming out of the aforesaid apartment and walking towards a parked BMW car. After Wang had opened the trunk compartment of the car, the PARAC agents approached Wang and confronted him to ascertain his identity. P/Sr. Insp. Margallo also prevented Wang from closing the trunk. They then saw the bags of shabu inside the trunk. A further search yielded cash amount of P650,000.00 in small denominations, one (1) mechanical scale and one (1) electronic scale and two (2) unlicensed firearms, namely: (1) AMT automatic pistol, cal. 380/9mm and (2)

Daewoo automatic pistol, cal. 9mm. Accordingly, the accused was arrested. In all, three (3) arrests were effected, one after the other, during the late hours of May 16 and the wee hours of May 17, 1996, a time span of only seven (7) hours.

Three (3) related informations[7] were then filed against Wang, which were consolidated in Branch 18 of the Regional Trial Court (RTC, for brevity) of Manila, presided by the respondent judge. The charges were docketed as Criminal Case No. 96-149990 (for violation of section 16, Article III of Republic Act No. 6425, otherwise known as the Dangerous Drugs Act, as amended), Criminal Case No. 96-149991 (for violation of Presidential Decree No. 1866 [Illegal Possession of Firearms]), and Criminal Case No. 96-149992 (for violation of COMELEC Resolution 2828 in relation to Republic Act No. 7166 [COMELEC Gun Ban]).

Prior to his arraignment, Wang filed a motion for preliminary investigation dated June 11, 1996 which was granted by the trial court in an Order dated June 27, 1996. During the preliminary investigation before the prosecutor, Wang denied that illegal drugs or unlicensed firearms were found in his possession. The cases were later remanded to the trial court after Assistant City Prosecutor Michaela M. Cua submitted a Resolution dated August 22, 1996 finding probable cause against Wang. Fearing that his objection to his warrantless arrest and search would be waived by his entering a plea, Wang through counsel filed a Manifestation on November 7, 1996 making of record his continuing objection to his warrantless arrest and praying that the trial court enter a plea of "not guilty" on his behalf. Acting on Wang's Manifestation, respondent judge entered a plea of "not guilty" for Wang as reflected in his Order of November 8, 1996.

During the trial, the prosecution presented and offered the testimonies of Insp. Cielito Coronel and Reynaldo Cristobal of the PARAC team who arrested Wang, and Felicisima Francisco, forensic chemist of the National Bureau of Investigation, who conducted laboratory tests to determine if the confiscated substance was indeed "shabu", a prohibited drug.

During the hearing on December 6, 1996, the prosecution formally rested its case. In turn, the defense filed a motion for leave of court to file a Demurrer to Evidence. The trial court granted the defense's motion in an Order of the same date and gave Wang a period of twenty-five (25) days from receipt thereof within which to file a Demurrer to Evidence, and the prosecution a similar period to file its opposition thereto. An undated Demurrer to Evidence was then filed by Wang through counsel on January 9, 1997.

Subsequently, Assistant City Prosecutor Winnie M. Edad filed a "Manifestation with Motion" stating that the prosecution is resting its case against the accused, Wang, insofar as Criminal Case No. 96-149990 only was concerned but excluding the two (2) remaining cases for illegal possession of firearms and violation of the COMELEC gun ban, wherein the prosecution claimed it has not yet rested. Consequently, in an Order dated January 14, 1997, the trial court set further hearings on the two (2) remaining cases on January 21, February 5, 11 and 12, 1997.

On March 13, 1997, respondent judge issued a Resolution granting Wang's Demurrer to Evidence and acquitting Wang in the said three (3) closely related cases. Respondent judge declared therein and made the finding that:

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The threshold issue raised by accused in his Demurrer to Evidence is whether his warrantless arrest and search were lawful as argued by the prosecution, or unlawful as asserted by the defense.

Under Section 5, Rule 113 of the New Rules of Court, a peace officer may arrest a person without a warrant: (a) when, in his presence, the person to be arrested has committed, is actually committing, or is attempting to commit an offense; (b) when an offense has in fact just been committed, and he has personal knowledge of facts indicating that the person to be arrested has committed it, and (c) when the person to be arrested is a

prisoner who has escaped from a penal establishment or place where he is serving final judgment or temporarily confined while being transferred from one confinement to another. None of these circumstances were present when the accused was arrested. The accused was merely walking from the Maria Orosa apartment and was about to enter the parked BMW car when the police officers arrested and frisked him and searched his car. The accused was not committing any visible offense at the time of his arrest. Neither was there an indication that he was about to commit a crime or that he had just committed an offense. The unlicensed AMT Cal. 380 9mm Automatic Back-up Pistol [sic] that the accused had in his possession was concealed inside the right front pocket of his pants. And the handgun was bantam and slim in size that it would not give an outward indication of a concealed gun if placed inside the pants' side pocket as was done by the accused. The arresting officers had no information and knowledge that the accused was carrying an unlicensed handgun, nor did they see him in possession thereof immediately prior to his arrest.

Ditto on the 32 bags of shabu and the other unlicensed Daewoo Cal. 9mm Pistol with magazine that were found and seized from the car. The contraband items in the car were not in plain view. The 32 bags of shabu were in the trunk compartment, and the Daewoo handgun was underneath the driver's seat of the car. The police officers had no information, or knowledge that the banned articles were inside the car, or that the accused had placed them there. The police officers searched the car on mere suspicion that there was shabu therein.

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Respondent judge then issued on the same day an Order dated March 13, 1997 setting the promulgation of his aforementioned Resolution on March 20, 1997.

On the day before the scheduled promulgation, SPO3 Cristobal claimed that he received a telephone call from a person claiming to be the branch clerk of court of RTC Manila, Branch 18. The caller, according to Cristobal, instructed him to bring to court the next day the money confiscated from Wang. Cristobal complied.

After the Resolution of March 13, 1997 was promulgated by the trial court, Cristobal was presented with a special power-of-attorney[8] dated February 12, 1997 executed by Wang authorizing his counsel, Atty. Oliver Lozano, to receive the confiscated money. Cristobal handed over the money to Atty. Oliver Lozano, but he first required Atty. Lozano to accomplish a receipt written on the special power-of-attorney itself.

Not satisfied with Wang's acquittal, petitioners Barbers et. al., filed the said Joint Complaint-Affidavit against respondent judge before the Office of the Ombudsman. They also filed an administrative complaint against the trial prosecutor, Assistant City Prosecutor Edad, for alleged gross neglect of duty in his handling of the Wang cases. However, on September 6, 1999, the Department of Justice issued its Resolution dismissing the administrative complaint against Edad for lack of merit.

After the said Joint Complaint-Affidavit of the complainants (herein petitioners) against respondent judge was endorsed by the Ombudsman to the Office of the Court Administrator, this Court required the respondent to comment thereon. After its receipt of the respondent's comment strongly denying and disputing the administrative charges against him and upon the recommendation of OCA, this Court referred the matter to the then Court of Appeals Associate Justice (now Supreme Court Associate Justice) Consuelo Ynares-Santiago for investigation and report. On September 7, 1998, she submitted her Report recommending that respondent judge be reprimanded and meted a fine equivalent to six (6) months salary. Her findings were adopted by the Office of the Court Administrator, per its Memorandum[9] of December 2, 1999, to wit:

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The conduct of respondent, given the peculiar facts prevailing in this case, leaves much to be desired vis-à-vis these legal yardsticks. The abruptness and inordinate haste in which he dismissed the charges against the

accused gave rise to the suspicion that he railroaded the proceedings to favor the accused.

The records show that two members of the team which arrested Lawrence Wang, namely P/Insp. Cielito Coronel and SPO3 Reynaldo Cristobal were the only witnesses who testified on the facts regarding the warrantless arrest and seizure. The principal witness and leader of the team, P/Sr. Insp. Lucio Margallo IV, who more than anybody else has the personal knowledge of the circumstances surrounding the arrest of Wang was never presented as a witness. It must be pointed out in this regard that Margallo, as leader of the arresting team could have clarified the circumstances surrounding the arrest of Wang and the seizure of the drugs, firearms and cash found in the car especially the highly contentious issue of whether or not the trunk of the car which contained the "shabu" was already open with said prohibited drug in plain view when he and his team members approached. The record, however, discloses that after the prosecutor handling the cases conferred with respondent, thereafter, Margallo's testimony was dispensed with on the dubious ground that it would merely be corroborative. xxx

The record also reveals that Margallo received only one subpoena to appear in Crim. Case No. 96-149990 (Violation of Dangerous Drugs Act) on December 6, 1996 xxx. Unfortunately, he was not able to attend because he was on leave at the time xxx and only learned about the hearing after December 6, 1996 xxx. Curiously, no other summons were served on him to testify despite his instructions to SPO3 Cristobal to manifest in Court that he be subpoenaed to testify xxx. As in Crim. Case No. 96-149990, he also received only one (1) subpoena in the other cases but the reason therefor was for the Evidence Custodian namely, SPO3 Cristobal who was under him, to bring the confiscated items in court xxx. The only other time he received a subpoena was when he was required to attend the scheduled hearing on March 20, 1997 and he was not aware that said notice requiring his presence on said date was already for the promulgation of the order granting the demurrer to evidence xxx.

The Resolution granting the demurrer to evidence dismissing all three (3) cases against Wang is likewise anchored on infirm legal moorings.

Section 15, Rule 119 of the Revised Rules of Criminal Procedure provides that:

"Sec. 15. Demurrer to evidence. - After the prosecution has rested its case, the court may dismiss the case on the ground of insufficiency of evidence: (1) on its own initiate (sic) after giving the prosecution an opportunity to be heard; or (2) on motion of the accused with prior leave of court.

If the court denies the motion for dismissal, the accused may adduce evidence in his defense. When the accused files such motion without the express leave of court, he waives the right to present evidence and submits the case for judgment on the basis of the evidence for the prosecution."

The rule is not applicable if the prosecution has not yet rested its case xxx.

In this case, despite the statement in the resolution in question as well as respondent's claims to the contrary, there is ample evidence on record that the prosecution had not yet rested its case in Criminal Cases Nos. 96-149991 and 96-149992 xxx. Particularly revealing on this point is the "Manifestation With Motion to Set Above-Entitled Cases for Further Hearing and For Issuance of Subpoena to Prosecution Witnesses" xxx which avers that:

"THE PEOPLE THRU THE UNDERSIGNED TRIAL PROSECUTOR, to this Honorable Court most respectfully manifests that he rested his case only in so far (sic) as the case of R.A. 6425 is concerned, and not as regards the charge for violation of P.D. L866 (sic) (Crim. Case No. 96-149991) and the case of COMELEC Resolution No. 2828 (Crim. Case No. 96-149992);

WHEREFORE, the prosecution respectfully moves this Honorable Court:

- To set Crim. Case Nos. 96-149991-92, for violation of P.D. 1866 and COMELEC Resolution 2828, respectively for further hearing to enable the prosecution to present its evidence;

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A circumspect scrutiny of the demurrer to evidence itself xxx will show that the same can only pertain to Criminal Case No. 96-149990 for violation of the Dangerous Drugs Act considering that it was filed on January 9, 1997 and the prosecution had not yet rested in Criminal Cases Nos. 96-149991 and 96-149992. In fact, in an Order dated January 14, 1997 xxx, respondent set hearings for the two (2) cases on January 21, February 5, 11 and 12, 1997. It is interesting to note in this regard that no demurrer to evidence was filed after the prosecution had rested its case in Criminal Cases Nos. 96-149991 and 96-149992. Neither was the prior demurrer filed on January 9, 1997 subsequently amended to include these two cases. Despite all these facts, respondent judge still proceeded to dismiss all three (3) charges against the accused.

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Furthermore, the factual events surrounding the turnover of the confiscated articles which oddly enough, with the exception of the firearms, were not marked in evidence xxx only increases the dubiousness of the proceedings. As has been stated earlier, complainants were unaware, upon being served with notice to appear on March 20, 1996 that a Resolution dismissing all three (3) cases on the basis of the undated demurrer to evidence would be promulgated xxx. Indeed, the document served by the process server made no mention of the fact that the cases were already submitted for resolution and that the same would be promulgated on said date xxx. In fact, SPO3 Cristobal who was Evidence Custodian of the PARAC-DILG was not served a subpoena commanding his presence on March 20, 1997. xxx Instead, he received a telephone call on March 19, 1997 from a person who identified herself as the Branch Clerk of respondent judge's sala instructing him to bring the confiscated money to court the next day xxx. Thus, upon appearing the next day, he was surprised to learn that there would be a promulgation. xxx

During the proceedings held March 20, 1997, SPO3 Cristobal was handed a Special Power of Attorney xxx dated February 12, 1997 executed by the accused authorizing his counsel to receive the confiscated money in his behalf xxx. As a precaution, Cristobal made a handwritten receipt on the said document which he required said counsel to sign xxx. The date of the execution of the Special Power of Attorney which was more than a month prior to the promulgation of the resolution only fueled Cristobal's suspicion that the proceedings were already rigged in Wang's favor xxx.

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The factual finding of respondent judge that the "shabu" was not in plain view when the accused was arrested becomes open to question in the light of the evidence on record that the compartment of the car containing the "shabu" was actually already open and the accused attempted to close the same but was prevented from doing so by the arresting officers xxx much more so taking into consideration the fact that P/Sr. Insp. Margallo, the principal witness for the prosecution who could have shed light on the circumstances of the arrest and seizure, was not given the change (sic) to testify. Considering that the accused is a highly controversial character on account of his notoriety as a big-time drug lord not to mention the widespread media attention attracted by the case, respondent judge should have proceeded with more caution and circumspection in the handling thereof.

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However, there is an important aspect to this case which was heretofore not considered. The respondent judge's Resolution in question dated March 13, 1997 is one of acquittal. It is well-settled that acquittal in a criminal case is immediately final and executory upon its promulgation; accordingly, the State may not seek its review without placing the accused in double jeopardy.[10] When the Investigating Justice submitted her Report dated September 7, 1998, the questioned Resolution of respondent judge acquitting Wang was already the subject of a pending petition for review on certiorari (G.R. No. 128587)[11] which was filed with this Court. It appeared that after the

State received a copy of the said Resolution of respondent judge on March 20, 1997, the Office of the Solicitor General filed a "Manifestation and Motion" on April 3, 1997 with this Court praying for an extension of thirty (30) days (or until May 4, 1997, a Sunday) within which to file a petition for review on certiorari. The motion was granted by the First Division of this Court in a Resolution dated May 7, 1997. The said petition for review on certiorari (G.R. No. 128587) which was filed on May 5, 1997 by the Solicitor General together with the Department of Justice, is still pending in this Court. Following established doctrine, the pendency of the appeal is sufficient cause for the dismissal of the instant administrative complaint.[12] It has also been held that the filing of an administrative complaint is not the proper remedy for the correction of actions of a judge perceived to have gone beyond the norms of propriety, where a sufficient judicial remedy exists.[13] Differently expounded in another case,

As everyone knows, the law provides ample judicial remedies against errors or irregularities being committed by a Trial Court in the exercise of its jurisdiction. The ordinary remedies against errors or irregularities which may be regarded as normal in nature (i.e., error in appreciation or admission of evidence, or in construction or application of procedural or substantive law or legal principle) include a motion for reconsideration (or after rendition of a judgment or final order, a motion for new trial), and appeal. The extraordinary remedies against error or irregularities which may be deemed extraordinary in character (i.e., whimsical, capricious, despotic exercise of power or neglect of duty, etc.) are inter alia the special civil actions of certiorari, prohibition or mandamus, or a motion for inhibition, a petition for change of venue, as the case may be.

Now, the established doctrine and policy is that disciplinary proceedings and criminal actions against Judges are not complementary or suppletory of, nor a substitute for, these judicial remedies, whether ordinary or extraordinary. Resort to and exhaustion of these judicial remedies, as well as the entry of judgment in the corresponding action or proceeding, are pre-requisites for the taking of other measures against the persons of the judges concerned, whether of civil, administrative, or criminal nature. It is only after the available judicial remedies have been exhausted and the appellate tribunals have spoken with finality, that the door to an inquiry into his criminal, civil or administrative liability may be said to have opened, or closed.

xxxx Indeed, since judges must be free to judge, without pressure or influence from external forces or factors, they should not be subject to intimidation, the fear of civil, criminal or administrative sanctions for acts they may do and disposition they may make in the performance of their duties and functions; and it is sound rule, which must be recognized independently of statute, that judges are not generally liable for acts done within the scope of their jurisdiction and in good faith; and that exceptionally, prosecution of a judge can be had only if "there be a final declaration by a competent court in some appropriate proceeding of the manifestly unjust character of the challenged judgment or order, and also evidence of malice or bad faith, ignorance of inexcusable negligence, on the part of the judge in rendering said judgment or order" or under the stringent circumstances set out in Article 32 of the Civil Code. xxxx[14]

The administrative case at bar involves an acquittal on an accused by the respondent judge in three (3) closely related criminal cases which were earlier consolidated in the court presided by respondent judge. As a rule, acquittal is immediately final and executory. Consequently, in view of the pendency in this Court (First Division) of the petition for review on certiorari (G.R. No. 128587), supra, we may not, ordinarily, review here the said judgment of acquittal in those three (3) criminal cases, the inquiry in this administrative case being limited to the issue of whether the respondent judge is liable for the charges brought against him.[15] However, to resolve those charges in the administrative case, it is indispensable that we consider the respondent Judge's subject Resolution dated March 13, 1997 granting accused Wang's Demurrer to Evidence and acquitting the latter in the closely related Criminal Cases Nos. 96-149990, 96-149991 and 96-149992.

In appealing Wang's acquittal, the State is relying on a recognized exception to the general rule in that where the assailed judgment is void, no double jeopardy results from the re-filing of the criminal case.[16] In view of the

pendency of the said appeal, we should, ordinarily, be constrained from resolving the charge of violation of Art. 204 of the Revised Penal Code for allegedly knowingly rendering an unjust judgment. However, in this administrative case, justice demands that we resolve the basic issue relative to the legality or illegality of Wang's warrantless arrest and search, and the issue on the admissibility of the bags of "shabu," scales and unlicensed firearms which were confiscated during the warrantless search. These are the very same issues being litigated in the said appeal.[17] Meanwhile, there is as yet no definitive pronouncement by this Court in G.R. No. 128587, supra, whether respondent's Resolution of acquittal of Wang is patently erroneous. The jurisprudential rule is that pendency of an appeal from a questioned judgment renders the filing of administrative charges premature.[18]

Nevertheless, the foregoing considerations do not prevent us from ruling upon the remaining charges brought against respondent judge. The first involves an alleged violation of section 3(e) of the Anti-Graft and Corrupt Practices Act, which provides:

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:

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(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.

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The other charge is for the alleged violation of section 4, subsections (b) and (c) of Republic Act No. 6713 otherwise known as the Code of Conduct and Ethical Standards for Public Officials and Employees, viz.:

Norms of Conduct of Public Officials and Employees. (A) Every public official and employee shall observe the following as standards of personal conduct in the discharge and execution of official duties:

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(b) Professionalism.--Public officials and employees shall perform and discharge their duties with the highest degree of excellence, professionalism, intelligence and skill. They shall enter public service with utmost devotion and dedication to duty. They shall endeavor to discourage wrong perceptions of their roles as dispensers or peddlers of undue advantage.

(c) Justness and sincerity.--Public officials and employees shall remain true to the people at all times. They must act with justness and sincerity and shall not discriminate against anyone, especially the poor and the underprivileged. They shall at all times respect the rights of others, and shall refrain from doing acts contrary to law, good morals, good customs, public policy, public order, public safety and public interest. They shall not dispense or extend undue favors on account of their office to their relatives whether by consanguinity or affinity except with respect to appointments of such relatives to positions considered strictly confidential or as members of their personal staff whose terms are coterminous with theirs.

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Respondent judge's alleged transgressions consist principally of: (a) resolving the Demurrer to Evidence when the prosecution had not yet allegedly rested in all three (3) criminal cases; (b) dismissing all three (3) criminal cases when the Demurrer to Evidence allegedly referred only to Criminal Case No. 96-149990 relative to the drug charges; and (c) propounding questions during the clarificatory hearing which revealed his alleged partiality in favor of the accused. After reviewing the records, we find scant evidence to support the charges as well as the

adverse conclusions of the Honorable Investigator.

A close scrutiny of the record does not support the conclusion of the Investigator that respondent judge prematurely resolved the Demurrer to Evidence without giving the prosecution ample opportunity to prove its three (3) cases which were earlier consolidated. The governing rule then, Section 15, Rule 119 of the 1985 Rules of Criminal Procedure[19] provides that:

Demurrer to evidence.--After the prosecution has rested its case, the court may dismiss the case on the ground of insufficiency of evidence (1) on its own initiative after giving the prosecution an opportunity to be heard; or (2) on motion of the accused filed with prior leave of court.

If the court denies the motion for dismissal, the accused may adduce evidence in his defense. When the accused files such motion to dismiss without express leave of court, he waives the right to present evidence and submits the case for judgment on the basis of the evidence of the prosecution. (Underscoring supplied)

During the hearing held on December 6, 1996, Assistant City Prosecutor Winnie M. Edad stated that he was resting the People's case.[20] It was at this time that the defense asked for, and was given, leave of court to file a Demurrer to Evidence. Perhaps belatedly realizing that it had rested prematurely, the prosecution filed a "Manifestation with Motion to Set Above-Entitled Cases for Further Hearing and For the Issuance of Subpoenas to Prosecution Witnesses"[21] on December 19, 1996. Respondent judge, in an Order dated January 14, 1997[22] granted that motion and set the two (2) remaining cases (Criminal Case Nos. 96-149991 and 96-149992) for further hearings. This fact belies the petitioners' claim that they were denied their day in court. Significantly, during the hearing held on February 11, 1997, the prosecution rested in all the three (3) cases for the second time,[23] including Criminal Case Nos. 96-149991 and 96-149992. The prosecution was even able to file an opposition to the Demurrer to Evidence. The record shows that the proceedings were astened when the defense filed a Manifestation on February 10, 1997 that it was admitting the existence of the firearms and the lack of license therefor. Hence, there was not even a need to amend the Demurrer to Evidence inasmuch as the Demurrer to Evidence, as worded, clearly prayed for the dismissal of all the three (3) cases, namely, Criminal Case Nos. 96-149990, 96-149991 and 96-149992.

Neither do we discern any impropriety when respondent judge resolved to dismiss all the three (3) criminal cases filed against Wang. Petitioners claim that the Demurrer to Evidence could apply only to Criminal Case No. 96-149990 inasmuch as (1) the State has rested allegedly only in that case, and (2) the docket number stated on the first page of the Demurrer to Evidence referred only to Criminal Case No. 96-149990. That claim is erroneous. Even if the caption of the Demurrer to Evidence stated only Criminal Case No. 96-149990, a plain reading of the entire Demurrer to Evidence leaves no doubt that it also covered Criminal Case Nos. 96-149991 and 96-149992. The principal argument of the defense in those three (3) criminal cases is that Wang was arrested illegally, without a warrant, under circumstances not falling within recognized exceptions.[24] Accordingly, the accompanying search and seizure which yielded the prohibited articles is also illegal and invalid. Pursuant to constitutional dictates,[25] said articles are inadmissible in evidence for being "fruits of a poisonous tree." That defense is unequivocally set forth in the Demurrer to Evidence. The caption of the Demurrer to Evidence which indicated only Criminal Case No. 96-149990 is not controlling because the body and prayer of the Demurrer to Evidence refer to all the three (3) closely related cases.

Anent the charge that respondent judge displayed bias and partiality during the trial when he asked numerous clarificatory questions, we note that the participation of respondent judge in the conduct of the trial was not by itself condemnable. He could not be expected to remain an impassive and remote presence during the proceedings, prohibited from asking questions when proper and necessary, yet all these were done without necessarily transgressing the boundaries of impartiality decreed by judicial ethics. The mere fact that the presiding

judge asked clarificatory questions during the trial does not make him a biased judge.[26] "He must be accorded a reasonable leeway in asking questions to witnesses as may be essential to elicit relevant facts and to bring out the truth." [27] Differently stated, "questions to clarify points and to elicit additional relevant evidence are not improper. The judge being the arbiter may properly intervene in the presentation of evidence to expedite and prevent unnecessary waste of time." [28] The pronouncement of this Court in *United States v. Hudieres* [29] is illuminating as when it was made in 1914:

The first assignment of error has its basis in the claim of counsel that the trial judge went to unjustifiable lengths in examining some of the witnesses called for the defense. It is very clear, however, from a review of the whole proceedings that the only object of the trial judge in propounding these questions was to endeavor as far as possible to get at the truth as to the facts which the witnesses were testifying. The right of a trial judge to question the witnesses with a view to satisfying his mind upon any material point which presents itself during the trial of a case over which he presides is too well established to need discussion. The trial judges in this jurisdiction are judges of both the law and the facts, and they would be negligent in the performance of their duties if they permitted a miscarriage of justice as a result of a failure to propound a proper question to a witness which might develop some material fact upon which the judgment in the case should turn. So in a case where a trial judge sees that the degree of credit which he is to give the testimony of a given witness may have an important bearing upon the outcome, there can be no question that in the exercise of a sound discretion he may put such questions to the witness as will enable him to formulate a sound opinion as to the ability or the willingness of the witness to tell the truth. The questions asked by the trial judge in the case at bar were in our opinion entirely proper, their only purpose being to clarify certain obscure phases of the case; and while we are inclined to agree with counsel that some of the observations of the trial judge in the course of his examination might well have been omitted, there is no reason whatever to believe that the substantial rights of the defendants were in anywise prejudiced thereby.

The transcript of the clarificatory hearing held on February 26, 1997 is reproduced below to show that the tenor of respondent judge's clarificatory questions, though numerous did not really create the impression that respondent judge was biased or that he has practically taken the cudgels for the defense.

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THE COURT TO THE WITNESS:

Q:

You, SPO3 Cristobal, were a member of the police operatives that effected the arrest of the accused in this case?

A: Yes, sir.

Q:

From your testimony and that of Police Inspector Cielito Coronel, this Court has gathered that prior to the arrest of the accused there were three 3) men that your team arrested. One of whom is a police officer?

A: Yes, sir.

Q: SPO2 Vergel De Dios, Rogelio Anoble and a certain Arellano?

A: Yes, sir.

Q: When were they arrested?

A: May 16 on or about 7:00 (interrupted)

Q: P.M.?

A: P.M., your Honor.

Q: And on the occasion of the arrest of these three men shabu were confiscated from them?

A: Yes, sir.

Q:

And in the course of the investigation of these three men you were able to discover that Redentor Tech and Joseph Junio were the source of the regulated drug that were confiscated from the three men that you have arrested?

A: Yes, sir.

Q:

Now, thru entrapment [based] in your testimony you were able to apprehend also these two men, Redentor Tech and Joseph Junio?

A: Yes, sir.

Q: And that was on the evening of what date?

A: May 16. The same (interrupted)

Q: The same date? The same evening?

A: Same evening. About 11:00 p.m.

Q: These two men, Redentor and Joseph they were also investigated by your team?

A: Yes, sir.

Q: You were present when they were investigated?

A: I was the one who investigated them.

Q: This Redentor, he claimed that he was the talent manager of Glenmore Modelling Agency?

A: Yes, sir.

Q: And you also stated that the agency was own (sic) by the accused in this case?

A:

Yes, sir.

Q: How about the other man, Joseph? Did he also say that he was an employee of the accused?

A: He told me that he is a gym instructor.

Q: So he was not working for the accused?

A: He is also working for the accused.

Q: As a gym instructor?

A: Yes.

Q: You mean to say that the gym is also own (sic) by the accused?

A: He teaches aerobic.

Q: In what establishment?

A: In Glenmore.

Q: In Glenmore?

A: Yes, sir.

Q: These two, Redentor and Joseph at the time of the arrest they were in the xxx

A: Yes, sir.

Q:

In fact they were in xxx to you the three men which were previously arrested?

A: Yes, sir.

Q: Did you ask Redentor and Joseph the source of shabu that you confiscated from them at the time of the arrest?

A: Yes, sir. They refuse (sic) to say the source, however, they told me that they were working for the accused.

Q:

You also testified that Redentor informed you that there was another delivery of shabu scheduled that morning of (stop) was it May 16 or May 17? The other delivery that is scheduled on?

A: On the 17[th].

Q: So it was on the following morning?

A: Yes, sir.

Q: Did he tell you where the delivery of the shabu was to be made?

A: No, sir.

Q:

Did he tell you who was to make the delivery?

A:

No, sir.

Q:

You said that your team decided to see the accused to ask him to shed light regarding the drug trafficking activities of Redentor and Joseph?

A: Yes, Your Honor. That is our initial purpose.

Q: To ask him to shed light?

A: Yes, sir.

Q:

At that time when you decided to look for the accused to ask him to shed light on the matter concerning the arrest of these two employees in possession of shabu. Did you and did your team suspect the accused as being involved in the transaction that led to the arrest of Redentor and Joseph?

A: Yes, sir. We suspected that he was the source of the shabu.

Q: So you were suspecting the accused as being involved?

A: Yes, sir.

Q: In the drug transaction?

A: Yes, sir.

Q: You also testified that you and your team proceeded to Maria Orosa apartment somewhere in Ermita?

A: Yes, sir.

Q: And that apartment was pinpointed to you by Redentor as the place where the accused could be found?

A: Yes, sir.

Q: And when you arrived at the apartment you did not enter the apartment?

A: We conducted a stake out.

Q: You waited outside?

A: Yes, sir.

Q: Why? You were expecting the accused to come out from the apartment?

A: Because of the parked BMW which was described by Redentor as the one used by the accused.

Q: So there was a BMW car parked in front (sic) of the apartment?

A: Yes, sir.

Q: And that was described as the car being used by the accused?

A: Yes, sir.

Q: Was (sic) Redentor and Joseph with your team when you proceeded to the apartment?

A: Initially they were with us but the rest of the members of the team brought them to our office.

Q: So when the accused came out from the apartment, Redentor and Joseph were no longer with your team?

A:

No, sir.

Q:

Now, you stated or testified that when the accused came out from the apartment, he was identified by your team. Who identified the accused?

A: We have in our company an asset who knows the accused.

Q:

When the accused was identified to your team as the employer mentioned by Redentor you immediately held him surrounded?

A: Not immediately. We watched what they were about to do.

Q: And what was the accused doing when you saw him coming out from the apartment?

A: They were two. One is supposed to be the driver.

Q: So he has a male companion?

A: Yes, sir.

Q: The accused?

A:

Yes, sir.

Q: They were walking together when they came out from the apartment?

A: The driver, sir, is already beside the car.

Q: I see. So the driver was waiting inside the car?

A: Not inside. Outside.

Q: Outside of the car?

A: Yes, sir.

Q: But near the car?

A: Yes, sir.

Q:

You narrated to this court when you saw the accused coming out from the apartment walking where was the bound? To what direction was he walking? Towards the car?

A: Towards the car.

Q:

Alright. From the apartment where he came out to the place where the car was parked, what was the distance? How many meters?

A: A distance of more or less 15 to 20 meters.

Q:

What did you observe while the accused was walking from the apartment to his car which has a distance of about 15 to 20 meters? What did you observe in the nature of the accused while he was walking towards his car?

A:

The accused stopped beside the car. He talked with the driver, supposed to be the driver and they talked for a

while.

Q: So he walked on the left side of the car. Where (stop) in what portion of the car did he approached the driver?

A: Left side, sir.

Q: Left side?

A: Yes, Your Honor.

Q: And you saw him talked with the driver?

A:

Yes, sir.

Q: Then what happened?

A: After they talked, we saw them open the compartment of the car.

Q: At this time your team were observing at the distance?

A: Yes, sir.

Q: What was the distance?

A: More or less 15 to 20 meters. We were in a concealed place.

Q: And you were concealed. You could not be seen by the accused?

A: Yes, sir.

Q: What happened when you saw the accused and his driver open the trunk of the car?

A:

It was Capt. Margallo and Police Inspector Colonel approached them and upon seeing them I also went out of my hiding place and the accused was accosted.

Q: So that was the time when you and your team accosted the accused when the trunk of his car was open?

A: Yes, sir.

Q: And after you accosted the accused, what did you do?

A: It was Capt. Margallo and I who prevented them from closing the compartment.

Q: The trunk?

A: Yes, sir.

Q:

What transpired when you approached the accused at that point? When you and your (stop) what is the rank of this Coronel?

A: Capt. Margallo. Sr. Inspector Lucio Margallo.

Q: No. No. Yes. He was the one that approached the accused?

A: And Lt. Coronel.

Q: And Police Inspector Coronel?

A: Yes, sir.

Q: But you were also nearby?

A: Yes, sir.

Q: Who talked with the accused?

A: It was Capt. Margallo.

Q: What did he tell to the accused?

A:

I was not able to get what they are talking because I immediately told them that there were shabu at the compartment.

Q: Who made that statement?

A: I was the one who told them that there were shabu in the compartment.

Q: You told the accused?

A: No. I told Capt. Margallo that there were shabu inside the compartment of the car.

Q: Now, in your declaration and from that of the Coronel the accused was frisked?

A: Yes, sir.

Q: And from the pocket of the pants of the accused was taken a back-up pistol?

A: No, sir. I believe it was a Daewoo caliber pistol.

Q: Daewoo? The one that was taken from the possession of the accused?

A: The AMT back up pistol was handed to me by Capt. Margallo.

Q: Yes. From whom it was taken?

A: It was taken from the accused.

Q:

Correct. So when the accused was frisked what gun was taken from him and it was discovered inside the pocket of his pants?

A: Yes, sir.

Q: Which one occurred first? The bodily search of the accused or the search of the trunk or (sic) the car?

A: I could say it was simultaneously being conducted (sic).

Q: At the same time?

A: Yes, Your Honor because they were here while I was at the back.

Q:

So while you and your othermembers (sic) of the team were searching the trunk of the car, Police Inspector Coronel and another officer, Capt. Margallo were subjecting the accused to bodily searched?

A: Yes, sir.

Q: And you immediately discovered the shabu inside the trunk?

A: Yes, sir.

Q: And there was another gun that was taken from the car and that is underneath the driver's seat?

A: Yes, sir.

Q: When you saw the accused walking towards his car, did you know whether he was carrying a gun?

A: No, sir. It cannot be seen.

Q: It was concealed?

A: Yes, sir.

Q: So the only time that you and your team learned that he was in possession of the gun is when he was bodily searched?

A: Yes, sir. That is the only time that I came to know about when Capt. Margallo handed to me the gun.

Q: Other than walking towards the car, the accused was not doing anything else?

A: None, sir.

Q: That would invite your suspicion or give indication that he was intending to do something unlawful or illegal?

A: No, sir.

Q: When you searched the car, did the accused protest or try to prevent your team from searching his car?

A: No, sir.[30]

xxx xxx xxx

The above-quoted questions propounded by respondent judge were necessary for the purpose of determining and clarifying the basis for resolving the all important issue of the legality or illegality of the warrantless arrest of Wang and the warrantless search of the latter's car. Herein respondent judge's aforequoted questions contrast favorably against instances in other cases wherein it was clearly shown that the judges therein displayed bias against a party litigant. Thus, there is a case where the questions asked of a witness by the judge therein were adversarial, malicious and hostile in character.[31] There is another case where the sheer volume of questions asked by the judge therein tended to be leading, misleading, if not baseless and hypothetical.[32] It has also been held that clarificatory questions asked by the trial court must not amount to confrontation, probing and insinuation, which are characteristics of a cross-examination.[33]

In administrative proceedings, the complainant bears the onus of establishing, by substantial evidence, the averments of his complaint.[34] All told, complainants herein failed to discharge that burden. Besides, the charges, subject of the administrative case against respondent judge, which were indorsed by the Office of the Ombudsman to the OCA on May 9, 1997[35]also appear to be premature in view of the filing on May 5, 1997 and pendency in this Court of the petition for review on certiorari, entitled "People of the Philippines v. Lawrence

Wang y Chen and Hon. Perfecto Laguio, Jr., etc.", docketed as G.R. No. 128587, supra, (see note no. 10). It has been held that the pendency of an appeal from a questioned judgment renders the filing of administrative charges premature.[36] Where a sufficient judicial remedy exists, the filing of an administrative complaint is not the proper remedy to correct the actions of a judge.[37]

WHEREFORE, the administrative complaint against respondent Judge Perfecto A.S. Laguio, Jr. is hereby DISMISSED.

SO ORDERED.

Bellosillo, (Chairman, Second Division), Mendoza, Quisumbing, and Buena, JJ., concur.

[1] Former Secretary of the Department of the Interior and Local Government (DILG, for short) and now a member of the Philippine Senate.

[2] The Anti-Graft and Corrupt Practices Act.

[3] Code of Conduct and Ethical Standards for Public Officials and Employees.

[4] Evaluation Report, Rollo, pp. 62-63.

[5] 1[st] Indorsement dated April 25, 1997, Rollo, p. 61.

[6] Joint Complaint-Affidavit, Rollo, pp. 6-7.

[7] Annexes "A", "B" and "C" of Joint Complaint-Affidavit, Rollo, pp. 12-14.

[8] Exhibit "M," Rollo, p. 220.

[9] Memorandum, pp. 9-13, Second Rollo.

[10] *People v. Serrano*, G.R. No. 135451, September 30, 1999, citing *People v. Laggui*, 171 SCRA 305 (1989) and *Central Bank v. Court of Appeals*, 171 SCRA 49 (1989).

[11] Entitled "*People of the Philippines v. Lawrence Wang y Chen and Hon. Perfecto Laguio, Jr., etc.*"

[12] See *Zamora v. Gako*, A.M. RTJ-99-1484, March 17, 2000; also, *Spouses de Leon v. Bonifacio*, 280 SCRA 434, 443 (1997).

[13] *Santos v. Orlino*, 296 SCRA 101 (1998); see also *Garcia v. Pasia*, 317 SCRA 155, 158 (1999).

[14] *Flores v. Abesamis*, 275 SCRA 302, 316-317 (1997).

[15] Cf. *Belga v. Buban*, A.M. RTJ-99-1512, May 9, 2000.

[16] *Marcos v. Sandiganbayan*, 297 SCRA 95 (1998); *Dimatulac v. Villon*, 297 SCRA 679 (1998); *State Prosecutors v. Muro*, 236 SCRA 505 (1994); *Gorion v. Regional Trial Court of Cebu, Branch 17*, 213 SCRA 138 (1992).

[17] G.R. No. 128587, supra, see Note No. 10.

[18][18] *Balayo v. Buban, Jr.*, 314 SCRA 16, 23 (1999).

[19] Now Section 23, Rule 119 of the 2000 Rules of Criminal Procedure [effective December 1, 2000], to wit: "Demurrer to Evidence.--After the prosecution rests its case, the court may dismiss the action on the ground of

insufficiency of evidence (1) on its own initiative after giving the prosecution an opportunity to be heard or (2) upon demurrer to evidence filed by the accused with or without leave of court. If the court denies the demurrer to evidence filed with leave of court, the accused may adduce evidence in his defense. When the demurrer to evidence is filed without leave of court, the accused waives the right to present evidence and submits the case for judgment on the basis of the evidence for the prosecution. The motion for leave to file demurrer to evidence shall specifically state its grounds and shall be filed within a non-extendible period of five (5) days after the prosecution rests its case. The prosecution may oppose the motion within a non-extendible period of five (5) days from its receipt. If leave of court is granted, the accused shall file the demurrer to evidence within a non-extendible period of ten (10) days from notice. The prosecution may oppose the demurrer to evidence within a similar period from its receipt. The order denying the motion for leave of court to file demurrer to evidence or the demurrer itself shall not be reviewable by appeal or by certiorari before judgment.

[20] TSN, December 6, 1996, pp. 26-27.

[21] Exhibit "R", Rollo, pp. 303-304.

[22] Exhibit "G", Rollo, p. 43.

[23] TSN, February 11, 1997, pp. 12-14.

[24] Sec. 5, Rule 113 of the 1985 Rules of Criminal Procedure: "A peace officer or a private person may, without a warrant, arrest a person: (a) When, in his presence, the person to be arrested has committed, is actually committing, or is attempting to commit an offense; (b) When an offense has in fact just been committed, and he has personal knowledge of facts indicating that the person to be arrested has committed it; and (c) When the person to be arrested is a prisoner who has escaped from a penal establishment or place where he is serving final judgment or temporarily confined while his case is pending, or has escaped while being transferred from one confinement to another. xxx." The aforequoted provision was substantially reproduced, with some changes, under the 2000 Revised Rules of Criminal Procedure, to wit: "A peace officer or a private person may, without a warrant, arrest a person: (a) When, in his presence, the person to be arrested has committed, is actually committing, or is attempting to commit an offense; (b) When an offense has just been committed and he has probable cause to believe based on personal knowledge of facts and circumstances that the person to be arrested has committed it; and (c) When the person to be arrested is a prisoner who has escaped from a penal establishment or place where he is serving final judgment or is temporarily confined while his case is pending, or has escaped while being transferred from one confinement to another. xxx"

[25] Sec. 3(2) Article III, 1987 Constitution provides "any evidence obtained in violation of this or the preceeding section shall be inadmissible for any purpose in any proceeding.

[26] *People v. Aquino*, 314 SCRA 543 (1999).

[27] *People v. Vaynaco*, 305 SCRA 93 (1999).

[28] *Cosep v. People*, 290 SCRA 378 (1998).

[29] 27 Phil. 45, 47-48 (1914).

[30] TSN, February 26, 1997, pp. 2-17.

[31] *People v. Opida*, 142 SCRA 295 (1986).

[32] *Marcos v. Sandiganbayan*, 297 SCRA 95 (1998).

[33] *Tabuena v. Sandiganbayan*, 268 SCRA 332 (1997).

[34] Cortes v. Agcaoili, 294 SCRA 423 (1998).

[35] 1[st] Indorsement, Rollo, p. 61.

[36] Balayo v. Buban, Jr., 314 SCRA 16, supra.

[37] Santos v. Orlino, 296 SCRA 101, supra.³⁷

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