

EDGARDO O. MAQUIRAN, COMPLAINANT, VS. JUDGE JESUS L. GRAGEDA, RESPONDENT.

A.M. No. RTJ-04-1888 (Formerly OCA IPI 03-1913-RTJ). February 11, 2005

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

Before us is an administrative complaint[1] filed by Edgardo O. Maquiran against Judge Jesus L. Grageda of the Regional Trial Court, Branch 4, Panabo City, Davao del Norte, for grave abuse of discretion, direct bribery, violations of Batas Pambansa Blg. 129, violation of the Canons of Judicial Ethics and rendering manifestly unjust judgment under Article 206 of the Revised Penal Code committed in relation to Civil Case No. 95-45.[2]

Complainant is the Chairman of the Banned Chemical Research and Information Center, Inc., association of Filipino claimants banana plantation workers who were exposed to a certain chemical "dibromochloropropane" used in the plantation which caused ill-effects on their reproductive organs. Filipino victims together with other victims from twelve countries filed civil cases for mass torts and damages against the U.S. based multinational corporations with the U.S. courts which dismissed the cases on ground of forum non conveniens; and required the claimants to file actions in their home countries. Hence, the more than 7,000 Filipino claimants filed four civil cases in four different venues against the U.S. corporations, namely: Shell Oil Co., Dow Chemical Company and Occidental Chemical Corporation, Standard Fruit Company, DOLE Fresh Fruit Company, Chiquita Brands and Del Monte Fresh Produce. One of these civil cases was raffled to respondent, docketed as Civil Case No. 95-45 in 1995. Sometime in July 1997, the cases were globally settled in the U.S. by virtue of a document known as the Compromise Settlement, Indemnity and Hold Harmless Agreements, referred to as the "Settlement." Plaintiffs and defendants in this subject case moved for the approval of the settlement.

On December 20, 2002, respondent issued an Omnibus Order approving the Settlement by way of a judgment on compromise.[3]

Plaintiffs moved for the execution of the Omnibus Order which was opposed by the defendant corporations on the ground that there is nothing more to execute since the compromise agreements have long been satisfied. Respondent granted the issuance of a writ of execution on April 15, 2003.[4] Accordingly, the writ of execution was issued on April 23, 2003, to wit:

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NOW THEREFORE, you are hereby commanded to cause the execution of the Omnibus Order of this court dated December 20, 2002 specifically to collect or demand from each of the herein defendants the following amounts to wit:

- Defendants Dow Chemical Company ("Dow") and Occidental Chemical Corporation ("Occidental") the amount of:
- \$22 million or such amount equivalent to the plaintiffs' claim in this case in accordance with their

Compromise Settlement, Indemnity, and Hold Harmless Agreement (Annex "A"); and

- The amount of \$20 million or such amount equivalent to the plaintiffs' claim in this case in accordance with their Compromise Settlement, Indemnity, and Hold Harmless Agreement (Annex "B")
- Defendants Del Monte Fresh Produce, N.A. and Del Monte Fresh Produce Company (formerly Del Monte Tropical Fruit, Co.) (collectively, the "Del Monte defendants") the amount of One Thousand Eight and No/100 Dollars (\$1,008.00) for each plaintiff in accordance with their Release in Full Agreement;
- Defendants Chiquita Brands, Inc. and Chiquita Brands, International, Inc. (collectively the "Chiquita Defendants") the amount of Two Thousand One Hundred Fifty-Seven and No/100 Dollars (\$2,157.00) for each plaintiff in accordance with their Release in Full Agreement.

You are likewise directed to make a return of the proceedings taken thereon within sixty (60) days from receipt hereof.[5]

The Sheriff returned the writ of execution unsatisfied. Defendant corporations filed their separate motions for reconsideration of the issuance of the writ of execution and for the quashal thereof, insisting that there is nothing left to execute since plaintiffs' claims had already been paid in accordance with the compromise agreements. They prayed for the reception of evidence to prove their defense; that respondent himself oversee and monitor the photocopying, certification and authentication of the individual release and other related settlement documents which are in the safekeeping of the law firm in Houston, Texas, U.S.A. They likewise manifested that they are willing to defray the expenses of the proceedings in the U.S. Plaintiffs' counsel opposed such motions and argued that it is too late for the presentation of evidence and objected to the presentation of evidentiary documents in the U.S.

On June 30, 2003, respondent issued an Order[6] granting defendants' separate motions for reception of evidence in the U.S., at the expense of defendant corporations; and stating that further implementation of the writ of execution which was returned unsatisfied is held in abeyance or suspended until the proceedings in the U.S. shall have been terminated and/or completed.

Respondent wrote the Office of the Court Administrator (OCA) a letter dated July 3, 2003, requesting permission to be on "court duty" pursuant to his Omnibus Order dated June 30, 2003 and/or for leave of absence after the completion of such court duty to visit his daughter in New York, U.S.A. to last not later than August 26, 2003.[7]

On July 18, 2003, respondent issued an Order to supplement/implement his Order dated June 30, 2003 outlining the details of the U.S. proceedings, to wit: members of the parties, venue, duration, and the reasonable expenses for travel, food and accommodations, personnel and equipment which shall be jointly shouldered by the defendants.

While respondent's request for an authority to be on court duty was pending action, he wrote another letter dated August 11, 2003, asking permission to travel in the U.S. for the purpose of visiting his daughter, which the Court granted. The travel authority dated August 27, 2003 authorized respondent to travel to the U.S. from August 26 to September 15, 2003 to visit his daughter which shall be at the expense of respondent and chargeable against his forfeitable and cumulative leave credits.

However, while in the U.S., respondent conducted proceedings in the Philippine Consulate General Office, San Francisco, California, U.S.A., from August 27 to September 29, 2003, and issued an Order dated September 29, 2003, the dispositive portion of which reads:

WHEREFORE, the Court, hereby, RESOLVES:

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2. To direct once more the Consulate General's Office, again, through the support and assistance of Consul General Delia Menez Rosal, Consuls Eduardo Malaya, and Leoncio Cardenas, and all their staff to transmit to Branch 4, Regional Trial Court, Hall of Justice, Panabo City, Davao del Norte, Philippines, the evidentiary documents consisting of affidavits of witnesses, separate and distinct Compromise Agreements, Amendment to the Compromise Agreement, Trust Agreements, Court records pertaining to the probate of the Trust Agreement, the Releases in Full for the manufacturers Dow, Occidental and Shell, the Releases in Full of Chiquita and the Releases in Full of the Del Monte defendants, the checks and drafts duly authenticated, including microfilm copies and bank certificates, the bank documents pertaining to the deposit of the settlement amounts of the respective settling defendants Dow, Occidental, Shell, Chiquita and Del Monte, the settlement plaintiffs, retainer agreements, executed by the plaintiffs, and various Court records submitted by Fred Misko, pertaining to the RICO case he filed against Atty. Macadangdang, et al., the various statutes and applicable American cases testified on by Judge Ruby Kless Sondock, and the original transcripts prepared and signed by the court reporters from the American Reporting Services, and all other documents authenticated by the undersigned and/or received by the Court in the proceedings conducted in this venue.

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5. To declare the photocopies of all the aforesaid documents that were viewed, examined, and thoroughly scrutinized by the Court as aforesaid, vis-a-vis their originals as unquestionably authenticated personally by the undersigned, as faithful, true and correct copies of their respective originals.

6. And finally, to declare the proceedings in the above-entitled case in this venue terminated and/or the task set out to be done by the Court in coming to the Consulate General's Office of San Francisco, California, U.S.A. functus officio.[8]

Complainant filed the instant administrative case against respondent alleging that respondent committed (1) grave abuse of discretion in issuing the Order dated June 30, 2003, staying the service of the writ of execution and directing himself and his staff to go to the U.S. for further reception of evidence; (2) direct bribery when he suspended the writ of execution because defendants offered him free trip to the U.S., with free passport and visa services, free round trip tickets, free hotel accommodations, food and daily allowances for the duration of his stay therein; (3) violation of B.P. Blg. 129 on territorial jurisdiction of the Regional Trial Court when he conducted court sessions in San Francisco, California, U.S.A., from August 27 to September 29, 2003 without authorization from the Supreme Court; (4) violations of Canons of Judicial Ethics (a) for not being studiously careful to avoid even the slightest infraction of the law, and (b) when he accepted the offer of defendants for a free trip with accommodations to the U.S.; and (5) violation of Art. 206 of the Revised Penal Code by issuing an unjust Order dated September 29, 2003 ordering the stay of the execution of the writ in order to gather, receive and appreciate xerox copies of evidence submitted to him in the course of the illegal court session held in the U.S.

Judge Grageda filed his comment which is summarized by the OCA in its Memorandum,[9] as follows:

On the charge of Grave Abuse of Discretion —

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- It is a brazen and wanton lie for the complainant to claim that the defendants offered him free passport and visa services since the same were issued in the normal course of procedures in and by the Department of Foreign Affairs and the US Embassy. His passport was issued on 27 September 1999, three (3) years and eleven (11) months before he conducted proceedings in California, USA, and his visa was granted on 15 May 2000, three (3) years and three (3) months before he conducted said proceedings. Hence, complainant not only brazenly lied, but also committed perjury in stating under oath that the defendants offered him free passport

and visa services;

- He vehemently denies that he made a complete turn-around and ordered a stay of the writ of execution and directed himself and his staff to have a trip to USA in blatant disregard of the rules of court. The complainant did not state what particular rule was violated. On the contrary, the Order dated 30 June 2003 was arrived at by virtue of his authority in the same manner and with the same bases as his other orders and issuances. In fact he cited in his said order the rule and the law supporting his conclusions;

IV. On the charge of Direct Bribery —

- He denies the charge for being baseless;

- He did not order the suspension of the service of the writ of execution, which was in fact served and implemented by the sheriff;

- In support of complainant's claim that the defendants offered him a free trip to USA should he (Judge Grageda) suspend the service of the writ of execution are the pleadings/motions filed by the parties in the subject case, but nowhere in said pleadings/motions could they find support to such claim;

- As a judge, it is his bounden duty to act on all motions. His ruling on the motions filed before him or his orders and issuances are correctible by ordinary appeal or certiorari, which complainant dismally failed;

- His trip to San Francisco was prayed for by the defendants and agreed by the plaintiffs. The reason for said trip is to ferret out the truth regarding the diametrically conflicting claims of the plaintiffs and the defendants as to payment of defendants' obligations to plaintiffs pursuant to the compromise settlement approved by the court. It is his lawful discretion and duty under the law to hold in abeyance the further implementation of the writ of execution to avoid a miscarriage of justice;

V. On the charge of Violation of BP 129 —

- The rationale for the conduct of proceedings in the Philippines Consulate General's Office, San Francisco, California, U.S.A. was explained in full in his Order dated 30 June 2003;

- BP 129 is silent on his conduct of proceedings in the USA, but which conduct of proceedings finds support in the Rules of Court, International Law, and implied in the inherent powers of the court to exercise its discretion in adopting necessary means and procedure to properly resolve issues of facts and law brought up before it in a case subjudice and in so doing, administers justice properly.

VI. On the charge of Violation of the Canons of Judicial Ethics —

- The charge is self-serving. As explained above, he conducted the subject proceedings abroad as part of his faithful and lawful performance of his duties and functions as judge to properly resolve the issues brought before his court in the interest of the proper administration of justice;

- His actions on the motions filed by the parties are correctible only by ordinary appeal or certiorari, which the complainant failed to do. His conduct stands in the absence of modification, correction or reversal by the appellate courts;

- To suit their ends, complainant grossly twisted and misinterpreted his Order dated 18 July 2003, which he is estopped to question because it was issued after due deliberation in court and with the conformity of the parties;

VII. On the charge of Violation of Art. 206 of the Revised Penal Code —

- The charge is self-serving, baseless and erroneous or twisted misinterpretation of his orders primarily because he did not decide Civil Case No. 95-45 on 15 April 2003 and neither did he issue an order to stay the execution

of the writ of execution on 29 September 2003;

- Contrary to complainant's claim, original documents and not mere xerox copies, were the ones presented before him during the proceedings held in San Francisco, California, U.S.A.

In addition, respondent alleges that complainant is an ex-felon and an ex-convict; that complainant is the chairman of an association engaged in nothing more than a pseudo defense of the plaintiffs in Civil Case No. 95-45 promising to protect their interests but demanding a large percentage of their recoverable award from court litigation knowing that such recovery is no longer possible; that complainant has hardly come to court with clean hands.

In its Report, the OCA submitted its findings and recommendation, as follows:

After a careful perusal and evaluation of the parties' respective positions and arguments, together with letter-request of Judge Grageda for authority to conduct proceedings abroad, as well as all the pleadings and documents on record, this Office finds that there are reasonable grounds to hold the respondent administratively liable.

This Office received Judge Grageda's letter dated July 3, 2003, requesting permission to be "on court duty" in connection with an Omnibus Order dated 30 June 2003, which he issued in the subject case. Full text of the said letter is quoted as follows:

Sir,

May I ask your permission to be on court duty pursuant to Omnibus Order in Civil Case No. 95-45, dated 30th June 2003, copy whereof I had caused you to be furnished but for your immediate reference I have hereto appended another copy and/or for leave of absence on my forfeitable leave after the completion of the court duties in accordance with the above-mentioned order to visit relatives, particularly, a daughter in New York I have not seen for the last three (3) years to last not later than August 26, 2003.

Trusting in your esteemed condescension on the matter with my unstinting loyalty and devotion to the service, I am.

Very truly yours,

Jesus L. Grageda (SGD.)
JUDGE

A memorandum dated July 18, 2003 was prepared and submitted by DCA Christopher O. Lock to the Office of Justice Velasco, recommending that:

1. The request of Judge Jesus L. Grageda, RTC, Branch 4, Panabo City, to be "on court duty" while overseeing and monitoring the photocopying, certification, and authentication of the original release and related documents, etc., and to conduct the cross-examination of defendants' witnesses in Houston Texas, U.S.A. relative to the Omnibus Order dated 30 June 2003 in Civil Case No. 95-45, be DENIED;
2. Judge Jesus L. Grageda, RTC, Branch 4, Panabo City, be AUTHORIZED to travel abroad on leave of absence to visit his daughter in New York, U.S.A. from August 11-25, 2003 at no government expense.

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On a follow-up made by Judge Grageda, he was informed that his request will be denied because a Filipino judge has no legal authority to exercise judicial powers and render judicial services outside the Philippine territory. Thus, he filed a letter dated August 11, 2003 asking instead permission to travel to the United States only to visit a

daughter. Full text of said letter-request is quoted as follows:

Sir,

May I ask your permission to travel to the U.S. to visit a daughter using my forfeitable leave from August 26-30, 2003 and from Sept. 1 to 15, 2003 and/or vacation leave.

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Notwithstanding the fact that no authority was given to Judge Grageda to conduct proceedings on the subject cases in the United States, he still proceeded with the evaluation and reception of evidence pertaining to the said cases. Worse, the proceedings were held beyond the period granted him as per travel authority issued by the Office of the Court Administrator. The request for extension of Judge Grageda's leave of absence, filed through his daughter, was denied for not being seasonably filed.

Judge Grageda primarily cites good faith in justifying his conduct of proceedings in the US. In his almost nine (9) years in judicial service, Judge Grageda held a good performance record. In this case, he honestly believed that as a presiding judge over the case, he was mandated by law to resolve the "very difficult issues" in the case before him using "all auxiliary writs, processes and other means necessary" and if the procedure to be followed is not specified by law, he may adopt "any suitable process or mode of proceeding" which appears conformable to the spirit of said law or rules." When Judge Grageda decided to grant defendants' motions for the reception of evidence in the US, it was supposedly in the interest of justice and a relentless pursuit for the truth. To Judge Grageda's credit, it was his earnest desire to resolve the case which, according to him, involves difficult issues and numerous parties. Such good faith mitigates his liability but it does not really absolve him.

Likewise, the charge of Judge Grageda against complainant in the instant administrative matter does not operate to absolve him of administrative liability. Whether or not the allegations against the complainant are true, the fact remains that Judge Grageda acted without authority from the Court when he conducted proceedings in the Philippine Consulate General's Office in San Francisco, U.S.A.

Evidently, for conducting what Judge Grageda himself called as "not-so-usual proceedings," he should be held administratively liable. His actuations, despite his good and honest intentions, created doubts on his impartiality. Although the defendants did not provide for his passport and visa for the trip, he nevertheless benefited therefrom as he was able to travel to the U.S.A. and visit his daughter all expenses paid. This the Honorable Court should not countenance.

RECOMMENDATION: Respectfully submitted for the consideration and approval of the Honorable Court are to (sic) recommendations that:

- The matter be RE-DOCKETED as a regular administrative matter;
- Judge Jesus L. Grageda be suspended for a period of six (6) months for Grave Misconduct in conducting judicial proceedings at the Consulate General's Office in San Francisco California USA, without authority from the Honorable Court.

We agree with the findings and recommendations of the OCA that respondent should be held administratively liable for conducting the proceedings in the U.S. without the Court's approval.

It clearly appears in the records that respondent was granted authority to travel in the U.S. from August 26 to September 15, 2003 for the sole purpose of visiting his daughter. While he did ask the permission of this Court to be on court duty for the photocopying, certification, authentication and submission of all original documents, relative to defendants' claim of payment of the plaintiffs in Civil Case No. 95-45, there is no showing that the

same was granted. In fact, Deputy Court Administrator (DCA) Christopher Lock had submitted to the Court Administrator a memorandum dated July 18, 2003 recommending for the denial of such request. Although, such denial had not been submitted to and passed upon by the Court, respondent wrote another letter requesting permission to travel to the U.S. to visit his daughter using his forfeitable and/or vacation leave from August 26 to September 15, 2003 which was granted by the Court. However, as embodied in respondent's Order dated September 29, 2003, he conducted the proceedings from August 27, 2003 up to September 29, 2003 despite the fact that his authority to go to the U.S. was only to visit his daughter from August 26 to September 15, 2003. From September 16 onwards, he was already absent without leave as his request for an extension made through his daughter in Manila was denied by the Court because the same was not seasonably filed.

Respondent claims that his action in conducting the proceedings in the U.S. was motivated by his honest belief to ferret out the whole truth in very complicated issues. Pertinent portions of the June 30, 2003 Order read:

To reiterate at the core of the pending matter(s) to be resolved is whether or not on the bases of the settlements entered into by the plaintiffs and defendants Shell Oil, DOW & Occidental, Del Monte and Chiquita the former have been paid or have received the monetary proceeds or benefits arising from the said settlements which this Court approved by way of Judgment(s) on Compromise under the milestone omnibus order of December 20, 2002 under which, the plaintiffs moved for execution resulting in the questioned order of April 15, 2003 and the equally questioned writ issued on April 23, 2003.

The Court expected that after issuing the questioned order matters would be put to rest between and among the parties. But it was not meant to be. The expectation has been in vain. For rather than put matters to rest, the questioned stirred, so to say, a hornet's nest. And like aroused killer bees in droves the movant defendant swarmed upon the court's said order.

But this court is amazed at the vehemence and consistency of the movant's arguments before and after the issuance of the questioned order which came to be because the court honestly believed that the lowly plaintiffs' claim that they have not been paid nor received the monetary benefits of the settlements they entered into with the settling defendants was meritorious. And after the issuance of the said questioned order and cognizance of a few documents and reliable testimonies indicating that at least some plaintiffs have already been paid or received monetary benefits from the settling defendants, the Court is no longer so sure about the absolute veracity of the plaintiffs' claim that they have not been paid or received monetary benefits arising from the settlements with the movant defendants. As a result of these developments the court's duty is to dig deep and thoroughly into the matter to ferret out the whole truth which is the sole basis for the validity and integrity of its issuances, the latter, in turn thus becoming potent, because untainted, instruments in the dispensation of impartial justice to the parties . . . [10]

In fine, the court agrees with the movant defendants and holds that the examination of documents to determine their existence, due execution or authenticity is imperative as such examination will supply conclusive answers to the burning questions on whether or not the plaintiffs have been paid, or in the alternative, the defendants have satisfied or complied with their obligations under the settlements or compromise agreements, approved by this court, which they respectively entered into with the plaintiffs.

The approval of the proceedings prayed for by the movant defendants appear [s] to be squarely supported by the following provision of the Rules of Court thus:

"Means to carry jurisdiction into effect — When by law jurisdiction is conferred on a court or a judicial officer, all auxiliary writs, processes and other means necessary to carry it into effect may be employed by such court or officer; and if the procedure to be followed in the exercise of such jurisdiction is not specifically pointed out by law or by these rules, any suitable process or mode of processing may be adopted which appears conformable to the spirit of said law or rules (Sec. 6, Rule 135, Revised Rules of Court in the Philippines, *Italics supplied*)."

WHEREFORE, pursuant to Sect. 6, Rule 135, supra, defendant's Shell Oil's Amended Motion as well as the kindred motions of defendants Del Monte, Chiquita and Dow & Occidental for reception of evidence and or examination, photocopying, authentication . . . etc. of documents, being meritorious are, hereby, GRANTED. Said defendants are ordered to submit to this court for examination. On August 4, 2003 and everyday thereafter until proceedings are completed, all their documentary evidence, to wit: settlement or release documents with the plaintiffs, trust agreements with commercial or banking institutions, payment checks to the latter and/or to the individual plaintiffs with the latter's acknowledgment receipts, authority of certain agents/attorneys to represent the plaintiffs and all other related documents in an appropriate consular office of the Philippines in the United States pursuant to the principle of extra-territoriality, the expenses, facilities, equipment and support personnel to carry out in full the said court proceedings to be borne proportionately by the movant defendants in accordance with their agreement/manifestations, supra, before this court; to expedite the conduct of the said proceedings herein ordered to be undertaken, the defendants are likewise, pursuant to Sec. 3, Rule 15 of the Rules of Court directed to submit supporting affidavits of their witnesses attesting to the factual averments in their respective motion for reconsideration and to furnish plaintiffs with copies thereof within ten (10) days from receipt hereof and said witnesses should be made available for cross-examination in the proceedings to be conducted, as aforesaid, in the United States; action on the motions for reconsideration of the order dated 15th April 2003, and on the "Ex-Parte Motion for Amendment of the Writ of Execution," the further implementation, which to date has been returned by the sheriff, supra, unsatisfied, of the writ of execution and the quashal or recall thereof are held in abeyance or suspended until the said proceedings in the United States shall have been terminated and/or completed. Let copies of this order be immediately served upon the parties for their respective information, guidance and compliance.[11]

Respondent's purpose for his action may be commendable since he wanted to be sure that the contentions of defendant corporations that plaintiffs had already been paid in accordance with their settlement by the proofs of plaintiffs' execution of release and receipt documents. However, the means in which he set his intention cannot have the approval of the Court. It must be remembered that no matter how noble respondent's intention was, he is not at liberty to commit acts of judicial indiscretion. The proceedings conducted by respondent abroad are outside the territorial jurisdiction of the Philippine Courts. He is the Presiding Judge of Branch 4 of the Regional Trial Court for the Eleventh Judicial Region, the territorial jurisdiction of which is limited only to Panabo, Davao del Norte.[12] This Court had not granted him any authority to conduct the proceedings abroad.

Secondly, respondent's reliance on Section 6, Rule 135 of the Rules of Court, i.e., when there is no specific law or rules to carry out court's jurisdiction, he may adopt suitable process or mode to effect the same, to justify his action is unacceptable. Notably, respondent, in his reply to DCA Lock's memorandum, admitted that he asked permission to conduct the proceeding abroad to receive evidence, thus he knew that he must first secure the Court's approval. It bears stressing that cases are decided on the basis of evidence presented before the court, thus it is incumbent upon the party who is to be benefited by such evidence to produce the same, no matter how voluminous and burdensome, in accordance with the rules for the court's appreciation and evaluation. It is not respondent's duty to secure these documents for the defendants, as he is the judge in the pending case and not the counsel of the defendants. Judges in their zeal to search for the truth should not lose the proper judicial perspective, and should see to it that in the execution of their duties, they do not overstep the limitations of their power as laid by the rules of procedure.[13] The Court finds respondent guilty of gross misconduct in conducting the proceedings in the U.S. without the Court's authority.

Complainant further claims that respondent abused his discretion in issuing the Order dated June 30, 2003 approving the reception of defendants' evidence in the U.S. Assuming respondent might have acted in abuse of discretion in issuing the orders complained of, it does not necessarily follow that he acted in bad faith. Abuse of discretion by a trial court does not necessarily mean ulterior motive, arbitrary conduct or willful disregard of a litigant's rights.[14] As held in *Balsamo vs. Suan*,[15] we held:

. . . [A]s a matter of policy, in the absence of fraud, dishonesty or corruption, the acts of a judge in his judicial capacity are not subject to disciplinary action even though such acts are erroneous. He cannot be subjected to liability — civil, criminal or administrative — for any of his official acts, no matter how erroneous, as long as he acts in good faith. In such a case, the remedy of the aggrieved party is not to file an administrative complaint against the judge but to elevate the error to the higher court for review and correction. The Court has to be shown acts or conduct of the judge clearly indicative of arbitrariness or prejudice before the latter can be branded the stigma of being biased and partial. Thus, not every error or mistake that a judge commits in the performance of his duties renders him liable, unless he is shown to have acted in bad faith or with deliberate intent to do an injustice. 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.

Complainant likewise charges respondent of bribery when he ordered the suspension of the service of the writ of execution after he was allegedly offered by the losing party defendants a free trip to the U.S. for the reception of further evidence despite plaintiffs' vehement opposition. We find such claim as mere conjecture. Notably, after the issuance of the writ of execution on April 23, 2003, the sheriff implemented it the following day by serving notices of garnishment to the head offices of the various banks operating in the country based in Metro Manila. However, these banks replied that defendants have no assets with them subject for garnishment, thus the writ of execution was returned unsatisfied.[16] Defendant corporations filed several motions for reconsideration of the order of execution and to quash the writ of execution. Respondent, after reviewing those motions, admitted that he was no longer sure on the claims of plaintiffs that they had not been paid arising from the compromise settlement from the defendants specially since the defendants have shown prima facie bases that they have documentary evidence tending to prove that they have satisfied their obligations under the compromise agreement. Respondent honestly believed that there was a need for further reception of defendants' documentary evidence proving payment thereof, thus, he granted defendants' motion for reception of evidence where the expenses for such trip will be proportionately shared by the defendant corporations as manifested. Clearly, respondent ordered the suspension of the further implementation of the writ of execution only after the same was returned unsatisfied and because he was no longer sure of the validity and integrity of such issuance; and not because he was offered a free trip to the U.S. It just so happened that the documentary evidence which would prove payment is in the U.S., hence defendants prayed for the reception of evidence in the U.S. and offered to defray the expenses. Respondent approved the conduct of the judicial proceedings abroad which, however, is improper for being outside of his court's territorial jurisdiction and without the court's approval.

Notably, respondent, in implementing his Order dated June 30, 2003 for the reception of evidence in the U.S., issued another Order dated July 18, 2003, where he stated among others, the persons who will represent the plaintiffs which included plaintiffs' counsel and herein complainant, whose travel and accommodation expenses for the trip shall also be jointly shouldered by the defendants. Although plaintiffs' counsel did not attend the proceedings, records show that he received the said order since he even filed a motion to include his wife as a member of the plaintiffs' party. Clearly, respondent's action showed that he wanted all the parties to be represented and given the chance to examine the documents and ferret out the truth.

Complainant charges respondent of violating Canon 22 of Judicial Ethics which provides that the judge should be studiously careful himself to avoid even the slightest infraction of the law, lest it be demoralizing example to others. He contends that respondent violated the Canon when he conducted an illegal court session in the U.S. Although respondent erroneously conducted the proceedings abroad, we find that his action was done in good faith. He was of the honest belief that it was sanctioned by law.

Complainant further accuses respondent of violating Section 29 of Canons of Judicial Ethics which states that he should not accept any presents or favors from litigants or from lawyers practicing before him. He claims that

respondent accepted the offer when he issued the Orders dated June 30, 2003 and July 18, 2003 directing himself and his staff to go to the U.S. for the reception of evidence. Again, the charge is baseless. Records show that respondent indeed went to the U.S. for the purpose of receiving the evidence of the defendants. In his Compliance to DCA Lock's Memorandum dated October 27, 2003 directing him to explain (1) why he conducted the court proceedings in the U.S. without authority from the Court and while he was on leave, and (2) pointing out that his travel authority was from August 26, 2003 to September 15, 2003 thus after September 15, 2003 he was considered AWOL, respondent submitted the following explanations, thus:

As early as 3 July 2003, I wrote a letter to the Hon. Presbitero J. Velasco, our indefatigable and esteemed Court Administrator, asking permission to conduct the proceedings. But, unfortunately, in my honest recollection, I did not receive any information that action, whether favorable or not, was taken on my request. When the period determined in the said orders came about, things having been set irretrievably in motion with all parties notified and preparations in the chosen venue done, I did travel to San Francisco, California, U.S.A. and conducted the proceedings in the Consulate General's Office of the said place by virtue of my duties and functions as presiding Judge over the said case. I did so in good faith and in the clear honest belief that as the sole judge over the said case I am, exclusively, in the first instance, absent any superior court's prohibition, called upon and mandated by law to resolve very difficult issues, as said above, brought up before me. I also honestly believe that as the sole judge over the said case I was indubitably vested by law not only with incidental but express powers or authority to successfully perform my job, however difficult, in the said case. I also honestly believe that I would be held accountable if I did not act either way while indubitably empowered by law with the exclusive discretion and authority to do so and, finally, I honestly believe that it is for such mandatory performance of duties and functions that I was duly appointed judge, qualified and invested by law with the necessary powers and authority to perform judicial duties, which modesty aside, with the guiding hand of the Almighty I exactly did to the best of my ability and without blemish in the more than eight (8) years now that I have served the judiciary in the capacity of RTC judge.

With due respect, let me stress that I was thousands of miles away in San Francisco, California, U.S.A. It was thus nigh impossible for me to personally file or execute a written application for the extension of my leave of absence. The only way I thought would be feasible under the circumstances to effectively reach the OCA was to ask, by texting mode over a cellphone, the help of no less than a daughter of mine, namely, Sheila Marie Grageda-Florendo, a Clerk III in Branch 47 of the RTC in Manila to do the errand for me. At first my said daughter was reluctant to do my bidding but I told her: "go to the OCA and request an extension of my leave of absence. Identify yourself as my daughter and because you are my daughter they will believe you.

My said daughter did go to the OCA in accordance with my instructions. But she was informed that my request was late because a request for an extension of a leave of absence had to be filed ten (10) days before expiration of the original period of allowed leave of absence of the applicant. In the face of such peremptory information from a person in the OCA my daughter easily lost heart at the requirement of "ten-days before" and thus, I failed to get an extension of my leave of absence. But I was in San Francisco not on a vacation, in mid-stream drowned at hard work and compelled to proceed with the work until terminated as envisioned in the said order, *supra*, dated 30 June 2003.

Thus, definitely I had attempted to secure an extension from the OCA of my leave of absence but such attempt was, unfortunately unsuccessful due to an unexpected confluence of events and circumstances occasioned principally by pressure of work aggravated by distance from the OCA.[17]

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With due respect, may I say that the proceedings I presided over as a judge in San Francisco were done purely along the lines of duty and in furtherance of justice. While admittedly unprecedented, such proceedings, as said above, were necessary for the resolution of very difficult and intractable issues raised by the parties in the said Civil Case No. 95-45 pending before my sala.

However, in embarking on the pursuance of such proceedings abroad I realized and regret in full that I may have incurred shortcomings, such as my unsuccessful attempt to secure an extension of my leave of absence pursuant to the usual regulation of the OCA.[18]

Respondent performed his duties and conducted the proceedings abroad as evidenced by his Order dated September 29, 2003, to wit:

. . . From August 27, 2003 up to now, September 29, 2003, the court performed exactly the job it set out to do by virtue of the said orders.[19]

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In the course of the proceedings, the defendants called to the witness stand to testify on various pending issues no less than twelve (12) witnesses, in the following order, namely Michael L. Brem, Fred Misko, Jr., Richard Burt Ballanfant, D. Ferguson McNeil, Rue Lynn Allen, retired Supreme Court of Texas Judge Ruby Kless Sondock, Laureen Suba, Beth Defenbaugh, Mickey M.A. Mills, Samuel E. Stubbs, Robert Greig, and Stephen Ostrowski, six (6) of whom are besides counsel or representatives of the defendant corporations faithfully performing specific tasks for the respective defendants. They hailed from as far as New York City and Dallas and Houston, Texas. In particular, said witnesses, under the direction and control of the respective defendants' Philippine counsel brought to the Court tens of boxes of voluminous documents in their original and photocopies, the latter for marking as exhibits and for viewing, inspection, and authentication by the Court vis-a-vis their respective originals, which the Court, through the undersigned, meticulously, in fact, viewed, inspected, noted, authenticated, box after box, volume after volume, page after page, entry upon entry, signature after signature, particularly and painstakingly leaving nothing to chance, even a speck, color, condition of the documents, or any discrepancy in spelling of names and initials, with decided, deliberate and purposeful rigorous scrutiny of the said documents in the faithful performance of the task of properly authenticating them, the *raison d'être* for the Court's repairing (sic) to this venue in the Consulate General's Office of San Francisco, California, U.S.A.

The Court, after crossing the ocean from the Philippines and coming to the friendly shores of San Francisco, fully realized the magnitude of the task it was duty-bound to do. In the best interest of truth as the only sound basis for the proper administration of justice, after it has duly authenticated each and every photocopy of the documents consisting of Compromise Agreements, Hold Harmless Agreements, and Releases in Full and receipts of the settlement proceeds by the plaintiffs from the defendant corporations, Shell Oil, Dow and Occidental, Del Monte defendants and the Chiquita defendants, drafts, checks, and microfiche copies including 23 other releases and drafts for the plaintiffs whose status as parties in the above-entitled case is not clear now, but *ad cautelum*, have been provisionally received and/or admitted by the Court to preclude the need for the Court to repair(sic) back to this venue in case those individuals are indeed plaintiffs in the above-entitled case.

The Court also, viewed the originals and authenticated the photocopies of the following documents: consisting of affidavits of witnesses, five (5) separate and distinct Compromise Agreements of Shell, Dow, Occidental, Del Monte and Chiquita, First Amendment to the Compromise Agreement (Shell, Dow, Occidental), trust Agreements, Court records pertaining to the probate of the Trust Agreement (Shell, Dow and Occidental), the Releases in Full for the manufacturers Dow, Occidental and Shell, the Releases in Full of Chiquita and the Releases in Full of the Del Monte defendants, the checks and drafts, including microfiche copies and bank certificates, the bank documents pertaining to the deposit of the settlement amounts of the respective settling defendants Dow, Occidental, Shell, Chiquita and Del Monte, and related documents thereto.

In addition, consularized affidavits attached to faithful copies of statutes and cases were also received and marked as exhibits to prove the applicable Texas law.

Finally, also received and marked as exhibits were hundreds of settlements statements and payment vouchers containing photographs of the settling plaintiffs contained in two (2) boxes sent by Fred Misko to Samuel

Stubbs and received by the latter while he was testifying in Court on September 23, 2003. Also in the said boxes were photocopies of retainer agreements executed by the plaintiffs and according to the testimony of Fred Misko, the originals thereof are in the possession of Atty. Renato Ma. Callanta. Fred Misko also sent a copy of the Final Judgment rendered by the Texas Court in the RICO case he filed against Atty. Macadangdang, DCAI, Alberto Lanohan and Edgardo Maquiran, without prejudice to proper authentication in the future.[20]

Considering that respondent went to the U.S. for the purpose of conducting the proceedings, his travel was paid for by the defendant corporations pursuant to his June 30, 2003 Order wherein it was provided that the expenses, facilities, equipment and support personnel who would carry out in full the court proceedings in the U.S. shall be borne proportionately by the defendants as manifested by them. Thus, the payment of respondent's expenses for the U.S. trip cannot be considered as acceptance of favors.

Based on the foregoing, it would appear that respondent's intention in going to the U.S. was really for the purpose of conducting the proceedings in the Consulate Office and he merely used the reason of visiting his daughter to be granted a travel authority. His travel authority to visit his daughter was granted from August 26 to September 15, 2003, and as soon as he was in the U.S., he started conducting the proceedings from August 27 to September 29, 2003.

Finally, complainant also charges respondent of knowingly rendering unjust judgment under Art. 206 of the Revised Penal Code, which constitutes a serious charge under Section 8, Rule 140 of the Rules of Court,[21] for his Orders dated June 30, 2003 and September 29, 2003. We find the same devoid of merit. As a rule, the acts of a judge which pertain to his judicial functions are not subject to disciplinary power unless they are committed with fraud, dishonesty, corruption or bad faith. To hold otherwise would be to render judicial office untenable, for no one called upon to try the facts or interpret the law in the process of administering justice can be infallible in his judgment.[22] While respondent issued the Order dated June 30, 2003 for the reception of evidence in the U.S. and the Order dated September 29, 2003, which may not be in accordance with the rules, it cannot be a basis for administrative action under this charge since there was no showing that he intentionally and willfully rendered it knowing it to be unjust. The failure of respondent to correctly interpret the law does not render him administratively liable. The ruling in *Basa Air Base Savings & Loan Association, Inc., vs. Judge Gregorio G. Pimentel, Jr.*,[23] is instructive:

A charge of knowingly rendering an unjust judgment constitutes a criminal offense. The keyword in said offense is "knowingly." Thus, the complainant must not only prove beyond reasonable doubt that the judgment is patently contrary to law or not supported by the evidence but that it was also made with deliberate intent to perpetrate an injustice. A judge's mere error in the interpretation or application of the law per se will not warrant the imposition of an administrative sanction against him for no one is infallible. Good faith and absence of malice, corrupt motives or improper consideration are sufficient defenses that will protect a judicial officer from the charge of rendering an unjust decision.

Moreover, the alleged error committed by respondent in issuing the subject Orders pertains to the exercise of his adjudicative functions. Such error cannot be corrected through administrative proceedings but should instead be assailed through judicial remedies.[24] As held in *Flores vs. Abesamis*:[25]

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 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 action 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.

Flores resorted to administrative prosecution (or institution of criminal actions) as a substitute for or supplement to the specific modes of appeals or review provided by law from court judgments or orders, on the theory that the Judges' orders had caused him "undue injury." This is impermissible, as this Court has already more than once ruled. Law and logic decree that 'administrative or criminal remedies are neither alternative nor cumulative to judicial review where such review is available, and must wait on the result thereof'. 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 dispositions 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 the 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.

As earlier stated, it is the act of respondent in conducting the judicial proceedings abroad without authority from the Court that constitutes gross misconduct for which he should be administratively liable. Under Section 11, Rule 140 of the Rules of Court, gross misconduct is a serious charge punishable by dismissal from the service; suspension from office without salary and other benefits for more than three (3) but not exceeding six (6) months; and a fine of more than P20,000.00 but not exceeding P40,000.00. The fact that this is respondent's first offense in his 9 years of judicial service with a good performance record is a mitigating circumstance. Hence, we find that suspension for six months without salary and other benefits is a just penalty to impose upon respondent.

WHEREFORE, finding respondent Judge guilty of gross misconduct, he is hereby **SUSPENDED** from the service for six (6) months without salary and other benefits. He is **WARNED** that the commission in the future of the same or similar acts shall be dealt with more severely.

SO ORDERED.

Puno (Chairman), Callejo, Sr., Tinga, and Chico-Nazario, JJ., concur.

[1] Dated November 18, 2003; Rollo, pp. 2-7.

[2] Cecilio G. Abeñon, et al. vs. Shell Oil Company, et al.

[3] Rollo, pp. 10-32.

[4] Id., pp. 35-53.

[5] Id., pp. 58-59.

[6] Id., pp. 121-133.

[7] Id., p 1310.

[8] Id., pp. 136-141.

[9] Id., at pp. 1428-1434.

[10] Id., at pp. 127-128.

[11] Id., pp. 131-133.

[12] Sections 18 and 14(l) of B.P. Blg. 129.

[13] Queto vs. Catolico, 31 SCRA 52, 58 (1970).

[14] Evangelista vs. Baes, 61 SCRA 475, 480 (1974).

[15] 411 SCRA 189, 200 (2003).

[16] Rollo, p. 485.

[17] Rollo, pp. 1282-1283.

[18] Id., pp. 1286-1287.

[19] Id., p. 135.

[20] Id., pp. 136-138.

[21] Section 8. Serious charges. — Serious charges include:

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4. Knowingly rendering an unjust judgment or order as determined by a competent court in an appropriate proceeding;

[22] Sacmar vs. Reyes-Carpio, 400 SCRA 32, 35. (2003).

[23] 387 SCRA 542, 547 (2002).

[24] Bello III vs. Diaz, 412 SCRA 573, 578 (2003).

[25] 275 SCRA 302 (1997).

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