

DEUTSCHE BANK MANILA, PETITIONER, VS. SPOUSES CHUA YOK SEE AND REBECCA SEE, JOMIRA CORPORATION, F.E.E. INTERNATIONAL PHILIPPINES, INC., JOSEFINA LIM, LUCITA L. KHO, AND LILY L. ...

G.R. NO. 165606. February 06, 2006

Ponente: CALLEJO, SR., J.

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CALLEJO, SR., J.:

Before us is a petition for review of the Decision[1] of the Court of Appeals (CA) in CA-G.R. SP No. 82912 which dismissed the petition for certiorari filed by petitioner Deutsche Bank Manila assailing the Order[2] of the Regional Trial Court of Makati, Branch 57.

The case arose from the following antecedents:

On January 15, 1998, Deutsche Bank (Manila) filed a complaint for Sum of Money and Damages against spouses Chua Yok See and Rebecca See, Jomira Corporation, F.E.E. International Philippines, Inc., Josefina Lim, Lucita L. Kho and Lily Co with the Regional Trial Court (RTC) of Makati.[3] The complaint was docketed as Civil Case No. 98-109 and raffled to Branch 57 of the Makati RTC, which was then presided by Judge Bonifacio Sanz Maceda.

The complaint alleged, inter alia, that the defendants dealt in US:P F/X Forwards with and through the plaintiff. The latter was given a Cut-Loss Order to close, on a best effort basis, their F/X Forward positions once the exchange rate hit P26.45:\$1.00. On July 11, 1997, the peso suddenly depreciated against the US dollar, and due to the highly volatile and illiquid conditions of the foreign exchange market at the time, the plaintiff was only able to implement the Cut-Loss Order on July 15, 1997 at the average closing rate of P30.43:\$1.00. Consequently, the defendants incurred a total loss of P45,812,240.00. In accordance with the security arrangement between the parties, the plaintiff applied the defendants' deposits in the Hold-Out Accounts to pay for the loss. According to the plaintiff, there remained an unpaid amount of P11,251,032.47. Despite demands, the defendants failed to pay the said amount and even denied having made any investments in US\$:P F/X Forwards with and through the plaintiff.[4]

The plaintiff prayed that, after due proceedings, judgment be rendered in its favor, as follows:

- (a) Ordering defendants See Spouses and Jomira, jointly and solidarily, to pay Plaintiff Bank the amount of P4,551,116.49, plus legal interest, as actual damages;
- (b) Ordering defendants See Spouses and F.E.E., jointly and solidarily, to pay Plaintiff Bank the amount of P4,245,777.46, plus legal interest, as actual damages;
- (c) Ordering defendants Lim, Kho and Co, jointly and solidarily, to pay Plaintiff Bank the amount of P2,454,138.52, plus legal interest, as actual damages;

(d) Ordering all the defendants, jointly and solidarily, to pay Plaintiff Bank the amount of P5,000,000.00 as exemplary damages;

(e) Ordering all the defendants, jointly and solidarily, to pay Plaintiff Bank the amount of P500,000.00 as and for attorney's fees;

(f) Ordering all the defendants, jointly and solidarily, to pay the costs of suit; and

(g) Granting the Plaintiff Bank all other reliefs just and equitable under the premises.[5]

In their Answer, the defendants interposed the following affirmative defenses:

4.1. The contracts upon which plaintiff's claims are based are unenforceable under:

(a) The Statute of Frauds; and/or

(b) Articles 1317 and 1403 (1) of the New Civil Code, which provide:

"Art. 1317. No one may contract in the name of another without being authorized by the latter, or unless he has by law a right to represent him.

A contract entered into in the name of another by one who has no authority or legal representation, or who has acted beyond his powers, shall be unenforceable, unless it is ratified, expressly or impliedly, by the person on whose behalf it has been executed, before it is revoked by the other contracting party.

x x x

"Art. 1403 (1). The following contracts are unenforceable, unless they are ratified:

(1) Those entered into in the name of another person by one who has been given no authority or legal representation, or who has acted beyond his powers.

x x x"

4.2. Plaintiff has no cause of action against the defendants.

4.2.1.

Defendants have never entered into US\$:Peso F/X Forward Transactions with plaintiff. Neither does plaintiff have the authority to deal in US\$ F/X Forward transactions in behalf of the defendants, particularly those which are the subject of this suit.

4.2.2.

Plaintiff has no basis to hold defendants liable to pay the losses supposedly incurred as a result of entering into the US\$:Peso F/X Forward transactions which are the subject of this suit.

4.2.3.

Plaintiff has no basis, in law or contract, to offset losses supposedly incurred by defendants on US\$:Peso F/X forward transactions against the accounts of defendants Jomira, FEE and the Lim Sisters.

4.2.4.

Plaintiff has no cause of action to hold defendants Chua Yok See and Rebecca See liable for any obligation incurred by defendants JOMIRA and FEE.[6]

They prayed that, after due proceedings, judgment be rendered in their favor, as follows:

- (1) Ordering plaintiff to pay the defendants the following amounts, representing their principal obligation P33,940,014.00 and US\$494,950.27 covering the amount of the deposits plus interest;
- (2) Ordering plaintiff to pay defendants the amount of P28 Million as actual damages;
- (3) Ordering plaintiff to pay defendants P35 Million by way of moral damages and damage to defendant corporations' goodwill;
- (4) Ordering plaintiff to pay defendant at least P35 Million by way of exemplary damages;
- (5) Ordering plaintiff to pay defendant at least P1 Million as and for attorney's fees and expenses of litigation; and
- (6) Ordering the plaintiff to pay the costs of the suit.

Defendants pray for such other relief as may be deemed just and equitable.[7]

Before pre-trial, Judge Reinato G. Quilala replaced Judge Bonifacio Sanz Maceda as the Presiding Judge of Branch 57. On June 22, 1999, Judge Quilala issued a Pre-Trial Order.[8]

Trial ensued. The plaintiff adduced documentary evidence marked as Exhibits "A" to "KKKKKKKK" and their sub-markings. After the presentation of its witnesses, the plaintiff offered its documentary evidence praying that –

x x x the foregoing documentary exhibits be admitted for the purposes for which they are offered and as part of the testimonies of the witnesses of Plaintiff Deutsche Bank Manila particularly:

- (a) Michael S. Chua;
- (b) Carrie S. Tan;
- (c) Manuel G. Ah Yong, Jr.;
- (d) Luz R. Par;
- (e) Soccoro I. Calixto;
- (f) Eduardo Manansala; and
- (g) Atty. Patricia-Ann T. Prodigalidad.

Deutsche Bank prays for such further or other relief as may be just and equitable under the premises.[9]

The defendants filed their Objections/Comments to the Plaintiff's Formal Offer of Documentary Evidence.[10] On April 30, 2003, the trial court issued an Order pertaining to the documentary evidence of the plaintiffs and indicating the reasons for the denial or admission thereof:

- Exhs. "A", "A-1" to "A-8" and sub-markings denied admission for being hearsay and self-serving. Said exhibits appear to be immaterial and irrelevant as said defendants SEE's Account No. 1071190 relative to which Exhibit "A" was prepared has already been closed by defendants prior to the subject F/X transactions;
- Exhs. "B", "B-1" to "B-4" are DENIED admission for being irrelevant and immaterial as defendants SEE's Account No. 1071190 was closed by said defendants prior to the subject F/X Transactions;
- Exhs. "C", "C-1" to "C-2" are DENIED admission as the handwritten Summary of alleged F/X Transactions of defendants See covering the period 11 October 1996 to February 1998 are self-serving, immaterial and irrelevant to the subject FX transaction which were made in their personal capacities are not the subject of the instant case.

- Exhs. "D", "D-1" to "D-2" and their sub-markings; Exhs. "UU", "UU-1" to "UU-6"; "VV", "VV-1" to "VV-4" are admitted there being no objection to their admission;
- Exhs. "E", "E-1" to "E-5" are admitted there being no objection to their admission;
- Exhs. "F", "F-1" to "F-10", Exhs. "XX", "XX-1"; Exhs. "YY", "YY-1" to "YY-3"; Exhs. "ZZ" to "ZZ-2"; Exhs. "AAA", "AAA-1", "BBB", "BBB-1" to "BBB-3", "CCC", "CCC-1" to "CCC-5" are admitted there being no objection to their admission;
- Exhs. "G", "G-1" to "G-4" are denied admission for being hearsay and self-serving;
- Exh. "H" and sub-markings, which is the unsigned Summary of the alleged F/X Transaction of FEE Enterprises covering the period of 2 December 1996 to 16 May 1997 is denied admission for being self-serving, immaterial and irrelevant to the subject FX transactions;
- Exh. "I" which is the unsigned Summary of the alleged F/X transactions of FEE covering the period 30 May 1997 to 4 August 1997 is denied admission for being self-serving. Said Exhibit does not support the purposes of the offer.
- Exhs. "J", "J-1" to "J-3", are denied admission for being hearsay and self-serving;
- Exhs. "K", "K-1" to "K-4", "L", "L-1" to "L-4" are denied admission as the said exhibits relative to defendants SEE's account number 1071190 has already been closed prior to the subject F/X Transactions;
- Exhs. "M", "M-1" to "M-6", "O", "O-1" to "O-8" are denied admission for being hearsay and for being self-serving and said exhibits do not support the purposes of the offer;
- Exh. "N" is denied admission for being self-serving and said exhibits does not support the purposes of the offer; and immaterial and irrelevant to the subject F/X transactions;
- Exhs. "P" to "P-1" is (sic) admitted there being no objection to their admission.
- Exhs. "Q", "Q-1" to "Q-8" are denied for being hearsay, self-serving and irrelevant as said exhibits do not support the purposes of the offer;
- Exhs. "R", "R-1" are denied admission for being self-serving as said exhibits do not support the purposes of the offer. Also, said exhibits appear to be immaterial and irrelevant to the subject F/X transactions;
- Exhs. "S", "S-1" to "S-2" are denied admission for being irrelevant to the subject F/X Transactions;
- Exhs. "T", "T-1" to "T-4" are admitted subject to the defendants' objections/comment thereon;
- Exhs. "U", "U-1" to "U-16" are admitted noting, however, defendants' objection/comment thereto;
- Exh. "V" is admitted noting, however, the defendants' objection/comment thereto;
- Exhs. "W", "W-1" to "W-6" are admitted, noting, however defendants' objection/comment thereto;
- Exh. "X" is denied admission for being self-serving as said exhibits on its face was not addressed to defendants See in their representative capacities;
- Exhs. "Y", "Z", "AA", "AA-1", "BB", "EE", "FF", "GG" are denied admission for being self-serving as defendants neither entered nor authorized plaintiff to enter into the subject F/X transactions;
- Exhs. "CC", "DD" are denied admission for being self-serving, immaterial and irrelevant as the defendants Lim sisters have not entered into nor did they authorize plaintiff to enter into the subject F/X Transactions in April and May 1997;

- Exhs. "HH", "HH-1" to "HH-3" are denied admission for being irrelevant as Acct. No. 1071190 has been closed by defendant SEE prior to the subject F/X Transactions;
- Exhs. "II", "0II-1" to "II-4", "JJ", "JJ-1" to "JJ-3", "KK", "KK-1" to "KK-4" are denied admission for being immaterial, irrelevant as the signing by defendants of the said pro-forma exhibits did not exempt the plaintiff from sending a confirmation receipt covering an F/X Transactions to the defendants for their conformity nor did it authorize plaintiff to execute F/X transactions for and in behalf of the defendants without their consent and authority;
- Exhs. "LL", "LL-1" to "LL-2"; "MM", "MM-1" to "MM-3" are denied admission for being irrelevant and immaterial as the instant case does not involve an issue about facsimile order and instruction made by the defendants; Further, Account Number 1071190 of defendants SEE, to which Exh. "LL" was executed, was closed by said defendants prior to the subject F/X transactions;
- Exhs. "NN", "NN-1" to "NN-4", "QQ", "QQ-1" to "QQ-2" and sub-markings, "TT", "TT-1" to "TT-2" and sub-marking; Exhs. "HHH", "HHH-1" to "HHH-3" are admitted, noting however the defendants' objections/comment thereto;
- Exhs. "OO", "OO-1" to "OO-5", "PP", "PP-1" to "PP-3" are denied admission for being immaterial, irrelevant as said exhibits relative to defendants' SEE account number 10771190 (sic) was closed by said defendants prior to the subject F/X transactions;
- Exhs. "DDD", "DDD-1" to "DDD-13" and sub-markings are admitted noting however the defendants' objections/comments thereto;
- Exhs. "RR" to "RR-6", "RR-5-A" are denied admission for being irrelevant and immaterial;
- Exhs. "SS", "SS-1" are denied admission for being immaterial, irrelevant, to the subject F/X transactions, plaintiff is not suing for alleged losses arising from the F/X transaction made by defendants See in their personal capacity.
- Exhs. "WW", "WW-1" to "WW-2", "WW-1-A" are denied admission for being self-serving, immaterial and irrelevant and the said exhibits does not support the purposes of the offer.
- Exhs. "EEE", "EEE-1" are denied admission for being self-serving as defendant Chua Yok See did not give a stop loss order and Take Profit Order to the plaintiff for the simple reason that defendants have not authorized, nor did they enter into the subject F/X transactions;
- Exhs. "FFF", "FFF-1", "GGG", "GGG-1" to "GGG-3" are denied admission for being self-serving, immaterial to the subject F/X transactions;
- Exhs. "III", "JJJ", "KKK", "LLL", "MMM", "NNN", "OOO", "OOO-1" to "OOO-7", "NNNNNN", "OOOOOO", "PPPPPP" are admitted, noting however the defendants' objections/ comments thereto.
- Exhs. "PPP", "PPP-1", "QQQ", "RRR", "RRR-1", "SSS", "SSS-1" are denied admission for being immaterial and irrelevant to the subject F/X transactions;
- Exhs. "TTT", "UUU", "VVV", "WWW", "XXX", "YYY", "ZZZ", "AAAA", "IIII", "JJJJ", "KKKK", "LLLL", "MMMM", "NNNN", "OOOO", "PPPP", "QQQQ", "RRRR", "SSSS", "TTTT", "UUUU", "VVVV", "WWWW", "XXXX", "YYYY", "ZZZZ", "AAAAA", "BBBBB", "CCCC", "DDDD", "EEEE", "FFFF", "GGGG", "HHHH", "IIII", "JJJJ", "KKKK", "MMMM", "NNNN", "OOOO", "PPPP", "QQQQ", "RRRR", "SSSS", "TTTT", "UUUU", "VVVV", "WWWW", "XXXXX", "YYYYY", "ZZZZ", "AAAAA", "BBBBB", "FFFFFF", "GGGGG", "HHHHH" are denied admission for being irrelevant as the said exhibits are grossly insufficient to show the completion of the subject F/X transactions;

- Exhs. "IIIIII", "JJJJJJ", are denied admission for being immaterial and irrelevant as the said exhibits are grossly insufficient to prove the existence of the subject F/X transactions;
- Exh. "BBBB", "CCCC", "DDDD", "EEEE", "FFFF", "GGGG", "HHHH", "MMMMMM" are denied admission for being grossly insufficient to prove the existence of the subject F/X Transactions;
- Exhs. "LLLLL", "CCCCC", "DDDDDD", "EEEEEE", are denied admission for being grossly insufficient to prove the existence of the subject F/X transactions;
- Exhs. "KKKKKK", "LLLLL", are denied admission for being grossly insufficient to prove the existence of the subject F/X Transactions;
- Exh. "QQQQQQ" is denied admission for lack of confirmation receipt to support the said F/X transactions;
- Exhs. "RRRRRR", "RRRRRR-1", "RRRRRR-2" are denied admission as it appears that the act of plaintiff in debiting the account of JOMIRA to settle the alleged losses from the subject F/X transactions was unauthorized and without factual and legal basis;
- Exh. "SSSSSS" is denied admission for lack of confirmation receipt to support the said F/X transactions;
- Exhs. "TTTTTT", "UUUUUU" are denied admission for lack of confirmation receipt to support the said F/X transactions;
- Exhs. "VVVVVV", "WWWWW", are denied admission for lack of confirmation receipt to support the said F/X transactions;
- Exhs. "XXXXXX", "YYYYYY", "ZZZZZ", "AAAAAAA", "BBBBBBB", "CCCCCCC" are denied admission for lack of confirmation receipt to support the said F/X transactions;
- Exhs. "DDDDDDD", "EEEEEEE", are admitted, noting however the defendants'½ objections/comments thereto;
- Exhs. "FFFFFFF", "GGGGGGG", are denied admission for lack of confirmation receipt to support the said F/X transactions;
- Exhs. "HHHHHHH", "IIIIII", "JJJJJJ", "KKKKKKK", are denied admission as plaintiff has no basis to match the subject F/X transactions.

SO ORDERED.[11]

The plaintiff filed a motion for the reconsideration[12] of the Order and an Omnibus Motion: (1) to Inhibit; and (2) to Defer Resolution of the Motion for Reconsideration.[13] In support of its motion, the plaintiff alleged that:

THE HONORABLE PRESIDING JUDGE'S CLEAR AND CATEGORICAL, ALBEIT ERRONEOUS PRONOUNCEMENTS, IN HIS ORDER DATED 30 APRIL 2003 SHOWS [sic] BIAS AND PARTIALITY, AND CONSTITUTES [sic] A PREJUDGMENT OF THE CASE.[14]

The defendants opposed the motions of the plaintiff.[15] On September 5, 2003, the court issued an Order denying the omnibus motion, and granting the plaintiff's motion for reconsideration, thus:

Clearly, the Court's duty to decide the instant case "without fear of repression" cannot be overturned by an unproven speculation of bias and prejudice. The Court, therefore, cannot inhibit itself from hearing the instant case.

Thus, there is no cogent reason to defer the resolution of plaintiff's Motion for Reconsideration.

After a consideration of the grounds relied upon by plaintiff in its Motion for Reconsideration, the Court finds

reason to set aside its Order dated 30 April 2003.

WHEREFORE, plaintiff's OMNIBUS MOTION TO INHIBIT AND DEFER RESOLUTION is hereby denied for lack of merit, while plaintiff's MOTION FOR RECONSIDERATION is hereby granted. All the documentary exhibits of plaintiff are hereby ordered admitted as part of the testimonies of the witness who testified thereon.

SO ORDERED.[16]

The plaintiff filed a motion for the partial reconsideration of the trial court's Order praying that:

WHEREFORE, plaintiff Deutsche Bank respectfully prays this Honorable Court reverse its 5 September 2003, insofar as it denied Deutsche's Motion to Inhibit dated 4 June 2003, and admitted Deutsche's documentary exhibits, only as part of the testimony of the witnesses and, consequently, the Honorable Presiding Judge Reinato G. Quilala voluntarily disqualify and/or inhibit himself from trying and deciding this case; and all of Deutsche's documentary exhibits be admitted for the purposes for which they are offered, and as part of the testimonies of its witnesses.

Deutsche Bank prays for such further or other relief as may be just and equitable.[17]

The court denied the motion in its Order[18] dated January 7, 2004.

The plaintiff, now the petitioner, filed a petition for certiorari with the CA, contending that:

I

THE RESPONDENT JUDGE COMMITTED GRAVE ABUSE OF DISCRETION, AMOUNTING TO LACK OR EXCESS OF JURISDICTION, IN NOT INHIBITING HIMSELF FROM THE CASE CONSIDERING THAT THE EXPLICIT AND CATEGORICAL DECLARATIONS OF THE RESPONDENT JUDGE IN HIS ORDER DATED 30 APRIL 2003 CLEARLY SHOW BIAS AND PARTIALITY AND CONSTITUTE A PREJUDGMENT OF THE CASE.

II

THE RESPONDENT JUDGE COMMITTED GRAVE ABUSE OF DISCRETION, AMOUNTING TO LACK OR EXCESS OF JURISDICTION, IN ONLY ADMITTING THE DOCUMENTARY EXHIBITS OF PETITIONER AS PART OF THE TESTIMONIES OF THE WITNESSES WHO TESTIFIED THEREON.[19]

In support of the second assigned error, the petitioner made the following allegations:

6.13 In its Motion for Reconsideration of the 30 April 2004 Order, petitioner moved that all of its documentary exhibits be admitted for the purposes stated in the offer, and as part of the testimonies of its witnesses. Petitioner also called attention to the fact that there is no basis for the denial of said exhibits, particularly since the reasons cited by the respondent Judge are not addressed to the admissibility of evidence, but rather to the weight thereof.

6.14 Respondent Judge did not address any of the issues raised as to the propriety of admission of the documentary evidence. Instead, it made a general statement admitting petitioner's exhibits, but only as part of the witnesses' testimonies.

6.15 Clearly, by not addressing the arguments raised in petitioner's Motion for Reconsideration as to the admissibility of its documentary exhibits with respect to the purposes stated therein, respondent Judge acted capriciously and whimsically. Under the principle of due process, Petitioner is entitled to be apprised of the basis of any order.[20]

The petition contained the following prayer:

WHEREFORE, it is most respectfully prayed of this Honorable Court that:

- Upon the filing of this Petition, a Temporary Restraining Order/Writ of Preliminary Injunction be issued enjoining the Honorable Renato G. Quilala of the Regional Trial Court of Makati City, Branch 7, from conducting further proceedings in Civil Case No. 98-109, including but not limited to the setting and conducting hearings for the reception of private respondents' evidence until after the instant Petition is resolved.
 - The Petition be given due course and judgment be rendered reversing the Assailed Orders of the respondent Court, dated 5 September 2003 and 7 January 2004, and a writ of certiorari be issued:
 - Ordering the respondent Judge to inhibit himself from trying and
 - Admitting all of petitioner's documentary exhibits for the purposes for which they are offered, and as part of the testimonies of its witnesses.
- Other relief, just or equitable under the circumstances are likewise prayed for.[21]

On September 20, 2004, the CA rendered judgment dismissing the petition. According to the CA,

Petitioner imputes to respondent Judge grave abuse of discretion upon: (a) the denial of almost all of its documentary evidence; (b) adopting, as the court's ruling, the objections of private respondents to the admissibility of said evidence; and (c) prejudging the case through its findings on the non-liability of private respondents. It also insists in the inhibition of respondent Judge for being biased and partial against them.

The imputation is not well-taken. Respondent Judge's rejection of documentary exhibits on valid and lawful grounds does not amount to grave abuse of discretion. As part of his judicial function, the respondent Judge is undeniably clothed with authority to admit or reject evidence determinative of the outcome of the case. He may properly intervene in the presentation of evidence to expedite and prevent unnecessary waste of time.

Petitioner, being the plaintiff in the main case, has yet to present and prove at the trial its evidence-in-chief in support of its cause of action. Appreciation of the evidence is at best preliminary and should not prevent the trial judge from making a final assessment of the evidence before him after full trial. Thus, respondent Judge correctly declared:

"Other than the pronouncements made by the Court in its Order dated 30 April 2003, plaintiff has not shown any circumstances or actuations on the part of the Court that would even hint at any bias or prejudice. Plaintiff's claim that the Court has already prejudged the cases is also unfounded, there being no evidence to show such alleged prejudgment. It should be noted that the Court merely ruled on the admissibility of the documents presented as exhibits and not on the probative value of the documents. Besides, the plaintiff is not left without any remedy since they [sic] can resort to the tender of their [sic] excluded evidenced [sic] under Sec. 40, Rule 132 of the Revised Rules of Court."

If, indeed, respondent Judge misappreciated certain evidence, such are not jurisdictional matters that may be determined and ruled upon in a certiorari proceeding. A review of facts and evidence is not the province of the extraordinary remedy of certiorari, which is extra-ordinem –beyond the ambit of appeal. Petitioner, nonetheless, failed to prove grave abuse of discretion amounting to lack or excess of jurisdiction on the part of respondent Judge.

Consequently, respondent Judge's inhibition from hearing the case is uncalled for. The issue of voluntary inhibition is primarily a matter of conscience and sound discretion based on valid reasons on the part of the judge. Mere suspicion that a judge is partial to one of the parties is not enough to show that the former favors the latter. Bare allegations cannot overturn the presumption that a judge acted regularly and with impartiality.

Hence, petitioner's application for temporary restraining order/writ of preliminary injunction cannot be granted for lack of factual and legal basis.[22]

Petitioner now comes to this Court for relief claiming that the appellate court erred, as follows:

- THE COURT OF APPEALS ERRED IN FAILING TO CONSIDER THAT JUDGE QUILALA'S DENIAL OF ADMISSION TO MOST OF DEUTSCHE'S EXHIBITS BASED ON HIS PERCEIVED LACK OF WEIGHT THEREOF, AND, CONSEQUENTLY, HIS RESOLUTION OF THE MAIN FACTUAL ISSUE INVOLVED IN THE CONTROVERSY WAS GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION.
- THE COURT OF APPEALS ERRED IN NOT REVERSING JUDGE QUILALA'S ASSAILED ORDERS ADMITTING THE DOCUMENTARY EXHIBITS OF DEUTSCHE ONLY AS PART OF THE TESTIMONIES OF THE WITNESSES WHO TESTIFIED THEREON, WHICH HE ISSUED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION.
- THE COURT OF APPEALS ERRED IN NOT CONSIDERING THAT JUDGE QUILALA, WHO RULED THAT RESPONDENTS DID NOT HAVE ANY LIABILITY ON THE TRANSACTIONS SUBJECT OF THE CASE BECAUSE THE SAME WERE ALLEGEDLY NOT AUTHORIZED, AND WHO MADE AN EXPRESS FINDING ON THE MAIN FACTUAL ISSUE IN THIS CASE, EVEN IF RESPONDENTS HAD YET TO PRESENT THEIR EVIDENCE, SHOULD BE COMPELLED TO INHIBIT HIMSELF ON THE GROUND OF BIAS AND PREJUDGMENT.[23]

Petitioner claims that the trial court committed grave abuse of discretion when it rejected some of its exhibits in its April 30, 2003 Order on the ground that it made an express finding on the main factual issue of the case. According to petitioner, the RTC should have ruled only on the admissibility of the evidence. Rather, the trial court practically denied all of its documentary evidence on grounds not pertaining to their admissibility, but based on their weight or probative value. Petitioner submits that admissibility of the evidence should not be confounded with its probative value. Petitioner also disputes the trial court's finding that some of the documents were self-serving because, while they may have been prepared by the petitioner, they were presented before the trial court and offered in evidence after respondents were given an opportunity to rebut their veracity and authenticity. It avers that the trial court's substantial lack of appreciation of the rules of evidence amounts to grave abuse of discretion.[24]

Petitioner likewise maintains that the trial court committed grave abuse of discretion when it issued its September 5, 2003 Order admitting all of its documentary evidence but only as part of the testimonies of its witnesses. It alleges that the trial court did not address any of the issues it raised regarding the propriety of admitting its documentary evidence. The petitioner avers that a document or writing which is admitted not as independent evidence but merely as part of the testimony of a witness does not constitute proof of the facts stated therein; hence, it is as if the documents were denied admission.[25]

Petitioner avers that Judge Quilala should be compelled to inhibit himself from the case on the ground of bias and prejudice. It contends that the RTC judge has revealed his lack of impartiality in his April 30, 2003 Order when he made a prejudgment on the merits of the case, particularly on the factual issue of whether or not the F/X forward transactions were authorized. In denying some of the documents, the RTC judge declared that they are "self-serving as respondents neither entered nor authorized plaintiff to enter into the subject F/X transactions." Petitioner adds that Judge Quilala's partiality towards the respondents and his prejudgment of the case also showed when he denied other documents for being "irrelevant as the said exhibits are grossly insufficient to show the completion of the subject F/X transactions" since whether or not such completion took place remains an issue.[26]

For their part, the respondents argue that, assuming Judge Quilala erred in admitting the petitioner's documentary exhibits only as part of the testimonies of its witnesses, such error can hardly be considered as correctible by certiorari or amounting to grave abuse of discretion. As long as the court acts within its jurisdiction, any alleged error committed in the exercise thereof will amount to nothing more than errors of judgment which are reviewable by timely appeal, and not via special civil action of certiorari. It is axiomatic that the trial court has the authority and discretion to rule on the admissibility of each documentary evidence vis-à-vis the purpose for which it is offered. Thus, it may exclude evidence, although admissible for certain purposes, if it is inadmissible for which it is offered, and its exclusion is not reversible error. Besides, according to respondents, the petitioner's exhibits suffer defects that render them inadmissible to prove the purposes for which they were offered.[27] Therefore, there is no factual basis or legal justification for the inhibition of the presiding judge. The element of bias and prejudice must stem from an extrajudicial source. Mere disagreement as to the proper application of certain procedural and even substantive rules neither prove bias nor prejudice on the part of the judge nor necessitate his inhibition.[28]

The issue to be resolved in this case is whether or not the presiding judge committed grave abuse of discretion correctible by certiorari in (a) admitting the petitioner's documentary exhibits only as part of the testimonies of the witnesses who respectively testified thereon, and (b) not inhibiting himself from the case.

The petition is without merit.

Courts are required to resolve the admissibility of the evidence offered immediately after the objection is made or within a reasonable time. It must be made during the trial and at such time as will give the other party an opportunity to meet the situation presented by the ruling. Courts are further mandated to state the reason or reasons for their ruling if there are two or more objections by the other party.[29] Due process requires no less. In this case, we note that, in the Order of September 5, 2003, the trial court failed to state its reasons for reconsidering its earlier order, and for admitting the documentary evidence of the petitioners only as part of the testimonies of its witnesses. At any rate, we find that the issue raised in this case is not jurisdictional; hence, the filing of the petition for certiorari with the CA was not proper.

Indeed, a writ of certiorari may be issued only for the correction of errors of jurisdiction or grave abuse of discretion amounting to lack or excess of jurisdiction,[30] not errors of judgment.[31] Where the issue or question involves or affects the wisdom or legal soundness of the decision—not the jurisdiction of the court to render said decision—the same is beyond the province of a petition for certiorari.[32] Grave abuse of discretion implies such capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction.[33] The abuse of discretion must be patent and gross as to amount to an evasion of positive duty or a virtual refusal to perform a duty enjoined by law, or to act at all in contemplation of law as where the power is exercised in an arbitrary and despotic manner by reason of passion and hostility.[34]

Petitioner, in imputing grave abuse of its discretion to the trial court in its ruling on the admissibility of its documentary exhibits, relies on such court's previous order rejecting some of its exhibits. However, it should be noted that the trial court has subsequently admitted all the documentary exhibits of the petitioner although merely as part of the testimonies of the witnesses.

We rule that neither of these rulings could be a basis for a certiorari proceeding. The trial court, in so ruling, did not commit grave abuse of discretion. Not every error in proceeding, or every erroneous conclusion of law or fact, is abuse of discretion.[35] If at all there was any mistake in said decisions, such mistake can only be characterized as an error of judgment. A ruling on the admission of evidence, even if wrong, is not an abuse of discretion but simply an erroneous ruling.[36] As long as the trial court acts within its jurisdiction, any alleged error committed

in the exercise of its discretion will amount to nothing more than mere errors of judgments, correctible by an appeal and not by a petition for certiorari.[37]

In *Lee v. People*,[38] the petitioner therein filed a petition for certiorari under Rule 65 of the Rules of Court before the CA assailing the order of the trial court admitting certain documents offered by the prosecution. The Court declared that the order admitting in evidence the disputed documents was issued by the trial court in the exercise of its jurisdiction, and that even if erroneous, the same is a mere error of judgment and not of jurisdiction, and hence, the remedy of the petitioner was to appeal in due course.[39] In the present case, there is likewise no dispute that the trial court had jurisdiction over the case. As such, it had jurisdiction to rule on the admissibility of the documents offered in evidence.

The proper remedy of petitioner was to appeal in due course from the judgment or decision of the trial court on the merits of the case to the CA.[40] On appeal, the petitioner may assail the trial court's Order on the admission of its evidence and pray that the appellate court resolve whether the trial court's rulings thereon are correct. Since the documents were admitted and made part of the records of the case, the appellate court can easily ascertain whether the trial court erred in not admitting all the documents for the purpose for which they were offered. The early case of *Lamagan v. De la Cruz*[41] is supportive of this:

As the petitioner-appellant concedes in her petition and brief, it is beyond question that rulings of the trial court on procedural questions and on admissibility of evidence during the course of the trial are interlocutory in nature and may not be the subject of separate appeal or review on certiorari, but are to be assigned as errors and reviewed in the appeal properly taken from the decision rendered by the trial court on the merits of the case. If the rule were otherwise, there simply would be no end to the trial of cases, for any litigant, not satisfied with the trial court's ruling admitting or excluding any proffered oral or documentary evidence, would then indefinitely tie up the trial while elevating the ruling for review by the appellate court.[42]

This Court has consistently ruled that in a petition for certiorari from an interlocutory order, the petitioner is burdened to prove that the remedy of appeal would not afford adequate and expeditious relief.[43] A remedy is plain, speedy, and adequate remedy if it will promptly relieve the petitioners from the injurious effects of the acts of the lower court.[44] Appeal in due course is a speedy and adequate remedy.[45]

Petitioner's contention that the trial court showed bias and prejudgment of the case is likewise without merit. To disqualify a judge on the ground of bias and prejudice, the movant must prove the same with clear and convincing evidence.[46] Bare allegations of partiality will not suffice. It cannot be presumed, especially if weighed against the sacred oaths of office of magistrates, requiring them to administer justice fairly and equitably.[47]

In this case, petitioner solely relies on the unfavorable rulings of the trial court, particularly on the admission of its documentary exhibits. However, as the Court has already ruled, this is not sufficient to establish bias and prejudice on the part of the trial court. Thus, the Court held in *Webb v. People*: [48]

To prove bias and prejudice on the part of the respondent judge, petitioners harp on the alleged adverse and erroneous rulings of respondent judge on their various motions. By themselves, however, they do not sufficiently prove bias and prejudice to disqualify respondent judge. To be disqualifying, the bias and prejudice must be shown to have stemmed from an extrajudicial source and result in an opinion on the merits on some basis other than what the judge learned from his participation in the case. Opinions formed in the course of judicial proceedings, although erroneous, as long as they are based on the evidence presented and conduct observed by the judge, do not prove personal bias or prejudice on the part of the judge. As a general rule, repeated rulings against a litigant, no matter how erroneous and vigorously and consistently expressed, are not a basis for disqualification of a judge on grounds of bias and prejudice. Extrinsic evidence is required to establish bias, bad faith, malice or corrupt purpose, in addition to the palpable error which may be inferred

from the decision or order itself. Although the decision may seem so erroneous as to raise doubts concerning a judge's integrity, absent extrinsic evidence, the decision itself would be insufficient to establish a case against the judge. The only exception to the rule is when the error is so gross and patent as to produce an ineluctable inference of bad faith or malice.

x x x

We hasten to stress that a party aggrieved by erroneous interlocutory rulings in the course of a trial is not without remedy. The range of remedy is provided in our Rules of Court and we need not make an elongated discourse on the subject. But certainly, the remedy for erroneous rulings, absent any extrinsic evidence of malice or bad faith, is not the outright disqualification of the judge. For there is yet to come a judge with the omniscience to issue rulings that are always infallible. The courts will close shop if we disqualify judges who err for we all err.[49]

The records do not show that the trial court was motivated by malice and bad faith in issuing its orders. In fact, it even partially granted petitioner's motion for reconsideration of its previous order denying some of the documentary exhibits, and admitted all of its documentary exhibits as part of the testimonies of its witnesses. Even if the ruling may be erroneous, it is not a sufficient ground to require the presiding judge to inhibit himself from hearing the case.

WHEREFORE, the petition is DENIED. The Decision of the Court of Appeals in CA-G.R. SP No. 82912, dated September 30, 2004, is AFFIRMED.

SO ORDERED.

Panganiban, C.J., (Chairperson), Ynares-Santiago, Austria-Martinez and Chico-Nazario, JJ., concur.

[1] Penned by Associate Justice Magdangal M. de Leon, with Associate Justices Romeo A. Brawner (retired) and Mariano C. del Castillo, concurring; rollo, pp. 56-61.

[2] Penned by Judge Reinato G. Quilala.

[3] Rollo, pp. 66-75.

[4] Records, pp. 1-8.

[5] Rollo, pp. 73-74.

[6] Id. at 88-90.

[7] Id. at 92.

[8] Id. at 109.

[9] Id. at 170.

[10] Id. at 172-228.

[11] Id. at 229-235.

[12] Id. at 236-292.

[13] Id. at 293-309.

[14] Id. at 293.

[15] Id. at 310-387.

- [16] Id. at 419.
- [17] Id. at 427.
- [18] Id. at 452.
- [19] Id. at 463.
- [20] Id. at 470. (Emphasis supplied)
- [21] Id. at 472-473.
- [22] Id. at 59-60.
- [23] Id. at 24.
- [24] Id. at 26-30.
- [25] Id. at 33-34.
- [26] Id. at 35-37.
- [27] Id. at 529-531.
- [28] Id. at 532-534.
- [29] Section 38, Rule 132, Rules of Court.
- [30] *Madrigal Transport, Inc. v. Lapanday Holdings Corporation*, G.R. No. 156067, August 11, 2004, 436 SCRA 123.
- [31] *Manila Electric Company v. Barlis*, G.R. No. 114231, June 29, 2004, 433 SCRA 11.
- [32] *A.F. Sanchez Brokerage, Inc. v. Court of Appeals*, G.R. No. 147079, December 21, 2004, 447 SCRA 427, 436.
- [33] *Land Bank of the Philippines v. Court of Appeals*, G.R. No. 129368, August 25, 2003, 409 SCRA 455, 481.
- [34] *Bacelonia v. Court of Appeals*, 445 Phil. 300, 307-308 (2003).
- [35] *Angara v. Fedman Development Corporation*, G.R. No. 156822, October 18, 2004, 440 SCRA 467, 478.
- [36] *People v. Superior Court*, 137 Cal.App.2d 194, 289 P.2d 813 (1955).
- [37] *Alon v. Court of Appeals*, G.R. No. 136422, July 7, 2004, 433 SCRA 550, 561.
- [38] G.R. No. 159288, October 19, 2004, 440 SCRA 662.
- [39] Id. at 679.
- [40] Id. at 680.
- [41] 148-B Phil. 86 (1971).
- [42] Id. at 92. (Emphasis supplied)
- [43] *Chan v. Regional Trial Court of Zamboanga del Norte in Dipolog City*, Br. 9, G.R. No. 149253, April 15, 2004, 427 SCRA 796, 803-804.
- [44] *Lee v. People*, supra at 678.

[45] Chan v. Regional Trial Court of Zamboanga del Norte in Dipolog City, Br. 9, supra at 804.

[46] Webb v. People, 342 Phil. 206, 216 (1997).

[47] Gochan v. Gochan, 446 Phil. 433, 448 (2003).

[48] Supra.

[49] Supra at 253-255.

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