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interlocutory matters pending before their courts[19] within the 90-day period provided in the Constitution,[20] unless the law requires a lesser period.

Under Rule 140 of the Rules of Court, undue delay in rendering a decision or an order or in transmitting the records of a case constitutes a less serious charge. It is penalized with suspension without pay for not less than 1 month or more than 3 months, or a fine of more than ₱10,000 but not exceeding ₱20,000.

WHEREFORE, Respondent Judge Jesus V. Quitain of the Regional Trial Court (RTC) of Davao City (Branch 15) is found guilty of undue delay in resolving a motion, for which he is ***FINED*** ₱10,100, with a ***WARNING*** that the commission of the same or a similar act in the future shall be dealt with more severely.

SO ORDERED.

Puno, Sandoval-Gutierrez, Corona, and *Carpio Morales, JJ.,* concur.

THIRD DIVISION

[A.M. No. RTJ-03-1775. April 30, 2003.]

Dr. ISAGANI A. CRUZ, *complainant, vs.* **Judge PHILBERT I. ITURRALDE, Regional Trial Court, Antipolo City, Branch 72,** *respondent.*

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[19] Paragraph 6.1 of Administrative Circular No. 1 dated January 28, 1988.

[20] Under Article VIII, Section 15:

"SEC. 15. (1) All cases or matters filed after the effectivity of this Constitution must be decided or resolved within twenty-four months from date of submission for the Supreme Court, and, unless reduced by the Supreme Court, twelve months for all lower collegiate courts, and three months for all other lower courts.

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SYNOPSIS

This administrative case stemmed from a complaint for injunction filed by complainant against his wife. Complainant alleged that respondent judge manifested partiality in expressing his predisposition to grant his (complainant) wife's motion asking the court to allow her and her two children to take a vacation to Switzerland and to compel complainant to return her travel documents. Complainant filed his opposition to the motion filed by his wife and asked the court to issue a hold-departure order and/or a writ of preliminary injunction to prevent her from leaving the country, but the same was denied. The Complainant's motion to inhibit respondent from further hearing the case was likewise denied by the court. Complainant likewise accused respondent judge of plagiarism for allegedly copying several paragraphs from an article from the Philippine Daily Inquirer. Consequently, complainant charged respondent judge with gross misconduct, dishonesty, gross ignorance of the law, bias and partiality. The Office of the Court Administrator (OCA) ruled that respondent judge cannot be held administratively liable for the charges lodged against him as the issues are clearly judicial in character. The OCA recommended the dismissal of the case.

The Supreme Court agreed with the OCA. Settled is the rule in administrative cases that complainants bear the onus of establishing their averments by substantial evidence. After a careful scrutiny of the evidence and the arguments of the parties, the court found no sufficient basis to hold respondent judge administratively liable. The accusations of dishonesty, neglect of duty and gross ignorance of the law are bereft of factual bases. Furthermore, they pertain to alleged errors he committed in the exercise of his adjudicative functions. Such errors cannot be corrected through administrative proceedings, but should instead be assailed through appropriate judicial remedies.

The Court likewise ruled that it was not surprising that respondent judge expressed his predisposition to deny the issuance of a hold-departure order considering that the subject case is not criminal in nature. Supreme Court Circular No. 39-97 explicitly provides that hold-departure orders may be issued only in criminal cases within the exclusive jurisdiction of the Regional Trial Courts.

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SYLLABUS

1. **POLITICAL LAW; ADMINISTRATIVE LAW; IN ADMINISTRATIVE CASES, COMPLAINANTS BEAR THE ONUS OF ESTABLISHING THEIR AVERMENTS BY SUBSTANTIAL EVIDENCE.**— Settled is the rule in administrative cases that complainants bear the onus of establishing their averments by substantial evidence. After a careful scrutiny of the evidence and the arguments of the parties, we find no sufficient basis to hold respondent administratively liable.

2. **ID.; ID.; ADMINISTRATIVE COMPLAINT; NOT A PROPER RECOURSE TO CORRECT A JUDGE'S ALLEGEDLY ERRONEOUS ACT WHERE SUFFICIENT JUDICIAL REMEDIES EXIST.**— The accusations of dishonesty, neglect of duty and gross ignorance of the law are bereft of factual bases. Furthermore, they pertain to alleged errors he committed in the exercise of his adjudicative functions. Such errors cannot be corrected through administrative proceedings, but should instead be assailed through appropriate judicial remedies. [W]here sufficient judicial remedies exist, the filing of an administrative complaint is not the proper recourse to correct a judge's allegedly erroneous act. Disciplinary proceedings against judges do not complement, supplement or substitute judicial remedies. Thus, any inquiry into their administrative liability arising from judicial acts may be made only after other available remedies have been settled. Parties-litigants abuse court processes by prematurely resorting to administrative disciplinary action, even before the judicial issues involved have been finally resolved.

3. **ID.; CONSTITUTIONAL LAW; BILL OF RIGHTS; RIGHT TO TRAVEL; HOLD-DEPARTURE ORDERS; SHALL BE ISSUED ONLY IN CRIMINAL CASES WITHIN THE EXCLUSIVE JURISDICTION OF REGIONAL TRIAL COURTS.**— It is important to note that Supreme Court Circular No. 39-97 explicitly provides that hold-departure orders may be issued *only in criminal cases:* "In order to avoid the indiscriminate issuance of Hold-Departure Orders resulting in inconvenience to the parties affected, the same being tantamount to an infringement on the right and liberty of an individual to travel and to ensure that the Hold Departure Orders

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which are issued contain complete and accurate information, the following guidelines are hereby promulgated: 1. Hold-Departure Orders *shall be issued only in criminal cases* within the exclusive jurisdiction of the Regional Trial Courts."

4. **REMEDIAL LAW; ACTIONS; MOTIONS; MOTION TO INHIBIT; THE TEST TO DETERMINE THE PROPRIETY OF DENIAL THEREOF IS WHETHER MOVANT IS DEPRIVED OF FAIR AND IMPARTIAL TRIAL.**— [T]he test to determine the propriety of the denial of a motion to inhibit is whether the movant was deprived of a fair and impartial trial. A ruling not to inhibit oneself cannot be overturned in the absence of clear and convincing evidence to prove the charge.

5. **JUDICIAL ETHICS; JUDGES; BIAS AND PARTIALITY; MUST BE PROVED BY EVIDENCE STEMMING FROM EXTRAJUDICIAL SOURCE OR SOME OTHER BASIS.**— [M]ere suspicion of partiality is not enough. There should be hard evidence to prove it, as well as a manifest showing of bias and partiality stemming from an extrajudicial source or some other basis. To be sure, a judge's conduct must be clearly indicative of arbitrariness and prejudice before it can be stigmatized as biased and partial. In this case, the truth of such allegations cannot be presumed or deduced from the circumstances stated by complainant in his verified Compliant.

6. **ID.; ID.; CANNOT BE HELD ADMINISTRATIVELY LIABLE FOR EVERY MISTAKE COMMITTED IN THE PERFORMANCE OF OFFICIAL DUTIES IN THE ABSENCE OF FRAUD, DISHONESTY OR DELIBERATE INTENT TO DO INJUSTICE.**— As a matter of public policy, not every error or mistake committed by judges in the performance of their official duties renders them administratively liable. In the absence of fraud, dishonesty or deliberate intent to do an injustice, acts done in their official capacity, even though erroneous, do not always constitute misconduct. Only errors that are tainted with fraud, corruption or malice may be the subject of disciplinary action. For administrative liability to attach, respondent must be shown to have been moved by bad faith, dishonesty, hatred or some other motive. Indeed, judges may not be held administratively liable for any of their official acts, no matter how erroneous, as long as they acted in good faith.

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DECISION

PANGANIBAN, *J.*:

Not every erroneous act will subject a judge to disciplinary sanctions. Only judicial errors tainted with bad faith, fraud, dishonesty, gross ignorance or deliberate intent to do an injustice will be administratively sanctioned.

The Case

In a verified Complaint[1] filed before the Office of Court Administrator (OCA), Dr. Isagani C. Cruz charges Judge Philbert I. Iturralde of the Regional Trial Court (RTC) of Antipolo City (Branch 72) with gross misconduct, dishonesty, gross ignorance of the law, bias and partiality.

The Facts

On April 18, 2001, Dr. Isagani C. Cruz filed against his Swiss wife, Yolande L. Cruz, a Complaint for Injunction under Article 72 of the Family Code. The case, docketed as Civil Case No. 01-6139, was assigned to Branch 72 of the Regional Trial Court of Antipolo City, the designated Family Court in that area. As Branch 72 had no presiding judge at the time, the hearings were conducted by Executive Judge Mauricio M. Rivera. After several negotiations, the parties filed a Joint Motion to Suspend Proceedings with Prayer for a Hold-Departure Order on Mrs. Cruz. Judge Rivera granted the Motion for the suspension of the proceedings, but denied the request for the issuance of a hold-departure order.

On September 21, 2001, Mrs. Cruz filed a Motion asking the court to allow her and her two children to take a vacation to Switzerland and to compel complainant to return her travel documents. Shortly thereafter, on October 19, 2001, respondent assumed office as the new presiding judge of Branch 72.

At a hearing on November 26, 2001, complainant filed his Opposition to the Motion filed by his wife. He also asked the

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[1] Dated February 7, 2002; *rollo*, pp. 1–26.

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court to issue a hold-departure order and/or a writ of preliminary injunction to prevent her from leaving the country. During the same hearing, respondent expressed his predisposition to grant her Motion. His declaration supposedly constituted partiality, which showed that he had already prejudged the incidents of the case.

Consequently, complainant filed a Motion to inhibit respondent from further hearing the case. The latter denied this Motion in an Order dated February 28, 2002.[2]

Earlier, on January 9, 2002, complainant's counsel received, simultaneously by mail, respondent's Orders dated November 26, December 7 and December 18, 2001.

The December 18, 2001 Order denied the application of complainant for the issuance of a hold-departure order and/or a writ of preliminary injunction and compelled him to surrender all the travel documents of his wife and children.

He claims that the simultaneous mailing of the three Orders "had a very insidious effect." He argues that he could have moved for the amendment or correction of the two earlier ones, had these been served on him ahead of the December 18, 2001 Order. He insinuates that the last Order was either antedated or properly dated but mailed very late.

According to him, either of these acts renders respondent liable for gross negligence of duty. Furthermore, in ordering him to return the travel documents of his wife and denying his application for a hold-departure order/injunction respondent allegedly committed either gross ignorance or deliberate misapplication of the law.

Complainant also submitted a verified Supplemental Complaint[3] dated February 26, 2002, accusing respondent of plagiarism. In his February 28, 2002 Order, the latter purportedly copied several paragraphs from an article written by Atty. Raul J.

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[2] *Rollo*, pp. 158–161.

[3] *Id.*, pp. 154–157.

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Palabrica in the January 27, 2002 issue of the *Philippine Daily Inquirer*. The word-for-word reproduction of portions of the article supposedly constituted an act of dishonesty that should be dealt with administratively.

In an Indorsement[4] dated March 4, 2002, the OCA required Judge Iturralde to comment on the foregoing Complaints. In his Comment,[5] he stated that, contrary to what had been alleged in the verified Complaint, he could not find any specific act of dishonesty, gross misconduct, or gross ignorance of the law and procedure on his part. If at all, he might have been perceived as biased because of his Orders that were unfavorable to complainant. Allegedly, in denying the Motion to issue hold-departure order/writ of preliminary injunction and ordering complainant to surrender his wife's passport and other travel documents, respondent might have irked the former. In his defense, the latter maintains that he merely upheld Executive Judge Rivera's earlier Order.

On the Motion to Inhibit, respondent avers that he first met the parties and their respective counsels only during the November 26, 2001 hearing, and that none of them had been known to him personally or otherwise prior to that date. Moreover, he believed he could decide the case on the merits — without bias, prejudice, fear or favor. Thus, he found no justifiable reason to inhibit himself from hearing it. He claims that he even advised the parties to appeal his Orders by way of a petition for *certiorari*, if they believe his rulings were erroneous.

As to the allegation of plagiarism, he argues that there is nothing wrong in adopting or citing a newspaper article containing the legal views of Atty. Palabrica, who is a seasoned and respected member of the bar. He adds that, even granting without admitting that his acts amounted to plagiarism, complainant is not the proper party to assert such cause of action.

Respondent maintains that while there is a constitutional guarantee for the litigants' right to air their legitimate grievance

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[4] *Id.*, p. 163.

[5] *Id.*, pp. 164–169.

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through legal action, they should be enjoined to do so only after thorough circumspection and exhaustion of all other available remedies. He claims that the instant administrative case was resorted to, only to intimidate, harass and pressure him to inhibit himself from hearing the civil case.

Report and Recommendation of the OCA

After a thorough study of the verified Complaint and respondent's Comment, the OCA submitted to this Court its evaluation and recommendation as follows:

"*EVALUATION*: There is nothing in the records of this case which shows that respondent Judge should be held administratively liable for the charges lodged against him as the issues are clearly judicial in character. Complainant's proper recourse is to avail himself of the remedies set forth under the Rules of Court. It is well-entrenched that when the matter complained of is judicial in nature, complainant should not seek redress in the form of [an] administrative complaint.

"The established doctrine and policy is that disciplinary proceedings and criminal actions against Judges are not complementary or suppletory [to], nor a substitute for, judicial remedies. 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 civil, administrative [or] criminal [in] 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 [the] criminal, civil or administrative liability [of judges] may be said to have opened or closed.

"We deem it best not to discuss the allegation that respondent prejudged the pending incidents as the same is unsubstantiated. Bare allegations do not constitute substantial evidence.

"*RECOMMENDATION*: Respectfully submitted for the consideration of the Honorable Court is our recommendation that the instant case be DISMISSED[,] the issues raised being judicial in character."[6]

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[6] OCA Report and Recommendation dated July 25, 2002; *rollo*, p. 190. Signed by Deputy Court Administrator Jose P. Perez and Court Administrator Presbitero J. Velasco Jr.

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The Court's Ruling

We agree with the OCA.

Administrative Liability of Respondent

Settled is the rule in administrative cases that complainants bear the onus of establishing their averments by substantial evidence.[7] After a careful scrutiny of the evidence and the arguments of the parties, we find no sufficient basis to hold respondent administratively liable. The accusations of dishonesty, neglect of duty and gross ignorance of the law are bereft of factual bases. Furthermore, they pertain to alleged errors he committed in the exercise of his adjudicative functions. Such errors cannot be corrected through administrative proceedings, but should instead be assailed through appropriate judicial remedies.

As complainant admitted in a Letter[8] dated October 22, 2002, the questioned rulings of respondent judge are the subject of a *certiorari* case still pending before the Court of Appeals.[9] To say the least, a decision on the propriety of the latter's rulings in this administrative proceeding would be premature. Indeed, where sufficient judicial remedies exist, the filing of an administrative complaint is not the proper recourse to correct a judge's allegedly erroneous act.

Disciplinary proceedings against judges do not complement, supplement or substitute judicial remedies. Thus, any inquiry into their administrative liability arising from judicial acts may be made only after other available remedies have been settled.[10] Parties-litigants abuse court processes by prematurely resorting to administrative disciplinary action, even before the judicial issues involved have been finally resolved.[11]

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[7] *Barbers v. Laguio Jr.*, 351 SCRA 606, February 15, 2001.

[8] *Rollo*, p. 188.

[9] The case is docketed as CA-GR SP No. 69728.

[10] *Caguioa v. Lavina*, 345 SCRA 49, November 20, 2000.

[11] *Ibid.*

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As to the allegation of bias and partiality, complainant apparently got that impression when respondent declared during the November 26, 2001 hearing that the latter was inclined to grant the Motion of Mrs. Cruz to allow her and her children to travel to Switzerland. The suspicion of respondent's supposed preferential leanings might have been fortified by the subsequent denial of complainant's Motion for the issuance of a hold-departure order.

It is important to note that Supreme Court Circular No. 39-97[12] explicitly provides that hold-departure orders may be issued ***only in criminal cases***:

"In order to avoid the indiscriminate issuance of Hold-Departure Orders resulting in inconvenience to the parties affected, the same being tantamount to an infringement on the right and liberty of an individual to travel and to ensure that the Hold Departure Orders which are issued contain complete and accurate information, the following guidelines are hereby promulgated:

1. Hold-Departure Orders *shall be issued only in criminal cases* within the exclusive jurisdiction of the Regional Trial Courts." (Italics supplied)

On the basis of this Circular, it is not surprising that respondent judge expressed his predisposition to deny the issuance of a hold-departure order, considering that the subject case is not criminal in nature.

The terms and conditions for the issuance of a hold-departure order are clear and unmistakable. They leave no room for any other interpretation and proscribe no deviation from their mandate. Had respondent ruled otherwise, he would have been guilty of gross ignorance of the law and/or willful violation of the aforesaid Circular.

On the denial of his Motion for Inhibition, complainant has not shown any evidence that would indicate a predisposition on the part of respondent to decide the case in favor of one party or the other. As the latter averred in his Comment, he did not know any of the parties or their respective counsels personally

[12] Dated June 19, 1997.

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or otherwise. When he assumed his post as presiding judge of RTC Branch 72 of Antipolo City, the case was already proceeding in due course. Besides, he had no previous knowledge or information about the subject case or its incidents prior to his assignment to that branch.

In no way can respondent be faulted for denying the Motion for Inhibition filed by complainant, considering that the latter's allegation of partiality has not been reasonably established. Verily, the test to determine the propriety of the denial of a motion to inhibit is whether the movant was deprived of a fair and impartial trial.[13] A ruling not to inhibit oneself cannot be overturned in the absence of clear and convincing evidence to prove the charge.[14]

It is settled that mere suspicion of partiality is not enough. There should be hard evidence to prove it, as well as a manifest showing of bias and partiality stemming from an extrajudicial source or some other basis.[15] To be sure, a judge's conduct must be clearly indicative of arbitrariness and prejudice before it can be stigmatized as biased and partial.[16] In this case, the truth of such allegations cannot be presumed or deduced from the circumstances stated by complainant in his verified Compliant.[17]

The allegation of plagiarism does not contain a cause of action. Neither has complainant shown his legal standing to pursue this accusation.

As a matter of public policy, not every error or mistake committed by judges in the performance of their official duties renders them administratively liable. In the absence of fraud, dishonesty or deliberate intent to do an injustice, acts done in their official capacity, even though erroneous, do not always constitute misconduct.[18]

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[13] *Te v. Court of Appeals*, 346 SCRA 327, November 29, 2000.

[14] *People v. Gako Jr.*, 348 SCRA 334, December 15, 2000.

[15] *Soriano v. Angeles*, 339 SCRA 366, August 31, 2000.

[16] *Abdula v. Guiani*, 326 SCRA 1, February 18, 2000.

[17] *Saylo v. Rojo*, 330 SCRA 243, April 12, 2000.

[18] *Enojas Jr. v. Gacott* Jr., 322 SCRA 272, January 19, 2000; *Rallos v. Gako Jr.*, 328 SCRA 324, March 17, 2000

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Only errors that are tainted with fraud, corruption or malice may be the subject of disciplinary action.[19] For administrative liability to attach, respondent must be shown to have been moved by bad faith, dishonesty, hatred or some other motive.[20] Indeed, judges may not be held administratively liable for any of their official acts, no matter how erroneous, as long as they acted in good faith.[21]

In *Sarmiento v. Salamat*,[22] this Court declared that while imposing discipline on erring court members is a primordial responsibility of the High Tribunal, it will nonetheless protect the innocent ones from the thoughtless importunings of disgruntled litigants. The Court explained as follows:

"Let it be known that this Court will never tolerate or condone any conduct, act or omission that would violate the norm of public accountability or diminish the people's faith in the judiciary. However, when an administrative charge against a court personnel holds no basis whatsoever in fact or in law, this Court will not hesitate to protect the innocent court employee against any groundless accusation that trifles with judicial processes.

As a final note, this Court will not shirk from its responsibility of imposing discipline upon employees of the judiciary, but neither will it hesitate to shield them from unfounded suits that only serve to disrupt rather than promote the orderly administration of justice."[23]

WHEREFORE, the Complaint is hereby **DISMISSED** for lack of merit.

SO ORDERED.

Puno (chairman), Panganiban, Sandoval-Gutierrez, Corona, and *Carpio Morales, JJ.*, concur.

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[19] *Tolentino v. Camano Jr.*, 322 SCRA 559, January 20, 2000.

[20] *Daracan v. Natividad*, 341 SCRA 161, September 27, 2000.

[21] *Chavez v. Escañan*, 343 SCRA 170, October 16, 2000.

[22] 364 SCRA 301, September 4, 2001.

[23] *Id.*, p. 310, per Panganiban, *J.*