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the property to respondent, must be tried by petitioners in a separate proceeding only for that purpose as it is settled that an unlawful detainer case resolves only the issue of physical or material possession.[14]

IN VIEW WHEREOF, the petition is DENIED. The impugned decision of the Court of Appeals, dated March 21, 2002, is *AFFIRMED*. Costs against petitioners.

SO ORDERED.

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

SECOND DIVISION

[A.M. No. MTJ-01-1346. July 9, 2003]

(Formerly OCA I.P.I. 99-695-MTJ)

P/SUPT. RUDY G. LACADIN, *complainant, vs.* **JUDGE MARVIN B. MANGINO,** *respondent.*

SYNOPSIS

Complainant charged respondent judge with gross ignorance of the law for granting the motion to extend the validity of two search warrants, due to the failure of the police authorities to use said warrants within their period of effectivity. The Office of the Court Administrator (OCA) held that respondent judge erred in extending the effectivity of the search warrants in violation of Section 9, Rule 126, 1985 Rules of Criminal Procedure and Guideline No. 5 (g), Administrative Circular No. 13 issued on October 1, 1985.

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[14] *Pengson vs. Ocampo, Jr., supra.*

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The Supreme Court did not agree with the OCA in finding respondent judge guilty of gross ignorance of the law for the reason that respondent judge was well-aware of the above-mentioned Rules. In this case, there is no evidence that the issuance of the herein assailed order was made by respondent with ignominy and ill will. While it is settled that search warrants are effective for 10 days and thereafter it shall be void, to the mind of respondent judge, a valid question of law existed: May a judge extend the effectivity of a search warrant upon motion duly filed before the expiration of said period? Constrained to make a decision on the last day of the effectivity of the search warrants and with the desire not to unnecessarily repeat the procedure of ascertaining the propriety of another application that would cause the delay of the execution of the warrants, since time is of the essence in the execution of search warrants, respondent resolved the question in the affirmative and extended the lifetime of the search warrants issued by him with the expressed reservation that the final resolution of the question may be pursued in the higher courts.

At most, respondent judge may have committed an error of judgment or an abuse of discretion for which he cannot be punished administratively.

SYLLABUS

1. JUDICIAL ETHICS; JUDGES; GRAVE MISCONDUCT AND CONDUCT PREJUDICIAL TO THE PROPER ADMINISTRATION OF JUSTICE; A DISREGARD OF CLEAR MANDATE OF LAW AS WELL AS OF SUPREME COURT CIRCULARS ENJOINING STRICT COMPLIANCE THEREWITH, A CASE OF.— A disregard of a clear mandate of law as well as of Supreme Court Circulars enjoining strict compliance therewith, constitutes grave misconduct and conduct prejudicial to the proper administration of justice. There is grave misconduct when an order issued by a judge is contrary to existing law and jurisprudence and the order is imposed with ignominy and ill will.

2. ID.; ID.; ID.; NOT ESTABLISHED IN CASE AT BAR.— In this case, there is no evidence that the issuance of the herein assailed order was made by respondent with ignominy and ill will. While it is settled that search warrants are effective for

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10 days and thereafter it shall be void, to the mind of respondent, a valid question of law existed: may a judge extend the effectivity of a search warrant upon motion duly filed before the expiration of said period? Constrained to make a decision on the last day of the effectivity of the search warrants and with the desire not to unnecessarily repeat the procedure of ascertaining the propriety of another application that would cause the delay of the execution of the warrants, since time is of the essence in the execution of search warrants, respondent resolved the question in the affirmative and extended the lifetime of the search warrants issued by him with the expressed reservation that the final resolution of the question may be pursued in the higher courts.

3. ID.; ID.; ACTS OF JUDGES WHICH PERTAIN TO THEIR JUDICIAL FUNCTIONS ARE NOT SUBJECT TO DISCIPLINARY POWER UNLESS THEY ARE COMMITTED WITH FRAUD, DISHONESTY, CORRUPTION OR BAD FAITH.— 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. Absent any proof that herein respondent was motivated by ignominy or ill will, we accord him the presumption that he acted in good faith.

RESOLUTION

AUSTRIA-MARTINEZ, *J.*:

Before this Court is a complaint filed by P/Supt. Rudy G. Lacadin of Camp Macabulos, Tarlac City against Judge Marvin B. Mangino of the Municipal Trial Court (Branch 1) of Tarlac City for *gross ignorance of the law*.

The facts of this case are undisputed.

On February 16, 1999, respondent issued two search warrants, Nos. 112-99 and 113-99, for the search and seizure of firearms and *shabu* in the house of Antonio Kao Lim at Gate III, Pascual Avenue, San Sebastian Village, Tarlac City.[1] On February 26,

[1] *Rollo*, pp. 4-5.

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1999, SPO3 Cesario Q. Lapitan filed a motion to extend the validity of the search warrants, due to their failure to use said warrants within its period of effectivity.[2] That same day, respondent issued an Order extending the effectivity of said warrants up to fifteen days from February 26, 1999.[3] By virtue of this Order, members of the 313rd Mobile Group of Camp Macabulos, Tarlac City, searched the residence of Lim on March 2, 1999 and seized the following items:

One (1) Cal. 9MM pistol S&W with SN: TEU6566, MOD 6906
One (1) Black magazine for Cal. 9MM
One (1) Stainless magazine for Cal. 9MM
24 rds of ammunitions for Cal. 9MM
One (1) Cal. 38 Rev (S&W) Snubhouse with SN: 251821
Seven (7) rds of ammunitions for Cal. 38
One (1) Leather holster for Cal. 38
One (1) Ammunition for Cal. 357
One (1) Ammunition for Cal. 357
One (1) Blue Ammunition Bag
Two (2) Jungle Knife
38 rds of ammunitions for Cal. 32[4]

Informations for violation of Section 16, Art. III, R.A. No. 6425, as amended, and for Illegal Possession of Firearms and Ammunitions, docketed as Crim. Cases Nos. 10260 and 10261 were filed against Lim on March 2, 1999 with the Regional Trial Court (Branch 63), Tarlac City.[5] On March, 1999, the accused filed a Motion to Quash Search Warrants and Informations before the presiding Judge of Branch 63, then Executive Judge Arsenio Adriano, principally on the ground that when the peace officers implemented the search warrants, the same were already null and void, as their implementation on March 2, 1999 was more than ten days from the issuance

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[2] *Id.*, at p. 6.

[3] *Id.*, at p. 7.

[4] *Rollo*, p. 8.

[5] *Id.*, at pp. 9-10.

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of the warrants on February 16, 1999.[6] RTC Judge Adriano ordered the release of the accused[7] and the dismissal of the two Informations in an Order dated March 15, 1999,[8] portions of which we quote verbatim:

To justify the search done after 10 days from issuance of the search warrants, the peace officers presented an alleged motion to extend validity of the search warrants. This Court would not blame the peace officers as they were not lawyers. Probably they thought the lifetime of a search warrant could be extended by the issuing Court. But the issuing Court did even worse. It issued an order extending the lifetime of the search warrants issued on February 16, 1999 to fifteen days counted from February 26, 1999. The issuing Court has no discretion to extend the lifetime of the search warrants. The wordings of the rule is clear, the mandatory pronouncement of the nullity of a search warrant after 10 days from its issuance and this is emphasized by the use of the phrase "*shall be void.*"

A search warrant would authorize the intrusion by the peace officers of one of the most sacred and valued constitutional rights of the accused. As such, any law or rule regarding its implementation must be strictly construed in favor of the rights of the individuals and against the state.

Instead of just acting favorably on the motion for extension of its lifetime of the search warrants, the issuing Court should have conducted clarificatory questionings as if a new application for search warrant is filed. If there is a need thereafter, then another warrant should be issued instead of issuing an illegal order extending the life of the search warrant already null and void. ...

WHEREFORE, the Court finds the search conducted by the peace officers on the premises of the accused on March 2, 1999 illegal, all the evidence obtained therefrom is also inadmissible in evidence and hence, the two informations should be dismissed as they are hereby dismissed. The accused is ordered released from custody unless being held for some other crime. The money ₱70,540.00, taken from the accused should be returned at once. ...[9]

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[6] *Id.*, at pp. 11-13.

[7] *Id.*, at p. 14.

[8] *Id.*, at p. 17.

[9] *Id.*, at pp. 16-17.

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In his Comment, respondent MTC Judge explained, thus: He granted the motion to extend the validity of the warrants because the key witness Romeo Collado could not be presented immediately for clarificatory questions in order that a new one may be issued. There was an understanding that whatever be the findings of the trial court on the issue of the extension of the validity of the issued writs, the same should be pursued in the higher Court for purely questions of law. In granting the extension he also considered the ruling in *People vs. Narvasa*[10] that even if the evidence is missing, the case could still be established through the indubitable testimonies of witnesses. In this case, the testimony of Romeo Collado, which served as the basis for issuance of the original search warrant, could also be used in prosecuting the accused. In line with the campaign of the local government against illegal drugs, his court had the highest number of search warrants issued, *i.e.*, 27 search warrants from January 1998 to May 1999.[11]

In a Resolution dated February 14, 2001, this Court resolved to docket the instant administrative case as a regular administrative matter and required the parties to manifest, within ten days from notice if they are willing to submit the case for decision based on the pleadings filed by the parties.[12]

Respondent judge manifested his willingness to have the case submitted, based on the pleadings. He likewise submitted a copy of a Resolution of the Office of the Deputy Ombudsman for Luzon, dated September 29, 2000 absolving him of violation of R.A. No. 3019 for the same act herein complained of,[13] and a letter of Chief State Prosecutor Jovencito Zuño addressed to Solicitor General Ricardo P. Galvez, dated May 18, 1999 adopting a petition for *certiorari* to be filed by Provincial Prosecutor Conrado T. Quiaoit seeking to set aside the Order

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[10] G.R. No. 128618. 298 SCRA 637 (1998).

[11] *Rollo*, pp. 20-22.

[12] *Id.*, at p. 27.

[13] *Id.*, at pp. 28-33.

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of Judge Adriano which quashed the Informations against Lim for illegal search and seizure.[14]

Complainant Lacadin failed to manifest, within the period set by the Court, if he is willing to submit the case for decision on the basis of the pleadings filed.

Hence, on November 26, 2001, this Court issued a Resolution which considered the case as submitted for resolution.[15]

In its evaluation, the Office of the Court Administrator found that based on Section 9, Rule 126, 1985 Rules of Criminal Procedure, which reads:

> Sec. 9. *Validity of search warrant.* — A search warrant shall be valid for ten (10) days from its date. Thereafter it shall be void.

and Guideline No. 5(g), Administrative Circular No. 13, issued on October 1, 1985, to wit:

> . . . . . .
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> g. The search warrant shall be valid for ten (10) days from date of issuance, and after which the issuing judge should ascertain if the return has been made, and if there was none, should summon the person to whom the warrant was issued and require him to explain why no return was made. . . .

respondent judge erred in extending the effectivity of the search warrants, the same being an utter disregard of the above-quoted Rules; and in failing to require SPO3 Lapitan to explain in writing why the search warrant was not served, direct him to look for his witness and file a new application for search warrant. The OCA then recommended that respondent be fined the amount of ₱5,000.00 for Gross Ignorance of the Law.[16]

We do not agree with the OCA in finding respondent judge guilty of Gross Ignorance of the Law for the reason that

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[14] *Id.*, at pp. 35-44.

[15] *Id.*, at p. 46.

[16] *Rollo*, pp. 25-26.

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respondent was well-aware of the above-quoted Section 9, Rule 126 and Guideline No. 5(g). His explanation for extending the validity of the search warrants issued by him, to wit:

. . . . . .

3. That the reasons for granting private complainant's motion filed through his Police Officers, are:

a. That while under the Rule, the validity of a Search Warrant is ten (10) days, the Court in considering the motion of the Police Officers, extended its validity before it expires as the key witness Romeo Collado could not be presented immediately for clarificatory questions in order that a new one be issued. That there was an understanding that whatever be the findings of the Trial Court on the issue of the extension of the validity of the issued writs, the same should be pursued in the higher Court for PURELY Questions of LAW.

b. In granting the extension of the validity of Search Warrants, the Court also considered the ruling in *PP. vs. Narvasa, et al.*, G.R. No. 128618, November 16, 1998, which show that even if the evidence is missing, the case could also be established through the indubitable testimonies of witnesses. In the present case, the testimony of Romeo Collado, whose testimony was likewise served as the basis for issuance of the Original Search Warrant, could also be used in prosecuting the accused. The Police Officers through the Provincial Prosecutor failed to avail of this ruling.

c. That the Court has the greatest number of Search Warrants issued. That as of January 1998 to May 1999, there were 27 search warrants. Thus, in participation to the project of the Local Government on Illegal Drugs, no less than the PNP Chief in this City states "that they have already neutralized 45% of pushers-users," (copy of the report is hereto attached as Annex "A").[17]

readily discloses that he knew about said rules but chose to extend the validity of the search warrants by virtue of a motion filed for that purpose before the expiration of the 10-day period.

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[17] *Rollo*, pp. 20-22.

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The real question is: Did the respondent commit grave misconduct and conduct prejudicial to the proper administration of justice in granting an extension of the period of validity of the search warrants issued by him?

We answer this question in the negative.

A disregard of a clear mandate of law as well as of Supreme Court Circulars enjoining strict compliance therewith, constitutes grave misconduct and conduct prejudicial to the proper administration of justice.[18]

There is grave misconduct when an order issued by a judge is contrary to existing law and jurisprudence and the order is imposed with ignominy and ill will.[19]

In this case, there is no evidence that the issuance of the herein assailed order was made by respondent with ignominy and ill will. While it is settled that search warrants are effective for 10 days and thereafter it shall be void, to the mind of respondent, a valid question of law existed: may a judge extend the effectivity of a search warrant upon motion duly filed before the expiration of said period? Constrained to make a decision on the last day of the effectivity of the search warrants and with the desire not to unnecessarily repeat the procedure of ascertaining the propriety of another application that would cause the delay of the execution of the warrants, since time is of the essence in the execution of search warrants, respondent resolved the question in the affirmative and extended the lifetime of the search warrants issued by him with the expressed reservation that the final resolution of the question may be pursued in the higher courts.

The acts of a judge which pertain to his judicial functions are not subject to disciplinary power unless they are committed

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[18] *Caguioa vs. Lavina*, A.M. No. RTJ-00-1553, 345 SCRA 49, 61 (2000).

[19] *Rodriguez vs. Bonifacio*, RTJ-99-1510J, 344 SCRA 519, 548 (2000), citing *Heirs of the Late Nasser D. Yasin vs. Felix*, 250 SCRA 545, 554 (1995).

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with fraud, dishonesty, corruption or bad faith.[20] Absent any proof that herein respondent was motivated by ignominy or ill will, we accord him the presumption that he acted in good faith.

As we have ruled:

> As a matter of public policy, not every error or mistake of a judge in the performance of his official duties make him liable therefor. In the absence of fraud, dishonesty or corruption, the acts of a judge in his official capacity does not always amount to misconduct although such acts may be erroneous. A judge may not be disciplined for error of judgment unless there is proof that the error was made with a conscious and deliberate intent to do an injustice.
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> . . . . . .
>
> To merit disciplinary sanction, the error or mistake must be gross or patent, malicious, deliberate, or in bad faith. In the absence of proof to the contrary, defective or erroneous decision or order is presumed to have been issued in good faith.[21]

Hence, we find that at most, respondent judge may have committed an error of judgment or an abuse of discretion for which he cannot be punished administratively. However, this is not the right forum to determine whether the life of the search warrant may be extended by the court, upon proper motion filed before the expiration of the 10-day period.

In sum, we find that there is no legal basis to find respondent judge administratively liable.

WHEREFORE, the administrative complaint against Judge Marvin B. Mangino is *DISMISSED* for lack of merit.

SO ORDERED.

Bellosillo (Chairman) and *Callejo, JJ.*, concur.

Quisumbing, J., on leave.

Tinga, J., took no part.

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[20] *Frani vs. Pagayatan*, 363 SCRA 707, 713 (2001).

[21] *Atty. Relova vs. Judge Rosales*, A.M. No. RTJ-02-1711, November 26, 2002.