EN BANC

[A.M. No. 93-7-696-0. February 21, 1995.]

IN RE JOAQUIN T. BORROMEO. Ex Rel. Cebu City Chapter of the Integrated Bar of the Philippines.

RESOLUTION

PER CURIAM :

It is said that a little learning is a dangerous thing; and that he who acts as his own lawyer has a fool for a client. There would seem to be more than a grain of truth in these aphorisms; and they appear to find validation in the proceeding at bench, at least.

The respondent in this case, Joaquin T. Borromeo, is not a lawyer but has apparently read some law books, and ostensibly come to possess some superficial awareness of a few substantive legal principles and procedural rules. Incredibly, with nothing more than this smattering of learning, the respondent has, for some sixteen (16) years now, from 1978 to the present, been instituting and prosecuting legal proceedings in various courts, dogmatically pontificating on errors supposedly committed by the courts, including the Supreme Court. In the picturesque language of former Chief Justice Enrique M. Fernando, he has, "with all the valor of ignorance," [1] been verbally jousting with various adversaries in diverse litigations; or in the words of a well-known song, rushing into arenas "where angels fear to tread." Under the illusion that his trivial acquaintance with the law had given him competence to undertake litigation, he has ventured to represent himself in numerous original and review proceedings. Expectedly, the results have been disastrous. In the process, and possibly in aid of his interminable and quite unreasonable resort to judicial proceedings, he has seen fit to compose and circulate many scurrilous statements against courts, judges and their employees, as well as his adversaries, for which he is now being called to account.

Respondent Borromeo's ill-advised incursions into lawyering were generated by fairly prosaic transactions with three (3) banks which came to have calamitous consequences for him chiefly because of his failure to comply with his contractual commitments and his stubborn insistence on imposing his own terms and conditions for their fulfillment. These banks were: Traders Royal Bank (TRB), United Coconut Planters Bank (UCPB), Security Bank & Trust Co. (SBTC). Borromeo obtained loans or credit accommodation from them, to secure which he constituted mortgages over immovables belonging to him or members of his family, or third persons. He failed to pay these obligations, and when demands were made for him to do so, laid down his own terms for their satisfaction which were quite inconsistent with those agreed upon with his obligees or prescribed by law. When, understandably, the banks refused to let him have his way, he brought suits right and left, successively if not contemporaneously, against said banks, its officers, and even the lawyers who represented the banks in the actions brought by or against him. He sued, as well, the public prosecutors, the Judges of the Trial Courts, and the Justices of the Court of Appeals and the Supreme Court who at one time or another, rendered a judgment, resolution or order adverse to him, as well as the Clerks of Court and other Court employees signing the notices thereof. In the

aggregate, he has initiated or spawned in different fora the astounding number of no less than fifty (50) original or review proceedings, civil, criminal, administrative. For some sixteen (16) years now, to repeat, he has been continuously cluttering the Courts with his repetitive, and quite baseless if not outlandish, complaints and contentions.

I. *CASES INVOLVING TRADERS ROYAL BANK (TRB)*

The first bank that Joaquin T. Borromeo appears to have dealt with was the Traders Royal Bank (TRB). On June 2, 1978, he got a loan from it in the sum of P45,000.00. This he secured by a real estate mortgage created over two parcels of land covered by TCT No. 59596 and TCT No. 59755 owned, respectively, by Socorro Borromeo-Thakuria (his sister) and Teresita Winniefred Lavarino. On June 16, 1978, Borromeo obtained a second loan from TRB in the amount of P10,000.00, this time giving as security a mortgage over a parcel of land owned by the Heirs of Vicente V. Borromeo, covered by TCT No. RT-7634. Authority to mortgage these three lots was vested in him by a Special Power of Attorney executed by their respective owners.

Additionally, on April 23, 1980, Borromeo obtained a Letter of Credit from TRB in the sum of P80,000.00, in consideration of which he executed a Trust Receipt (No. 595/80) falling due on July 22, 1980. [2]

Borromeo failed to pay the debts as contracted despite demands therefor. Consequently, TRB caused the extra-judicial foreclosure of the mortgages given to secure them. At the public sale conducted by the sheriff on September 7, 1981, the three mortgaged parcels of land were sold to TRB as the highest bidder, for P73,529.09.

Within the redemption period, Borromeo made known to the Bank his intention to redeem the properties at their auction price. TRB manager Blas C. Abril however made clear that Borromeo would also have to settle his outstanding account under Trust Receipt No. 595/80 (P88,762.78), *supra*. Borromeo demurred, and this disagreement gave rise to a series of lawsuits commenced by him against the Bank, its officers and counsel, as aforestated.

A. *CIVIL CASES*

1. *RTC Case No. R-22506; CA G.R. CV No. 07015; G.R. No. 83306*

On October 29, 1982 Borromeo filed a complaint in the Cebu City Regional Trial Court for specific performance and damages *against TRB and its local manager, Blas Abril*, docketed as Civil Case No. R-22506. The complaint sought to compel defendants to allow redemption of the foreclosed properties only at their auction price, with stipulated interests and charges, without need of paying the obligation secured by the trust receipt above mentioned. Judgment was rendered in his favor on December 20, 1984 by Branch 23 of the Cebu City RTC; but on defendants' appeal to the Court of Appeals — docketed as CA-G.R. CV No. 07015 — the judgment was reversed, by the decision dated January 27, 1988. The Court of Appeals held that the "plaintiff (Borromeo) has lost his right of redemption and can no longer compel defendant to allow redemption of the properties in question."

Borromeo elevated the case to this Court where his appeal was docketed as G.R. No. 83306. By Resolution dated August 15, 1988, this Court's First Division denied his petition for review "for failure . . . to sufficiently show that the respondent Court of Appeals had committed any reversible error in its questioned judgment, it appearing on the contrary that the said decision is supported by substantial evidence and is in accord

with the facts and applicable law." Reconsideration was denied, by Resolution dated November 23, 1988. A second motion for reconsideration was denied by Resolution dated January 30, 1989, as was a third such motion, by Resolution dated April 19, 1989. The last resolution also directed entry of judgment and the remand of the case to the court of origin for prompt execution of judgment. Entry of judgment was made on May 12, 1989. By Resolution dated August 7, 1989, the Court denied another motion of Borromeo to set aside judgment, and by Resolution dated December 20, 1989, the Court merely noted without action his manifestation and motion praying that the decision of the Court of Appeals be overturned, and declared that "no further motion or pleading . . . shall be entertained . . .."

2. *RTC Case No. CEB 8750; CA-G.R. SP No. 22356*

The ink was hardly dry on the resolutions just mentioned before Borromeo initiated another civil action in the same Cebu City Regional Trial Court by which he attempted to litigate the same issues. The action, *against the new TRB Branch Manager, Jacinto Jamero*, was docketed as Civil Case No. CEB-8750. As might have been anticipated, the action was, on motion of the defense, dismissed by Order dated May 18, 1990, [3] on the ground of *res judicata*, the only issue raised in the second action — i.e., Borromeo's right to redeem the lots foreclosed by TRB — having been ventilated in Civil Case No. R-22506 (*Joaquin T. Borromeo vs. Blas C. Abril and Traders Royal Bank*) (*supra*) and, on appeal, decided with finality by the Court of Appeals and the Supreme Court in favor of defendants therein.

The Trial Court's judgment was affirmed by the Court of Appeals in CA-G.R. SP No. 22356.

3. *RTC Case No. CEB-9485; CA-G.R. SP No. 28221*

In the meantime, and during the pendency of Civil Case No. R-22506, TRB consolidated its ownership over the foreclosed immovables. Contending that that act of consolidation amounted to a criminal offense, Borromeo filed complaints in the Office of the City Prosecutor of Cebu against the bank officers and lawyers. These complaints were however, and quite correctly, given short shrift by that Office. Borromeo then filed suit in the Cebu City RTC, this time not only *against the TRB, TRB officers Jacinto Jamero and Arceli Bustamante,* but also *against City Prosecutor Jufelinito Pareja and his assistants, Enriqueta Belarmino and Eva A. Igot, and the TRB lawyers, Mario Ortiz and the law firm, HERSINLAW* . The action was docketed as Civil Case No. CEB-9485. The complaint charged Prosecutors Pareja, Belarmino and Igot with manifest partiality and bias for dismissing the criminal cases just mentioned; and faulted TRB and its manager, Jamero, as well as its lawyers, for consolidating the titles to the foreclosed properties in favor of the bank despite the pendency of Case No. R-22506. This action also failed. On defendants' motion, it was dismissed on February 19, 1992 by the RTC (Branch 22) on the ground of *res judicata* (being identical with Civil Case Nos. R-22506 and CEB-8750, already decided with finality in favor of TRB), and lack of cause of action (as to defendants Pareja, Belarmino and Igot).

Borromeo's *certiorari* petition to the Court of Appeals (CA G.R. SP No. 28221) was dismissed by that Court's 16th Division [4] on October 6, 1992, for the reason that the proper remedy was appeal.

4. *RTC Case No. CEB-10368; CA-G.R. SP No. 27100*

Before Case No. CEB-9845 was finally decided, Borromeo filed, on May 30, 1991, still another civil action for the same *cause against TRB, its manager, Jacinto Jamero, and its lawyers, Atty. Mario Ortiz and the HERSINLAW law office*. This action was docketed as Civil Case No. CEB-10368, and was described as one for "Recovery of Sums of Money, Annulment of Titles with Damages." The case met the same fate as the others. It was, on defendants' motion, dismissed on September 9, 1991 by the RTC (Branch 14) [5] on the ground of *litis pendentia*.

The RTC ruled that —

> "Civil Case No. CEB-9485 will readily show that the defendants therein, namely the Honorable Jufelinito Pareja, Enriqueta Belarmino, Eva Igot, Traders Royal Bank, Arceli Bustamante, Jacinto Jamero, Mario Ortiz and HERSINLAW are the same persons or nearly all of them who are impleaded as defendants in the present Civil Case No. CEB-10368, namely, the Traders Royal Bank, Jacinto Jamero, Mario Ortiz and HERSINLAW. The only difference is that more defendants were impleaded in Civil Case No. CEB-9485, namely, City Prosecutor Jufelinito Pareja and his assistants, Enriqueta Belarmino and Eva Igot. The inclusion of the City Prosecutor and his two assistants in Civil Case No. CEB-9485 was however merely incidental as apparently they had nothing to do with the questioned transaction in said case. . . ."

The Court likewise found that the reliefs prayed for were the same as those sought in Civil Case No. CEB-9485, and the factual bases of the two cases were essentially the same — the alleged fraudulent foreclosure and consolidation of the three properties mortgaged years earlier by Borromeo to TRB.

For some reason, the Order of September 9, 1991 was set aside by an Order rendered by another Judge on November 11, 1991 [6] — the Judge who previously heard the case having inhibited himself; but this Order of November 11, 1991 was, in turn, nullified by the Court of Appeals (9th Division), by Decision promulgated on March 31, 1992 in CA-G.R. SP No. 27100 (*Traders Royal Bank vs. Hon. Celso M. Gimenez, etc. and Joaquin T. Borromeo*), [7] which decision also directed dismissal of Borromeo's complaint.

5. *RTC Case No. CEB-6452*

When a new branch manager, Ronald Sy, was appointed for TRB, Cebu City, Borromeo forthwith made that event the occasion for another new action, *against TRB, Ronald Sy, and the bank's' attorneys — Mario Ortiz, Honorato Hermosisima, Jr., Wilfredo Navarro and HERSINLAW firm*. This action was docketed as Civil Case No. CEB-6452, and described as one for "Annulment of Title with Damages." The complaint, dated October 20, 1987, again involved the foreclosure of the three (3) immovable above mentioned, and was anchored on the alleged malicious, deceitful, and premature consolidation of titles in TRB's favor despite the pendency of Civil Case No. 22506. On defendants' motion, the trial court [8] dismissed the case on the ground of prematurity, holding that "(a)t this point . . ., plaintiff's right to seek annulment of defendant Traders Royal Bank's title will only accrue if and when plaintiff will ultimately and finally win Civil Case No. R-22506."

6. *RTC Case No. CEB-8236*

Having thus far failed in his many efforts to demonstrate to the courts the "merit" of his cause against TRB and its officers and lawyers, Borromeo now took a different

tack by also suing (and thus also venting his ire on) the members of the appellate courts who had ruled adversely to him. He filed in the Cebu City RTC, Civil Case No. CEB-8236, *impleading as defendants not only the same parties he had theretofore been suing — TRB and its officers and lawyers (HERSINLAW Mario Ortiz) — but also the Chairman and Members of the First Division of the Supreme Court who had repeatedly rebuffed him in G.R. No. 83306 (SEE sub-head I, A, 1, supra), as well as the Members of the 8th, 9th and 10th Divisions of the Court of Appeals who had likewise made dispositions unfavorable to him*. His complaint, dated August 22, 1989, aimed to recover damages from the defendant Justices for —

> ". . . maliciously and deliberately stating blatant falsehoods and disregarding evidence and pertinent laws, rendering manifestly unjust and biased resolutions and decisions bereft of signatures, facts or laws in support thereof, depriving plaintiff of his cardinal rights to due process and against deprivation of property without said process, tolerating, approving and legitimizing the patently illegal, fraudulent, and contemptuous acts of defendant TRB, (which) constitute a) GRAVE DERELICTION OF DUTY AND ABUSE OF POWER emanating from the people, b) FLAGRANT VIOLATIONS OF THE CONSTITUTION, CARDINAL PRIMARY RIGHTS, DUE PROCESS, ART. 27, 32, CIVIL CODE, Art. 208, REV. PENAL CODE, and R.A. 3019, for which defendants must be held liable under said laws."

The complaint also prayed for reconveyance of the "fake titles obtained fraudulently by TRB/HERSINLAW," and recovery of "P100,000.00 moral damages; 30,000.00 exemplary damages; and P5,000.00 litigation expenses." This action, too, met a quick and unceremonious demise. On motion of defendants TRB and HERSINLAW, the trial court, by Order dated November 7, 1989, [9] dismissed the case.

7. *RTC Case No. CEB-13069*

It appears that Borromeo filed still another case to litigate the same cause subject of two (2) prior actions instituted by him. This was RTC Case No. CEB-13069, *against TRB and the latter's lawyers, Wilfredo Navarro and Mario Ortiz*. The action was dismissed in an Order dated October 4, 1993, [10] on the ground of *res judicata* — the subject matter being the same as that in Civil Case No. R-22506, decision in which was affirmed by the Court of Appeals in CA-G.R. CV No. 07015 as well as by this Court in G.R. No. 83306 [11] — and *litis pendentia* — the subject matter being also the same as that in Civil Case No. CEB-8750, decision in which was affirmed by the Court of Appeals in CA G.R. SP No. 22356.[12]

8. *RTC Criminal Case No. CBU-19344; CA G.R. SP No. 28275; G.R. No. 112928*

On April 17, 1990 the City Prosecutor of Cebu City filed an information with the RTC of Cebu (Branch 22) against Borromeo charging him with a violation of the Trust Receipts Law. [13] This case was docketed as Criminal Case No. CBU-19344. After a while, Borromeo moved to dismiss the case on the ground of denial of his right to a speedy trial. His motion was denied by Order of Judge Pampio A. Abarintos dated April 10, 1992. In the same order, His Honor set an early date for Borromeo's arraignment and placed the case "under a continuous trial system on the dates as may be agreed by the defense and prosecution." Borromeo moved for reconsideration. When his motion was again found without merit, by Order dated May 21, 1992, he betook himself to the Court of Appeals on a special civil action of *certiorari*, to nullify these adverse orders,

his action being docketed as CA-G.R. SP No. 28275.

Here again, Borromeo failed. The Court of Appeals declared that the facts did not show that there had been unreasonable delay in the criminal action against him, and denied his petition for being without merit. [14]

Borromeo then filed a petition for review with this Court (G.R. No. 112928), but by resolution dated January 31, 1994, the same was dismissed for failure of Borromeo to comply with the requisites of Circulars Numbered 1-88 and 19-91. His motion for reconsideration was subsequently denied by Resolution dated march 23, 1994.

a. *Clarificatory Communications to Borromeo Re "Minute Resolutions"*

He next filed a Manifestation dated April 6, 1994 calling the Resolution of March 23, 1994 "Un-Constitutional, Arbitrary and tyrannical and a gross travesty of 'Justice,'" because it was "signed only by a mere clerk and . . . (failed) to state clear facts and law," and "the petition was not resolved on MERITS nor by any Justice but by a mere clerk." [15]

The Court responded with another Resolution, promulgated on June 22, 1994, and with some patience drew his attention to the earlier resolution "in his own previous case (*Joaquin T. Borromeo vs. Court of Appeals and Samson Lao*, G.R. No. 82273, 1 June 1990; 186 SCRA 1) [16] and on the same issue he now raises." Said Resolution of June 22, 1994, after reiterating that the notices sent by the Clerk of Court of the Court *En Banc* or any of the Divisions simply advise of and quote the resolution actually adopted by the Court after deliberation on a particular matter, additionally stated that Borromeo "knew, as well, that the communications (notices) signed by the Clerk of Court start with the opening clause —

> 'Quoted hereunder, for your information, is a resolution of the First Division of this Court dated __________,'

thereby indisputably showing that it is not the Clerk of Court who prepared or signed the resolutions.

This was not, by the way, the first time that the matter had been explained to Borromeo. The record shows that on July 10, 1987, he received a letter from Clerk of Court Julieta Y. Carreon (of this Court's Third Division) dealing with the subject, in relation to G.R. No. 77243. [17] The same matter was also dealt with in the letter received by him from Clerk of Court Luzviminda D. Puno, dated April 4, 1989, and in the letter to him of Clerk of Court (Second Division) Fermin J. Garma, dated May, 19, 1989. [18] And the same subject was treated of in another Resolution of this Court, notice of which was in due course served on him, to wit: that dated July 31, 1989, in G.R. No. 87897. [19]

B. *CRIMINAL CASES*

Mention has already been made of Borromeo's attempt — with "all the valor of ignorance" — to fasten not only civil, but also criminal liability on TRB, its officers and lawyers. [20] Several other attempts on his part to cause criminal prosecution of those he considered his adversaries, will now be dealt with here.

1. *I.S. Nos. 90-1187 and 90-1188*

On March 7, 1990, Borromeo filed criminal complaints with the Office of the Cebu City Prosecutor *against Jacinto Jamero (then still TRB Branch manager), "John Doe and Officers of Traders Royal Bank."* The complaints (docketed as I.S. Nos. 90-1187-

88) accused the respondents of "Estafa and Falsification of Public Documents." He claimed, among others that the bank and its officers, thru its manager, Jacinto Jamero, sold properties not owned by them: that by fraud, deceit and false pretenses, respondents negotiated and effected the purchase of the (foreclosed) properties from his (Borromeo's) mother, who "in duress, fear and lack of legal knowledge," agreed to the sale thereof for only P671,000.00, although in light of then prevailing market prices, she should have received P588,030.00 more.

In a Joint Resolution dated April 11, 1990, [21] the Cebu City Fiscal's office dismissed the complaint observing that actually, the Deed of Sale was not between the bank and Borromeo's mother, but between the bank and Mrs. Thakuria (his sister), one of the original owners of the foreclosed properties; and that Borromeo, being a stranger to the sale, had no basis to claim injury or prejudice thereby. The Fiscal ruled that the bank's ownership of the foreclosed properties was beyond question as the matter had been raised and passed upon in a judicial litigation; and moreover, there was no proof of the document allegedly falsified nor of the manner of its falsification.

a. *I.S. Nos. 87-3795 and 89-4234*

Evidently to highlight Borromeo's penchant for reckless filing of unfounded complaints, the Fiscal also adverted to two other complaints earlier filed in his Office by Borromeo — involving the same foreclosed properties and directed against respondent bank officers' predecessors (including the former Manager, Ronald Sy) and lawyers — both of which were dismissed for lack of merit. These were:

> a. I.S. No. 87-3795 (*JOAQUIN T. BORROMEO vs. ATTY. MARIO ORTIZ and RONALD SY*) for "Estafa Through Falsification of Public Documents, Deceit and False Pretenses." — This case was dismissed by Resolution dated January 19, 1988 of the City Prosecutor's Office because based on nothing more than a letter dated June 4, 1985, sent by the Bank Manager Ronald Sy to the lessee of a portion of the foreclosed immovables, advising the latter to remit all rentals to the bank as the new owner thereof, as shown by the consolidated title; and there was no showing that respondent Atty. Ortiz was motivated by fraud in notarizing the deed of sale in TRB's favor after the lapse of the period of redemption, or that Ortiz had benefited pecuniarily from the transaction to the prejudice of complainant; and
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> b. I.S. No. 89-4234 (*JOAQUIN T. BORROMEO vs. RONALD SY, ET AL.*) for "Estafa Through False Pretenses and Falsification of Public Documents." — This case was dismissed by Resolution dated January 31, 1990.

2. *I.S. Nos. 88-205 to 88-207*

While Joaquin Borromeo's appeal (G.R. No. 83306) was still pending before the Supreme Court, [22] an affidavit was executed in behalf of TRB by Arceli Bustamante, in connection with the former's fire insurance claim over property registered in its name — one of two immovables formerly owned by Socorro B. Thakuria (Joaquin T. Borromeo's sister) and foreclosed by said bank. [23] In that affidavit, dated September 10, 1987, Bustamante stated that "On 24 June 1983, TRB thru foreclosure acquired real property together with the improvements thereon which property is located at F. Ramos St., Cebu City covered by TCT No. 87398 in the name of TRB." The affidavit was notarized by Atty. Manuelito B. Inso.

Claiming that the affidavit was "falsified and perjurious" because the claim of title by TRB over the foreclosed lots was a "deliberate, wilful and blatant falsehood in that,

among others: . . . the consolidation was premature, illegal and invalid," Borromeo filed a criminal complaint with the Cebu City Fiscal's Office against the affiant (Bustamante) and the notarizing lawyer (Atty. Inso) for "falsification of public document, false pretenses, perjury." On September 28, 1988, the Fiscal's Office dismissed the complaint. [24] It found no untruthful statements in the affidavit or any malice in its execution, considering that Bustamante's statement was based on the Transfer Certificate of Title in TRB's file, and thus the document that Atty. Inso notarized was legally in order.

3. *OMB-VIS-89-00136*

This Resolution of this Court (First Division) in G.R. No. 83306 dated August 15, 1988 — sustaining the judgment of the Court of Appeals (10th Division) of January 27, 1988 in CA-G.R. CV No. 07015, supra, was made the subject of a criminal complaint by Borromeo in the Office of the Ombudsman, Visayas, docketed as OMB-VIS-89-00136. His complaint — against "Supreme Court Justice (First Div.) and Court of Appeals Justice (10th Div.)" — was dismissed for lack of merit in a resolution issued on February 14, 1990 [25] which, among other things, ruled as follows:

> "It should be noted and emphasized that complainant has remedies available under the Rules of Court, particularly on civil procedure and existing laws. It is not the prerogative of this Office to make a review of Decisions and resolutions of judicial courts, rendered within their competence. The records do not warrant this Office to take further proceedings against the respondents.
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> In addition, Sec. 20 of R.A. 6770, the Ombudsman Act states that 'the Office of the Ombudsman may not conduct the necessary investigation of any administrative act or omission complained of if it believes that (1) the complainant had adequate remedy in another judicial or quasi-judicial body'; and Sec. 21 of the same law provides that the Office of the Ombudsman does not have disciplinary authority over members of the Judiciary."

II. *CASES INVOLVING UNITED COCONUT PLANTERS BANK (UCPB)*

As earlier stated, [26] Borromeo (together with a certain Mercader) also borrowed money from the United Coconut Planters Bank (UCPB) and executed a real estate mortgage to secure repayment thereof. The mortgage was constituted over a 122-square meter commercial lot covered by TCT No. 75680 in Borromeo's name. This same lot was afterwards sold on August 7, 1980 by Borromeo to one Samson K. Lao for P170,000.00, with a stipulation for its repurchase *(pacto de retro)* by him (Borromeo, as the vendor). The sale was made without the knowledge and consent of UCPB.

A. *CIVIL CASES*

Now, just as he had defaulted in the payment of the loans and credit accommodations he had obtained from the Traders Royal Bank, Borromeo failed in the fulfillment of his obligations to the UCPB.

Shortly after learning of Borromeo's default, and obviously to obviate or minimize the ill effects of the latter's delinquency, Lao applied with the same bank (UCPB) for a loan, offering the property he had purchased from Borromeo as collateral. UCPB was not averse to dealing with Lao but imposed several conditions on him, one of which was for Lao to consolidate his title over the property. Lao accordingly instituted a suit for consolidation of title, docketed as Civil Case No. R-21009. However, as will shortly be narrated, Borromeo opposed the consolidation prayed for. As a result, UCPB cancelled

Lao's application for a loan and itself commenced proceedings to foreclose the mortgage constituted by Borromeo over the property.

This signaled the beginning of court battles waged by Borromeo not only against Lao, but also against UCPB and the latter's lawyers, battles which he (Borromeo) fought contemporaneously with his court war with Traders Royal Bank.

1. *RTC Case No. R-21009; AC-G.R. No. CV-07396; G.R. No. 82273*

The first of this new series of court battles was, as just stated, the action initiated by Samson Lao in the Regional Trial Court of Cebu (Branch 12), docketed as Case No. R-21009, for consolidation of title in his favor over the 122-square-meter lot subject of the UCPB mortgage, in accordance with Article 1007 of the Civil Code. In this suit Lao was represented by Atty. Alfredo Perez, who was later substituted by Atty. Antonio Regis. Borromeo contested Lao's application.

Judgment was in due course rendered by the RTC (Branch 12, Hon. Francis Militante, presiding) denying consolidation because the transaction between the parties could not be construed as a sale with *pacto de retro* being in law an equitable mortgage; however, Borromeo was ordered to pay Lao the sum of P170,000.00, representing the price stipulated in the *sale a retro*, plus the amounts paid by Lao for capital gains and other taxes in connection with the transaction (P10,497.50).

Both Lao and Borromeo appealed to the Court of Appeals. Lao's appeal was dismissed for failure of his lawyer to file brief in his behalf. Borromeo's appeal — AC-G.R. No. CV-07396 — resulted in a Decision by the Court of Appeals dated December 14, 1987, affirming the RTC's judgment *in toto*.

The Appellate Court's decision was, in turn, affirmed by this Court (Third Division) in a four-page Resolution dated September 13, 1989, promulgated in G.R. No. 82273 — an appeal also taken by Borromeo. Borromeo filed a motion for reconsideration on several grounds, one of which was that the resolution of September 13, 1989 was unconstitutional because contrary to "Sec. 4 (3), Art. VIII of the Constitution," it was not signed by any Justice of the Division, and there was "no way of knowing which justices had deliberated and voted thereon, nor of any concurrence of at least three of the members." Since the motion was not filed until after there had been an entry of judgment, Borromeo having failed to more for reconsideration within the reglementary period, the same was simply noted without action, in a Resolution dated November 27, 1989.

Notices of the foregoing Resolutions were, in accordance with established rule and practice, sent to Borromeo over the signatures of the Clerk of Court and Assistant Clerk of Court (namely: Attys. Julieta Y. CARREON and Alfredo MARASIGAN, respectively).

a. *RTC Case No. CEB-8679*

Following the same aberrant pattern of his judicial campaign against Traders Royal Bank, Borromeo attempted to vent his resentment even against the Supreme Court officers who, as just stated, had given him notices of the adverse dispositions of this Court's Third Division. He filed Civil Case No. CEB-8679 in the Cebu City RTC (CFI) for recovery of damages against "*Attys. Julieta Y. Carreon and Alfredo Marasigan, Division Clerk of Court and Asst. Division Clerk of Court, Third Division, and Atty. Jose I. Ilustre, Chief of Judicial Records Office*." He charged them with usurpation of judicial functions, for allegedly "maliciously and deviously issuing biased, fake,

baseless and unconstitutional 'Resolution' and 'Entry of Judgment' in G.R. No. 82273."

Summonses were issued to defendants to RTC Branch 18 (Judge Rafael R. Ybañez, presiding). These processes were brought to the attention of this Court's Third Division. The latter resolved to treat the matter as an incident in G.R. No. 82273, and referred it to the Court *En banc* on April 25, 1990. By Resolution (issued in said G.R. No. 82273, *supra*) dated June 1, 1990, the Court *En banc* ordered Judge Ybañez to quash the summonses, to dismiss Civil Case No. CEB-8679, and "not to issue summons or otherwise to entertain cases of similar nature which may in the future be filed in his court." Accordingly, Judge Ybañez issued an Order on June 6, 1990 quashing the summonses and dismissing the complaint in said Civil Case No. CEB-8679.

The Resolution of June 1, 1990 [27] explained to Borromeo in no little detail the nature and purpose of notices sent by the Clerks of Court of decisions or resolutions of the Court *En Banc* or the Divisions, in this wise:

> "This is not the first time that Mr. Borromeo has filed charges/complaints against officials of the Court. In several letter-complaints filed with the courts and the Ombudsman, Borromeo had repeatedly alleged that he 'suffered injustices,' because of the disposition of the four (4) cases he separately appealed to this Court which were resolved by minute resolutions, allegedly in violation of Sections 4 (3), 13 and 14 of Article VIII of the 1987 Constitution. His invariable complaint is that the resolutions which disposed of his cases do not bear the signatures of the Justices who participated in the deliberations and resolutions and do not show that they voted therein. He likewise complained that the resolutions bear no certification of the chief Justice and that they did not state the facts and the law on which they were based and were signed only by the Clerks of Court and therefore "unconstitutional, null and void."
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> xxx xxx xxx
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> The Court reminds all lower courts, lawyers, and litigants that it disposes of the bulk of its cases by minute resolutions and decrees them as final and executory, as where a case is patently without merit, where the issues raised are factual in nature, where the decision appealed from is in accord with the facts of the case and the applicable laws, where it is clear from the records that the petition is filed merely to forestall the early execution of judgment and for non-compliance with the rules. The resolution denying due course always gives the legal basis. As emphasized in *In Re: Wenceslao Laureta*, 18 SCRA 382, 417 [1987], "[T]he Court is not "duty bound" to render signed Decisions all the time. It has ample discretion to formulate Decisions and/or Minute Resolutions, *provided a legal basis is given*, depending on its evaluation of a case" . . . . This is the only way whereby it can act on all cases filed before it and, accordingly, discharge its constitutional functions. . .
>
> . . . (W)hen the Court, after deliberating on a petition and any subsequent pleadings, manifestations, comments, or motions decides to deny due course to the petition and states that the questions raised are factual, or no reversible error in the respondent court's decision is shown, or for some other legal basis stated in the resolution, there is sufficient compliance with the constitutional requirement . . . (of Section 14, Article VIII of the Constitution "that no petition for review or motion for reconsideration shall be refused due course or denied without stating the legal basis thereof").

For a prompt dispatch of actions of the Court, minute resolutions are promulgated by the Court through the Clerk of Court, who takes charge of sending copies thereof to the parties concerned by quoting verbatim the resolution issued on a particular case. It is the Clerk of Court's duty to inform the parties of the action taken on their cases by quoting the resolution adopted by the Court. The Clerk of Court never participates in the deliberations of a case. All decisions and resolutions are actions of the Court. The Clerk of Court merely transmits the Court's action. This was explained in the case — G.R. No. 56280, "*Rhine Marketing Corp. v. Felix Gravante, et al.*," where, in a resolution dated July 6, 1981, the Court said — "[M]inute resolutions of this Court denying or dismissing unmeritorious petitions like the petition in the case at bar, are the result of a thorough deliberation among the members of this Court, which does not and cannot delegate the exercise of its judicial functions to its Clerk of Court or any of its subalterns, which should be known to counsel. When a petition is denied or dismissed by this Court, this Court sustains the challenged decision or order together with its findings of facts and legal conclusions.

Minute resolutions need not be signed by the members of the Court who took part in the deliberations of a case nor do they require the certification of the Chief Justice. For to require members of the Court to sign all resolutions issued would not only unduly delay the issuance of its resolutions but a great amount of their time would be spent on functions more properly performed by the Clerk of Court and which time could be more profitably used in the analysis of cases and the formulation of decisions and orders of important nature and character. Even with the use of this procedure, the Court is still struggling to wipe out the backlog accumulated over the years and meet the ever increasing number of cases coming to it. . . .."

b. *RTC CIVIL CASE NO. CEB-(6501) 6740; G.R. No. 84054*

It is now necessary to digress a little and advert to actions which, while having no relation to the UCPB, TRB or SBTC, are relevant because they were the predicates for other suits filed by Joaquin Borromeo against administrative officers of the Supreme Court and the Judge who decided one of the cases adversely to him.

The record shows that on or about December 11, 1987, Borromeo filed a civil action for damages against a certain Tomas B. Tan and Marjem Pharmacy, docketed as Civil Case No. CEB-6501. On January 12, 1988, the trial court dismissed the case, without prejudice, for failure to state a cause of action and prematurely (for non-compliance with P.D. 1508).

What Borromeo did was simply to re-file the same complaint with the same Court, on March 18, 1988. This time it was docketed as Civil Case No. CEB-6740, and assigned to Branch 17 of the RTC of Cebu presided by Hon. Mario Dizon. Again, however, on defendants' motion, the trial court dismissed the case, in an order dated may 28, 1988. His first and second motions for reconsideration having been denied, Borromeo filed a petition for review before this Court, docketed as G.R. No. 84054 (*Joaquin T. Borromeo vs. Tomas Tan and Hon. Mario Dizon*).

In a Resolution dated August 3, 1988, the Court required petitioner to comply with the rules by submitting a verified statement of material dates and paying the docket and legal research fund fees; it also referred him to the Citizens Legal Assistance Office for help in the case. His petition was eventually dismissed by Resolution of the Second Division dated November 21, 1988, for failure on his part to show any reversible error in the trial court's judgment. His motion for reconsideration was denied with finality, by

Resolution dated January 18, 1989.

Borromeo wrote to Atty. Fermin J. Garma (Clerk of Court of the Second Division) on April 27, 1989 once more remonstrating that the resolutions received by him had nor been signed by any Justice, set forth no findings of fact or law, and had no certification of the Chief Justice. Atty. Garma replied to him on May 19, 1989, pointing out that "the minute resolutions of this Court denying or dismissing petitions, like the petition in the case at bar, which was denied for failure of the counsel and/or petitioner to sufficiently show that the Regional Trial Court of Cebu, Branch 17, had committed any reversible error in the questioned judgment [resolution dated November 21, 1988], are the result of a thorough deliberation among the members of this Court, which does not and cannot delegate the exercise of its judicial functions to its Clerk of Court or any of its subalterns. When the petition is denied or dismissed by the Court, it sustains the challenged decision or order together with its findings of facts and legal conclusions."

Borromeo obviously had learned nothing from the extended Resolution of June 1, 1990 in G.R. No. 82273, *supra* (or the earlier communications to him on the same subject) which had so clearly pointed out that minute resolutions of the Court are as much the product of the Members' deliberations as full-blown decisions or resolutions, and that the intervention of the Clerk consists merely in the ministerial and routinary function of communicating the Court's action to the parties concerned.

c. *RTC Case No. CEB-9042*

What Borromeo did next, evidently smarting from this latest judicial rebuff, yet another in an already long series, was to commence a suit against Supreme Court (Second Division) Clerk of Court Fermin J. Garma and Assistant Clerk of Court Tomasita Dris. They were the officers who had sent him notices of the unfavorable resolutions in G.R. No. 84054, *supra*. His suit, filed on June 1, 1990, was docketed as Case No. CEB-9042 (Branch 8, Hon. Bernardo Salas presiding). Therein he complained essentially of the same thing he had been harping on all along: that in relation to G.R. No. 91030 — in which the Supreme Court dismissed his petition for "technical reasons" and failure to demonstrate any reversible error in the challenged judgment — the notice sent to him — of the "unsigned and unspecific" resolution of February 19, 1990, denying his motion for reconsideration — had been singed only by the defendant clerks of court and not by the Justices. According to him, he had thereupon written letters to defendants demanding an explanation for said "patently unjust and un-Constitutional resolutions," which they ignored; defendants had usurped judicial functions by issuing resolutions signed only by them and not by any Justice, and without stating the factual and legal basis thereof; and defendants' "wanton, malicious and patently abusive acts" had caused him "grave mental anguish, severe moral shock, embarrassment, sleepless nights and worry;" and consequently, he was entitled to moral damages of no less than P20,000.00 and exemplary damages of P10,000.00, and litigation expenses of P5,000.00.

On June 8, 1990, Judge Renato C. Dacudao ordered the records of the case transmitted to the Supreme Court conformably with its Resolution dated June 1, 1990 in G.R. No. 82273, entitled "*Joaquin T. Borromeo vs. Hon. Court of Appeals and Samson Lao*," *supra* — directing that all complaints against officers of that Court be forwarded to it for appropriate action. [28]

Borromeo filed a "Manifestation/Motion" dated June 27, 1990 asking the Court to "rectify the injustices" committed against him in G.R. Nos. 83306, 84999, 87897, 77248 and 84054. This the Court ordered expunged from the record (Resolution, July 19,

1990).

2. *RTC Case No. R-21880; CA-G.R. CV No. 10951; G.R. No. 87897*

Borromeo also sued to stop UCPB from foreclosing the mortgage on his property. In the Cebu City RTC, he filed a complaint for "Damages with Injunction," which was docketed as Civil Case No. R-21880 (*Joaquin T. Borromeo vs. United Coconut Planters Bank, et al.*). Named defendants in the complaint were *UCPB, Enrique Farrarons* (*UCPB Cebu Branch Manager*), *and Samson K. Lao*. UCPB was represented in the action by Atty. Danilo Deen, and for a time, by Atty. Honorato Hermosisima (both being then resident partners of ACCRA Law Office). Lao was represented by Atty. Antonio Regis. Once again, Borromeo was rebuffed. The Cebu RTC (Br. 11, Judge Valeriano R. Tomol, Jr., presiding) dismissed the complaint, upheld UCPB's right to foreclose, and granted its counterclaim for moral damages in the sum of P20,000.00; attorney's fees amounting to P10,000.00; and litigation expenses of P1,000.00.

Borromeo perfected an appeal to the Court of Appeals where it was docketed as CA-G.R. CV No. 10951. That Court, thru its Ninth Division (per Martinez, J., *ponente*, with de la Fuente and Pe, JJ., concurring), dismissed his appeal and affirmed the Trial Court's judgment.

Borromeo filed a petition for review with the Supreme Court which, in G.R. No. 87897 dismissed it for insufficiency in form and substance and for being "largely unintelligible." Borromeo's motion for reconsideration was denied by Resolution dated June 25, 1989. A second motion for reconsideration was denied in a Resolution dated July 31, 1989 which directed as well entry of judgment (effected on August 1, 1989). In this Resolution, the Court (First Division) said:

> "The Court considered the Motion for Reconsideration dated July 4, 1989 filed by petitioner himself and Resolved to DENY they same for lack of merit, the motion having been filed without "express leave of court" (Section 2, Rule 52, Rules of Court) apart from being a reiteration merely of the averments of the Petition for Review dated April 14, 1989 and the Motion for Reconsideration dated May 25, 1989. It should be noted that petitioner's claims have already been twice rejected as without merit, first by the Regional Trial Court of Cebu and then by the Court of Appeals. What petitioner desires obviously is to have a third ruling on the merits of his claims, this time by this Court. Petitioner is advised that a review of a decision of the Court of Appeals is not a matter of right but of sound judicial discretion and will be granted only when there is a special and important reason therefor (Section 4, Rule 45); and a petition for review may be dismissed summarily on the ground that 'the appeal is without merit, or is prosecuted manifestly for delay or the question raised is too unsubstantial to require consideration' (Section 3, Rule 45), or that only questions of fact are raised in the petition, or the petition otherwise fails to comply with the formal requisites prescribed therefor (Sections 1 and 2, Rule 45; Circular No. 1-88). Petitioner is further advised that the first sentence of Section 14, Article VIII of the 1987 Constitution refers to a *decision*, and has no application to a resolution as to which said section pertinently provides that a *resolution* denying a motion for reconsideration need state only the legal basis therefor; and that the resolution of June 26, 1989 denying petitioner's first Motion for Reconsideration dated May 25, 1989 does indeed state the legal reasons therefor. The plain and patent signification of the grounds for denial set out in the Resolution of June 26, 1989 is that the petitioner's arguments — aimed at the setting aside of the resolution

denying the petition for review, and consequently bringing about a review of the decision of the Court of Appeals — had failed to persuade the Court that the errors imputed to the Court of Appeals had indeed been committed and therefore, there was no cause to modify the conclusion set forth in that judgment, and in such a case, there is obviously no point in reproducing and restating the conclusions and reasons therefor of the Court of Appeals.

Premises considered, the Court further Resolved to DIRECT ENTRY OF JUDGMENT."

On August 13, 1989 Borromeo wrote to Atty. Estrella C. Pagtanac, then the Clerk of Court of the Court's First Division, denouncing the resolution above mentioned as "a LITANY OF LIES, EVASIONS, and ABSURD SELF-SERVING LOGIC from a Supreme Court deluded and drunk with power which it has forgotten emanates from the people," aside from being "patently UNCONSTITUTIONAL for absence of signatures and facts and law: . . ." and characterizing the conclusions therein as "the height of ARROGANCE and ARBITRARINESS assuming a KING-LIKE AND EVEN GOD-LIKE POWER totally at variance and contradicted by . . . CONSTITUTIONAL provisions . . .." To the letter Borromeo attached copies of (1) his "Open Letter to the Ombudsman" dated August 10, 1989 protesting the Court's "issuing UNSIGNED, UNSPECIFIC, and BASELESS 'MINUTES RESOLUTIONS'"; (2) his "Open Letter of Warning" dated August 12, 1989; and (3) a communication of Domingo M. Quimlat, News Ombudsman, Phil. Daily Inquirer, dated August 10, 1989. His letter was ordered expunged from the record because containing "false, impertinent and scandalous matter (Section 5, Rule 9 of the Rules of Court)." Another letter of the same ilk, dated November 7, 1989, was simply "NOTED without action" by Resolution promulgated on December 13, 1989.

3. *RTC Case No. CEB-4852; CA G.R. SP No. 14519; G.R. No. 84999*

In arrant disregard of established rule and practice, Borromeo filed another action to invalidate the foreclosure effected at the instance of UCPB, which he had unsuccessfully tried to prevent in Case No. CEB-21880. This was Civil Case No. CEB-4852 of the Cebu City RTC (*Joaquin T. Borromeo vs. UCPB, et al.*) for "Annulment of Title with Damages." Here, UCPB was represented by Atty. Laurence Fernandez, in consultation with atty. Deen.

On December 26, 1987, the Cebu City RTC (Br. VII, Hon. Generoso A. Juaban, presiding) dismissed the complaint on the ground of *litis pendentia* and ordered Borromeo to pay attorney's fees (P5,000.00) and litigation expenses (P1,000.00).

Borromeo instituted a *certiorari* action in the Court of Appeals to annul this judgment (CA G.R. SP No. 14519); but his action was dismissed by the Appellate Court on June 7, 1988 on account of his failure to comply with that Court's Resolution of May 13, 1988 for submission of certified true copies of the Trial Court's decision of December 26, 1987 and its Order of February 26, 1988, and for statement of "the dates he received . . . (said) decision and . . . order."

Borromeo went up to this Court on appeal, his appeal being docketed as G.R. No. 84999. In a Resolution dated October 10, 1988, the Second Division required comment on Borromeo's petition for review by the respondents therein named, and required Borromeo to secure the services of counsel. On November 9, 1988, Atty. Jose L. Cerilles entered his appearance for Borromeo. After due proceedings, Borromeo's petition was dismissed, by Resolution dated March 6, 1989 of the Second Division for failure to sufficiently show that the Court of Appeals had committed any reversible error

in the questioned judgment. His motion for reconsideration dated April 4, 1989, again complaining that the resolution contained no findings of fact and law, was denied.

a. *RTC Case No. CEB-8178*

Predictably, another action, Civil Case No. CEB-8178, was commenced by Borromeo in the RTC of Cebu City, this time against the Trial Judge who had lately rendered judgment adverse to him, *Judge Generoso Juaban*. Also impleaded as defendants were *UCPB*, and *Hon. Andres Narvasa (then Chairman, First Division), Estrella G. Pagtanac and Marissa Villarama (then, respectively, Clerk of Court and Assistant Clerk of Court of the First Division)*, and others. Judge German G. Lee of Branch 15 of said Court — to which the case was raffled — caused issuance of summonses which were in due course served on September 22, 1989, among others, on said defendants in and of the Supreme Court. In an *En Banc* Resolution dated October 2, 1989 — in G.R. No. 84999 — this Court, required Judge Lee and the Clerk of Court and Assistant Clerk of Court of the Cebu RTC to show cause why no disciplinary action should be taken against them for issuing said summonses.

Shortly thereafter, Atty. Jose L. Cerilles — who, as already stated, had for time represented Borromeo in G.R. No. 84999 — filed with this Court his withdrawal of appearance, alleging that there was "no compatibility" between him and his client, Borromeo — because "Borromeo had been filing pleadings, papers, etc. without . . . (his) knowledge and advice" — and declaring that he had "not advised and . . . (had had) no hand in the filing of (said) Civil Case CEB 8178 before the Regional Trial Court in Cebu. On the other hand, Judge Lee, in his "Compliance" dated October 23, 1989, apologized to the Court and informed it that he had already promulgated an order dismissing Civil Case No. CEB-8178 on motion of the principal defendants therein, namely Judge Genoroso Juaban and United Coconut Planters Bank (UCPB). Atty. Cerilles' withdrawal of appearance, and Judge Lee's compliance, were noted by the Court in its Resolution dated November 29, 1989.

4. *RTC Case No. CEB-374; CA-G.R. CV No. 04097; G.R. No. 77248*

It is germane to advert to one more transaction between Borromeo and Samson K. Lao which gave rise to another action that ultimately landed in this Court. [29] The transaction involved a parcel of land of Borromeo's known as the "San Jose Property" (TCT No. 34785). Borromeo sued Lao and another person (Mariano Logarta) in the Cebu Regional Trial Court on the theory that his contract with the latter was not an absolute sale but an equitable mortgage. The action was docketed as Case No. CEB-374. Judgment was rendered against him by the Trial Court (Branch 12) declaring valid and binding the purchase of the property by Lao from him, and the subsequent sale thereof by Lao to Logarta. Borromeo appealed to the Court of Appeals, but that Court, in CA-G.R. CV No. 04097, affirmed the Trial Court's judgment, by Decision promulgated on October 10, 1986.

Borromeo came up to this Court on appeal, his review petition being docketed as G.R. No. 77248. By Resolution of the Second Division of March 16, 1987, however, his petition was denied for the reason that "a) the petition as well as the docket and legal research fund fees were filed and paid late; and (b) the issues raised are factual and the findings thereon of the Court of Appeals are final." He moved for reconsideration; this was denied by Resolution dated June 3, 1987.

He thereafter insistently and persistently still sought reconsideration of said adverse resolutions through various motions and letters, all of which were denied. One

of his letters — *inter alia* complaining that the notice sent to him by the Clerk of Court did not bear the signatures of any Justice — elicited the following reply from Atty. Julieta Y. Carreon, Clerk of Court of the Third Division, dated July 10, 1987, reading as follows:.

"Dear Mr. Borromeo:

This refers to your letter dated June 9, 1987 requesting for a copy of the 'actual resolution with the signatures of all the Justices of the Second Division' in Case G.R. No. 77243 whereby the motion for reconsideration of the dismissal of the petition was denied for lack of merit.

In connection therewith, allow us to cite for your guidance, Resolution dated July 6, 1981 in G.R. No. 56280, *Rhine Marketing Corp. v. Felix Gravante, Jr., et al.*, wherein the Supreme Court declared that "(m)inute resolutions of this Court denying or dismissing unmeritorious petitions like the petition in the case at bar, are the result of a thorough deliberation among the members of this Court, which does not and cannot delegate the exercise of its judicial functions to its Clerk of Court or any of its subalterns, which should be known to counsel. When a petition is denied or dismissed by this Court, this Court sustains the challenged decision or order together with its findings of facts and legal conclusions." It is the Clerk of Court's duty to notify the parties of the action taken on their case by quoting the resolution adopted by the Court.

Very truly yours,

JULIETA Y. CARREON

xxx xxx xxx"

B. *CRIMINAL CASES*

Just as he had done with regard to the cases involving the Traders Royal Bank, and similarly without foundation, Borromeo attempted to hold his adversaries in the cases concerning the UCPB criminally liable.

1. *Case No. OMB-VIS-89-00181*

In relation to the dispositions made of Borromeo's appeals and other attempts to overturn the judgment of the RTC in Civil Case No. 21880, [30] Borromeo filed with the Office of the Ombudsman (Visayas) on August 18, 1989, a complaint against the Chairman and Members of the Supreme Court's First Division; the Members of the Ninth Division of the Court of Appeals, Secretary of Justice Sedfrey Ordoñez, Undersecretary of Justice Silvestre Bello III, and Cebu City Prosecutor Jufelinito Pareja, charging them with violations of the Anti-Graft and Corrupt Practices Act and the Revised Penal Code.

By Resolution dated January 12, 1990, [31] the Office of the Ombudsman dismissed Borromeo's complaints, opining that the matters therein dealt with had already been tried and their merits determined by different courts including the Supreme Court (decision, June 26, 1989, in G.R. No. 87987. That resolution *inter alia* stated that, "Finally, we find it unreasonable or complainant to dispute and defiantly refuse to acknowledge the authority of the decree rendered by the highest tribunal of the land in this case. . . .".

2. *Case No. OMB-VIS-90-00418*

A second complaint was filed by Borromeo with the Office of the Ombudsman

(Visayas), dated January 12, 1990, against Atty. Julieta Carreon, Clerk of Court of the Third Division, Supreme Court, and others, charging them with a violation of R.A. 3019 (and the Constitution, the Rules of Court, etc.) for supposedly usurping judicial functions in that they issued Supreme Court resolutions (actually, notices of resolutions) in connection with G.R. No. 82273 which did not bear the justices' signatures. [32] In a Resolution dated March 19, 1990, the Office of the Ombudsman dismissed his complaint for "lack of merit" declaring *inter alia* that "in all the questioned actuations of the respondents alleged to constitute usurpation . . . it cannot be reasonably and fairly inferred that respondents really were the ones rendering them," and "it is not the prerogative of this office to review the correctness of judicial resolutions." [33]

III. *CASES INVOLVING SECURITY BANK & TRUST COM. (SBTC)*

A. CIVIL CASES

1. *RTC Case No. R-21615; CA-G.R. No. 20617; G.R. No. 94769*

The third banking institution which Joaquin T. Borromeo engaged in running court battles, was the Security Bank & Trust Company (SBTC). From it Borromeo had obtained five (5) loans in the aggregate sum of P189,126.19, consolidated in a single Promissory Note on may 31, 1979. To secure payment thereof, Summa Insurance Corp. (Summa) issued a performance bond which set a limit of P200,000.00 on its liability thereunder. Again, as in the case of his obligations to Traders Royal Bank and UCPB, Borromeo failed to discharge his contractual obligations. Hence, SBTC brought an action in the Cebu City RTC against Borromeo and Summa for collection.

The action was docketed as Civil Case No. R-21615, and was assigned to Branch 10, Judge Leonardo Cañares, presiding. Plaintiff SBTC was represented by Atty. Edgar Gica, who later withdrew and was substituted by the law firm, HERSINLAW. The latter appeared in the suit through Atty. Wilfredo Navarro.

Judgment by default was rendered in the case on January 5, 1989; both defendants were sentenced to pay to SBTC, solidarily, the amount of P436,771.32; 25% thereof as attorney's fees (but in no case less than P20,000.00); and P5,000.00 as litigation expenses; and the costs. A writ of execution issued in due course pursuant to which an immovable of Borromeo was levied on, and eventually sold at public auction on October 19, 1989 in favor of the highest bidder, SBTC.

On February 5, 1990, Borromeo filed a motion to set aside the judgment by default, but the same was denied on March 6, 1990. His Motion for Reconsideration having likewise been denied, Borromeo went to the Court of Appeals for relief (CA-G.R. SP No. 20617), but the latter dismissed his petition. Failing in his bid for reconsideration, Borromeo appealed to this Court on *certiorari* — his appeal being docketed as G.R. No. 94769. On September 17, 1990, this Court dismissed his petition, and subsequently denied with finality his motion for reconsideration. Entry of Judgment was made on December 26, 1990.

However, as will now be narrated, and as might now have been anticipated in light of his history of recalcitrance and bellicosity, these proceedings did not signify the end of litigation concerning Borromeo's aforesaid contractual commitments to SBTC, but only marked the start of another congeries of actions and proceedings, civil and criminal concerning the same matter, instituted by Borromeo.

2. *RTC Case No. CEB-9267*.

While G.R. No. 94769 was yet pending in the Supreme Court, Borromeo

commenced a suit of his own in the Cebu RTC *against SBTC; the lawyers who represented it in Civil Case No. R-21625 — HERSINLAW, Atty. Wilfredo Navarro, Atty. Edgar Gica; and even the Judge who tried and disposed of the suit, Hon. Leonardo Cañares*. He denominated his action, docketed as Civil Case No. CEB-9267, as one for "Damages from Denial of Due Process, Breach of Contract, Fraud, Unjust Judgment, with Restraining Order and Injunction." His complaint accused defendants of "wanton, malicious and deceitful acts" in "conniving to deny plaintiff due process and defraud him through excessive attorney's fees," which acts caused him grave mental and moral shock, sleepless nights, worry, social embarrassment and severe anxiety for which he sought payment of moral and exemplary damages as well as litigation expenses.

By Order dated May 21, 1991, the RTC of Cebu City, Branch 16 (Hon. Godardo Jacinto, presiding) granted the demurrer to evidence filed by defendants and dismissed the complaint, holding that "since plaintiff failed to introduce evidence to support . . . (his) causes of action asserted . . ., it would be superfluous to still require defendants to present their own evidence as there is nothing for them to controvert."

2. *RTC Case No. CEB-10458; CA-G.R. CV No. 39047*

Noting daunted, and running true to form, Borromeo filed on July 2, 1991 still another suit *against the same parties — SBTC, HERSINLAW, and Judge Cañares — but now including Judge Godardo Jacinto*, [34] who had rendered the latest judgment against him. This suit, docketed as Civil Case No. CEB-10458, was, according to Borromeo, one "for Damages (For Unjust Judgment and Orders, Denial of Equal Protection of the Laws, Violation of the Constitution, Fraud and Breach of Contract)." Borromeo faulted Judges Cañares and Jacinto for the way they decided the two cases (CVR-21615 & CEB No. 9267)," and contended that defendants committed "wanton, malicious, and unjust acts" by "conniving to defraud plaintiff and deny him equal protection of the laws and due process," on account of which he had been "caused untold mental anguish, moral shock, worry, sleepless nights, and embarrassment for which the former are liable under Arts. 20, 21, 27, and 32 of the Civil Code."

The defendants filed motions to dismiss. By Order dated August 30, 1991, the RTC of Cebu City, Branch 15 (Judge German G. Lee, Jr., presiding) dismissed the complaint on grounds of *res judicata*, immunity of judges from liability in the performance of their official functions, and lack of jurisdiction.

Borromeo took an appeal to the Court of Appeals, which docketed it as CA-G.R. CV No. 39047.

In the course thereof, he filed motions to cite Atty. Wilfredo F. Navarro, lawyer of SBTC, for contempt of court. The motions were denied by Resolution of the Court of Appeals (Special 7th Division) dated April 13, 1993. [35] Said the Court:

> "Stripped of their disparaging and intemperate innuendoes, the subject motions, in fact, proffer nothing but a stark difference in opinion as to what can, or cannot, be considered *res judicata* under the circumstances."
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> xxx xxx xxx
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> "By their distinct disdainful tenor towards the appellees, and his apparent penchant for *argumentum ad hominem*, it is, on the contrary the appellant who precariously treads the acceptable limits of argumentation and personal advocacy. The Court, moreover, takes particular note of the irresponsible leaflets

he admits to have authored and finds them highly reprehensible and needlessly derogatory to the dignity, honor and reputation of the Court. That he is not a licensed law practitioner is, in fact, the only reason why his otherwise contumacious behaviour is presently accorded the patience and leniency it probably does not deserve. Considering the temperament he has, by far, exhibited, the appellant is, however, sufficiently warned that similar displays in the future shall accordingly be dealt with commensurate severity."

IV. *OTHER CASES*

A. *RTC Case No. CEB-2074; CA-G.R. CV No. 14770; G.R. No. 98929*

One other case arising from another transaction of Borromeo with Samson K. Lao is pertinent. This is Case No. CEB-2974 of the Regional Trial Court of Cebu. It appears that sometime in 1979, Borromeo was granted a loan of P165,000.00 by the Philippine Bank of Communications (PBCom) on the security of a lot belonging to him in San Jose Street, Cebu City, covered by TCT No. 34785. [36] Later, Borromeo obtained a letter credit in the amount of P37,000.00 from Republic Planters Bank, with Samson Lao as co-maker. Borromeo failed to pay his obligations. Lao agreed to, and did pay Borromeo's obligations to both banks (PBCom and Republic), in consideration of which a deed of sale was executed in his favor by Borromeo over two (2) parcels of land, one of which was that mortgaged to PBCom, as above stated. Lao then mortgaged the land to PBCom as security for his own loan in the amount of P240,000.00.

Borromeo subsequently sued PBCom, some of its personnel, and Samson Lao in the Cebu Regional Trial Court alleging that the defendants had conspired to deprive him of his property. Judgment was rendered against him by the trial Court. Borromeo elevated the case to the Court of Appeals where his appeal was docketed as CA-G.R. CV No. 14770. On March 21, 1990, said Court rendered judgment affirming the Trial Court's decision, and on February 7, 1991, issued a Resolution denying Borromeo's motion for reconsideration. His appeal to this Court, docketed as G.R. No. 98929, was given short shrift. On May 29, 1991, the Court (First Division) promulgated a Resolution denying his petition for review "for being factual and for failure . . . to sufficiently show that respondent court had committed any reversible error in its questioned judgment."

Stubbornly, in his motion for reconsideration, he insisted the notices of the resolutions sent to him were unconstitutional and void because bearing no signatures of the Justices who had taken part in approving the resolution therein mentioned.

B. *RTC Case No. CEB-11528*

What would seem to be the latest judicial dispositions rendered against Borromeo, at least as of date of this Resolution, are two orders issued in Civil Case No. CEB-11528 of the Regional Trial Court at Cebu City (Branch 18), which was yet another case filed by Borromeo outlandishly founded on the theory that a judgment promulgated against him by the Supreme Court (Third Division) was wrong and "unjust." Impleaded as defendant in the action was former Chief Justice Marcelo B. Fernan, as Chairman of the Third Division at the time in question. On August 31, 1994 the presiding judge, Hon. Galicano O. Arriesgado, issued a Resolution *inter alia* dismissing Borromeo's complaint "on grounds of lack of jurisdiction and *res judicata*." His Honor made the following pertinent observations:

". . . (T)his Court is of the well-considered view and so holds that this Court has indeed no jurisdiction to review, interpret or reverse the judgment or order of the Honorable Supreme Court. The acts or omissions complained of by the

> plaintiff against the herein defendant and the other personnel of the highest Court of the land as alleged in paragraphs 6 to 12 of plaintiff's complaint are certainly beyond the sphere of this humble court to consider and pass upon to determine their propriety and legality. To try to review, interpret or reverse the judgment or order of the Honorable Supreme Court would appear not only presumptuous but also contemptuous. As argued by the lawyer for the defendant, a careful perusal of the allegations in the complaint clearly shows that all material allegations thereof are directed against a resolution of the Supreme Court which was allegedly issued by the Third Division composed of five (5) justices. No allegation is made directly against defendant Marcelo B. Fernan in his personal capacity. That being the case, how could this Court question the wisdom of the final order or judgment of the Supreme Court (Third Division) which according to the plaintiff himself had issued a resolution denying plaintiff's petition and affirming the Lower Court's decision as reflected in the "Entry of Judgment." Perhaps, if there was such violation of the Rules of Court, due process and Sec. 14, Art. 8 of the Constitution by the defendant herein, the appropriate remedy should not have been obtained before this Court. For an inferior court to reverse, interpret or review the acts of a superior court might be construed to a certain degree as a show of uncommon common sense. Lower courts are without supervening jurisdiction to interpret or to reverse the judgment of the higher courts."

Borromeo's motion for reconsideration dated September 20, 1994 was denied "for lack of sufficient factual and legal basis" by an Order dated November 15, 1994.

V. *ADMINISTRATIVE CASE No. 3433*

A. *Complaint Against Lawyers of his Court Adversaries*

Borromeo also initiated administrative disciplinary proceedings against the lawyers who had appeared for his adversaries — UCPB and Samson K. Lao — in the actions above mentioned, and others. As already mentioned, these lawyers were: Messrs. Laurence Fernandez, Danilo Deen, Honorato Hermosisima, Antonio Regis, and Alfredo Perez. His complaint against them, docketed as Administrative Case No. 3433, prayed for their disbarment. Borromeo averred that the respondent lawyers connived with their clients in (1) maliciously misrepresenting a deed of sale with *pacto de retro* as a genuine sale, although it was actually an equitable mortgage; (2) fraudulently depriving complainant of his proprietary rights subject of the Deed of Sale; and (3) defying two lawful Court orders, all in violation of their lawyer's oath to do no falsehood nor consent to the doing of any in Court. Borromeo alleged that respondents Perez and Regis falsely attempted to consolidate title to his property in favor of Lao.

B. *Answer of Respondent Lawyers*

The respondent lawyers denounced the disbarment complaint as "absolutely baseless and nothing but pure harassment." In a pleading dated July 10, 1990, entitled *"Comments and Counter Motion to Cite Joaquin Borromeo in Contempt of Court,"* July 10, 1990, filed by the Integrated Bar of the Philippines Cebu City Chapter, signed by Domero C. Estenzo (President), Juliano Neri (Vice-President), Ulysses Antonio C. Yap (Treasurer); Felipe B. Velasquez (Secretary), Corazon E. Valencia (Director), Virgilio U. Lainid (Director), Manuel A. Espina (Director), Ildefonsa A. Ybañez (Director), Sylvia G. Almase (Director), and Ana Mar Evangelista P. Batiguin (Auditor). The lawyers made the following observations:

> "It is ironic. While men of the legal profession regard members of the

> Judiciary with deferential awe and respect sometimes to the extent of cowering before the might of the courts, here is a non-lawyer who, with gleeful abandon and unmitigated insolence, has cast aspersions and shown utter disregard to the authority and name of the courts.
>
> And lawyers included. For indeed, it is very unfortunate that there is a non-lawyer who uses the instruments of justice to harass lawyers and courts who crosses his path more especially if their actuations do not conform with his whims and caprices."

Adverting to letters publicly circulated by Borromeo, *inter alia* charging then Chief Justice Marcelo B. Fernan with supposed infidelity and violation of the Constitution, etc., the lawyers went on to say the following:

> "The conduct and statement of Borromeo against this Honorable Court, and other members of the Judiciary are clearly and grossly disrespectful, insolent and contemptuous. They tend to bring dishonor to the Judiciary and subvert the public confidence on the courts. If unchecked, the scurrilous attacks will undermine the dignity of the courts and will result in the lose of confidence in the country's judicial system and administration of justice."
>
> ". . . (S)omething should be done to protect the integrity of the courts and the legal profession. So many baseless badmouthing have been made by Borromeo against this Honorable Court and other courts that for him to go scot-free would certainly be demoralizing to members of the profession who afforded the court with all the respect and esteem due them."

Subsequently, in the same proceeding, Borromeo filed another pleading protesting the alleged "refusal" of the Cebu City Chapter of the Integrated Bar of the Philippines to act on his disbarment cases "filed against its members."

C. *Decision of the IBP*

On March 28, 1994, the National Executive Director, IBP (Atty. Jose Aguila Grapilon) transmitted to this Court the notice and copy of the decision in the case, reached after due investigation, as well as the corresponding records in seven (7) volumes. Said decision approved and adopted the Report and Recommendation dated December 15, 1993 of Atty. Manuel P. Legaspi, President, IBP Cebu City Chapter, representing the IBP Commission on Bar Discipline, recommending dismissal of the complaint as against all the respondents and the issuance of a "warning to Borromeo to be more cautious and not be precipitately indiscriminate in the filing of administrative complaints against lawyers." [37]

VI. *SCURRILOUS WRITINGS*

Forming part of the records of several cases in this Court are copies of letters ("open" or otherwise), "circulars," flyers or leaflets harshly and quite unwarrantedly derogatory of the many court judgments or directives against him and defamatory of his adversaries and their lawyers and employees, as well as the judges and court employees involved in the said adverse dispositions — some of which scurrilous writings were adverted to by the respondent lawyers in Adm. Case No. 3433, *supra*. The writing and circulation of these defamatory writing were apparently undertaken by Borromeo as a parallel activity to his "judicial adventures." The Court of Appeals had occasion to refer to his "apparent penchant for *argumentum ad hominem*" and of the "irresponsible leaflets he admits to have authored . . . (which were found to be) highly

reprehensible and needlessly derogatory to the dignity, honor and reputation of the Courts."

In those publicly circulated writings, he calls judges and lawyers ignorant, corrupt, oppressors, violators of the Constitution and the laws, etc.

Sometime in July, 1990, for instance, he wrote to the editor of the "Daily Star" as regards the reported conferment on then Chief Justice Marcelo B. Fernan of an "Award from the University of Texas for his contributions in upholding the Rule of Law, Justice, etc.," stressing that Fernan "and the Supreme Court persist in rendering rulings patently violative of the Constitution, Due Process and Rule of Law, particularly in their issuance of so-called Minute Resolutions devoid of FACT or LAW or SIGNATURES. . . ." He sent a copy of his letter in the Supreme Court.

He circulated and "OPEN LETTER TO SC justices, Fernan," declaring that he had "suffered INJUSTICE after INJUSTICE from you who are sworn to render TRUE JUSTICE but done the opposite, AND INSTEAD OF RECTIFYING THEM, labelled my cases as 'frivolous, nuisance, and harassment suits' while failing to refute the irrefutable evidences therein . . ."; in the same letter, he specified what he considered to be some of "the terrible injustices inflicted on me by this Court."

In another letter to Chief Justice Fernan, he observed that "3 years after EDSA, your pledges have not been fulfilled. Injustice continues and as you said, the courts are agents of oppression, instead of being saviours and defenders of the people. The saddest part is that (referring again to minute resolutions) even the Supreme Court, the court of last resort, many times, sanctions injustice and the trampling of the rule of law and due process, and does not comply with the Constitution when it should be the first to uphold and defend it . . . ." Another circulated letter of his, dated June 21, 1989 and captioned, "Open Letter to Supreme Court Justices Marcelo Fernan and Andres Narvasa," repeated his plaint of having "been the victim of many . . . 'Minute Resolutions' . . . which in effect sanction the theft and landgrabbing and arson of my properties by TRADERS ROYAL BANK, UNITED COCONUT PLANTERS BANK, AND one TOMAS B. TAN — all without stating any FACT or LAW to support your dismissal of . . . (my) cases, despite your firm assurances (Justice Fernan) that you would cite me such facts or laws (during our talk in your house last march 12, 1989);" and that "you in fact have no such facts or laws but simply want to ram down a most unjust Ruling in favor of a wrongful party. . . ."

In another flyer entitled in big bold letters, "A Gov't That Lies! Blatant attempt to fool people!" he mentions what he regards as "The blatant lies and contradictions of the Supreme Court, CA to support the landgrabbing by Traders Royal Bank of Borromeos' lands." Another flyer has at the center the caricature of a person, seated on a throne marked Traders Royal Bank, surrounded by such statements as, "Sa TRB, para kami ay royalty. Nakaw at nakaw! Kawat Kawat! TRB WILL STEAL!" etc. Still another "circular" proclaims: "So the public may know: Supreme Court minute resolutions w/o facts, law, or signatures violate the Constitution" and ends with the admonition: "Supreme Court, Justice Fernan: STOP VIOLATING THE CHARTER." [38]

One other "circular" reads:

SC, NARVASA — TYRANTS !!!

— CODDLERS OF CROOKS!

— VIOLATOR OF LAWS

by : JOAQUIN BORROMEO

NARVASA's SC has denied being a DESPOT nor has it shielded CROOKS in the judiciary. Adding, "The SCRA (SC Reports) will attest to this continuing vigilance of the Supreme Court." These are lame, cowardly and self-serving denials and another "self-exoneration" belied by evidence which speak for themselves (Res Ipsa Loquitor) (sic) — the SCRA itself.

It is pure and simply TYRANNY when Narvasa and associates issued UNSIGNED, UNCLEAR, SWEEPING "Minute Resolutions" devoid of CLEAR FACTS and LAWS in patent violation of Secs. 4(3), 14, Art. 8 of the Constitution. It is precisely through said TYRANNICAL, and UNCONSTITUTIONAL sham rulings that Narvasa & Co. have CODDLED CROOKS like crony bank TRB, UCPB, and SBTC, and through said fake resolutions that Narvasa has LIED or shown IGNORANCE of the LAW in ruling that CONSIGNATION IS NECESSARY IN RIGHT OF REDEMPTION (GR 83306). Through said despotic resolutions, NARVASA & CO. have sanctioned UCPB/ACCRA's defiance of court orders and naked land grabbing — What are these if not TYRANNY? (GR 84999).

Was it not tyranny for the SC to issue an Entry of Judgment without first resolving the motion for reconsideration (G.R. No. 82273). Was it not tyranny and abuse of power for the SC to order a case dismissed against SC clerks (CEBV-8679) and declare justices and said clerks 'immune from suit' — despite their failure to file any pleading? Were Narvasa & Co. not in fact trampling on the rule of law and rules of court and DUE PROCESS in so doing? (GR No. 82273).

TYRANTS will never admit that they are tyrants. But their acts speak for themselves! NARVASA & ASSOC: ANSWER AND REFUTE THESE SERIOUS CHARGES OR RESIGN!!

"IMPEACH NARVASA

º ISSUING UNSIGNED, SWEEPING, UNCLEAR, UNCONSTITUTIONAL 'MINUTE RESOLUTIONS' VIOLATIVE OF SECS. 4(3), 14, ART. 8, Constitution

º VIOLATING RULES OF COURT AND DUE PROCESS IN ORDERING CASE AGAINST SC CLERKS (CEB-8679) DISMISSED DESPITE THE LATTER'S FAILURE TO FILE PLEADINGS, HENCE IN DEFAULT

NECESSARY IN RIGHT OF REDEMPTION, CONTRADICTING LAW AND SC'S OWN RULINGS — TO ALLOW CRONY BANK TRB TO STEAL 3 LOTS WORTH P3 MILLION

º CONDONING CRONY BANK UCPB'S DEFIANCE OF TWO LAWFUL COURT ORDERS AND STEALING OF TITLE OF PROPERTY WORTH P4 MILLION

º BEING JUDGE AND ACCUSED AT THE SAME TIME AND PREDICTABLY EXONERATING HIMSELF AND FELLOW CORRUPT JUSTICES

º DECLARING HIMSELF, JUSTICES , and even MERE CLERKS TO BE IMMUNE FROM SUIT AND UN-ACCOUNTABLE TO THE PEOPLE and REFUSING TO ANSWER AND REFUTE CHARGES AGAINST HIMSELF

JOAQUIN T. BORROMEO
Mabolo, Cebu City

Te. 7-56-49.

VI. *IMMEDIATE ANTECEDENTS OF PROCEEDINGS AT BAR*

A. *Letter of Cebu City Chapter, IBP, dated June 21, 1992*

Copies of these circulars evidently found their way into the hands, among others, of some members of the Cebu City Chapter of the Integrated Bar of the Philippines. Its President thereupon addressed a letter to this Court, dated June 21, 1992, which (1) drew attention to one of them — that last quoted, above — " . . . sent to the IBP Cebu City Chapter and probably other officers . . . in Cebu," described as containing "highly libelous and defamatory remarks against the Supreme Court and the whole justice system" — and (2) in behalf of the Chapter's "officers and members," strongly urged the Court "to impose sanctions against Mr. Borromeo for his condemnable act.".

B. *Resolution of July 22, 1993*

Acting thereon, the Court *En banc* issued a resolution on July 22, 1993, requiring comment by Borromeo on the letter, notice of which was sent to him by the Office of the Clerk of Court. The resolution pertinently reads as follows:

xxx xxx xxx

> The records of the Court discloses *inter alia* that as early as April 4, 1989, the Acting Clerk of Court, Atty. Luzviminda D. Puno, wrote a four-page letter to Mr. Borromeo concerning G.R. No. 83306 (*Joaquin T. Borromeo v. Traders Royal bank [referred to by Borromeo in the "circular" adverted to by the relator therein, the IBP Cebu City Chapter]*) and two (2) other cases also filed with the Court by Borromeo: G.R. No. 77248 (*Joaquin T. Borromeo v. Samson Lao and Mariano Logarta*) and G.R. No. 84054 (*Joaquin T. Borromeo v. Hon. Mario Dizon and Tomas Tan*), all resolved adversely to him by different Divisions of the Court. In that letter Atty. Puno explained to Borromeo very briefly the legal principles applicable to his cases and dealt with the matters mentioned in his "circular."
>
> The records further disclose subsequent adverse rulings by the Court in other cases instituted by Borromeo in this Court, i.e., G.R. No. 87897 (*Joaquin T. Borromeo v. Court of Appeals, et al*.) and G.R. No. 82273 (*Joaquin T. Borromeo v. Court of Appeals and Samson Lao*), as well as the existence of other communications made public by Borromeo reiterating the arguments already passed upon by the Court in his cases and condemning the Court's rejection of those arguments.
>
> Acting on the letter dated June 21, 1993 of the Cebu City Chapter of the Integrated Bar of the Philippines thru its above named President, and taking account of the related facts on record, the Court Resolved:
>
> 1) to REQUIRE.
>
> (a) the Clerk of Court (1) to DOCKET the matter at bar as a proceeding for contempt against Joaquin T. Borromeo instituted at the relation of said Cebu City Chapter, Integrated bar of the Philippines, and (2) to SEND to the city Sheriff, Cebu City, notice of this resolution and copies of the Chapter's letter dated June 21, 1993 together with its annexes; and
>
> (b) said City Sheriff of Cebu City to CAUSE PERSONAL SERVICE of said notice of resolution and a copy of the Chapter's letter dated June 21, 1993,

together with its annexes, on Joaquin T. Borromeo at his address at Mabolo, Cebu City; and

(2) to ORDER said Joaquin T. Borromeo, within ten (10) days from receipt of such notice and the IBP Chapter's letter of June 21, 1993 and its annexes, to file a comment on the letter and its annexes as well as on the other matters set forth in this resolution, serving copy thereof on the relator, the Cebu City Chapter of the Integrated Bar of the Philippines, Palace of Justice Building, Capitol, Cebu City.

SO ORDERED.

1. *Atty. Puno's letter of April 4, 1989*

Clerk of Court Puno's letter to Borromeo of April 4, 1989, referred to in the first paragraph of the resolution just mentioned, explained to Borromeo for perhaps the second time, precisely the principles and established practice *relative to "minute resolutions" and notices thereof,* treated of in several other communications and resolutions sent to his by the Supreme Court, to wit: the letter received by him on July 10, 1987, from Clerk of Court Julieta Y. Carreon (of this Court's Third Division) (in relation to G.R. No. 77243 [39]), the letter to him of Clerk of Court (Second Division) Fermin J. Garma, dated May 19, 1989, [40] and three Resolutions of this court, notices of which were in due course served on him, to wit: that dated July 31, 1989, in G.R. No. 87897; [41] that dated June 1, 1990 in G.R. No. 82274 (186 SCRA 1), [42] and that dated June 11, 1994 in G.R. No. 112928. [43]

C. *Borromeo's Comment of August 27, 1993*

In response to the Resolution of July 22, 1993, Borromeo filed a Comment dated August 27, 1993 in which he alleged the following:

1) the resolution of July 22, 1993 requiring comment) violates the Constitution which requires "signatures and concurrence of majority of members of the High Court;" hence, "a certified copy duly signed by the Justices is respectfully requested";

2) the Chief Justice and other Members of the Court should inhibit themselves "since they cannot be the Accused and Judge at the same time, . . . (and) this case should be heard by an impartial and independent body";

3) the letter of Atty. Legaspi "is not verified nor signed by members of said (IBP Cebu Chapter) Board; . . . is vague, unspecific, and sweeping" because failing to point out "what particular statements in the circular are allegedly libelous and condemnable;" and it does not appear that Atty. Legaspi has authority to speak or file a complaint "in behalf of those accused in the 'libelous' circular;"

4) in making the circular, he (Borromeo) "was exercising his rights of freedom of speech, of expression, and to petition the government for redress of grievances as guaranteed by the Constitution (Sec. 4, Art. III) and in accordance with the accountability of public officials"; the circular merely states the truth and asks for justice based on the facts and the law; . . . it is not libelous nor disrespectful but rather to be commended and encouraged; . . . Atty. Legaspi . . . should specify under oath which statements are false and lies;"

5) he "stands by the charges in his circular and is prepared to support them with pertinent facts, evidence and law"; and it is "incumbent on the Hon. Chief Justice and members of the High Court to either refute said charges or

dispense the justice that they are duty-bound to dispense."

D. *Resolution of September 30, 1993*

After receipt of the comment, and desiring to accord Borromeo the fullest opportunity to explain his side, and be represented by an attorney, the Court promulgated the following Resolution on September 30, 1993, notice of which was again served on him by the Office of the Clerk of Court.

> ". . . The return of service filed by sheriff Jessie A. Belarmino, Office of the Clerk of Court, Regional Trial Court of Cebu City, dated August 26, 1993, and the Comment of Joaquin Borromeo, dated August 27, 1993, on the letter of President Manuel P. Legaspi of the relator dated June 21, 1993, are both NOTED. After deliberating on the allegations of said Comment, the Court Resolved to GRANT Joaquin T. Borromeo an additional period of fifteen (15) days from notice hereof within which to engage the services or otherwise seek the assistance of a lawyer and submit such further arguments in addition to or in amplification of those set out in his Comment dated August 27, 1993, if he be so minded."
>
> SO ORDERED.

E. *Borromeo's Supplemental Comment of October 15, 1992*

Borromeo filed a "Supplemental Comment" dated October 15, 1992, reiterating the arguments and allegations in his Comment of August 27, 1993, and setting forth "additional arguments and amplification to . . . (said) Comment," *viz.*:

> 1) the IBP and Atty. Legaspi have failed "to specify and state under oath the alleged 'libelous' remarks contained in the circular . . .; (they should) be ordered to file a VERIFIED COMPLAINT . . . (failing in which, they should) be cited in contempt of court for making false charges and wasting the precious time of this Highest Court by filing a baseless complaint;"
>
> 2) the allegations in the circular are not libelous nor disrespectful but "are based on the TRUTH and the LAW, namely:
>
> > a) "minute resolutions" bereft of signatures and clear facts and laws are patent violations of Secs. 4(32), 13, 14, Art. VIII of the Constitution";
> >
> > b) "there is no basis nor truth to this Hon. Court's affirmation to the Appellate Court's ruling that the undersigned "lost" his right of redemption allegedly due to his failure to consignate the redemption price, since no less than this Hon. Court has ruled in many rulings that CONSIGNATION IS UNNECESSARY in right of redemption;
> >
> > c) "this Hon. Court has deplorably condoned crony banks TRB and UCPB's frauds and defiance of court orders in G.R. Nos. 83306 and 878997 and 84999.

F. *Borromeo's "Manifestation" of November 26, 1993*

Borromeo afterwards filed a "Manifestation" under date of November 26, 1993, adverting to "the failure of the IBP and Atty. Legaspi to substantiate his charges under oath and the failure of the concerned Justices to refute the charges in the alleged 'libelous circular'" and, construing these as "an admission of the truth in said circular," theorized that it is "incumbent on the said Justices to rectify their grave injustices as well as to dismiss Atty. Legaspi's baseless and false charges."

VII. *THE COURT'S CONCLUSIONS*

A. *Respondent's Liability for Contempt of Court*

Upon the indubitable facts on record, there can scarcely be any doubt of Borromeo's guilt of contempt, for abuse of and interference with judicial rules and processes, gross disrespect to courts and judges and improper conduct directly impeding, obstructing and degrading the administration of justice. [44] He has stubbornly litigated issues already declared to be without merit, obstinately closing his eyes to the many rulings which had become final and executory, obdurately and unreasonably insisting on the application of his own individual version of the rules, founded on nothing more than his personal (and quite erroneous) reading of the Constitution and the law; he has insulted the judges and court officers, including the attorneys appearing for his adversaries, needlessly overloaded the court dockets and sorely tried the patience of the judges and court employees who have had to act on his repetitious and largely unfounded complaints, pleadings and motions. He has wasted the time of the courts, of his adversaries, of the judges and court employees who have had the bad luck of having to act in one way or another on his unmeritorious cases. More particularly, despite his attention having been called many times to the egregious error of his theory that the so-called "minute resolutions" of this Court should contain findings of fact and conclusions of law, and should be signed or certified by the Justices promulgating the same, [45] he has mulishly persisted in ventilating that self-same theory in various proceedings, causing much loss of time, annoyance and vexation to the courts, the court employees and parties involved.

1. *Untenability of Proffered Defenses*

The first defense that he proffers, that the Chief Justice and other Members of the Court should inhibit themselves "since they cannot be the Accused and Judge at the same time, . . . (and) this case should be heard by an impartial and independent body," is still another illustration of an entirely unwarranted, arrogant and reprehensible assumption of competence in the field of law; he again uses up the time of the Court needlessly by invoking an argument long since declared and adjudged to be untenable. It is axiomatic that the "power or duty of the court to institute a charge for contempt against itself, without the intervention of the fiscal or prosecuting officer, is essential to the preservation of its dignity and of the respect due it from litigants, lawyers and the public. Were the intervention of the prosecuting officer required and judges obliged to file complaints for contempt against them before the prosecuting officer, in order to bring the guilty to justice, other courts would be inferior to prosecuting officers and impotent to perform their functions with dispatch and absolute independence. The institution of charges by the prosecuting officer is not necessary to hold persons guilty of civil or criminal contempt amenable to trial and punishment by the court. All that the law requires is that there be a charge in writing duly filed in court and an opportunity to the person charged to be heard by himself or counsel. The charge may be made by the fiscal, by judge, or even by a private person. . . ." [46]

His claim — that the letter of Atty. Legaspi "is not verified nor signed by members of said (IBP Cebu Chapter) Board; . . . is vague, unspecific, and sweeping" because failing to point out "what particular statements in the circular are allegedly libelous and condemnable"; and it does not appear that Atty. Legaspi has authority to speak or file a complaint "in behalf of those accused in the 'libelous' circular" — is in the premises, plainly nothing but superficial philosophizing, deserving no serious treatment.

Equally as superficial, and sophistical, is his other contention that in making the

allegations claimed to be contumacious, he "was exercising his rights of freedom of speech, of expression, and to petition the government for redress of grievances as guaranteed by the Constitution (Sec. 4, Art. III) and in accordance with the accountability of public officials." The constitutional rights invoked by him afford no justification for repetitious litigation of the same causes and issues, for insulting lawyers, judges, court employees and other persons, for abusing the processes and rules of the courts, wasting their time, and bringing them into disrepute and disrespect.

B. *Basic Principles Governing the Judicial Function*.

The facts and Issues involved in the proceeding at bench make necessary a restatement of the principles governing finality of judgments and of the paramount need to put an end to litigation at some point, and to lay down definite postulates concerning what is perceived to be a growing predilection on the part of lawyers and litigants — like Borromeo — to resort to administrative prosecution (or institution of civil or criminal actions) as a substitute for or supplement to the specific modes of appeal or review provided by law from court judgments or orders.

1. *Reason for Courts; Judicial Hierarchy*

Courts exist in every civilized society for the settlement of controversies. In every country there is a more or less established hierarchical organization of courts, and a more or less comprehensive system of review of judgments and final orders of lower courts.

The judicial system in this jurisdiction allows for several levels of litigation, i.e., the presentation of evidence by the parties — a trial or hearing in the first instance — as well as a review of the judgments of lower courts by higher tribunals, generally by consideration anew and ventilation of the factual and legal issues through briefs or memoranda. The procedure for review is fixed by law, and is in the very nature of things, exclusive to the courts.

2. *Paramount Need to End Litigation at Some Point*

It is withal the essence of the judicial function that at some point, litigation must end. Hence, after the procedures and processes for lawsuits have been undergone, and the modes of review set by law have been exhausted, or terminated, no further ventilation of the same subject matter is allowed. To be sure, there may be, on the part of the losing parties, continuing disagreement with the verdict, and the conclusions therein embodied. This is of no moment, indeed, to be expected; but, it is not their will, but the Court's, which must prevail; and, to repeat, public policy demands that at some definite time, the issues must be laid to rest and the court's disposition thereon accorded absolute finality. [47] As observed by this Court in *Rheem of the Philippines v. Ferrer*, a 1967 decision, [48] a party "may think highly of his intellectual endowment. That is his privilege. And he may suffer frustration at what he feels is others' lack of it. This is his misfortune. Some such frame of mind, however, should not be allowed to harden into a belief that he may attack a court's decision in words calculated to jettison the time-honored aphorism that courts are the temples of right."

3. *Judgments of Supreme Court Not Reviewable*

The sound, salutary and self-evident principle prevailing in this as in most jurisdictions, is that judgments of the highest tribunal of the land may not be reviewed by any other agency, branch, department, or official of Government. Once the Supreme Court has spoken, there the matter must rest. Its decision should not and cannot be

appealed to or reviewed by any other entity, much less reversed or modified on the ground that it is tainted by error in its findings of fact or conclusions of law, flawed in its logic or language, or otherwise erroneous in some other respect. [49] This, on the indisputable and unshakable foundation of public policy, and constitutional and traditional principle.

In an extended Resolution promulgated on March 12, 1987 in *In Re: Wenceslao Laureta* — involving an attempt by a lawyer to prosecute before the Tanodbayan "members of the First Division of this Court collectively with having knowingly and deliberately rendered an 'unjust extended minute Resolution' with deliberate bad faith in violation of Article 204 of the Revised Penal Code . . . and for deliberately causing 'undue injury' to respondent . . . and her co-heirs because of the 'unjust Resolution' promulgated, in violation of the Anti-Graft and Corrupt Practices Act . . . ." — the following pronouncements were made in reaffirmation of established doctrine: [50]

> ". . . As aptly declared in the Chief Justice's Statement of December 24, 1986, which the Court hereby adopts *in toto*, "'(I)t is elementary that the Supreme Court is supreme — the third great department of government entrusted exclusively with the judicial power to adjudicate with finality all justiciable disputes, public and private. No other department or agency may pass upon its judgments or declare them "unjust." It is elementary that "(A)s has ever been stressed since the early case of *Arnedo vs. Llorente* (18 Phil. 257, 263 [1911]) "controlling and irresistible reasons of public policy and of sound practice in the courts demand that at the risk of occasional error, judgments of courts determining controversies submitted to them should become final at some definite time fixed by law, or by a rule of practice recognized by law, so as to be thereafter beyond the control even of the court which rendered them for the purpose of correcting errors of fact or of law, into which, in the opinion of the court it may have fallen. The very purpose for which the courts are organized is to put an end to controversy, to decide the questions submitted to the litigants, and to determine the respective rights of the parties." (*Luzon Brokerage Co., Inc. vs. maritime Bldg., Co., Inc.*, 86 SCRA 305, 316-317)
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> xxx xxx xxx
>
> Indeed, resolutions of the Supreme Court as a collegiate court whether *en banc* or division, speak for themselves and are entitled to full faith and credence and are beyond investigation or inquiry under *the same principle of conclusiveness of enrolled bills of the legislature*. (*U.S. vs. Pons*, 34 Phil 729; *Gardiner, et al. vs. Paredes, et al.*, 61 Phil. 118; *Mabanag vs. Lopez Vito*, 78 Phil. 1). The Supreme Court's pronouncement of the doctrine that '(I)t is well settled that the enrolled bill . . . is conclusive upon the courts as regards the tenor of the measure passed by Congress and approved by the President. If there has been any mistake in the printing of the bill before it was certified by the officers of Congress and approved by the Executive [as claimed by petitioner-importer who unsuccessfully sought refund of margin fees] — *on which we cannot speculate, without jeopardizing the principle of separation of powers and undermining one of the cornerstones of our democratic system* — the remedy is by amendment or curative legislation, not by judicial decree' is fully and reciprocally applicable to Supreme Court orders, resolutions and decisions, *mutatis mutandis*. (*Casco Phil. Chemical Co., Inc. vs. Gimenez*, 7 SCRA 347, 350. Citing *Primicias vs. Paredes*,

61 Phil. 118, 120; *Mabanag vs. Lopez Vito*, 78 Phil. 1; *Macias vs. Comelec*, 3 SCRA 1)

> The Court has consistently stressed that the "doctrine of *separation of powers calls for the executive, legislative and judicial departments being left alone to discharge their duties as they see fit*" (*Tan vs. Macapagal*, 43 SCRA 677). It has thus maintained in the same way that the judiciary has a right to expect that neither the President nor Congress would cast doubt on the mainspring of its orders or decisions, it should refrain from speculating as to alleged hidden forces at work that could have impelled either coordinate branch into acting the way it did. The concept of separation of powers presupposes mutual respect by and between the three departments of the government. (*Tecson vs. Salas*, 34 SCRA 275, 286-287)"

4. *Final and Executory Judgments of Lower Courts Not Reviewable Even by Supreme Court*

In respect of Courts below the Supreme Court, the ordinary remedies available under law to a party who is adversely affected by their decisions or orders are a motion for new trial (or reconsideration) under Rule 37, and an appeal to either the Court of Appeals or the Supreme Court, depending on whether questions of both fact and law, or of law only, are raised, in accordance with fixed and familiar rules and conformably with the hierarchy of courts. [51] Exceptionally, a review of a ruling or act of a court on the ground that it was rendered without or in excess of its jurisdiction, or with grave abuse of discretion, may be had through the special civil action of *certiorari* or prohibition pursuant to Rule 65 of the Rules of Court.

However, should judgments of lower courts — which may normally be subject to review by higher tribunals — become final and executory before, or without exhaustion of all recourse of appeal, they, too, become inviolable, impervious to modification. They may, then, no longer be reviewed, or in any way modified directly or indirectly, by a higher court, not even by the Supreme Court, much less by any other official, branch or department of Government. [52]

C. *Administrative, Civil or Criminal Action Against Judge, Not Substitute for Appeal;Proscribed by Law and Logic*

Now, the Court takes judicial notice of the fact that there has been of late a regrettable increase in the resort to, administrative prosecution — or the institution of a civil or criminal action — as a substitute for or supplement to appeal. Whether intended or not, such a resort to these remedies operates as a form of threat or intimidation to coerce judges into timorous surrender of their prerogatives, or a reluctance to exercise them. With rising frequency, administrative complaints are being presented to the Office of the Court Administrator; criminal complaints are being filed with the Office of the Ombudsman or the public prosecutor's office; civil actions for recovery of damages commenced in the Regional Trial Courts against trial judges, and justices of the Court of Appeals and even of the Supreme Court.

1. *Common Basis of Complaints Against Judges*

Many of these complaints set forth a common indictment: that the respondent Judges or Justices *rendered manifestly unjust judgments or interlocutory orders* [53] — i.e., judgments or orders which are allegedly not in accord with the evidence, or with law or jurisprudence, or are tainted by grave abuse of discretion — thereby causing

injustice, and actionable and compensable injury to the complainants (invariably losing litigants). Resolution of complaints of this sort quite obviously entails a common requirement for the fiscal, the Ombudsman or the Trial Court: a *review* of the decision or order of the respondent Judge or Justice *to determine its correctness or erroneousness*, as basic premise for a pronouncement of liability.

2. *Exclusivity of Specific Procedures for Correction of Judgments and Orders*

The question then, is whether or not these complaints are proper; whether or not in lieu of the prescribed recourses for appeal or review of judgments and orders of courts, a party may file an administrative or criminal complaint against the judge for rendition of an unjust judgment, or, having opted for appeal, may nonetheless simultaneously seek also such administrative or criminal remedies.

Given the nature of the judicial function, the power vested by the Constitution in the Supreme Court and the lower courts established by law, the question submits to only one answer: the administrative or criminal remedies are neither alternative nor cumulative to judicial review where such review is available, and must wait on the result thereof.

Simple reflection will make this proposition amply clear, and demonstrate that any contrary postulation can have only intolerable legal implications. Allowing a party who feels aggrieved by a judicial order or decision not yet final and executory to mount an administrative, civil, or criminal prosecution for unjust judgment against the issuing judge would, at a minimum and as an indispensable first step, confer the prosecutor (or Ombudsman) with an incongruous function pertaining, not to him, but to the courts: the determination of whether the questioned disposition is erroneous in its findings of fact or conclusions of law, or both. If he does proceed despite that impediment, whatever determination he makes could well set off a proliferation of administrative or criminal litigation, a possibility hereafter more fully explored.

Such actions are impermissible and cannot prosper. It is not, as already pointed out, within the power of public prosecutors, or the Ombudsman or his deputies, directly or vicariously, to review judgments or final orders or resolutions of the Courts of the land. The power of review — by appeal or special civil action — is not only lodged exclusively in the Courts themselves but must be exercised in accordance with a well-defined and long established hierarchy, and long-standing processes and procedures. No other review is allowed; otherwise litigation would be interminable, and vexatiously repetitive.

These principles were stressed in *In Re: Wenceslao Laureta, supra*. [54]

> "Respondents should know that the provisions of Article 204 of the Revised Penal Code as to "rendering knowingly unjust judgment," refer to an individual judge who does so "in any case submitted to him for decision" and even then, it is not the prosecutor who would pass judgment on the "unjustness" of the decision rendered by him but the proper appellate court with jurisdiction to review the same, either the Court of Appeals and/or the Supreme Court. Respondents should likewise know that said penal article has no application to the members of a collegiate court such as this Court or its Divisions who reach their conclusions in consultation and accordingly render their collective judgment after due deliberation. It also follows, consequently, that a charge of violation of the Anti-Graft and Corrupt Practices Act on the ground that such collective decision is 'unjust' cannot prosper.

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> To subject to the threat and ordeal of investigation and prosecution, a judge, more so a member of the Supreme Court for official acts done by him in good faith and in the regular exercise of official duty and judicial functions is to subvert and undermine that very independence of the judiciary, and subordinate the judiciary to the executive. 'For it is a general principle of the highest importance to the proper administration of justice that a judicial officer in exercising the authority vested in him, shall be free to act upon his own convictions, without apprehension of personal consequences to himself. Liability to answer to everyone who might feel himself aggrieved by the action of the judge would be inconsistent with the possession of this freedom, and would destroy that independence without which no judiciary can be either respectable or useful.' (*Bradley vs. Fisher*, 80 U.S. 335).

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> To allow litigants to *go beyond the Court's resolution* and claim that the members acted "with deliberate bad faith" and rendered an "unjust resolution" in disregard or violation of the duty of their high office to act upon their own independent consideration and judgment of the matter at hand would be to *destroy the authenticity, integrity and conclusiveness* of such collegiate acts and resolutions and to disregard utterly the presumption of regular performance of official duty. To *allow such collateral attack would destroy the separation of powers and undermine the role of the Supreme Court as the final arbiter of all justiciable disputes*.
>
> Dissatisfied litigants and/or their counsels cannot without violating the separation of powers mandated by the Constitution relitigate in another forum the final judgment of this Court on legal issues submitted by them and their adversaries for final determination to and by the Supreme Court and which fall within the *judicial power* to determine and adjudicate exclusively vested by the Constitution *in the Supreme Court* and in such inferior courts as may be established by law.

This is true, too, as regards judgments, otherwise appealable, which have become final and executory. Such judgments, being no longer reviewable by higher tribunals, are certainly not reviewable by any other body or authority.

3. *Only Courts Authorized, under Fixed Rules, to Declare Judgments or Orders Erroneous or Unjust*

To belabor the obvious, the determination of whether or not a judgment or order is unjust — or was (or was not) rendered within the scope of the issuing judge's authority, or that the judge had exceeded his jurisdiction and powers or maliciously delayed the disposition of a case — is an essentially judicial function, lodged by existing law and immemorial practice in a hierarchy of courts and ultimately in the highest court of the land. To repeat, no other entity or official of the Government, not the prosecution or investigation service or any other branch, nor any functionary thereof, has competence to review a judicial order or decision — whether final and executory or not — and pronounce it erroneous so as to lay the basis for a criminal or administrative complaint for rendering an unjust judgment or order. That prerogative belongs to the courts alone.

4. *Contrary rule results in Circuitousness and Leads to Absurd Consequences*

Pragmatic considerations also preclude prosecution for supposed rendition of unjust judgments or interlocutory orders of the type above described, which, at bottom, consist simply of the accusation that the decisions or interlocutory orders are seriously wrong in their conclusions of fact or of law, or are tainted by grave abuse of discretion — as distinguished from accusations of corruption, or immorality, or other wrongdoing. To allow institution of such proceedings would not only be legally improper, it would also result in a futile and circuitous exercise, and lead to absurd consequences.

Assume that a case goes through the whole gamut of review in the judicial hierarchy; i.e., a judgment is rendered by a municipal trial court; it is reviewed and affirmed by the proper Regional Trial Court; the latter's judgment is appealed to and in due course affirmed by the Court of Appeals; and finally, the appellate court's decision is brought up to and affirmed by the Supreme Court. The prosecution of the municipal trial court judge who rendered the original decision (for knowingly rendering a manifestly unjust judgment) would appear to be out of the question; it would mean that the Office of the Ombudsman or of the public prosecutor would have to find, at the preliminary investigation, not only that the judge's decision was wrong and unjust, but by necessary implication that the decisions or orders of the Regional Trial Court Judge, as well as the Justices of the Court Appeals and the Supreme Court who affirmed the original judgment were also all wrong and unjust — most certainly an act of supreme arrogance and very evident supererogation. Pursuing the proposition further, assuming that the public prosecutor or Ombudsman should nevertheless opt to undertake a review of the decision in question — despite its having been affirmed at all three (3) appellate levels — and thereafter, disagreeing with the verdict of all four (4) courts, file an information in the Regional Trial Court against the Municipal Trial Court Judge, the fate of such an indictment at the hands of the Sandiganbayan or the Regional Trial Court would be fairly predictable.

Even if for some reason the Municipal Trial Court Judge is convicted by the Sandiganbayan or a Regional Trial Court, the appeal before the Supreme Court of the Court of Appeals would have an inevitable result: given the antecedents, the verdict of conviction would be set aside and the correctness of the judgment in question, already passed upon and finally resolved by the same appellate courts, would necessarily be sustained.

Moreover, in such a scenario, nothing would prevent the Municipal Trial Judge, in his turn, from filing a criminal action against the Sandiganbayan Justices, or the Regional Trial Court Judge who should convict him of the offense, for knowingly rendering an unjust judgment, or against the Justices of the Court of Appeals or the Supreme Court who should affirm his conviction.

The situation is ridiculous, however the circumstances of the case may be modified, and regardless of whether it is a civil, criminal or administrative proceeding that is availed of as the vehicle to prosecute the judge for supposedly rendering an unjust decision or order.

5. *Primordial Requisites for Administrative, Criminal Prosecution*

This is not to say that it is not possible at all to prosecute judges for this impropriety, of rendering an unjust judgment or interlocutory order; but, taking account of all the foregoing considerations, the indispensable requisites are that 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 there be also *evidence of malice or bad faith, ignorance or inexcusable negligence, on the part of the judge in rendering said judgment or order*. That final declaration is ordinarily contained in the judgment rendered in the appellate proceedings in which the decision of the trial court in the civil or criminal action in question is challenged.

What immediately comes to mind in this connection is a decision of acquittal or dismissal in a criminal action, as to which — the same being unappealable — it would be unreasonable to deny the State or the victim of the crime (or even public-spirited citizens) the opportunity to put to the test the proof such charges as they might see fit to press that it was unjustly rendered, with malice or by deliberate design, through inexcusable ignorance or negligence, etc. Even in this case, the essential requisite is that there be an authoritative judicial pronouncement of the manifestly unjust character of the judgment or order in question. Such a pronouncement may result from either (a) an action of *certiorari* or prohibition in a higher court impugning the validity of the judgment, as having been rendered without or in excess of jurisdiction, or with grave abuse of discretion; e.g., there has been a denial of due process to the prosecution; or (b) if this be not proper, an administrative proceeding in the Supreme Court against the judge precisely for promulgating an unjust judgment or order. Until and unless there is such a final, authoritative *judicial* declaration that the decision or order in question is "unjust," no civil or criminal action against the judge concerned is legally possible or should be entertained, for want of an indispensable requisite.

D. *Judges Must be Free from Influence or Pressure*

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. Hence 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.

This Court has repeatedly and uniformly ruled that a judge may not be held administratively accountable for every erroneous order or decision he renders. [55] To hold otherwise would be nothing short of harassment and would make his position doubly unbearable, 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. [56] The error must be gross or patent, deliberate and malicious, or incurred with evident bad faith; [57] it is only in these cases that administrative sanctions are called for as an imperative duty of the Supreme Court.

As far as civil or criminal liability is concerned, existing doctrine is that "judges of superior and general jurisdiction are not liable to respond in civil action for damages for what they may do in the exercise of their judicial functions when acting within their legal powers and jurisdiction." [58] Based on Section 9, Act No. 190, [59] the doctrine is still good law, not inconsistent with any subsequent legislative issuance or court rule: "No judge, justice of the peace or assessor shall be liable to a civil action for the recovery of damages by reason of any judicial action or judgment rendered by him in good faith, and within the limits of his legal powers and jurisdiction."

Exception to this general rule is found in Article 32 of the Civil Code, providing that any public officer or employee, or any private individual, who directly or indirectly obstructs, defeats, violates or in any manner impedes or impairs any of the enumerated

rights and liberties of another person — which rights are the same as those guaranteed in the Bill of Rights (Article III of the Constitution) — shall be liable to the latter for damages. However, such liability is not demandable from a judge unless his act or omission constitutes a violation of the Penal Code or other penal statute. But then again, to the extent that the offenses therein described have "unjust judgment" or "unjust interlocutory order" for an essential element, it need only be reiterated that prosecution of a judge for any of them is subject to the caveat already mentioned: that such prosecution cannot be initiated, much less maintained, unless there be a final judicial pronouncements of the unjust character of the decision or order in issue.

E. *Afterword*

Considering the foregoing antecedents and long standing doctrines, it may well be asked why it took no less than sixteen (16) years and some fifty (50) grossly unfounded cases lodged by respondent Borromeo in the different rungs of the Judiciary before this Court decided to take the present administrative measure. The imposition on the time of the courts and the unnecessary work occasioned by respondent's crass adventurism are self-evident and require no further elaboration. If the Court, however, bore with him with Jobian patience, it was in the hope that the repeated rebuffs he suffered, with the attendant lectures on the error of his ways, would somehow seep into his understanding and deter him from further forays along his misguided path. After all, as has repeatedly been declared, the power of contempt is exercised on the preservative and not the vindictive principle. Unfortunately, the Court's forbearance had no effect on him.

Instead, the continued leniency and tolerance extended to him were read as signs of weakness and impotence. Worse, respondent's irresponsible audacity appears to have influenced and emboldened others to just as flamboyantly embark on their own groundless and insulting proceedings against the courts, born of affected bravado or sheer egocentrism, to the extent of even involving the legislative and executive departments, the Ombudsman included, in their assaults against the Judiciary in pursuit of personal agendas. But all things, good or bad, must come to an end, and it is time for the Court to now draw the line, with more promptitude, between reasoned dissent and self-seeking pretense. The Court accordingly serves notice to those with the same conceit or delusions that it will henceforth deal with them, decisively and fairly, with a firm and even hand, and resolutely impose such punitive sanctions as may be appropriate to maintain the integrity and independence of the judicial institutions of the country.

WHEREFORE, Joaquin T. Borromeo is found and declared GUILTY of constructive contempt repeatedly committed over time, despite warnings and instructions given to him, and to the end that he may ponder his serious errors and grave misconduct and learn due respect for the Court and their authority, he is hereby sentenced to serve a term of imprisonment of TEN (10) DAYS in the City Jail of Cebu City and to pay a fine of ONE THOUSAND PESOS (P1,000.00). He is warned that a repetition of any of the offenses of which he is herein found guilty, or any similar or other offense against courts, judges or court employees, will merit further and more serious sanctions.

IT IS SO ORDERED.

Narvasa, C.J., *Feliciano, Padilla, Bidin, Regalado, Davide, Jr., Romero, Bellosillo, Melo, Quiason, Vitug, Kapunan, Mendoza* and *Francisco, JJ* ., concur.

Puno, J., took no part.

Footnotes

1. *Barrera v. Barrera*, 34 SCRA 98, 106; *Peo. v. Catolico*, 38 SCRA 389, 407.

2. SEE Sub-Head I, A, 7, *infra*.

3. Per Judge Benigno G. Gaviola, Branch 9, RTC, Cebu.

4. Ramirez, J., *ponente*, with whom concurred Francisco (Cezar) and Vailoces, JJ.

5. Judge Renato C. Dacudao, presiding.

6. Judge Celso M. Gimenez, Branch 5.

7. Guingona, J., *ponente*, with whom concurred Javellana and Imperial, JJ.

8. Branch 24, Hon. Priscila S. Agana, presiding.

9. Per Judge Jose P. Burgos, Branch 17.

10. Per Judge (now CA Associate Justice) Godardo Jacinto.

11. SEE Sub-Head I, A, 1, *supra*.

12. SEE Sub-Head I, A, 2, *supra*.

13. SEE Sub-Head I, *supra*.

14. Decision dated May 21, 1993: Austria-Martinez, J., ponente, with whom concurred Puno and Ramirez, JJ.

15. As every lawyer knows, the Clerk of Court of a Division or of the court En banc is, of course, not a "mere clerk," but the highest administrative officer in the Division or Court, next only to the Justices.

16. Sub-Head II, A, 1, *infra*.

17. Sub-Head II, A, 4, *infra* Sub-Heads VI, B, 1, and II, A, 1, c, *infra*.

18. Sub-Heads VI, B, 1, and II, A, 1, c, *infra*, respectively.

19. Sub-Head II, A, 3, *infra*.

20. See sub-head I, A, 3, *supra* — Because TRB consolidated its ownership over the foreclosed immovables during the pendency of Civil Case No. R022506. Borromeo filed criminal complaints in the Office of the City Prosecutor of Cebu against the bank officers and lawyers, which were however, and quite correctly, given short shrift by that Office.

21. Per 3rd Assistant Fiscal Enriqueta Roquillano-Belarmino

22. See sub-head I, A, 1, *supra*.

23. See sub-head I, *supra*.

24. By resolution of Fiscal Rodulfo T. Ugsal, approved by City Fiscal Jufelinito R. Pareja.

25. Per Investigator Mario E. Camomot, recommended for approval by Director IV V.V. Varela, and approved by Juan M. Hagad, Deputy Ombudsman, Visayas.

26. In the third paragraph of this opinion.

27. Like the letter written to Borromeo, dated July 10, 1987, Sub-head A, 1, 5, *supra*.

28. *Rollo* of G.R. 82273.

29. This concerned a fourth bank, the Philippine Bank of Communications.

30. Sub-head II, A, 3, *supra*.

31. Written by Felicito C. Latoja, Asso. Graft Investigation Officer II, and approved by Juan M. Hagad, DOMB.

32. SEE Sub-head II, A, I, *supra*.

33. SEE also sub-head II, A, 2, *supra*.

34. Judge Jacinto has, to repeat, since been promoted to the Court of Appeals.

35. *Rollo*, Vol. VII, p. 115.

36. SEE Sub-Head II, A, 5, *supra*.

37. During the entire period that the administrative case was pending (1990 to 1994), Borromeo wrote an unceasing stream of letters, leaflets, flyers to IBP, harshly critical of the courts and the lawyers who had in one way or another taken measures adverse to him. One of the last was an "OPEN LETTER to IBP prexy Manuel Legaspi" dated April 19, 1994.

38. There are at least ten (10) other such "circulars," flyers, or letters in the record, all mouthing more or less the same errors and defamatory imputations.

39. Sub-Head II, A, 4, *infra* Sub-Heads VI, B, 1, and II, A, 1, c, *infra*.

40. Sub-Heads VI, B, 1, c, infra, respectively.

41. Sub-Head II, A, 3, *infra*.

42. Sub-Head II, A, 1, a, *infra*.

43. Sub-Head I, A, 7, *supra*.

44. Rule 71, Sec. 3, (c) and (d), Rules of Court.

45. SEE Sub-head II, A, 1, a, *supra*

46. *Peo v. Venturanza, et al*, 98 Phil. 211, cited in *Gavieres v. Falcis*, 193 SCRA 649, 660 (1991); see also *Fernandez v. Hon. Bello*, 107 Phil. 1140.

47. *Garbo v. Court of Appeals*, 226 SCRA 250, G.R. No. 100474, September 10, 1993; *GSIS v. Gines*, 219 SCRA 724, G.R. No. 85273, march 9, 1993; *Gesulgon v. NLRC*, 219 SCRA 561, G.R. No. 90349, March 5, 1993; *Paramount Insurance Corporation v. Japson*, 211 SCRA 879, G.R. No. 68073, July 29, 1992; *Cachola v. CA*, 208 SCRA

496, G.R. No. 97822, May 7, 1992; *Enriquez v. CA*, 202 SCRA 487, G.R. No. 83720, October 4, 1991; *Alvendia v. IAC*, 181 SCRA 252, G.R. No. 72138, January 22, 1990; *Turqueza v. Hernando*, 97 SCRA 483, G.R. No. L-51626, April 30, 1980;*Lee Bun Tin v. Aligaen*, 76 SCRA 416, G.R. No. L-30523, April 22, 1977.

48. 20 SCRA 441, 444.

49. Against judgments of the Supreme Court, since obviously no appeal to a higher court or authority is possible, the only remedies are those set forth in the Rules of Court, particularly Rule 56 in relation to Rules 52 and 53, with regard to civil cases and proceedings, and Rule 125 in relation to Rule 124, in respect of criminal cases. SEE *Calalang v. Register of Deeds*, 208 SCRA 215, G.R. No. 76265, April 22, 1992;*Tan v. Court of Appeals*, 199 SCRA 212, G.R. No. 97238, July 15, 1991;*Church Assistance Program v. Sibulo*, 171 SCRA 408, G.R. No. 76552, march 21, 1989;*Ver v. Quetulio*, 163 SCRA 80, G.R. No. L-77526, June 29, 1988; *Ang Ping v. RTC of Manila*, 154 SCRA 77, G.R. No. 75860, September 17, 1987; *Vir-Jen Shipping and Marine Services, Inc. v. NLRC*, 125 SCRA 577, G.R. Nos. L-58011-2, November 18, 1983; *Tugade v. CA*, 83 SCRA 226; *Barrera v. Barrera*, 34 SCRA 98, G.R. No. L-31589, July 31, 1970; *Albert v. CFI*, 23 SCRA 948, G.R. No. L-23636, May 29, 1968;*Shoji v. Harvey*, 43 Phil. 333, G.R. Nos. 92163 and 92164, June 5, 1990.

50. 148 SCRA 382, 417-418.

51. Against a final and executory judgment, the extraordinary, equitable remedy of relief from judgment under Rule 38 may be availed of, or in extreme situations, an action to annul the judgment on the ground of extrinsic fraud.

52. *Miranda v. CA*, 141 SCRA 302, G.R. No. L-59370, February 11, 1986, citing*Malia v. IAC*, 138 SCRA 116, G.R. No. L-66395, August 7, 1985; *Castillo v. Donato*, 137 SCRA 210, G.R. No. L-70230, June 24, 1985; *Bethel Temple, Inc. v. General Council of Assemblies of God, Inc.*, 136 SCRA 203, G.R. No. L-35563, April 30, 1985;*Insular bank of Asia and America Employees' Union (IBAAEU) v. Inciong*, 132 SCRA 663, G.R. No. L-52415, October 23, 1984, and the cases cited therein pertaining to "immutability of judgments;" *Heirs of Pedro Guminpin v. CA*, 120 SCRA 687, G.R. No. L-34220, February 21, 1983; *Commissioner of Internal Revenue v. Visayan Electric Co.*, 19 SCRA 696, G.R. No. L-24921, March 31, 1967;*Daquis v. Bustos*, 94 Phil. 913; *Sawit v. Rodas*, 73 Phil. 310.

53. Articles 204-206 of the Revised Penal Code define and penalize offenses which have "unjust judgment" or "unjust interlocutory order" for an essential element.

54. 148 SCRA 283, 418, 419, 420-421.

55. *Rodrigo v. Quijano, etc.*, 79 SCRA 10 (Sept. 9, 1977)

56. *Lopez v. Corpus*, 78 SCRA 374 (Aug. 31, 1977);*Pilipinas Bank v. Tirona-Liwag*, 190 SCRA 834 (Oct. 18, 1990)

57. *Quizon v. Baltazar, Jr.*, 65 SCRA 293 (July 25, 1975).

58. *Alzua, et al. v. Johnson*, 21 Phil. 308, 326.

59. The old Code of Civil Procedure.