

**PRESIDENT'S
 CORNER**

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RE-ELECTION CONDONATION

Miguel Silos

Election time is upon us again. And, elections, being more fun in the Philippines, the fiesta atmosphere will soon pervade our collective senses. Together with the festive mood, however, election time is also the period where politicians whet their political knives and try to skewer their opponents with a barrage of administrative disqualification cases. Local government reelectionists, however, have on their side a legal doctrine that they have time and again used.

Known as the “doctrine of condonation”, it says that an elective public official who has been re-elected to his position cannot be removed administra-

tively for acts committed during his previous term because, by re-electing the public official into office, the electorate is deemed to have condoned or forgiven his acts during the

Should this doctrine, however, continue to be invoked or should its application be placed under scrutiny to determine its continued validity? Considering the downside of its automatic application in that an erring local public official is made immune from administrative removal, it is high time that the doctrine be re-examined.

This doctrine, including both its propositions, was introduced into our country in *Pascual vs. Hon. Provincial Board of Nueva Ecija*. The doctrine of condonation works on a number of assumptions and public policy considerations. (Cont'd. next page)



previous term. By the process of re-electing the public official, they have cleansed him of all his previous “sins” and the public official becomes immune from removal by way of administrative charges.

ENFORCEMENT OF FOREIGN MONEY JUDGMENTS IN PHILIPPINE JURISDICTION

Ponciano C. Gonzales, Jr., Rosario Teresa R. Ganitano, Jo Katrina B. Cristobal David Michael Go, and Ma. Eloisa S. Singzon

The Philippine government is receptive towards enforcement of foreign judgment. The legal provision for enforcement of foreign judgment is found in Sec. 48, Rule 39 of the Revised Rules of Court.

Recently, Administrative Matter No. 00-8-10-SC, was enacted by the Supreme Court of the Philippines under its rule-making power. The said judi-

cial enactment is otherwise known as the *Rules of Procedure on Corporate Rehabilitation*. The provisions of the rules apply to petitions for rehabilitation of corporations, partnerships, and associations. Rule 7 thereof provides for recognition of foreign proceedings. The rule applies where (a) assistance is sought in a Philippine court by a foreign court in connection with a foreign proceeding; (b)

assistance is sought in a foreign state in connection with a domestic proceeding governed by the Rules; or (c) a foreign proceeding and a domestic proceeding are concurrently taking place. In short, this special rule allows a domestic proceeding on corporate rehabilitation to take place simultaneously with the foreign proceeding and not merely limiting the availability of this particular

The last year of this Board Term was a flurry of activities ushered in by the impeachment proceedings brought against the highest magistrate of the land. While the impeachment took out a sizeable amount of lawyers’ productive time, this did not sidetrack the Chapter from pursuing its activities for the year ahead.

20th House of Delegates Convention - "IBP: Defending the Constitution, Promoting the Rule of Law"

The following delegates of the IBP Makati City Chapter to the 20th House of Delegates Convention attended the three day convention held at the Fort Ilocandia Resort Hotel, Laoag City, Ilocos Norte from February 16-18, 2012:

- Atty. Grace P. Quevedo-Panagsagan, *President*
- Atty. Carmine Eliza Serrano, *Secretary*
- Atty. Gregorio F. Fernandez, *Treasurer*
- Atty. Roderick Salazar III, *Auditor*
- Atty. Vince Patrick Cruz, *Assistant Secretary*

The Chapter delegates actively participated in the proceedings and breakout sessions on the following matters:

- Comprehensive Legal Aid Service Proposed Revisions to the IBP By-Laws
- New Supreme Court Rules of Adjudication of Cases
- Revised Rules on Bar Discipline Cases (Turn to page 14)



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Re-election... (from page 1)

Perhaps the greatest public policy consideration, which gave rise to the doctrine, is that the people have the fundamental right to choose who their public officials will be and no entity, not even the courts, can deprive them of this right. This justification is best expressed in *Pascual*:

“The court should never remove a public officer for acts done prior to his present term of office. To do otherwise would be to deprive the people of their right to elect their officers. When the people have elected a man to office, it must be assumed that they did this with knowledge of his life and character, and that they disregarded or forgave his faults or misconduct, if he had been guilty of any. It is not for the court, by reason of such faults or misconduct, to practically overrule the will of the people.”

The mere assumption in *Pascual* that the electorate has knowledge of past misdeeds was later promoted to a conclusive presumption by the Supreme Court in *Garcia vs. Mojica*.

The linchpin of the theory that the electorate condones previous misconduct by their act of re-electing the public officer in question is in this sentence: “When the people have elected a man to office, it must be assumed that they did this with the knowledge of his life and character, and that they disregarded or forgave his faults or misconduct, if he had been guilty of any.” The doctrine, therefore, assumes and even conclusively presumes the electorate knew of the misconduct. But is such a leap in conclusions valid? Can it be

safely presumed or even assumed that the electorate possesses such a degree of omnipotence that they know of the acts of misconduct committed by their public officers?

There are cases that point out this glaring flaw in the theory of condonation. Misconduct may easily be concealed by a public officer and such misconduct may not surface until he has been re-elected by an unknowing electorate. How then can it be presumed that the electorate knew of his misconduct when the same was hidden from them? This flaw was put to the fore by the Supreme Court of Kansas in *State of Shroeder*, wherein defendant interposed the defense of condonation after he was re-elected. The Court, in denying his argument, said:

“Condonation of an offense implies knowledge of the offense, and, if the officer's misconduct in the prior term was concealed or not known to the electorate or the appointing official at the time of the re-election or reappointment, several courts have refused to apply the rule.

We would have difficulty supposing any electorate would knowingly re-elect as guardian of the public funds one guilty of the deceitful dealings involved here... The wrongdoing has been concealed from public view and there is nothing before us which may fairly be interpreted as condonation by the electorate.”

Other cases have, likewise, recognized the stark reality that misconduct can be easily hidden from the electorate or the appointing authority

and therefore debunked the theory of the electorate condoning previous offenses.

The fact that there is a big possibility of the electorate's being unaware of the public official's misconduct is too important to be ignored by courts in our jurisdiction. It is a fact that adheres to common sense and reality. Misconduct can be easily hidden from the public; and even if the misconduct comes to light, these facts may be learned only after the guilty officer has been unwittingly re-elected.

The conclusive presumption fashioned by the Court in *Garcia* regarding the knowledge of the electorate must not, therefore, be given attribution as a Gordian-knot solution. The ordinary man in the street is not expected to keep abreast of administrative cases pending against a public official and the facts surrounding it. Hence, instead of a conclusive presumption, the Court should require as a threshold evidentiary fact that there was some degree of disclosure of such facts to the electorate in general such that they know or should have known that the person they were re-electing into office committed or could have committed acts which breached the trust reposed upon him. This would not be too difficult since newspaper articles or news reports on such cases can be proven by simple evidentiary means and need not be as impossible as the Court in *Garcia* made it appear. Reprinted with permission by the Author. This article was previously published in the *Business Mirror* on 4 October 2012.

IBP Makati Chapter MCLE Seminar

*Alfred X.B. Nolasco
and Rita O. Peña*

With the 4th Compliance Period Deadline fast approaching, the IBP Makati Chapter conducted a full 36-Unit Mandatory Continuing Legal Education (MCLE) Seminar at the A Venue Hotel Suites at Makati City last November 9, 16, 23 and 29, 2012.

The Seminar was well attended as out of the initial target of 60 participants, 71 registered and

participated in the event. The attendees listened to lectures conducted by well-respected and esteemed members of the legal profession. The lecturers veered from the usual and discussed novel topics such as the New Judicial Affidavit Rule and Environmental Law.

Aside from providing a venue for lawyers to comply with the MCLE requirement, the Seminar was conducted for the benefit of the IBP Makati Chapter Legal Aid Program. In

Lawyers waiting for the next speaker during the MCLE at A Venue



connection with this, Atty. Jacinto D. Jimenez and IBP Makati Director Atty. Arnold M. Corporal donated their lecture stipend to the Seminar's beneficiary.

2012 IBP MAKATI GOLF TOURNAMENT : ANOTHER TRIUMPH FOR THE CHAPTER

The IBP Makati Chapter held another successful Golf Tournament on 28 November 2012 at the Alabang Golf and Country Club, headed by Committee Chairperson Atty. Arnold M. Corporal.

The event earned for the Chapter an impressive Two Hundred Eighty Nine Thousand Forty Seven Pesos and Fifty Centavos (Php 289,047.50) profit for this well-attended event.

Among the sponsors who generously gave their monetary assistance were Villaraza Cruz Marcelo & Angangco, Atty. Jake Corporal, CS Autolink, Cortina & Buted Law Office and Surely Properties, Inc. An anonymous donor even contributed Php 100,000 to show his commitment to this popular tournament.

Carag Jamora Somera & Villareal Law Offices, Jimenez Gonzales Bello Valdez Caluya & Fernandez, Platon Martinez Flores San Pedro & Leano, Quasha Ancheta



Everyone came home ecstatic having played their favorite sport, and being with great company and friends.

Pena & Nolasco Law Office and Sycip Salazar Hernandez & Gattaitan Law Offices each gave Php 20,000 to ensure the success of the event.

Prizes were raffled to the golf players and participants comprising of IBP Makati Chapter Officers, Board of Trustees, members and guests. Everyone came home ecstatic having played their favorite sport, and being with great company and friends.

Prepping the booth not for filing, but for a fun-filled fellowship with lawyers.

One for each bag. Trophies waiting for winners. Bags waiting for golfers.



Enforcement (from page 1)

domestic proceeding to enforcing a final and executory foreign judgment.

It is also worth noting that the Philippines is a signatory to the New York Convention, or the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, which was signed at New York on 10 June 1958, and ratified by the Philippines under Senate Resolution No. 71. The applicability of the New York Convention in the Philippines was confirmed in Section 42 of Republic Act 9285 or the Alternative Dispute Resolution Act of 2004. Under RA 9285, international commercial arbitrations shall be governed by the Model Law on International Commercial Arbitration (“Model Law”) adopted by the United Nations Commission on International Trade Law (UNCITRAL).

Said law also provides that the application for the recognition and enforcement of foreign arbitral awards shall be filed with the RTC.

The following cases are illustrative of the enforcement in the Philippines of foreign money judgments rendered by the United States courts as well as other foreign tribunals:

Gil Miguel T. Puyat vs. Ron Zabarte (G.R. No. 141536, February 26, 2001)

Respondent Ron Zabarte commenced [an action] to enforce a foreign money judgment based on a Compromise Agreement rendered by the Superior Court for the

State of California, County of Contra Costa, U.S.A. Petitioner filed his answer with special and affirmative defenses, claiming, among others, that the Superior Court of the State of California, County of Contra Costa has no jurisdiction because jurisdiction over Case No. C21-00265, which involved partnership interest, was vested in the Securities and Exchange Commission, not in the Superior Court of California, County of Contra Costa. He also alleged that the Judgment on Stipulation for Entry of Judgment in the foreign court was null and void for being made without sufficient notice, procured by means of fraud or collusion and/or based on mistake of fact and law, and that the same is contrary to laws and public policy and canons of morality obtaining in the Philippines, therefore unenforceable in the Philippines.

The Supreme Court ruled that the court has jurisdiction over the instant case. According to the Court, in the absence of proof of California law on the jurisdiction of courts, we presume that such law, if any, is similar to Philippine law. The complaint, which respondent filed with the trial court, was for the enforcement of a foreign judgment. He alleged therein that the action of the foreign court was for the collection of a sum of money, breach of promissory notes, and damages. In our jurisdiction, such a case falls under the jurisdiction of civil courts, not of the Securities and Exchange Commission (SEC).

In the end, the Supreme Court affirmed the foreign judgment by affirming the ruling of the RTC and the CA. It even enforced double costs against the Petitioner.

Asiavest Merchant Bankers (M) Berhad vs. Court of Appeals and the Philippine National Construction Corporation (G.R. No. 110263, July 20, 2001)

This case is a petition for review on certiorari of the Decision of the Court of Appeals affirming the Decision of the Regional Trial Court of Pasig, Metro Manila, Branch 168 in Civil Case No. 56368 which dismissed the complaint of petitioner Asiavest Merchant Bankers (M) Berhad for the enforcement of the money of the judgment of the High Court of Malaysia in Kuala Lumpur against private respondent Philippine National Construction Corporation.

The petitioner Asiavest Merchant Bankers (M) Berhad is a corporation organized under the laws of Malaysia while private respondent Philippine National Construction Corporation is a corporation duly incorporated and existing under Philippine laws. Petitioner initiated a suit for collection against private respondent to recover the indemnity of the performance bond it had put up in favor of private respondent to guarantee the completion of the Felda Project and the nonpayment of the loan it extended to Asiavest-CDCP Sdn. Bhd. for the completion of Paloh Hanai and Kuantan By Pass

Cont'd. on page 6.

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Makati Lawyers as Counsel De Oficio was held on 06 December 2012 at Bravo Best Foods.

The event was attended by the Honorable Benjamin Pozon, Executive Judge of the Regional Trial Court of Makati, Honorable Barbara Aleli Hernandez Briones, Executive Judge of the Metropolitan Trial Court of Makati, Honorable Carlito C. Calpatura, Honorable Perpetua Atal-Paño, Honorable Liza Marie R. Picardal-Tecson, Honorable Ethel V. Mercado-Gutay, Judges of the Regional Trial Court of Makati, Atty. Dante Gumpal, Clerk of Court of the Metropolitan Trial Court of Makati and members of the IBP Makati Chapter.

The MOA outlined the procedure on the referral of IBP Makati lawyers as counsel de oficio as well as the requirements for acceptance by the IBP Makati of its appointment. It also enumerated the grounds for termination of the designation of the IBP Makati as counsel de oficio. The MOA likewise provided for the reporting of the action taken by the IBP Makati on the referred cases as well as designated the set-up of a help desk in the Makati Courts Library every first and third Monday of the month from 9:00 a.m. to 12:00 p.m.

**Participation in
IBP National Activities**

This term saw the full participation of the IBP Makati City Chapter in activities organized by the IBP National Office, including the activities mentioned in item V above.

**23rd Conference of the Presidents of
Law Associations of Asia (POLA)**

Some officers of the Chapter attended the 23rd Conference of the POLA held in Manila at the Marriott Hotel from August 27 to 29 and which was hosted by the Integrated Bar of the Philippines. IBP Makati Chapter Director, Atty. Arnold Corporal acted as Moderator, together with Atty. Patricia Ann T. Prodi-

-galidad for some of the sessions. Your President was also present and introduced then newly-appointed Chief Justice Maria Lourdes Aranal Sereno during her luncheon talk on the third day of the conference. At the Fellowship Night with the delegates at the Manila Hotel, your President again hosted the program together with National Executive Director Roland B. Inting.

IBP FORUM: Judicial Affidavit and other Reforms

At the IBP Forum on the new Judicial Affidavit Rules held at the JBL Reyes Hall, IBP Building on September 17, 2012, Chapter officers and members again attended. Your President co-emceed the Forum with National Executive Director, Jose V. Cabrera, and Chapter Director, Atty. Arnold M. Corporal, acted as Moderator during the panel discussion.

14th National Convention of Lawyers

Due to the presence and active participation of the IBP Makati City Chapter in the Regional and National activities of the IBP, your President was designated as the Deputy Convention Director for the 14th National Convention of Lawyers held at the SMX Convention Center in Davao City from January 14 to 18, 2013. The Convention, which coincided with the 40th Founding Anniversary of the IBP on January 16, 2013, had around 2,500 registered delegates from all over the country. Keynote speaker during the Opening Ceremonies was Senator Edgardo J. Angara, while Chief Justice Maria Lourdes P.A. Sereno was the Guest of Honor during the Grand Ball.

**IBP Tower
Groundbreaking Ceremonies**

The IBP National Office recently inked a Memorandum of Understanding with Ortigas & Company for the building of a 22-storey IBP Tower adjacent the IBP Building along Julia Vargas. The project will be under a BOT arrangement where for 35 years, Ortigas will manage and operate the building and transfer ownership to the IBP at the end of the period. IBP will be given three (3) floors in the

IBP Tower for its use plus parking spaces, rent free. Ortigas will also facelift the exterior and renovate the 3rd Floor of the IBP Building. In attendance during the signing of the MOU and Groundbreaking Ceremonies, which was hosted by your President and Atty. Emmanuel S. Buenaventura, were Chief Justice Maria Lourdes P.A. Sereno, Senator Edgardo J. Angara, Mr. Rowell L. Recinto, President and CEO of Ortigas & Co., Atty. Ignacio Ortigas and Mr. Fernando Ortigas. Other members of the Ortigas family were also present.

As the IBP Makati City Chapter Board for 2011-2013 ends its term on 31 March 2013, we rest not on our laurels but bid those who will follow in our footsteps **“to do more, feel more and become more”**.

“The last year of this Board Term was a flurry of activities ushered in by the impeachment proceedings brought against the highest magistrate of the land. While the impeachment took out a sizeable amount of lawyers’ productive time, this did not sidetrack the Chapter from pursuing its activities for the year ahead.”



Atty. Grace Quevedo-Panagsagan is the incumbent President of IBP Makati.

She is a partner at Platon Martinez Flores San Pedro Leaño Law Offices

Enforcement (from page 4)

Project. The High Court of Malaya (Commercial Division) rendered judgment in favor of the petitioner and against the private respondent.

A complaint for the enforcement of judgment rendered by the High Court of Malaya was brought in the Philippines until it reached the Supreme Court. Before the Supreme Court, one of the issues raised was whether or not the Court of Appeals erred in denying the recognition and enforcement of the Malaysian court judgment. The Supreme Court, after a careful examination of the facts and circumstances of the case, ruled in favor of the petitioner, holding that the petitioner sufficiently established the existence of the money judgment of the High Court of Malaya by the testimonial evidence it offered. Vinayak Prabhakar Pradhan was presented as petitioner's sole witness, and testified, among others, that he is in active practice of the law profession in Malaysia and that the writ of summons was duly served on the respondent.

In addition to the said testimonial evidence, petitioner offered, among others, the following documentary evidence:

(a) A certified and authenticated copy of the Judgment promulgated by the Malaysian High Court dated September 13, 1985 directing private respondent to pay petitioner the sum of

\$5,108,290.23 Malaysian Ringgit plus interests from March 1983 until fully paid;

(b) A certified and authenticated copy of the Order dated September 13, 1985 issued by the Malaysian High Court in Civil Suit No. C638 of 1983;

(c) Computation of principal and interest due as of January 31, 1990 on the amount adjudged payable to petitioner by private respondent;

(d) Letter and Statement of Account of petitioner's counsel in Malaysia indicating the costs for prosecuting and implementing the Malaysian High Court's Judgment; In the end, the Supreme Court held that having thus proven, through the foregoing evidence, the existence and authenticity of the foreign judgment, said foreign judgment enjoys presumptive validity and the burden then fell upon the party who disputes its validity, herein private respondent, to prove otherwise. [However], [P]rivate respondent failed to sufficiently discharge the burden that fell upon it - to prove by clear and convincing evidence the grounds which it relied upon to prevent enforcement of the Malaysian High Court judgment xxx.

Thus, it ordered that the decision of the High Court of Malaya in Kuala Lumpur be enforced and ordered private respondent Philippine National Construction Corporation to pay peti-

tioner Asiavest Merchant Bankers (M) Berhad the amounts adjudged in the said foreign Judgment, subject of the said case.

As of date, there is no proposed legislation or other governmental action in the Philippines that could significantly affect the enforcement of foreign money judgment.

The Philippines has not entered into any treaty or adhered to any convention on the recognition and enforcement of foreign judgments, such as the *Convention on the Recognition and Enforcement in Civil and Commercial Matters* prepared in 1966 by the Hague Conference of International Law. Nonetheless, as discussed earlier, the Philippines is a signatory to the New York Convention on the recognition and enforcement of *foreign arbitral awards*. Under the UNCITRAL Model Law, no procedural details of recognition and enforcement were provided, as it is left to the national procedural laws and practices. It merely sets certain conditions for obtaining enforcement, as mentioned under Article 35(2).

Even in the absence of a treaty or convention (other than the New York Convention), the Philippines does recognize or give effect to foreign judgments, subject to certain limitations, as prescribed in Section 48, Rule 39 of the Rules of Court, as will be discussed below.

As of date, there is no proposed legislation or other governmental action in the Philippines that could significantly affect the enforcement of foreign money judgment.

will be discussed below.

There is no provision under the Rules of Court specifically governing the **procedure** for the enforcement of foreign money judgment. Nonetheless, since the enforcement of foreign money judgment is treated as an ordinary civil action, the procedure for the filing of a civil case in court is as follows:

Procedure:

(1) Filing of a complaint in the Regional Trial Court for the enforcement of foreign money judgment, (2) Service of summons on the defendant, (3) Filing of a motion to dismiss or an answer by the defendant, (4) Conduct of pre-trial, (5) Hearing/Trial on the merits, but only insofar as the grounds to set aside a foreign judgment is concerned, (6) Judgment, (7) Appeal, if interposed by the opposing party, (8) Judgment on appeal, (9) Execution.

It must be noted that while an action in court is indispensable, there is no extensive litigation and the actionable issues are generally restricted to a review of jurisdiction of the foreign court, the service of personal notice, collusion, fraud, or mistake of fact of law.

Expected Length of time:

The 1987 Constitution of the Philippines provides for the expected length of time before a case filed in courts are concluded. All cases or matters filed after 1987 must be decided or resolved within twenty-four months from date of submission for the Supreme Court, and, unless reduced by the Supreme Court, twelve months for all lower collegiate courts, and three months for all other lower courts. However, the reality is that the limitation on the length of proceeding is seldom followed because of various reasons, usually involving heavy case loads of the courts and motions for extension filed by the parties.

Jurisdiction:

Regardless of the amount involved in a foreign money judgment, all actions for its enforcement shall be filed with the Regional Trial Court. This is confirmed by the Supreme Court of the Philippines in a recent case, when it ruled that “an examination of Section 19(6) of B.P. 129 reveals that the instant complaint for **enforcement of a foreign judgment, even if capable of pecuniary estimation, would fall under the jurisdiction of the Regional Trial Court...** Indeed, an examination of the provision indicates that it can be

relied upon as jurisdictional basis with respect to actions of enforcement of foreign judgments, provided that no other court or office is vested jurisdiction over such complaint.

Venue:

In the enforcement of a foreign judgment, the cause of action and the subject matter are the foreign judgment itself. Enforcement of foreign money judgment is a personal action under the Rules of Court because it does not otherwise affect title to or possession of real property. Personal actions may be commenced and tried where the plaintiff resides or any of the principal plaintiff resides, or where the defendant or any of the principal defendant resides, or in the case of a non-resident defendant where he may be found, at the election of the plaintiff.

To prove foreign judgment, the following must be submitted in court:

1. Proof of public record/official publication of the judgment or by a copy attested by the officer having legal custody of the record:

Under Section 24, Rule 132 of the 1997 Rules of Court of the *(Turn to next page)*

There is no provision under the Rules of Court specifically governing the procedure for the enforcement of foreign money judgment.

References/Notes

Administrative Matter No. 00-8-10-SC took effect on January 16, 2009

A.M. No. 00-8-10 SC, Rule 1.

Transfield Philippines, Inc. vs. Luzon Hydro Corporation, Australia and New Zealand Banking Group Limited and Security Bank Corporation, G.R. No. 146717, May 19, 2006.

To date, only Cyprus, the Netherlands, Portugal and Kuwait have either ratified or acceded to the Convention. In the absence of any objection from the States which have ratified the convention, it will enter in force for Albania on 01 November 2010.

AGPALO, CONFLICT OF LAWS (Private International Law), 2004 Ed., page 574-575.

RULES OF COURT

Philippine Aluminum Wheels, Inc. v. FASGI Enterprises, 342 SCRA 722 (2000). This was reiterated by Supreme Court Justice Dante Tinga in the case of Mijares v. Ranada (455 SCRA 397 (2005)), which involved the enforcement of a foreign money judgment rendered by a Hawaiian Court in favor of martial law victims during the Marcos regime,

Enforcement

Philippines, written official acts, or records of the official acts of the sovereign authority, official bodies and tribunals, and public officers, whether of the Philippines or of a foreign country, may be evidenced by an official publication thereof or by a copy attested by the officer having legal custody of the record.

2. Copy of the public record must be certified by the custodian thereof:

If the office in which the record is kept is a foreign country, the certificate may be made by a secretary of the embassy or legation, consul-general, consul, vice-consul, or consular agent or by any officer of the foreign service of the Philippines stationed in the foreign country in which the record is kept, and authenticated by the seal of his office.

3. Copy of the public record with an official translation of the judgment as attested by the consular office:

In the case of *Pacific Asia Overseas Shipping Corporation v. NLRC*, the Supreme Court held that to admit an official translation of a foreign judgment as evidence, the following must be proved: the English translation must purport to have been made by an official court interpreter of the Philippine government or the foreign government; the identity of the translator and his competence in both foreign and English languages must be shown; the English translation must be sworn to as an

accurate translation of the original decision in the foreign language; and, the parties must agree that the translation is a true and faithful one.

Under Section 34 of Rule 132 of the Revised Rules of Court, documents written in an unofficial language shall not be admitted as evidence, unless accompanied by a translation into English or Filipino. To avoid interruption of proceedings, parties or their attorneys are directed to have such translation prepared before trial.

4. Copy of the public record must be attested by the consular office:

Under Section 25 of the same rule, whenever a copy of a document or record is attested for the purpose of the evidence, the attestation must state, in substance, that the copy is a correct copy of the original, or a specific part thereof, as the case may be. The attestation must be under the official seal of the attesting officer, if there be any, or if he be the clerk of a court having a seal, under the seal of such court.

5. Copy of the public record must be sealed by the consular office:

In this connection, not only should the foreign judgment be proven and pleaded as a fact in the trial court but other documents claimed as the sources of the right must also be proven and pleaded.

Jurisdiction over the judg-

ment debtor must be obtained by the Philippine court in the enforcement action. Without such jurisdiction, the court has no authority and power to act in any manner against the defendant and any order issued by the court will not bind the defendant.

Jurisdiction over the defendant is acquired by the voluntary appearance or submission by the defendant or respondent to the court or by coercive process issued by the court to him, generally by the service of summons. If the defendant is a non-resident, the general rule is that it cannot be entertained by a Philippine court. Where, however, the action is *in rem* or *quasi in rem*, in connection with property located in the Philippines, the court acquires jurisdiction over the *res*, and its jurisdiction over the person of the non-resident defendant is non-essential. If the law requires in such case that the summons upon the defendant be served by publication, it is merely to satisfy the constitutional requirement of due process.

It must be noted that, while “[a]s a general proposition, one who seeks an affirmative relief is deemed to have submitted to the jurisdiction of the court, [t]his, however, is tempered by the concept of conditional appearance, such that a party who makes a special appearance to challenge, among others, the court’s jurisdiction over his person cannot be considered (Turn to next page)

to have submitted to its authority.

If the defendant is a foreign corporation doing business in the Philippines, service may be made: (1) on its resident agent designated in accordance with law for that purpose, or (2) if there is no such resident agent, on the/government official designated by law to that effect, or (3) on any of its officers or agents within the Philippines.

In addition, in an action to enforce a foreign judgment, it is proper to join other parties under whom or against whom any right to relief in respect to or arising out of the same transaction or series of transactions is alleged to exist, whether jointly, severally, or in the alternative, may, except as otherwise provided in the Rules, join as plaintiffs or be joined as defendants in one complaint, where any question of law or fact common to all such plaintiffs or to all such defendants may arise in the action. Permissive joinder of parties must be made even if the said parties to be joined were not impleaded in the foreign court.

In *Asiavest* case, the High Court of Kuala Lumpur, Malaysia rendered a money judgment ordering the defendant to pay a sum of money in ringgit. When an action for enforcement of foreign money judgment was filed in the Philippines, the Philippine court ordered the defendant to pay the sum of money adjudged in the said foreign judgment, which is in ringgit.

In *Pnyat* case, the US court rendered a foreign money judgment ordering the defendant to pay a sum of money in US dollars. When enforced in the Philippines, the Supreme Court affirmed the ruling of the Court of Appeals, ordering the defendant to pay the amount in US dollars

or its peso equivalent.

Thus, there is no need to convert the foreign money judgment into Philippine currency, unless it is so ordered. As to the issue on how the conversion should be calculated, the Supreme Court decided in a case that foreign money judgments may be discharged in Philippine currency based on the prevailing rate at the time of payment.

The judgment creditor can receive interest on the original judgment amount regardless of whether the original judgment amount included interest. In a case regarding enforcement of a foreign money judgment rendered by the Tokyo District Court, the Supreme Court of the Philippines enunciated that a foreign money judgment is an obligation which consists in the payment of a sum of money and therefore entitles the judgment creditor to receive interest on the original judgment amount regardless of whether the original judgment amount included interest. Consequently, the Court directed the judgment debtor to pay the amount of the unpaid foreign judgment with interest counted from the date of filing of the complaint (in the Tokyo District Court), until fully satisfied.

In a case, the Philippine Supreme court enunciated that for a judgment creditor's claim for attorney's fees and litigation expenses, evidence must be presented justifying an award for attorney's fees and litigation expenses under Art. 2208 of the Civil Code of the Philippines. In the same case, the judgment debtor, whose contentions to repel enforcement was belied by the same provisions of the laws it cited, was ordered to pay court costs.

In another case, the Philippine Supreme Court also ordered the

judgment debtor to pay court costs. While the court did not directly state the reasons of said order, the Court stated that the act of the judgment debtor (i.e., failing demonstrate the alleged invalidity of the foreign judgment and instead arguing that the burden lay upon the judgment creditor to prove the validity of the money judgment) would render meaningless the presumption of validity accorded a foreign judgment.

The discretionary nature of awarding attorney's fees and court costs is highlighted in another case where the trial court granted the party seeking enforcement of the foreign judgment attorney's fees and litigation expenses pursuant to said party's complaint. However, the Court of Appeals reversed the trial court's decision on the ground that the party enforcing the judgment failed to submit evidence supporting the validity of the foreign judgment. The Supreme Court affirmed the Court of Appeals decision, without pronouncements on the court costs.

The judgment obligor has recourse to appeal the decision of the trial court to an appellate court. From decisions promulgated by the Regional Trial Court, an appeal may be filed to the Court of Appeals within fifteen (15) days from receipt of the adverse decision. Any adverse decision can be appealed up to the Supreme Court on a petition for review on certiorari under purely questions of law pursuant to Rule 45 of the Rules of Court.

A party aggrieved by a decision may likewise file a petition for review on certiorari under Rule 65 of the Rules of Court, if there is a showing that the tribunal exercising judicial function has acted with grave abuse of discretion. (Turn to next page)

tion amounting to lack or excess of jurisdiction, and there is no appeal, nor any plain, speedy and adequate remedy in the ordinary course of law.

By way of exception, the Supreme Court of the Philippines rules that the Sandiganbayan has appellate jurisdiction over cases involving the enforcement of foreign monetary judgments if the same are incidental to or related to cases involving recovery of ill-gotten wealth.

Apart from the ordinary course of proceedings in a civil action, other procedures can be availed of by an aggrieved party which can be viewed as dilatory and could seriously affect the enforcement action.

A party can file a motion to dismiss the action, instead of filing an answer to a complaint for enforcement of a foreign judgment. Under Rule 16, there are ten (10) grounds upon which a motion to dismiss may be premised. In case a party files a motion to dismiss, the court shall hear the motion and render judgment thereon. The court can either dismiss the action, deny the motion to dismiss, or order the amendment of the pleading.

An aggrieved party can also file a petition for certiorari under Rule 65, as discussed in item II(B)(7) above. The petition shall not interrupt the course of the principal case

unless a temporary restraining order or a writ of preliminary injunction has been issued against the public respondent (the judicial body) from further proceeding in the case. In the event that such injunction or temporary restraining order has been issued, it will forestall the course of the case for varied periods depending on which court issued the same. If it is issued by the Court of Appeals, or a member thereof, the temporary restraining order shall be effective for a period of sixty (60) days from service on the party sought to be enjoined. A restraining order issued by the Supreme Court or a member thereof shall be effective until further orders. These procedural matters, while allowed by the Rules, could delay the proceedings for the enforcement of foreign judgment.

Considering that the Philippines is not a signatory to any treaty, please refer to the discussion below on the requirements which must be met to enforce a foreign money judgment if no treaty provides for enforcement of judgments from the country of origin.

The requirements for recognition or enforcement of foreign money judgment may be summarized as follows:

a. The foreign judgment was rendered by a judicial or a quasi-judicial tribunal which had jurisdiction over the par-

ties and the case in the proper judicial proceedings.

b. The judgment must be valid under the laws of the court that rendered it.

c. The judgment must be final and executory to constitute *res judicata* in another action.

d. The state where the foreign judgment was obtained allows recognition or enforcement of Philippine judgments.

e. The judgment must be for a fixed sum of money.

f. The foreign judgment must not be contrary to the public policy or the good morals of the country where it is to be enforced.

To be accorded recognition, the foreign court must have jurisdiction over the subject matter and of the person of the defendant.

The Rules of Court, in Section 39, Rule 48 thereof, is explicit in providing that want of jurisdiction is one of the grounds to repel a foreign judgment. The party against whom the judgment is sought to be enforced is entitled to prove that the court of origin has no jurisdiction, either over the parties or the subject matter of the original action. If proven as such, the foreign judgment is void insofar as Philippine law is concerned, and accordingly, it is not entitled to be enforced.

Thus, in a case where the defendant in an action in personam was a non-resident of

Hong Kong at the time the action was filed in a Hong Kong Court, the summons should have been personally served upon him in Hong Kong. The extra-territorial service in the Philippines was therefore invalid and did not confer the Hong Kong Court with jurisdiction over his person. It follows that the Hong Kong judgment cannot be given force and effect here in the Philippines, having been rendered without jurisdiction.

However, as to how jurisdiction over the parties or subject matter has been acquired by the foreign court in the original action is not dictated by the rules of the Philippines on jurisdiction. Matters of remedy and procedure are governed by the *lex fori* or the internal law of the forum (foreign tribunal in the original action). There are certain instances, however, when the rules in the Philippines on the acquisition of jurisdiction is invoked, *viz.*:

When the rules of the foreign court allows the acquisition of jurisdiction over the parties in accordance with the laws of the Philippines.

In *St. Aviation Services Co., Pte. Ltd. vs. Grand International Airways, Inc.*, one of the issues raised was whether the Singapore High Court has acquired jurisdiction over the person of respondent by the service of summons upon its office in the Philippines. In the said case, petitioner in the original action moved for leave of court to serve a copy of the Writ of Summons outside Singapore, which the Singapore High Court granted. This service of summons outside Singapore is in accordance with Order 11, r. 4(2) of the Rules of Court 1996 of Singapore, which provides that :

2) Where in accordance with these Rules, an originating process is to be served on a defendant in any country with respect to which there does not subsist a Civil Procedure Convention providing for service in that country of process of the High Court, the originating process may be served –

a) through the government of that country, where that government is willing to effect service; b) through a Singapore Consular authority in that country, except where service through such an authority is contrary to the law of the country; or c) by a method of service authorized by the law of that country for service of any originating process issued by that country.

Accordingly, writ of summons was served upon respondent at its office, which is in accordance with the Rules of Court of the Philippines. Thus, in a subsequent action for the enforcement of the foreign judgment of Singapore, the Supreme Court of the Philippines held that jurisdiction over the defendant was acquired by the Singapore High Court.

When the foreign law has not been proved and pleaded as a fact.

It is settled that matters relating to procedure are governed by the *lex fori* or the law of the forum. However, the Philippines does not take judicial notice of the laws of foreign tribunals. Foreign laws must be pleaded and proved as a fact. In the event of the absence of proof or failure of the party alleging the foreign law to convincingly establish the same, the presumption of identity of laws or the so-called processual presumption will come into play. Thus, the Philippine law on acquisition of jurisdiction will be invoked as the foreign law will be presumed to be similar to Philippine law.

Again, there is no requirement in the Philippines with regard to notice to the defendant in the original action, since the same is a matter of procedure that is governed by the law of the forum. It is not required that the court of origin must have followed the Philippines' service of process rules. Service could either be by mail or publication, as long as the defendant was duly notified in accordance with the *lex fori*.

Needless to stress, the recognition to be accorded a foreign judgment is not necessarily affected by the fact that the procedure in the courts of the country

in which such judgment was rendered differs from that of the courts of the country in which the judgment is relied on. Ultimately, matters of remedy and procedure such as those relating to the service of summons or court process upon the defendant, the authority of counsel to appear and represent a defendant and the formal requirements in a decision are governed by the *lex fori* or the internal law of the forum.

However, as discussed in II(B)(1) above, there are instances when the *lex fori* could not be applied and a resort to Philippine law becomes imperative, such as what happened in the case of *Northwest Orient Airlines, Inc. vs. Court of Appeals*. In the said case, the Court applied the processual presumption that the foreign law on procedural matters, such as the service of summons, is presumed to be the same as the Philippines law, which implies that the foreign procedural law governs, but could not be applied for lack of proof thereof.

Before any foreign monetary judgment may be enforced in the Philippines, it is required that the judgment rendered by the foreign court must be a final judgment. Thus, in *Querubin vs. Querubin*, the Supreme Court of the Philippines refused to enforce a judgment rendered by the Superior Court of Los Angeles for being merely interlocutory. The Supreme Court, speaking through Justice Pablo held that, "Because the decree is interlocutory, it cannot be implemented in the Philippines. Where the judgment is merely interlocutory, the determination of the question by the Court which rendered it did not settle and adjudge finally the rights of the parties."

To prove the foreign judgment, the requisites are discussed in item II-B(2) above. It is worth noting that in the Philippines, if no appeal or motion for new trial or reconsideration is filed within the time provided in the Rules, the judgment or final resolution shall be entered by the clerk in the book of entries of judgment. Thus, in the absence of a definite proof of finality and non-appealability of the court of ori-

gin's judgment, it is advisable that a certification of entry in the book of final judgment, or other similar certification, be shown.

Philippine courts are not bound to give effect to a judgment which contravenes our laws and the principles of sound morality which underlines Philippines social structures and family relations. This is because such judgment contravenes the law of the forum. An example of this is divorce. A divorce including claims for alimony which is sought to be enforced locally, will not be allowed since Philippine law does not recognize divorce. However, a divorce between a foreigner and a Filipino spouse is allowed and recognized in Philippine law provided that the divorce is initiated by the alien spouse abroad.

In the Philippines, it is required that the state where the foreign judgment was obtained allows recognition or enforcement of Philippine judgments. This principle is a reiteration of international comity as a basis for recognition and enforcement of a foreign-state or foreign-country decree.

Assuming that a foreign judgment has been rendered by a court of competent jurisdiction that has jurisdiction over the subject matter and over the person of the parties and has observed all requirements of due process in the trial thereof, such foreign judgment may be reviewable on the merits by Philippine court before which the action for its enforcement has been filed, to determine whether the foreign court has committed a clear mistake of law or fact or both. Section 48, Rule 39 of the Rules of Court authorizes a defendant to repel such judgment [foreign judgment] by showing that the foreign court committed a clear mistake of law or fact or both and grants Philippine courts such power of review.

However, other than a review of whether there was a clear mistake of fact or law, the presumption of regularity in the performance of the foreign court in rendering the judgment remains. Under Sec. 3, Rule 131 of the Rules of Court, a court, whether of the Philippines or elsewhere, enjoys the presumptions that it was acting in the lawful exercise of jurisdiction and has regularly

performed its official duty. This interpretation was affirmed by the Philippine Supreme Court when it stated that "a foreign judgment is presumed to be valid and binding in the country from which it comes, until a contrary showing, on the basis of a presumption of regularity of proceedings and the giving of the due notice in the foreign forum. Thus, a domestic court will no longer review the merits of the case and will presume the judgment as valid and binding.

Ultimately, matters of remedy and procedure are governed by the *lex fori* or the internal law of the forum (or the original court). However, in the absence of proof regarding the foreign law, the principle of processual presumption shall apply. Under this principle, there is a presumption that foreign law is similar or identical to Philippine law.

It must be noted that once the exercise of jurisdiction by the foreign court is proved to be lawful, a foreign judgment is presumed to be valid.

The grounds to repel a foreign judgment does not include as ground the fact that the underlying cause of action is barred under the Philippine statute of limitations. In fact, the "[R]ules of Court did not contain any "borrowing" provision, such as that provided in Section 48 of the Code of Civil Procedure, which specifically provides that if a claim under foreign law has prescribed, it will be considered as having also prescribed in our jurisdiction. Thus, it appears that an action for enforcement of foreign judgment will not be denied if the underlying cause of action has already prescribed in the Philippine jurisdiction.

Under Philippine law, the following are the grounds to repel a foreign judgment:

Where foreign judgment is vitiated by want of jurisdiction.

A foreign judgment may be vitiated by lack of jurisdiction either on the subject matter or on the person of the defendant, or on both subject matter and on the

Grounds to repel a foreign judgment

Where foreign judgment is vitiated by want of jurisdiction.

Where there is want of notice to the other party.

Where foreign judgment is vitiated by fraud.

Where there is collusion.

Where foreign judgment is clear mistake of law.

person of the defendant. The defendant is entitled to prove that the judgment is null and void on such ground; and a foreign judgment which is void is not entitled to be enforced.

Where there is want of notice to the other party.

Want of notice to the other party is actually a violation of procedural due process. Due process imports matters of procedure and matters of substance. In essence, procedural due process refers to the method or manner by which the law is enforced, while substantive due process requires that the law itself, not merely the procedures by which the law would be enforced is fair, reasonable and just.

Where foreign judgment is vitiated by fraud.

Under Rule 47 of the Rules of Court of the Philippines, a party may file a petition for annulment of judgment on two grounds, namely, lack of jurisdiction and extrinsic fraud. The same provision further provides that extrinsic fraud shall not be a valid ground if it was availed of, or could have been availed of, in a motion for new trial or petition for relief.

There is extrinsic fraud, as a ground therefore, where it is one the effect of which prevents a party from having a trial, or real contest, or from presenting all of his case to the court; where it operates upon matters, not pertaining to the judgment itself, but to the manner in which it was procured so that there is no fair submission of the controversy. In other words, extrinsic fraud refers to any fraudulent act of the prevailing party in the litigation which is committed outside of the trial of the case, whereby the defeated party has been prevented from exhibiting fully his side of the case by fraud or deception practiced on him by his opponent, such as keeping him away from the court, a false promise of a compromise, being kept ignorant of the case; or where his attorney fraudulently connives with the other party at his defeat.

Where there is collusion.

Collusion is similar to fraud practiced

by one party against the other party, so as to defeat the latter in the case. Collusion may however refer to mutual fraud by both parties, to secure a judgment they mutually desire either for or against one party. In such instance, there is violation of the right to due process of the party who lost the case.

Where foreign judgment is clear mistake of law.

Section 48 of Rule 39 of the Rules of Court authorizes a defendant to repel such [foreign] judgment by showing that the foreign court committed a clear mistake of law or fact or both and grants Philippine courts such power of review.

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Phil. International Shipping Corp. vs. Court of Appeals, 172 SCRA 810; Northwest Airlines vs. Court of Appeals, 241 SCRA 192 (1995).

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COQUIA and PANGALANGAN, CONFLICT OF LAWS, Cases, Materials and Comments, 2000 (ed.).

CIVIL CODE OF THE PHILIPPINES (Art. 15 of the Code provides that laws relating to family rights and duties, or the status, condition and legal capacity of persons are binding upon citizens of the Philippines, even though living abroad)

FAMILY CODE OF THE PHILIPPINES, Executive Order No. 209 (1987)

National Park bank v. Old Colony Trust, 186 N.Y. Supp. 717 (1921).

Rayray v. Chae Kying Lee, G.R. L-18176 (26 October 1996).

The Philippine government is receptive towards enforcement of foreign judgment. The legal provision for enforcement of foreign judgment is found in Sec. 48, Rule 39 of the Revised Rules of Court.

President's Corner from page 1

The CLAS, which requires lawyers to render free legal aid services by way of legal advice or counseling, preparation of documents, or legal representation before judicial, quasi-judicial or administrative bodies in all cases involving indigent and pauper litigants, was specifically noted to have a great impact on the administrative work of IBP Chapters which are given the responsibility of certifying to the CLAS hours rendered by a lawyer. The IBP Makati Chapter suggested that there should be an increased support from the IBP National for this endeavor in order that the Chapter can attend to the CLAS requirements of its more than 3,000 members.

IBP Southern Luzon Regional Convention

The IBP Southern Luzon Regional Convention which was hosted by the IBP Quezon Chapter at the Queen Margarete Hotel from May 24-26, 2012, was attended by 20 officers and members of the IBP Makati City Chapter. The Chapter headed the Ways and Means Committee and the Program Committee. Your President, hosted the Opening and Plenary Session together with IBP Quezon Vice President, Vincent A. Robles. Supreme Court Senior Associate Justice, the Hon. Arturo D. Brion, was the Keynote and Guest Speaker.

During the plenary sessions the IBP Makati City Chapter, led by your President, pro-

posed the following resolutions for consideration by the IBP Board of Governors:

Resolution calling for an increase in the allocation of the different IBP Chapters for Legal Aid Fund and Legal Aid Salary. Specifically, the Resolution asked for:

For the adjustment in the Chapter's Legal Aid Fund Allocation to at least Php50,000.00 per quarter or a total of Php200,000.00 per annum;

For the adjustment in the Chapter's Legal Aid Salary Allocation to a level that will cover at least the minimum wage and other mandated benefits of an employee in the National Capital Region, with an automatic adjustment mechanism should the minimum wage rates and other mandated benefits increase;

For the Chapter to be allowed to charge up to 100% of its utility bills to the Legal Aid Fund Allocation;

For the Chapter to be allowed to grant its volunteer legal aid lawyers an honorarium of Php1,000.00 for actual attendance in court hearings and for this amount to be reimbursed to the Chapter upon liquidation and submission of liquidation report, and as part of the Chapter's Legal Aid Fund Allocation of Php50,000.00 per quarter

Resolution calling for the IBP National Office to clar-

ify with the Public Attorney's Office the matter of the latter's refusal to handle criminal cases for an accused due to "conflict of interest", for the purpose of arriving at a mutually acceptable manner of handling the defense for the accused, and in the interest of maximizing the efficient utilization of legal resources for indigent clients.

Resolution requiring that all Chapters of the IBP should be consulted before any statement on any issue involving public interest purporting to be an official statement, of the IBP is made; and that any statement that is released without any consultation with all the IBP Chapters should clearly indicate the IBP office, Board or Committee making the statement.

These proposed resolutions were endorsed by all the Chapters of the Southern Luzon Region for submission to the IBP Board of Governors.

Barangay Mediation and Seminar Workshop

By the second half of 2012, the Special Projects Committee headed by Atty. Juor Buted started working on the Barangay Mediation Seminar and Workshop for the various Lupon of Makati City. This project was prompted by the realization of the volunteer legal aid lawyers that a lot of these cases, especially those at the Metropolitan Trial Court level, could have easily been amicably settled

at the Barangay Level. The problem was clarified by the President of the Liga ng mga Barangay sa Makati, Councilor Arlene M. Ortega, who confirmed that one problem that they encounter in the Katarungang Pambarangay system is the insufficient or lack of conflict or dispute resolution skills or capacities of the Barangay council and Lupon members to properly mediate and conciliate disputes. Most members of the Lupon are ordinary citizens who, while possessing knowledge in basic education, do not receive adequate training on mediation and conciliation techniques. Drawing inspiration from the successes of the Court-annexed mediation and Judicial Dispute Resolution mechanisms that were instituted by the Supreme Court to address growing caseloads, the Chapter set out to organize a Barangay Seminar that would not only cover the aspects of substantive law, but would highlight on enhancing the mediation and conciliation skills of the Barangay Chairman and Lupon members. A chance meeting with Prof. Eduardo A. Labitag, Project Director and Consultant of the UP Law Center, led to a meeting with Atty. Vincent Pepito F. Yambao, Jr. Director, Office of the National Administrative Register. With the UP Law Center's continuing program for Barangays all over the country, it was not difficult to explain to the UP Law Center what IBP Makati wanted to accomplish with a skills-based seminar-workshop. After several meetings, the group was able to string four (4) modules, namely: Module 1: *Essentials of Katarungang Pambarangay*; Module 2: *Enhancing the Katarungang Pambarangay as an Effective Access to Justice Mechanism*; Module 3: *Theories and Psychology of Conflicts Management: Effective Conflict Resolution through Mediation*; Module 4: *Reviewing Mediation Strategies with Role Playing and Critiquing*.

The Liga ng mga Barangay sa Makati readily embraced the concept and agreed to co-sponsor the seminar with the IBP Makati and the UP Law Center. A two-day seminar was held on November 16-17, 2012 at the Mini-Theater of the University of Makati. Opening statements were made by representatives of the three joint sponsors: Prof. Eduardo A. Labitag for the UP Law Center, Atty. Juan Orendain Buted, P.R.O. of IBP Makati Chapter, and Hon. Arlene M. Ortega, President of the Liga. The participants were

also glad to listen to the message of Mayor Jejomar Erwin "Junjun" S. Binay, Jr. who graced the occasion.

Atty. Vincent Pepito F. Yambao, Jr. tackled Module 1, which consisted of a review of the essentials of the Katarungang Pambarangay, with focus on the procedures. The questions asked during the open forum was another eye-opener insofar as they point to the need to revisit the law (Pres. Dec. No. 1580 as amended by Rep. Act 7160 (Local Government Code), and attune it to the complexities and expanded roles and needs of the present Barangays, by way of possible legislative amendments.

Module 2 was a panel discussion on the ways to maximize the efficiency of the Katarungang Pambarangay system as it contributes to the reduction of social conflicts. The panelists included Hon. Barbara Aleli Hernandez-Briones, Executive Judge of the Metropolitan Trial Courts of Makati City, Hon. Arlene M. Ortega, President of the Liga ng mga Barangay sa Makati, Atty. Jove V. Cabrera, IBP National Executive Director for Operations, and Atty. Grace P. Quevedo-Panagsagan, President of IBP Makati City Chapter. The speakers emphasized the need for Barangay mediators to better understand the critical role that they play within the larger context of administration of justice.

Atty. Marwill N. Llasos from Initiatives for Dialogue & Empowerment Through Alternative Legal Services (IDEALS) and former Sangguniang Kabataan Chairman of Albay, gave a motivating discussion for Module 3 on Theories and Psychology of Conflicts Management: Effective Conflict Resolution through Mediation.

The second day of the seminar on November 17, 2012 saw around 15 lawyers from IBP Makati and the UP Law Center acting as facilitators during the break-out session and workshop. This was also the IBP Makati's way of engaging its members in community service, in addition to their participation in the Legal Aid Program of the Chapter, and making themselves relevant to the development of communities.

Participants in the six (6) groups shared their "best-practices" during mediation and conciliation, thus enabling their group members to pick-up pointers that they can apply in their own mediation work. Participants were asked to reflect and answer questions such as: (1) How do I respond to conflict? (2) How do I prepare to undertake my role as a Barangay mediator? (3) How should I behave, what language should I use? (4) What mediation techniques have been effective and what can be improved?

The activity culminated with each group acting out the case situationer assigned to each and applying the techniques that they learned during the lectures and the group discussions. That the Makati Barangay Lurons have good actors and actresses in their midst was a revelation in how they seriously tackled their respective roles during the role-playing.

At the end of the two-day seminar and workshop, the participants were one in their clamor for more seminars and workshops of this type to be conducted, especially for first-time Lupon members. Already, the Liga ng mga Barangay sa Makati is planning the schedule for another seminar/workshop during the first quarter of 2013, and IBP Makati will be there to once again affirm its commitment to provide assistance to the Barangays.

As one Lupon member remarked: "*Hindi na kami mangangapa kasi may sistema pala na puedeng sundan sa Barangay mediation; hindi na bit and mis*".

Sports and Fellowship

It was not all work for the Chapter and its members. Under the able leadership of Atty. Arnold "Jake" Corporal, Director in charge of Sports, supported by Committee Members, JP Gaba, Jacqui Alegre and Lance Uy, the Chapter was able to sponsor a Badminton and Golf Tournament for its members and other non-members.

In the month August 2012, two (2) Saturdays were allotted for the levelling and the main badminton tournament at the Zone Badminton Courts in Malugay, Makati City. Lawyers and non-lawyers alike showed their prowess in the mixed dou-
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President's Corner (from page 15)

bles and men's and women's doubles. Over-all, it was a good way of releasing work-related stress and establishing camaraderie among the members of the IBP Makati Chapter.

The year did not end without the traditional Golf Tournament sponsored by the Chapter. Held at the Ayala Alabang Golf and Country Club, the golf tournament was also a fund-raising activity for the benefit of the Chapter's Legal Aid Program. Around 80 golf-enthusiasts participated.

MCLE

With the 4th Compliance Period Deadline fast approaching, the IBP Makati Chapter conducted a full 36-Unit Mandatory Continuing Legal Education (MCLE) Seminar at the A Venue Hotel Suites at Makati City last November 09, 16, 23 and 29 November 2012. The seminars were organized by the Legal Education Committee of the Chapter, headed by Director Alfred X.B. Nolasco. The Seminar was well attended as out of the initial target of 60 participants, 71 registered and attended

the event.

The attendees listened to and participated in the lectures conducted by well-respected and esteemed members of the legal profession. The lecturers veered from the usual and discussed novel topics such as the New Judicial Affidavit Rule and Environmental Law. Aside from providing a venue for lawyers to comply with the MCLE requirement, the Seminar was conducted for the benefit of the IBP Makati Chapter Legal Aid Program. In connection with this, Atty. Jacinto D. Jimenez and IBP Makati Director Atty. Arnold M. Corporal donated their lecture stipend to the Seminar's beneficiary.

Legal Aid

Handling of Legal Aid Cases

The Chapter was able to establish a proper docketing and filing system for its legal aid cases in conformity with A.M. No. 08-11-07.

The Chapter also continued its weekly legal aid consultations with indigent clients of Makati and clients who have cases

pending with the Makati courts and other quasi-judicial agencies based in Makati. At present, the Chapter is handling 100 active legal aid cases. A marked increase in referrals from the Makati Courts was noted during this term and a great number was accounted for by refusal of the Public Attorney's Office (PAO) from handling the defense of some accused due to "conflict of interest" reasons. A high percentage of these referrals also cover VAWC complaints arising from the failure to give financial support.

Signing of Memorandum of Agreement with RTC and MTC Makati

Having encountered some challenges in the handling of legal aid cases referred directly by the Makati City Courts, the Bench and Bar Committee spearheaded discussions with the Makati City Courts on how best to address the issues. This led to the signing of the Memorandum of Agreement ("MOA") on the *Procedure on the Referral and Acceptance of Appointment of the Integrated Bar of the Philippines ("IBP")* (Turn to page 5)