

## EN BANC

[ A.C. No. 12209, February 18, 2020 ]

**RUBEN A. ANDAYA, COMPLAINANT, VS. ATTY. EMMANUEL  
ALADIN A. TUMANDA,<sup>[1]</sup> RESPONDENT.**

### D E C I S I O N

**HERNANDO, J.:**

Before the Court is a Complaint-Affidavit<sup>[2]</sup> for Disbarment dated September 9, 2010 filed by complainant Ruben A. Andaya before the Commission on Bar Discipline (CBD) of the Integrated Bar of the Philippines (IBP) against respondent Atty. Emmanuel Aladin A. Tumanda for violation of the Code of Professional Responsibility (CPR).

The antecedent facts are as follows:

On July 16, 2008, respondent borrowed from complainant the amount of Five Hundred Thousand Pesos (P500,000.00).<sup>[3]</sup> In exchange for the said amount and in order to convince complainant to part with his money, respondent issued a post-dated check<sup>[4]</sup> of the same amount dated July 31, 2008. However, when complainant deposited the check with the bank, it was dishonored for the reason that the account was closed. Thus, complainant, through counsel, sent a demand letter<sup>[5]</sup> to respondent. To appease complainant, respondent offered as payment his Mercedes Benz, and accordingly, executed a Deed of Absolute Sale<sup>[6]</sup> over the same in favor of complainant. Respondent, however, failed to give complainant the original copy of the Certificate of Registration of the car on the pretext that he forgot to bring the same. Respondent likewise did not turn over the physical possession of the car because he allegedly still needed it for his business ventures. Complainant, however, later found out that respondent sold the same car to a certain John Edwin G. Felizardo.<sup>[7]</sup> Thus, complainant sent another demand letter to respondent,<sup>[8]</sup> and thereafter, filed criminal complaints for *Estafa* and violation of *Batas Pambansa Blg.* (BP) 22 against him.<sup>[9]</sup>

Despite due notice, respondent failed to file an answer and to attend the mandatory conference before the IBP.

In his August 26, 2015 Report and Recommendation,<sup>[10]</sup> the Investigating Commissioner of the IBP found respondent guilty of violating Canon 1 of the CPR for issuing a worthless check. Thus, the Investigating Commissioner recommended that respondent be suspended from the practice of law for a period of one (1) year with a stern warning that a repetition of the same offense will be dealt with more severely.

In its Notice of Resolution No. XXII-2016-245 dated March 17, 2016<sup>[11]</sup> the Board of Governors (BOG) of the IBP adopted the findings of the Investigating Commissioner but modified the recommended penalty to suspension from the practice of law to

three (3) years. The BOG further resolved to direct Director Ramon S. Esguerra of the CBD to prepare an extended resolution explaining the BOG's action of increasing the period of suspension.

On December 15, 2016, Director Esguerra issued an Extended Resolution<sup>[12]</sup> explaining that respondent's acts of repeatedly changing his address to evade his obligation and of failing to answer and participate in the proceedings of the instant case are aggravating circumstances warranting the imposition of a longer period of suspension.

On June 19, 2018, the Court noted the Resolution of the IBP and referred the case to the Office of the Bar Confidant (OBC) for evaluation, report, and recommendation within thirty (30) days from notice.<sup>[13]</sup>

In its April 4, 2019 Report and Recommendation,<sup>[14]</sup> the OBC recommended the adoption of the Resolution of the IBP.

### ***The Court's Ruling***

The Court adopts the findings and recommendation of the IBP.

Canon 1, Rule 1.01 and Canon 7, Rule 7.03 of the CPR state:

CANON 1— A LAWYER SHALL UPHOLD THE CONSTITUTION, OBEY THE LAWS OF THE LAND AND PROMOTE RESPECT FOR LAW AND LEGAL PROCESSES.

Rule 1.01 — A Lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct.

CANON 7 — A LAWYER SHALL AT ALL TIMES UPHOLD THE INTEGRITY AND DIGNITY OF THE LEGAL PROFESSION AND SUPPORT THE ACTIVITIES OF THE INTEGRATED BAR.

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Rule 7.03 — A lawyer shall not engage in conduct that adversely reflects on his fitness to practice law, nor shall he whether in public or private life, behave in a scandalous manner to the discredit of the legal profession.

Lawyers, as guardians of the law, are mandated to obey and respect the laws of the land and to uphold the integrity and dignity of the legal profession. They should at all times, whether in their public or private life, "conduct themselves in a manner that reflects the values and norms of the legal profession as embodied in the Code of Professional Responsibility."<sup>[15]</sup> Thus they should not engage in any unlawful, dishonest, immoral, or deceitful conduct.

### ***Issuance of a worthless check***

In this case, respondent obtained a loan from complainant in the amount of P500,000.00 and in exchange thereof issued a worthless check to complainant. This fact alone is a ground for disciplinary action as it constitutes gross misconduct. It indicates his unfitness for the trust and confidence reposed upon him and his lack of personal honesty and good moral character rendering him unworthy of public