

## SECOND DIVISION

[ A.C. No. 12156, June 20, 2018 ]

**PAULINO LIM, COMPLAINANT, V. ATTY. SOCRATES R. RIVERA,  
RESPONDENT.**

### DECISION

**PERLAS-BERNABE, J.:**

Before the Court is an administrative complaint<sup>[1]</sup> dated March 9, 2015 filed by Paulino Lim (complainant) against respondent Atty. Socrates R. Rivera (respondent), praying that the latter be meted disciplinary sanctions for defrauding the former by issuing a worthless check as guarantee for the payment of respondent's loan.

#### The Facts

Complainant alleged that he met respondent sometime in June 2014 in the hallway of the Regional Trial Court of Makati City while accompanying his cousin who was then inquiring about the status of a case. The two (2) became acquainted after striking a conversation with each other. The following month, or in July 2014, respondent borrowed from complainant the amount of P75,000.00, which the former needed immediately.<sup>[2]</sup> Complainant did not think twice in lending money to respondent and issuing in his favor BDO Check No. 0356555<sup>[3]</sup> dated July 3, 2014 for P75,000.00, especially since the latter issued a guarantee check (Union Bank Check No. 0003405780<sup>[4]</sup> dated July 19, 2014) to ensure payment of the loan. Subsequently, respondent made several other loans in the amounts of P150,000.00, P10,000.00, and another P10,000.00, for which he no longer issued any guarantee checks. Complainant claimed to have been taken by respondent's sweet talk and promises of payment considering the millions he expects to receive as contingent fee in one (1) of his cases.<sup>[5]</sup>

However, when complainant deposited Union Bank Check No. 0003405780, it was dishonored for the reason "Account Closed." Thereafter, respondent would not take or return complainant's calls nor respond to the latter's text messages. He completely avoided complainant.<sup>[6]</sup> Consequently, complainant's lawyer wrote a demand letter<sup>[7]</sup> dated October 15, 2014 for the payment of respondent's indebtedness in the aggregate amount of P245,000.00, but to no avail. Thus, complainant was constrained to file an administrative case before the Integrated Bar of the Philippines (IBP).<sup>[8]</sup>

In an Order<sup>[9]</sup> dated April 17, 2015, the IBP directed respondent to submit his answer to the complaint within a period of fifteen (15) days from receipt of said Order, failing which the case shall be heard *ex parte*.<sup>[10]</sup> However, respondent filed no answer.<sup>[11]</sup> Subsequently, a Notice of Mandatory Conference/Hearing<sup>[12]</sup>

scheduled on November 13, 2015 was sent to respondent on October 20, 2015, during which the latter did not appear.<sup>[13]</sup>

### **The IBP's Report and Recommendation**

In a Report and Recommendation<sup>[14]</sup> dated November 14, 2016, the IBP Investigating Commissioner (IC) found respondent administratively liable, and accordingly, recommended that he be meted the penalty of suspension from the practice of law for one (1) year and be ordered to return to complainant the amount of P75,000.00 with legal interest reckoned from July 19, 2014.<sup>[15]</sup> The other loans alleged by complainant were not duly proven. <sup>[16]</sup>

The IBP IC declared that respondent's act of issuing a worthless check was a violation of Rule 1.01 of the Code of Professional Responsibility (CPR) which requires that "a lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct." Citing the case of *Foronda v. Alvarez, Jr.*,<sup>[17]</sup> the IBP IC held that the issuance of a check that was later dishonored for having been drawn against a closed account indicates a lawyer's unfitness for the trust and confidence reposed on him and hence, constitutes a ground for disciplinary action.<sup>[18]</sup> The penalty of one (1)-year suspension from the practice of law was based on the case of *Lao v. Medel*,<sup>[19]</sup> where the Court meted the same penalty for gross misconduct committed by deliberately failing to pay just debts and issuing worthless checks.<sup>[20]</sup>

In a Resolution<sup>[21]</sup> dated June 14, 2017, the IBP Board of Governors adopted the aforesaid report and recommendation.

### **The Issue Before the Court**

The essential issue in this case is whether or not respondent should be held administratively liable for the issuance of a worthless check in violation of the CPR.

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

After a judicious perusal of the records showing the existence of the loan obligation incurred by respondent as evidenced by complainant's BDO Check No. 0356555 dated July 3, 2014, as well as Union Bank Check No. 0003405780 dated July 19, 2014 issued by respondent to guarantee the payment of said loan but which was dishonored upon presentment for the reason "Account Closed," the Court concurs with the findings and adopts the recommendation of the IBP Board of Governors, except for the return to complainant of the amount of P75,000.00 with legal interest.

Time and again, the Court has imposed the penalty of suspension or disbarment for any gross misconduct that a lawyer may have committed, whether it is in his professional or in his private capacity. Good character is an essential qualification for the admission to and continued practice of law. Thus, any wrongdoing, whether professional or non-professional, indicating unfitness for the profession justifies disciplinary action,<sup>[22]</sup> as in this case.

It is undisputed that respondent had obtained a loan from complainant for which he issued a post-dated check that was eventually dishonored and had failed to settle his obligation despite repeated demands. It has been consistently held that "[the] **deliberate failure to pay just debts** and the **issuance of worthless checks**

constitute gross misconduct, for which a lawyer may be sanctioned with suspension from the practice of law. Lawyers are instruments for the administration of justice and vanguards of our legal system. They are expected to maintain not only legal proficiency but also a high standard of morality, honesty, integrity and fair dealing so that the peoples' faith and confidence in the judicial system is ensured. They must at all times faithfully perform their duties to society, to the bar, the courts and to their clients, which **include prompt payment of financial obligations**. They must conduct themselves in a manner that reflects the values and norms of the legal profession as embodied in the Code of Professional Responsibility."<sup>[23]</sup> Thus, the IBP IC correctly ruled that respondent's act of issuing a worthless check was a violation of Rule 1.01, Canon 1 of the CPR, which explicitly states:

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.

In *Enriquez v. De Vera*,<sup>[24]</sup> the Court categorically pronounced that a lawyer's act of issuing a worthless check, punishable under Batas Pambansa Blg. 22, constitutes serious misconduct penalized by suspension from the practice of law for one (1) year, for which no conviction of the criminal charge is even necessary. Batas Pambansa Blg. 22 was "designed to prohibit and altogether eliminate the deleterious and pernicious practice of issuing checks with insufficient funds, or with no credit, because the practice is deemed a public nuisance, a crime against public order to be abated."<sup>[25]</sup> Being a lawyer, respondent was well aware of, or was nonetheless presumed to know, the objectives and coverage of Batas Pambansa Blg. 22. Yet, he knowingly violated the law and thereby "exhibited his indifference towards the pernicious effect of his illegal act to public interest and public order."<sup>[26]</sup>

In addition, respondent's failure to answer the complaint against him and his failure to appear at the scheduled mandatory conference/hearing despite notice are evidence of his flouting resistance to lawful orders of the court and illustrate his despicency for his oath of office in violation of Section 3, Rule 138, Rules of Court.<sup>[27]</sup> Respondent should stand foremost in complying with the directives of the IBP Commission on Bar Discipline not only because as a lawyer, he is called upon to obey the legal orders of duly constituted authorities, as well as court orders and processes, but also because the case involved the very foundation of his right to engage in the practice of law. Therefore, his lack of concern or interest in the status or outcome of his administrative case would show how much less he would regard the interest of his clients.

Indisputably, respondent has fallen short of the exacting standards expected of him as a vanguard of the legal profession. His transgressions showed him to be unfit for the office and unworthy of the privileges which his license and the law confer to him, for which he must suffer the consequence.

The appropriate penalty for an errant lawyer depends on the exercise of sound judicial discretion based on the surrounding facts.<sup>[28]</sup> In the cases of *Lao v. Medel*,<sup>[29]</sup> *Rangwani v. Dino*,<sup>[30]</sup> and *Enriquez v. De Vera*,<sup>[31]</sup> the Court imposed the penalty of one (1)-year suspension from the practice of law for deliberate failure to pay just debts and for the issuance of worthless checks. In *Sanchez v. Torres*,<sup>[32]</sup>