

## SECOND DIVISION

[ A.C. No. 9436, August 01, 2016 ]

**SPOUSES NUNILO AND NEMIA ANAYA, COMPLAINANTS, VS.  
ATTY. JOSE B. ALVAREZ, JR., RESPONDENT.**

### DECISION

#### **MENDOZA, J.:**

Before the Court is a Complaint<sup>[1]</sup> for disbarment filed by complainants Nunilo and Nemia Anaya (Spouses Anaya) against respondent Atty. Jose B. Alvarez, Jr. (*Atty. Alvarez*) before the Integrated Bar of the Philippines-Commission on Bar Discipline (*IBP-CBD*) for fraudulent and deceitful conducts.

#### *The Antecedents:*

In their Complaint, Spouses Anaya alleged that: (1) Atty. Alvarez prepared and notarized the deeds of sale of the three (3) properties they sold; (2) Atty. Alvarez asked them for cash in exchange for his four (4) Allied Bank checks with the assurance that the checks would be honored upon presentment to the drawee bank once they fell due as they would be fully funded on due date; (3) they eventually agreed to give cash to Atty. Alvarez in exchange for the said checks relying on his assurance and professional stature; (4) they withdrew from their Philippine National Bank account the amounts corresponding to the four (4) checks issued by Atty. Alvarez, as follows: [a] P50,000.00 for Allied Bank Check No. 35836,<sup>[2]</sup> dated December 6, 2011; [b] P95,000.00 for Allied Bank Check No. 35835,<sup>[3]</sup> dated December 20, 2011; [c] P50,000.00 for Allied Bank Check No. 35838,<sup>[4]</sup> dated January 8, 2011; and [d] P200,000.00 for Allied Bank Check No. 35837,<sup>[5]</sup> dated January 15, 2012; (e) the said checks, except Check No. 35838, which appeared stale due to an erroneous entry of the date, were dishonored by the drawee bank by reason ACCOUNT CLOSED; (6) they made repeated verbal and written demands on Atty. Alvarez but these remained unheeded; and (7) after receipt of the second demand letter, Atty. Alvarez went to spouses Anaya and offered the amount of P20,000.00 as partial payment but they refused to accept the same as they wanted the return of the full amount due.

In his Answer,<sup>[6]</sup> Atty. Alvarez admitted his obligation but claimed that the cash he obtained from spouses Anaya was a simple loan with an interest of two percent (2%) per month and that, at the very outset, they knew that the checks were issued mainly as a collateral for the loan and that the checks were not funded. He asserted that he had no intention of defrauding them and, in fact, he went to their residence and offered to pay the loan at P20,000.00 plus 2% interest a month but his request was not granted. Atty. Alvarez reiterated his request to settle his obligation on a monthly basis plus the 2% monthly interest.

In its June 10, 2015 Report and Recommendation,<sup>[7]</sup> the IBP-CBD found that Atty. Alvarez violated Rule 16.04 of the Code of Professional Responsibility (*CPR*) and recommended that he be reprimanded and be reminded to settle and pay his obligation to spouses Anaya.

In its Resolution No. XXI-2015-6II,<sup>[8]</sup> dated June 30, 2015, the IBP-Board of Governors resolved to adopt and approve with modification the report and recommendation of the IBP-CBD and recommended the suspension of Atty. Alvarez, Jr. from the practice of law for a period of one (1) year.

The Court agrees with the recommendation of the IBP Board of Governors.

The practice of law is a privilege granted only to those who possess the strict intellectual and moral qualification required of a lawyer.<sup>[9]</sup> As 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.<sup>[10]</sup> Their conduct must always reflect the values and norms of the legal profession as embodied in the *CPR*.<sup>[11]</sup>

Time and again, this Court has repeatedly held that the act of a lawyer in issuing a check without sufficient funds to cover them or, worst, drawn against a closed account, constitutes willful dishonesty and unethical conduct that undermines the public confidence in the law and the members of the bar.<sup>[12]</sup> It shows a lawyer's low regard to his commitment to the Oath, which he swore to uphold and respect when he joined the legal profession.<sup>[13]</sup>

Without a quibble, Atty. Alvarez's failure to pay his debts despite several demands, and his act of issuing numerous checks which were dishonored for having been drawn against a closed account, puts his moral character in serious doubt. It demonstrates his lack of reverence to the lawyer's oath, and seriously and irreparably tarnished the image of the profession he promised to hold in high esteem.<sup>[14]</sup> Atty. Alvarez's contention that he offered to pay his debts on a monthly basis but was refused by Spouses Anaya fails to persuade. He should have known that a mere offer to pay a debt is insufficient unless accompanied by an actual tender of payment. Moreover, the Court notes that the loan was obtained by Atty. Alvarez in 2011 but up to date, no payment has been made. Likewise, his defense that he merely issued the checks as collateral to the loan is untenable. They could not have been used to secure a loan as it was not only unfunded, but the account to which these checks were drawn was also already closed.

Indeed, the deliberate failure to pay debts and the issuance of a worthless checks constitute gross misconduct. <sup>[15]</sup> In *Moreno v. Atty. Araneta*,<sup>[16]</sup> the Court disbarred a lawyer for issuing two (2) checks despite knowledge that the said checks were drawn against a closed account. It found the said act "abhorrent and against exacting standards of morality and decency required of a member of the bar." Thus, the Court explained:

Indeed, in recent cases, we have held that the issuance of worthless checks constitutes gross misconduct, as the effect transcends the private interests of the parties directly involved in the transaction and touches