

## EN BANC

[ **A.C. No. 10179 (Formerly CBD 11-2985), March 04, 2014** ]

**BENJAMIN Q. ONG, COMPLAINANT, VS. ATTY. WILLIAM F. DELOS SANTOS, RESPONDENT.**

### DECISION

**BERSAMIN, J.:**

A lawyer's issuance of a worthless check renders him in breach of his oath to obey the laws. To accord with the canon of professional responsibility that requires him to uphold the Constitution, obey the laws of the land, and promote respect for the law and legal processes, he thereby becomes administratively liable for gross misconduct.

#### Antecedents

In January 2008, complainant Benjamin Ong was introduced to respondent Atty. William F. Delos Santos by Sheriff Fernando Mercado of the Metropolitan Trial Court of Manila. After several calls and personal interactions between them, Ong and Atty. Delos Santos became friends.<sup>[1]</sup> In time, according to Ong, Atty. Delos Santos asked him to encash his postdated check inasmuch as he was in dire need of cash. To reassure Ong that the check would be funded upon maturity, Atty. Delos Santos bragged about his lucrative practice and his good paying clients. Convinced of Atty. Delos Santos' financial stability, Ong handed to Atty. Delos Santos on January 29, 2008 the amount of P100,000.00 in exchange for the latter's Metrobank Check No. 0110268 postdated February 29, 2008.<sup>[2]</sup> However, the check was dishonored upon presentment for the reason that the account was closed.<sup>[3]</sup> Ong relayed the matter of the dishonor to Atty. Delos Santos, and demanded immediate payment, but the latter just ignored him.<sup>[4]</sup> When efforts to collect remained futile, Ong brought a criminal complaint for *estafa* and for violation of Batas Pambansa Blg. 22 against Atty. Delos Santos.<sup>[5]</sup> Ong also brought this disbarment complaint against Atty. Delos Santos in the Integrated Bar of the Philippines (IBP), which docketed the complaint as CBD Case No. 11-2985.

#### Findings and Recommendation of the IBP Bar Commissioner

In his Commissioner's Report,<sup>[6]</sup> IBP Bar Commissioner Jose I. Dela Rama, Jr. stated that Ong had sufficiently established the existence of the dishonored check; and that Atty. Delos Santos did not file his answer despite notice, and did not also present contrary evidence.<sup>[7]</sup> He recommended that Atty. Delos Santos be held liable for violating Canon 1, Rule 1.01 and Canon 7, Rule 7.03 of the *Code of Professional Responsibility*; and that the penalty of suspension from the practice of law for two years, plus the return of the amount of P100,000.00 to the complainant,

[8] be meted on Atty. Delos Santos in view of an earlier disbarment case brought against him (*Lucman v. Atty. Delos Santos*, CBD Case No. 09-253).

### **Resolution No. XX-2013-253**

On March 20, 2013, the IBP Board of Governors issued Resolution No. XX-2013-253 adopting and approving the findings of IBP Commissioner Dela Rama, Jr., [9] to wit:

RESOLVED to ADOPT and APPROVE, as it is hereby unanimously ADOPTED and APPROVED the Report and Recommendation of the Investigating Commissioner in the above-entitled case, herein made part of this Resolution as Annex "A," and finding the recommendation fully supported by the evidence on record and the applicable laws and rules and considering that Respondent violated Canon 1, Rule 1.01 and Canon 7, Rule 7.03 of the Code of Professional Responsibility, Atty. William F. Delos Santos is hereby SUSPENDED from the practice of law for three (3) years and ORDERED to RETURN the amount of One Hundred Thousand (P100,000.00) Pesos to complainant with legal interest within thirty days from receipt of notice.

#### **Issue**

By issuing the worthless check, did Atty. Delos Santos violate Canon 1, Rule 1.01 and Canon 7, Rule 7.03 of the *Code of Professional Responsibility*?

#### **Ruling**

We agree with the findings of the IBP but modify the recommended penalty.

Every lawyer is an officer of the Court. He has the duty and responsibility to maintain his good moral character. In this regard, good moral character is not only a condition precedent relating to his admission into the practice of law, but is a continuing imposition in order for him to maintain his membership in the Philippine Bar. [10] The Court unwaveringly demands of him to remain a competent, honorable, and reliable individual in whom the public may repose confidence. [11] Any gross misconduct that puts his moral character in serious doubt renders him unfit to continue in the practice of law. [12]

*Batas Pambansa Blg. 22* has been enacted in order to safeguard the interest of the banking system and the legitimate public checking account users. [13] The gravamen of the offense defined and punished by *Batas Pambansa Blg. 22*, according to *Lozano v. Martinez*, [14] is the act of making and issuing a worthless check, or any check that is dishonored upon its presentment for payment and putting it in circulation; the law is 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. The Court has observed in *Lozano v. Martinez*:

The effects of the issuance of a worthless check transcends the private interests of the parties directly involved in the transaction and touches the interests of the community at large. The mischief it creates is not

only a wrong to the payee or holder, but also an injury to the public. The harmful practice of putting valueless commercial papers in circulation, multiplied a thousandfold, can very well pollute the channels of trade and commerce, injure the banking system and eventually hurt the welfare of society and the public interest.<sup>[15]</sup> xxx

Being a lawyer, Atty. Delos Santos was well aware of the objectives and coverage of *Batas Pambansa Blg. 22*. If he did not, he was nonetheless presumed to know them, for the law was penal in character and application. His issuance of the unfunded check involved herein knowingly violated *Batas Pambansa Blg. 22*, and exhibited his indifference towards the pernicious effect of his illegal act to public interest and public order.<sup>[16]</sup> He thereby swept aside his Lawyer's Oath that enjoined him to support the Constitution and obey the laws. He also took for granted the express commands of the *Code of Professional Responsibility*, specifically Canon 1, Rule 1.01 and Canon 7, Rule 7.03, viz:

CANON 1 - A LAWYER SHALL UPHOLD THE CONSTITUTION, OBEY THE LAWS OF THE LAND AND PROMOTE RESPECT FOR THE 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.

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.

These canons, the Court has said in *Agno v. Cagatan*,<sup>[17]</sup> required of him as a lawyer an enduring high sense of responsibility and good fidelity in all his dealings, thus:

The afore-cited canons emphasize the high standard of honesty and fairness expected of a lawyer not only in the practice of the legal profession but in his personal dealings as well. A lawyer must conduct himself with great propriety, and his behavior should be beyond reproach anywhere and at all times. For, as officers of the courts and keepers of the public's faith, they are burdened with the highest degree of social responsibility and are thus mandated to behave at all times in a manner consistent with truth and honor. Likewise, the oath that lawyers swear to impresses upon them the duty of exhibiting the highest degree of good faith, fairness and candor in their relationships with others. Thus, lawyers may be disciplined for any conduct, whether in their professional or in their private capacity, if such conduct renders them unfit to continue to be officers of the court.<sup>[18]</sup>

That his act involved a private dealing with Ong did not matter. His being a lawyer invested him – whether he was acting as such or in a non-professional capacity – with the obligation to exhibit good faith, fairness and candor in his relationship with