

EN BANC

[A.C. NO. 1109, April 27, 2005]

MARIA ELENA MORENO, COMPLAINANT, VS. ATTY. ERNESTO ARANETA, RESPONDENT.

DECISION

PER CURIAM:

Before this Court is a complaint for disbarment against Atty. Ernesto S. Araneta for deceit and nonpayment of debts.

The complaint,^[1] dated 25 September 1972, was filed in this Court by Maria Elena Moreno on two causes of action. The first cause of action involved Treasury Warrant No. B-02997354 issued by the Land Registration Commission in favor of Lira, Inc., and indorsed by Araneta, purportedly as president of the said corporation, to Moreno, in consideration of the amount of P2,177. The complaint alleged that almost a year later, the warrant was dishonored.

The second cause of action involved Araneta's nonpayment of debts in the amount of P11,000. Moreno alleged that sometime in October 1972, Araneta borrowed P5,000 from her, purportedly to show to his associates, with the assurance that he would return the said amount within the shortest possible time. Again in May 1972, Araneta borrowed P6,000 for the same purpose and with the same assurance. Thereafter, since he failed to make good on both promises, Moreno sought repayment in the aggregate amount of P11,000. Araneta issued two Bank of America checks in her favor, the first dated 30 June 1972 for P6,000, and the other dated 15 July 1972 for P5,000. However, when Moreno tried to encash the checks, the same were dishonored and returned to her marked "Account Closed." She referred the matter to a lawyer, who sent Araneta a demand letter. Araneta, however, ignored the same.

In his defense, Araneta claimed it was in fact Moreno who sought to borrow P2,500 from him. To accommodate her, he allegedly endorsed to her the Treasury Warrant in question, worth P2,177, which he received from Lira, Inc., as part of his attorney's fees, and gave her an additional P323 in cash.

Araneta also denied borrowing any amount from Moreno. He admitted that he issued the two undated checks in her favor, but maintains that he had no intention of negotiating them. He avers that he gave them to Moreno, allegedly upon her request, only so she could show the bank where she was working that she "had money coming to her." Araneta further claims that he warned her that the checks belonged to the unused portion of a closed account and could not be encashed. To protect himself, he asked the complainant to issue a check in the amount of P11,000 to offset the two "borrowed" checks. The respondent offered this check in evidence.

Moreno, however, contended^[2] that this check for P11,000 “belonged” to the Philippine Leasing Corporation, which she managed when her father passed away. She claimed she signed the check in blank sometime in 1969 when she fell seriously ill and gave them to Araneta who was then helping her in the management of the corporation. She concluded that Araneta falsely filled up the check “in a desperate bid to turn the tables on her.”^[3]

On 01 December 1972, the case was referred to the Solicitor General for investigation, report and recommendation.^[4]

The case was first set for hearing on 22 January 1973 at nine o’clock in the morning, when the complainant and her counsel appeared. Araneta was absent despite due notice. Upon motion, however, of Moreno, and to give the respondent a chance to defend himself, the hearing was reset to 23 and 24 January 1973, both at nine o’clock in the morning. Service of the notice for the new dates of hearing were effected to the respondent through a certain Mely Magsipoc on 22 January 1973.^[5] On 23 January 1973, Araneta once more did not appear, so the case was called again the following day, 24 January 1973.

In the absence of respondent Araneta, an ex-parte hearing was conducted on 24 January 1973 with the complainant, Moreno, taking the stand.^[6] On 27 February 1973, Araneta appeared for the scheduled hearing, only to ask for a postponement to prepare his defense.^[7] No further hearings appear to have been conducted thereafter. A hearing is shown to have been scheduled on 28 May 1973, however, on said date, Araneta filed a joint motion for postponement with the conformè of Moreno’s lawyer, as he, Araneta, was “earnestly pursuing a possible clarification of complainant’s basic grievance.”

Thereafter, nothing was heard from respondent Araneta. On 14 September 1988, records of the case were forwarded to the IBP Commission on Bar Discipline pursuant to Rule 139-B of the Rules of Court. Two days later, the Commission notified^[8] both parties of a hearing to be held on 2 November 1988, on which date neither of the parties nor the complainant’s counsel appeared despite due notice. It appears that notice could not be served on Araneta, as he no longer resided in his indicated address, and his whereabouts were unknown. An inquiry^[9] made at his IBP chapter yielded negative results. The Commission reset the hearing to 18 November 1988 at two o’clock in the afternoon.^[10] Again on this date, none of the parties appeared. Thus on the basis of the evidence so far adduced, the case was submitted for resolution on such date.^[11]

On 28 December 1988, IBP Commissioner Concepcion Buencamino submitted her Report,^[12] which reads in part:

The evidence of the complainant was not formally offered in evidence. Be that as it may, it is worthwhile considering. The “stop payment” of Treasury Warrant No. B-02997354 was an act of Lira, Inc. and not that of the respondent. There was a subpoena issued for the appearance of Lilia Echaus, alleged President of Lira, Inc. and Simplicio Uy Seun, the alleged Secretary/Treasurer of Lira, Inc. to explain about why the “stop payment” of the treasury warrant was done but neither witness appeared (as

evidenced by the records) before the Office of the Solicitor General to testify. At the dorsal portion of Exh. "B," the photocopy of the Treasury Warrant is a signature which complainant claims to be that of the respondent beneath which is the word "President" and above the signature are the words Lira, Inc. but an ocular examination of said signature in relation to the signature on the checks Exhibits "G" and "H" do not show definitely that they were the signatures of one and the same person, so there is no basis to form the conclusion that the respondent did sign the treasury warrant as president of Lira, Inc. The testimony of the complainant was merely that [the] same treasury warrant was given to her by Atty. Araneta, which she deposited [in] her account. There is no evidence to prove that she saw him sign it.

There is no evidence of a letter of the complainant informing the respondent about the "stop payment" or even any written demand by the complainant to the respondent that the payment of the treasury warrant having been "stopped" he should reimburse her with what he received as consideration for this check.

Same considered, there is no cause to fault the respondent for the first cause of action.

On the other hand, the respondent admits having issued the two checks, one for P5,000.00 and the other for P6,000.00 to the complainant for her to show to her creditors that money was coming her way, when in fact he is presumed to have been aware when he issued said checks that his account with the bank against which [these] checks were drawn was already closed, as was discovered from the fact that the checks were dishonored for said reason.

Even disregarding the complainant's evidence and considering the answer of the respondent, the act of the respondent in issuing the two checks, one for P5,000.00 and the other for P6,000.00 which he gave to the complainant for her to show to her creditors that money was coming her way, when there was none and the respondent knew such fact was an act of connivance of the respondent with the complainant to make use of these useless commercial documents to deceive the public. However beneficial it may have been to the complainant, this act of the respondent as a lawyer is abhorrent and against the exacting standards of morality and decency required of a member of the Bar.

The personal actuations of a member of the bar the like of which was, as in this case, committed by the respondent, belittles the confidence of the public in him and reflects upon his integrity and morality. In the Bar, moral integrity as a virtue is a necessity which the respondent lacks.

The above considered, it is respectfully recommended that as a lesson the respondent be suspended from the practice of law for three (3) months arising from his irresponsible conduct as a member of the bar to take effect upon notice by him of the decision of suspension.