

## EN BANC

[ **A.C. No. 5916 (Formerly CBD 01-825), July 01, 2003** ]

**SELWYN F. LAO, COMPLAINANT, VS. ATTY. ROBERT W. MEDEL, RESPONDENT.**

### DECISION

**PANGANIBAN, J.:**

The deliberate failure to pay just debts and the issuance of worthless checks constitute gross misconduct, for which a lawyer may be sanctioned with one-year suspension from the practice of law.

#### The Case and the Facts

This administrative case stems from a Complaint-Affidavit<sup>[1]</sup> filed with the Integrated Bar of the Philippines-Commission on Bar Discipline (IBP-CBD) by Selwyn F. Lao. Atty. Robert W. Medel was charged therein with dishonesty, grave misconduct and conduct unbecoming an attorney.

The material averments of the Complaint are summarized by the IBP-CBD in this wise:

"The Complaint arose from the [respondent's] persistent refusal to make good on four (4) RCBC checks totaling [t]wenty [t]wo [t]housand (P22,000.00) [p]esos. These dishonored checks were issued by defendant in replacement for previous checks issued to the complainant. Based on the exchange of letters between the parties, it appears that [respondent], in a letter dated June 19, 2001, had committed to `forthwith effect immediate settlement of my outstanding obligation of P22,000.00 with Engr. Lao, at the earliest possible time, preferably, on or before the end of June 2000.' Again, in a letter dated July 3, 2000, the [respondent] made a `request for a final extension of only ten (10) days from June 30, 2000 (or not later than July 10, 2000), within which to effect payment of P22,000.00 to Engr. Lao.' Needless to say, the initiation of this present complaint proves that contrary to his written promises, Atty. Medel never made good on his dishonored checks. Neither has he paid his indebtedness."<sup>[2]</sup>

In his Answer<sup>[3]</sup> dated July 30, 2001, Atty. Medel reasons that because all of his proposals to settle his obligation were rejected, he was unable to comply with his promise to pay complainant. Respondent maintains that the Complaint did not constitute a valid ground for disciplinary action because of the following:

"(a). Under Sec. 27, Rule 138 of the Rules, a member of the Bar, may be disbarred or suspended from his office as attorney by the Supreme Court

for any deceit, malpractice, or other gross misconduct in such office, grossly immoral conduct, or by reason of his conviction of a crime involving moral turpitude, or for any violation of the oath which he is required to take before admission to practice, or for a wil[ ]ful disobedience of any lawful order of a superior court, or for corruptly or wil[ ]fully appearing as an attorney for a party to case without authority so to do. The practice of soliciting cases at law for the purpose of gain, either personally or through paid agents or brokers, constitutes malpractice;

"(a.1). Applying the afore-cited legal provision to the facts obtaining in the present case, it is clear that the offense with which the respondent is being charged by the complainant, is merely a violation of Batas Pambansa Bilang 22 (B.P. 22, for brevity), which is a special law, and is not punishable under the Revised Penal Code (RPC, for brevity). It is self-evident therefore, that the offense is not in the same category as a violation of Article 315, paragraph 2, (d), RPC, which is issuing a post-dated check or a check in payment of an obligation, with insufficient funds in the drawee bank, through false pretenses or fraudulent acts, executed prior to or simultaneously with the commission of the fraud, which is a crime involving moral turpitude;

"(b). If the respondent is to be disciplined by the Supreme Court, under Sec. 27, Rule 138 of the Rules, for the issuance of a worthless check, in violation of B.P. 22, for payment of a pre-existing obligation to the complainant, then, verily, the said Rule 138, Sec. 27, would be a cruel and an unjust law, which the Honorable Supreme Court would not countenance;

"(c). A careful examination of the specific grounds enumerated, for disbarment or suspension of a member of the Bar, under Sec. 27 of Rule 138 of the Rules, clearly shows beyond a shadow of doubt that the alleged issuance of a worthless check, in violation of B.P. 22, is NOT one of the grounds for disciplinary action against a member of the Bar, to warrant his disbarment or suspension from his office as attorney, by the Supreme Court; and

"(d). The issuance of a worthless check by a member of the Bar, in violation of B.P. 22, does NOT constitute dishonest, immoral or deceitful conduct, under Canon 1 and Rule 1.01 of the Code of Professional Responsibility. This is because, the door to the law profession swings on reluctant hinges. Stated otherwise, unless there is a clear, palpable and unmitigated immoral or deceitful conduct, of a member of the Bar, in violation of his oath as an attorney, by the mere issuance of a worthless check, in violation of B.P. 22, the Supreme Court is inclined to give the said attorney, the benefit of the doubt."<sup>[4]</sup>

On August 22, 2001, complainant submitted his Reply.<sup>[5]</sup> Thereafter, IBP-CBD Commissioner Renato G. Cunanan, to whom the case was assigned by the IBP for investigation and report, scheduled the case for hearing on October 4, 2001. After several cancellations, the parties finally met on May 29, 2002. In that hearing, respondent acknowledged his obligation and committed himself to pay a total of

P42,000 (P22,000 for his principal debt and P20,000 for attorney's fees). Complainant agreed to give him until July 4, 2002 to settle the principal debt and to discuss the plan of payment for attorney's fees in the next hearing.

On July 4, 2002, both parties appeared before the IBP-CBD for their scheduled hearing. But, while waiting for the case to be called, respondent suddenly insisted on leaving, supposedly to attend to a family emergency. Complainant's counsel objected and Commissioner Cunanan, who was still conducting a hearing in another case, ordered him to wait. He, however, retorted in a loud voice, "It's up to you, this is only disbarment, my family is more important."<sup>[6]</sup> And, despite the objection and the warning, he arrogantly left. He made no effort to comply with his undertaking to settle his indebtedness before leaving.

### **Report and Recommendation of the IBP**

In his September 19, 2002 Report,<sup>[7]</sup> Commissioner Cunanan found respondent guilty of violating the attorney's oath and the Code of Professional Responsibility. The former explained that, contrary to the latter's claim, violation of BP 22 was a crime that involved moral turpitude. Further, he observed that "[w]hile no criminal case may have been instituted against [respondent], it is beyond cavil that indeed, [the latter] committed not one (1) but four counts of violation of BP 22."<sup>[8]</sup> The "refusal [by respondent] to pay his indebtedness, his broken promises, his arrogant attitude towards complainant's counsel and the [commission sufficiently] warrant the imposition of sanctions against him."<sup>[9]</sup> Thus, the investigating commissioner recommended that respondent be suspended from the practice of law.

In Resolution No. XV-2002-598,<sup>[10]</sup> the Board of Governors of the IBP adopted the Report and Recommendation of Commissioner Cunanan and resolved to suspend respondent from the practice of law for two years. The Resolution, together with the records of the case, was transmitted to this Court for final action, pursuant to Rule 139-B Sec. 12(b).

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

We agree with the findings and recommendation of the IBP Board of Governors, but reduce the period of suspension to one year.

### **Administrative Liability of Respondent**

Lawyers are instruments for the administration of justice. 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>[11]</sup> In so doing, the people's faith and confidence in the judicial system is ensured.

In the present case, respondent has been brought to this Court for failure to pay his debts and for issuing worthless checks as payment for his loan from complainant. While acknowledging the fact that he issued several worthless checks, he contends that such act constitutes neither a violation of the Code of Professional Responsibility; nor dishonest, immoral or deceitful conduct.

The defense proffered by respondent is untenable. It is evident from the records