

## EN BANC

[ A.C. No. 2884, January 28, 1998 ]

**IRENE RAYOS-OMBAC, COMPLAINANT, VS. ATTY. ORLANDO A. RAYOS, RESPONDENT.**

### DECISION

**PUNO, J.:**

This case stemmed from a petition for disbarment filed with this Court by Mrs. Irene Rayos-Ombac against her nephew, Atty. Orlando A. Rayos, a legal practitioner in Metro Manila, for "his failure to adhere to the standards of mental and moral fitness set up for members of the bar."<sup>[1]</sup>

The records show that in January 1985, respondent induced complainant who was then 85 years old to withdraw all her bank deposits and entrust them to him for safekeeping. Respondent told her that if she withdraws all her money in the bank, they will be excluded from the estate of her deceased husband and his other heirs will be precluded from inheriting part of it.

Acting on respondent's suggestion, complainant preterminated all her time deposits with the Philippine National Bank on January 18, 1985. She withdrew P588,000.00.

Respondent then advised complainant to deposit the money with Union Bank where he was working. He also urged her to deposit the money in his name to prevent the other heirs of her husband from tracing the same.

Complainant heeded the advice of respondent. On January 22, 1985, respondent deposited the amount of P588,000.00 with Union Bank under the name of his wife in trust for seven beneficiaries, including his son. The maturity date of the time deposit was May 22, 1985.

On May 21, 1985, complainant made a demand on respondent to return the P588,000.00 plus interest. Respondent told her that he has renewed the deposit for another month and promised to return the whole amount including interest on June 25, 1985. Respondent, however, failed to return the money on June 25, 1985.

On August 16, 1985, respondent informed complainant that he could only return P400,000.00 to be paid on installment. Complainant acceded to respondent's proposal as she was already old and was in dire need of money.

On the same date, respondent and complainant executed a memorandum of agreement stating:

"WHEREAS, on January 22, 1985, (complainant) entrusted for safekeeping to (respondent) the sum of FIVE HUNDRED EIGHTY EIGHT

THOUSAND PESOS (P588,000.00) which sum of money was withdrawn by the parties from the Philippine National Bank on said date.

WHEREAS, the said amount was deposited by (respondent) with the consent of (complainant) with the UNION BANK, J.P. Rizal Branch, Makati, Metro Manila.

WHEREAS, upon mutual agreement of the parties, they have agreed as they hereby agree on the following terms for the purpose of disposing of the above sum, to wit:

1. Of the sum of P588,000.00 received in trust, (respondent) shall return only the sum of P400,000.00 to (complainant) in the following manner:

a) P100,000.00 upon execution of this agreement;

b) P200,000.00 on or before October 19, 1985, to be covered by postdated check;

c) P100,000.00 on or before November 19, 1985, to be covered by a postdated check.

2. (Respondent) hereby undertakes and guarantees that at the time the aforesaid postdated checks fall due, the same should be backed up with sufficient funds on a best efforts basis.

3. That the remaining balance of P188,000.00, (respondent) hereby acknowledges the same as his indebtedness to (complainant) to be paid by the former when able or at his option. (Complainant) however assures (respondent) that she will not institute any collection suit against (respondent) (sic), neither will she transmit the same by way of testamentary succession to her heirs, neither are (respondent's) heirs liable.

4. That the parties have executed this agreement with the view of restoring their previous cordial filial relationship."<sup>[2]</sup>

In accordance with the memorandum of agreement, respondent issued to complainant the following checks:

1. UCPB Check No. 487974 dated August 19, 1985 in the amount of P100,000.00;

2. UCPB Check No. 487975 dated October 19, 1985 in the amount of P200,000;

3. UCPB Check No. 487976 dated November 19, 1985 in the amount of P100,000.00.

Complainant was not able to encash UCPB Check No. 487974 as it was dishonored due to insufficient funds.

Respondent, nonetheless, asserted that he was not duty-bound to fund the check

because under paragraph 2 of the memorandum of agreement, he only guaranteed that the checks shall be "backed up with sufficient funds on a best efforts basis." This prompted the other relatives of respondent and complainant to intervene in the brewing dispute between the two. They begged respondent to pay his obligation to complainant. Heeding their plea, respondent replaced UCPB Check No. 487974 with two new checks, one for P64,800.00 and another for P35,200.00. Complainant was able to encash the first check but not the second because it was dishonored by the drawee bank. The remaining checks, UCPB Check No. 487975 and UCPB Check No. 487976, were likewise dishonored by the drawee bank for lack of funds.

On November 15, 1985, complainant filed a complaint for estafa against respondent and a corresponding information was filed against him by the provincial fiscal.

Respondent thereafter made a proposal to complainant for an amicable settlement. To pay his debt, respondent offered to complainant two second hand cars and cash amounting to P40,000.00. Complainant refused the offer because she needed cash to provide for her daily needs.

The records also show that respondent filed several suits against complainant.

First, in February 1985, respondent filed a criminal case for estafa against complainant. It appears that respondent has previously told the tenants of a parcel of land owned by complainant that she had promised to sell them the land and that she had authorized him to negotiate with them. He obtained from the tenants advance payment for the lots they were occupying. Respondent then prepared a special power of attorney<sup>[3]</sup> authorizing him to sell the land and asked complainant to sign it. Complainant, however, refused to sign because she did not intend to make respondent her attorney-in-fact. Hence, the tenants sued respondent for estafa. Respondent, in turn, sued complainant for estafa for allegedly reneging on her promise to sell the land.

Then, on April 5, 1986, respondent filed a pleading entitled "Motion to Review Acts of Administratrix as a Prelude for Formal Motion to (sic) her Discharge" in Special Proceedings No. 5544 for the settlement of the estate of complainant's husband, pending before the Regional Trial Court of Lingayen, Pangasinan.<sup>[4]</sup> Respondent filed the pleading although he was not a party to the case.

Finally, on May 19, 1986, respondent indicted complainant for "falsification by private individuals and use of falsified documents under Article 172 of the Revised Penal Code" for allegedly making untruthful statements in her petition for appointment as administratrix of the estate of her deceased husband.<sup>[5]</sup>

Thus, in June 1986, complainant filed with this Court a complaint to disbar respondent on two grounds: (1) that respondent employed clever scheme to defraud complainant, and (2) that respondent filed frivolous cases against complainant to harass her.

Respondent subsequently filed a complaint for disbarment against complainant's counsel, Atty. Abelardo Viray. The complaint cited four causes of action: (1) assisting client to commit tax fraud; (2) use of unorthodox collection method; (3) ignorance of the law; and (4) subornation of perjury.<sup>[6]</sup>