

JUANITA MANAOIS, COMPLAINANT, VS. ATTY. VICTOR V. DECIEMBRE, RESPONDENT.

ADM. CASE No. 5364. August 20, 2008

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TINGA, J.:

Before this Court is an administrative complaint for disbarment filed by Juanita Manaois (complainant) against Atty. Victor V. Diciembre (respondent) for willful and deliberate falsification and conduct unbecoming a member of the Bar.

Complainant gave the following account of the facts that spawned the present administrative Complaint.[1]

Complainant is a government employee working as a mail sorter at the Manila Central Post Office. Sometime in 1998, she applied for a loan of P20,000 from Rodella Loans, Inc., through respondent. As security for the loan, respondent required her to issue and deliver to him blank checks that he would fill out according to their agreed monthly installments. Notwithstanding the full payment of the loan, respondent allegedly failed to return the remaining blank checks. Respondent told complainant that the loan had not yet been paid and that the payments had been credited to the interest on the loan. Respondent threatened complainant with a lawsuit in the event of nonpayment. Respondent allegedly filled out the blank checks with different amounts and made it appear that complainant had them exchanged them for cash in the total amount of P287,500.00 for use in her business venture. Using these checks as basis, respondent filed several cases against complainant for estafa and for violation of Batas Pambansa Blg. 22 before the City Prosecutor's Office of Quezon City and Pasig City.[2]

Complainant contended that no man of respondent's stature would be too foolish to extend a P287,500.00 loan to a mere mail sorter earning barely P6,000.00 a month on the bare assurance that her postdated checks would be encashed on their due dates.[3]

In his Comment[4] dated 20 March 2001, respondent countered that complainant's allegations are devoid of any truth and merit. He maintained that it was in fact complainant who deceived him by not honoring her commitment under the transactions. Those transactions had allegedly been covered by the postdated checks which were subsequently dishonored due to "ACCOUNT CLOSED." Thus, he filed the criminal cases against her. He also claimed that the checks had already been fully filled out when complainant affixed her signature thereon in his presence. Respondent further asserted that he had given complainant the amount of money indicated in the checks because he was convinced, based on their previous transactions, that complainant had capacity to pay.

In a Resolution[5] dated 17 October 2001, the Court referred the case to the Integrated Bar of the Philippines (IBP) for investigation, report and recommendation or decision within 90 days from notice.

Commissioner Wilfredo E.J.E. Reyes conducted hearings on the matter. In his Report and Recommendation[6] dated 7 August 2007, he found complainant's version of the facts more credible than that of respondent and, accordingly, found respondent guilty of tampering with the checks of complainant. He likewise noted that this is not just an isolated case as several of complainant's officemates had also fallen prey to respondent's cunning scheme. Thus, he recommended respondent's suspension from the practice of law for five (5) years. The IBP

Board of Governors adopted and approved the Commissioner's report and recommendation in Resolution No. XVIII-2007-133 dated 28 September 2007.

The Court sustains the resolution of the IBP Board of Governors except as to the recommended penalty.

Canon 1, Rule 1.01 of the Code of Professional Responsibility provides:

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

Rule 1.01 - A lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct.

The Code of Professional Responsibility likewise mandates that "a lawyer shall at all times uphold the integrity and dignity of the legal profession." [7] To this end, nothing should be done by any member of the legal fraternity which might tend to lessen in any degree the confidence of the public in the fidelity, honesty and integrity of the profession. [8]

Evidently, respondent failed to comply with the foregoing canons. As shown by the records and as found by the Commissioner, complainant had supplied respondent with blank personal checks as security for the P20,000 loan she had contracted and which respondent subsequently deceitfully filled out with various amounts they had not agreed upon and with full knowledge that the loan had already been paid. After the filled-out checks had been dishonored upon presentment, respondent even imprudently filed multiple lawsuits against complainant. Verily, respondent is guilty of serious dishonesty and professional misconduct. He committed an act indicative of moral depravity not expected from and highly unbecoming of a member of the Bar. [9] The fact that the conduct pertained to respondent's private dealings with complainant is of no moment. A lawyer may be suspended or disbarred for any misconduct, even if it pertains to his private activities, as long as it shows him to be wanting in moral character, honesty, probity or good demeanor. Possession of good moral character is not only a good condition precedent to the practice of law, but also a continuing qualification for all members of the Bar. [10]

For the record, respondent has already been indefinitely suspended from the practice of law in A.C. No. 5365 entitled *Olbes v. Diciembre*, [11] a case involving an offense and a set of facts similar to the case at bar. In the said case, the Court notes that complainants therein averred that "many of their officemates--among them, Juanita Manaois, Honorata Acosta and Eugenia Mendoza--had suffered the same fate in their dealings with respondent (Diciembre)." [12] This demonstrates respondent's propensity to employ deceit and misrepresentation. As such, following our ruling in *Olbes*, the Court hereby imposes the same penalty upon respondent in the present case.

WHEREFORE, Atty. Victor V. Diciembre is found guilty of gross misconduct and violation of Rules 1.01 and 7.03 of the Code of Professional Responsibility. He is **SUSPENDED** indefinitely from the practice of law.

Let copies of this Resolution be furnished all courts, as well as the Office of the Bar Confidant which is directed to append a copy hereof to respondent's personal record. Let another copy be furnished the National Office of the Integrated Bar of the Philippines.

SO ORDERED.

Quisumbing, (Chairperson), Carpio Morales, Velasco, Jr., and Brion, JJ., concur.

[1] Rollo, pp. 1-8; Petition before the Integrated Bar of the Philippines, dated 23 October 2000.

[2] *Id.* at 1-3, 6.

[3] Id. at 6-7.

[4] Id. at 62- 68.

[5] Id. at 76.

[6] Id. at 574-584.

[7] Code of Professional Responsibility, Canon 7.

[8] Marcelo v. Javier, Sr., A.C. No. 3248, 18 September 1992, 214 SCRA 1, 13.

[9] Olbes v. Diciembre, A.C. No. 5365, 27 April 2005, 457 SCRA 341, 353.

[10] Rural Bank of Silay, Inc. v. Atty. Pila, 403 Phil. 1, 9 (2001).

[11] A.C. No. 5365, 27 April 2005, 457 SCRA 341.

[12] Id. at 345-346.

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