

ESTRELLA R. SANCHEZ, COMPLAINANT, VS. ATTY. NICOLAS C. TORRES, M.D., RESPONDENT.*A.C. No. 10240 [Formerly CBD No. 11-3241]. November 25, 2014*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/a-c-no-10240/>**PER CURIAM:**

Before us is a Complaint[1] dated November 24, 2011 for disciplinary action against respondent Atty. Nicolas C. Torres (Atty. Torres) filed by Estrella R. Sanchez (Sanchez) with the Integrated Bar of the Philippines-Commission on Bar Discipline (IBP-CBD), docketed as CBD Case No. 11-3241, now A.C. No. 10240, for violation of Batas Pambansa Bilang 22 (B.P. 22) and non-payment of debt.

In her complaint, Sanchez claimed that she is a friend and close acquaintance of Atty. Torres. That in 2007, Atty. Torres asked Sanchez to lend him money in the amount of Two Million Two Hundred Thousand Pesos (P2,200,000.00), and convinced her that he will pay the said amount within a period of one (1) month, plus interest. On November 8, 2007, persuaded by Atty. Torres' promise that he will pay immediately, Sanchez was convinced and handed him the cash amounting to Two Million Two Hundred Thousand Pesos (P2,200,000.00), which Sanchez withdrew from the bank in Atty. Torres' presence. To bolster Sanchez's trust and confidence, Atty. Torres issued two (2) Allied Bank checks with check nos. 0109386 and 0109387, under Account No. 001941-01285-8, both dated November 8, 2007, amounting to P1,200,000.00 and P1,000,000.00, respectively, or in the total amount of P2,200,000.00[2]

However, after one (1) month, Atty. Torres failed to pay his obligation as promised. When Sanchez called Atty. Torres over the phone, she was told that she could again deposit the check and assured her that the checks will be honored upon presentment for payment.

On May 2, 2008, Sanchez deposited the said checks to her account, but the same were returned due to "ACCOUNT CLOSED."

Despite repeated demands for the last three (3) years, Atty. Torres had yet to pay his obligation since then, and thus, complainant sought legal assistance. As a consequence, formal demand letters were sent by the complainant's lawyer which respondent received on August 14, 2008[3] and November 17, 2008,[4] respectively, and the same proved futile as Atty. Torres failed and refused to pay his obligation. Nonetheless, Atty. Torres, in his letter dated May 9, 2009,[5] promised to pay anew the amount of P2,200,000.00 in cash on or before May 15, 2009 as replacement for the two checks he previously issued. But no payment whatsoever was made. Hence, the instant complaint filed on November 28, 2011.

On November 28, 2011, the IBP–Commission on Bar Discipline (CBD) required Atty. Torres to file an answer.[6]

On December 29, 2011, Atty. Torres moved for extension of time to file an answer. He alleged that his bookkeeper was on a holiday leave and that the receipts of payments and audit report were in the custody of the bookkeeper which will be available only in the 1st week of January 2012.[7] However, in an Order[8] dated March 2, 2012, the IBP-CBD noted that Atty. Torres had yet to file his Answer to the complaint even after the expiration of the extension period earlier granted; thus, a final extension was given anew and the case was set for

mandatory conference. Despite sufficient time for respondent Atty. Torres to file his answer, he failed to do so. Worse, he even failed to appear in the scheduled mandatory conference despite due notice.

Thus, in its Report and Recommendation[9] dated June 15, 2012, the IBP-CBD found Atty. Torres guilty of willful dishonesty and unethical conduct for failure to pay just debt and for issuing checks without sufficient funds. It recommended that Atty. Torres be sanctioned with suspension from the practice of law for at least two (2) years.

On March 20, 2013, the IBP Board of Governors adopted and approved the Report and Recommendation of the IBP-CBD. Atty. Torres was ordered suspended from the practice of law for a period of two (2) years, and further ordered to return the amount of P2,200,000.00 to Sanchez, with legal interest.[10]

On August 5, 2013, respondent, through counsel, filed a Manifestation with Motion for Extension of Time to File Motion for Reconsideration.[11] He claimed that he had proof of receipts to show that he had already paid his obligation to Sanchez.[12]

However, despite the lapse of considerable time after the receipt of notice to comply with the said Resolution, no motion for reconsideration was filed. Hence, in a Resolution dated January 21, 2014, the Court resolved to note the Report dated December 13, 2013, stating that records of the OBC showed that no motion for reconsideration or petition for review was filed by either party as of November 22, 2013.

RULING

We sustain the findings and recommendations of the IBP-CBD and the IBP-Board of Governors.

In the instant case, the existence of the loan obligation is undisputed. Sanchez was able to discharge her burden of proving that she loaned P2,200,000.00 to Atty. Torres as evidenced by the subject bank checks. Furthermore, backed by Atty. Torres' admission in his letter dated May 9, 2009, his promise to pay the amount of P2,200,000.00 in cash, as replacement for the two checks he previously issued, is more than sufficient to establish a valid obligation of Atty. Torres to Sanchez. Atty. Torres' admission of the loan he contracted and his failure to pay the same leave no room for interpretation. Likewise, other than his belated and empty claims of payment, Atty. Torres failed to discharge his burden of proving that he had indeed paid his obligation to Sanchez.

In *Barrientos v. Atty. Libiran-Meteoro*,[13] we held that:

x x x [the] deliberate failure to pay just debts and the issuance of worthless checks constitute gross misconduct, for which a lawyer may be sanctioned with suspension from the practice of law. Lawyers are instruments for the administration of justice and 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 so that the people's faith and confidence in the judicial system is ensured. They must at all times faithfully perform their duties to society, to the bar, the courts and to their clients, which include prompt payment of financial obligations. They must conduct themselves in a manner that reflect the values and norms of the legal profession as embodied in the Code of Professional Responsibility. Canon 1 and Rule 1.01 explicitly states:

Canon 1— A lawyer shall uphold the constitution, obey the laws of the land and promote respect for law and for legal processes.

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

We also note Atty. Torres' conduct in the course of the proceedings where he repeatedly asked for extensions of time to file an answer and a motion for reconsideration, which he failed to submit, and his failure to attend the disciplinary hearings set by the IBP do not speak well of his standing as a lawyer. In *Ngayan v. Tugade*,[14] we

ruled that “[a lawyer’s]

failure to answer the complaint against him and his failure to appear at the investigation are evidence of his flouting resistance to lawful orders of the court and illustrate his despicency for his oath of office in violation of Section 3, Rule 138, Rules of Court.”

We come to the penalty imposable in this case.

In *Lao v. Medel*,^[15] we held that 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 same sanction was imposed on the respondent-lawyer in *Rangwani v. Atty. Dino*,^[16] having been found guilty of gross misconduct for issuing bad checks in payment of a piece of property, the title of which was only entrusted to him by the complainant.

Following the penalty imposed in a similar situation in *A-1 Financial Services v. Valerio*,^[17] we deem it proper to adopt the penalty of two (2) years suspension in light of the amount involved and the brazen disregard by Atty. Torres of the Orders of the IBP-CBD on the filing of an answer and appearance in the hearing. We cannot sustain, however, the IBP’s recommendation ordering respondent to return the amount of P2,200,000.00 to complainant. In disciplinary proceedings against lawyers, the only issue is whether the officer of the court is still fit to be allowed to continue as a member of the Bar. Our only concern is the determination of respondent’s administrative liability. Our findings have no material bearing on other judicial actions which the parties may choose to file against each other.^[18]

However, we note that in *CF Sharp Crew management, Inc. v. Nicolas C. Torres*,^[19] the Court had already disbarred Torres from the practice of law for having been found guilty of violating Rule 1.01, Canon 1 and Rules 16.01 and 16.03, Canon 16 of the Code of Professional Responsibility.

In view of the foregoing, we can no longer impose the penalty of suspension or disbarment against Atty. Torres, considering that he has already been previously disbarred. We do not have double or multiple disbarments in our laws or jurisprudence.^[20] Nevertheless, considering that the issues and the infraction committed are different from his previous infraction, we deem it proper to resolve the instant case and give its corresponding penalty for purposes of recording it in respondent’s personal file in the Bar Confidant’s Office.

WHEREFORE, Resolution No. XX-2013-202 dated March 20, 2013 of the IBP, which found respondent Atty. Nicolas C. Torres guilty of gross misconduct and of violation of the Code of Professional Responsibility, is **AFFIRMED** and respondent Atty. Nicolas C. Torres is hereby **SUSPENDED** for a period of two (2) years from the practice of law. However, considering that respondent has already been previously disbarred, this penalty can no longer be imposed.

Let a copy of this Decision be furnished to the Office of the Bar Confidant, to be appended to the personal record of Atty. Torres as a member of the Bar; the Integrated Bar of the Philippines; and the Office of the Court Administrator, for circulation to all courts in the country, for their information and guidance.

SO ORDERED.

Sereno, (Chief Justice), Carpio, Velasco, Jr., Leonardo-De Castro, Peralta, Bersamin, Del Castillo, Villarama, Jr., Perez, Mendoza, Reyes, Leonen, and Jardeleza, JJ., concur.

Brion, J., on leave.

Perlas-Bernabe, J., on official leave.

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- [1] Rollo, pp. 2-10.
- [2] Id. at 5.
- [3] Id. at 7.
- [4] Id. at 9.
- [5] Id. at 10.
- [6] Id. at 11.
- [7] Id. at 12-13.
- [8] Id. at 14.
- [9] Id. at 21-26.
- [10] Id. at 20.
- [11] Id. at 27-29.
- [12] Id. at 27-28.
- [13] 480 Phil. 661, 691 (2004).
- [14] A.C. No. 2490, February 7, 1991, 193 SCRA 779, 784.
- [15] 453 Phil. 115, 120-121 (2003), citing the case of *Co v. Bernardino*, 349 Phil. 16, 23 (1998).
- [16] 486 Phil. 8 (2004).
- [17] A.C. No. 8390 (formerly CBD 06-1641), July 2, 2010, 622 SCRA 616.
- [18] *Roa v. Moreno*, A.C. No. 8382, April 21, 2010, 618 SCRA 693, 700.
- [19] A.C. No. 10438, September 23, 2014.
- [20] *Yuhico v. Atty. Gutierrez*, A.C. No. 8391, November 23, 2010, 635 SCRA 684, 689.

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