

MARIA ELENA MORENO, COMPLAINANT, VS. ATTY. ERNESTO ARANETA, RESPONDENT.*A.C. NO. 1109. April 27, 2005*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/a-c-no-1109/>**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.

The IBP Board of Governors adopted[13] the above report, but increased its recommended period of suspension from three months to six months.

Over ten years later, on 15 October 2002, IBP Director for Bar Discipline Victor C. Fernandez, transmitted[14] the records of this case back to this Court pursuant to Rule 139-B, Sec. 12(b) of the Rules of Court.[15] On 8 July 2003, the Office of the Bar Confidant filed a Report[16] regarding various aspects of the case. The Report further made mention of a Resolution[17] from this Court indefinitely suspending the respondent for having been convicted by final judgment of estafa through falsification of a commercial document. The Resolution, which was attached to the report, states:

L-46550 (Ernesto S. Araneta vs. Court of Appeals, et. al.) – Considering that the motion of petitioner Ernesto S. Araneta for reconsideration of the resolution of September 16, 1977 which denied the petition for review on certiorari of the decision of the Court of Appeals in CA-G.R. No. 18553-R which affirmed the decision of the Court of First Instance of Manila convicting the said petitioner of the crime of estafa thru falsification of commercial document, was denied in the resolution dated October 17, 1977 of the Second Division of this Court for lack of merit, which denial is final, the Court Resolved: (a) to SUSPEND petitioner Ernesto S. Araneta from the practice of law and (b) to require the said petitioner to SHOW CAUSE within ten days from notice why he should not be disbarred.

Verification conducted by the Office of the Bar Confidant revealed that the above case had been archived on 20 November 1992.

It therefore appears that in the intervening time between herein respondent's last filed pleading dated 28 May 1973, when he sought a postponement of the scheduled hearing on this case to settle matters amicably between himself and Moreno, and the present, Araneta had been found guilty and convicted by final judgment of a crime involving moral turpitude, and indefinitely suspended.

We find no reason to disturb the findings of Commissioner Buencamino. However, we disagree with the penalty sought to be imposed.

Whether or not the complainant sufficiently proved that Araneta failed to pay his debts is irrelevant, because by his own admission, the respondent issued two checks in favor of Moreno knowing fully well that the same were drawn against a closed account. And though Batas Pambansa Blg. 22 had not yet been passed at that time, the IBP

correctly found this act “abhorrent and against the exacting standards of morality and decency required of a member of the Bar,” which “belittles the confidence of the public in him and reflects upon his integrity and morality.”

Indeed, in recent cases, we have held that the issuance of worthless checks constitutes gross misconduct,[18] as the effect “transcends the private interests of the parties directly involved in the transaction and touches the interests of the community at large. The mischief it creates is not only a wrong to the payee or holder, but also an injury to the public” since the circulation of valueless commercial papers “can very well pollute the channels of trade and commerce, injure the banking system and eventually hurt the welfare of society and the public interest. Thus, paraphrasing Black’s definition, a drawer who issues an unfunded check deliberately reneges on his private duties he owes his fellow men or society in a manner contrary to accepted and customary rule of right and duty, justice, honesty or good morals.”[19]

Thus, we have held that the act of a person in issuing a check knowing at the time of the issuance that he or she does not have sufficient funds in, or credit with, the drawee bank for the payment of the check in full upon its presentment, is also a manifestation of moral turpitude.[20]

In *Co v. Bernardino*[21] and *Lao v. Medel*,[22] we held that for issuing worthless checks, a lawyer may be sanctioned with one year’s suspension from the practice of law, or a suspension of six months upon partial payment of the obligation.[23]

In the instant case, however, herein respondent has, in the intervening time, apparently been found guilty by final judgment of estafa thru falsification of a commercial document, a crime involving moral turpitude, for which he has been indefinitely suspended.

Moral turpitude “includes everything which is done contrary to justice, honesty, modesty, or good morals.”[24] It involves “an act of baseness, vileness, or depravity in the private duties which a man owes his fellow men, or to society in general, contrary to the accepted and customary rule of right and duty between man and woman, or conduct contrary to justice, honesty, modesty, or good morals.”[25]

Considering that he had previously committed a similarly fraudulent act, and that this case likewise involves moral turpitude, we are constrained to impose a more severe penalty.

In fact, we have long held[26] that disbarment is the appropriate penalty for conviction by final judgment of a crime involving moral turpitude. As we said in *In The Matter of Disbarment Proceedings v. Narciso N. Jaramillo*,[27] “[t]he review of respondent’s conviction no longer rests upon us. The judgment not only has become final but has been executed. No elaborate argument is necessary to hold the respondent unworthy of the privilege bestowed on him as a member of the bar. Suffice it to say that, by his conviction, the respondent has proved himself unfit to protect the administration of justice.”[28]

WHEREFORE, respondent Atty. Ernesto S. Araneta is hereby DISBARRED and his name is ORDERED STRICKEN from the Roll of Attorneys. Let a copy of this Decision be entered in the respondent’s record as a member of the Bar, and notice of the same be served on the Integrated Bar of the Philippines, and on the Office of the Court Administrator for circulation to all courts in the country.

SO ORDERED.

Davide, Jr., C.J., Puno, Panganiban, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Callejo, Sr., Azcuna, Tinga, Chico-Nazario, and Garcia, JJ., concur.
Carpio-Morales, J., on leave.

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- [1] Rollo, Vol. 1, pp. 30-33.
- [2] Reply, Id., pp. 56-58.
- [3] Id., p. 58.
- [4] Resolution dated 01 December 1972, Id., p. 63.
- [5] TSN, 24 January 1973, p. 2.
- [6] TSN, 24 January 1973, pp. 1-32.
- [7] TSN, 27 February 1973, p. 3.
- [8] Id., p. 1.
- [9] Letter to President of IBP Manila Chapter IV from IBP Commissioner Concepcion Buencamino dated 22 September 1988, Id., p. 2.
- [10] Order, Id., p. 3.
- [11] Order, Id., p. 6.
- [12] Id., pp. 65-73.
- [13] Resolution dated 27 June 1989, Id., pp. 75-81.
- [14] Id., p. 83.
- [15] Said Rule states that: "If the Board, by the vote of a majority of its total membership determines that the respondent should be suspended from the practice of law or disbarred, it shall issue a resolution setting forth its findings and recommendations which, together with the whole records of the case, shall forthwith be transmitted to the Supreme Court for final action."
- [16] Id., pp. 124-125.
- [17] Id., p. 126.
- [18] Lao v. Medel, A.C. No. 5916, 01 July 2003, 405 SCRA 227.
- [19] Lozano v. Martinez, L-63419, 18 July 1986, 146 SCRA 323.
- [20] Villaber v. Commission on Elections, G.R. No. 148326, 15 November 2001, 369 SCRA 126; People v. Tuanda, Adm. Case No. 3360, 30 January 1990, 181 SCRA 692.
- [21] Adm. Case No. 3919, 28 January 1998, 285 SCRA 102.
- [22] Supra, Note No. 18.
- [23] People v. Tuanda, supra, Note No. 20.
- [24] In re Basa, 7 December 1920, 41 Phil. 275.
- [25] Villaber v. Commission on Elections, supra, Note No. 20, citing Dela Torre v. COMELEC, G.R. No. 121592, 05 July 1996, 258 SCRA 483.
- [26] In The Matter of Disbarment Proceedings v. Narciso N. Jaramillo, Adm. Case No. 229, 30 April 1957, 101

Phil 323; In Re: Atty. Isidro P. Vinzon, Adm. Case No. 561, 27 April 1967, 126 Phil 96; Adelina T. Villanueva v. Atty. Teresita Sta. Ana, CBD Case No. 251, 11 July 1995, 245 SCRA 707; Victoriano P. Resurreccion v. Atty. Ciriaco C. Sayson, Adm. Case No. 1037, 14 December 1998, 300 SCRA 129.

[27] Adm. Case No. 229, 30 April 1957, 101 Phil 323.

[28] We are not unmindful of the possibility that, given the time that has elapsed, herein respondent may no longer be living. We have consistently dismissed disbarment proceedings wherein the Court was informed of the death of the respondent (De Aquino v. Castellano, A.C. No. 1145, 24 March 2004; Pelejo v. Zaballero, A.C. No. 2311, 25 July 1983, 123 SCRA 460; Oriuela v. Rosario, A.C. No. 1182, 30 July 1982, 115 SCRA 456; Coronado v. Huertas, A.C. No. 924, 28 December 1981, 110 SCRA 474; Sotto v. de Guia, A.C. No. 196, 30 June 1980, 98 SCRA 398; Mateos v. Wisco, Adm. Case No. 613, 25 May 1972, 45 SCRA 72), however, we have received no such notification in this case. The Law List reveals that one Ernesto S. Araneta was admitted to the Philippine Bar in 1957. A verification with the Office of the Bar Confidant reveals that he was born on 21 December 1932. Inquiry with the Civil Registration Department of the National Statistics Office reveals no record of the death of such a person.

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