

**VDA. ELEANOR V. FRANCISCO, COMPLAINANT, VS. ATTY.
LEONARDO M. REAL, RESPONDENT,***A.C. No. 12689 (Formerly CBD Case No. 14-4459). September 01, 2020*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/a-c-no-12689/>**PER CURIAM:**

This is an administrative complaint^[1] against respondent Atty. Leonardo M. Real for violation of Canon 1, Rule 1.01 and Canon 7, Rule 7.03 of the Code of Professional Responsibility (CPR) for non-payment of just debts and issuing worthless checks.

The Case

Complainant Eleanor V. Francisco (complainant) is the owner of a property located in Carigma St. corner Burgos St., Brgy. San Jose, Antipolo City. In February 2012, complainant and respondent entered into a contract of lease over one of the rooms at the second floor of the property as lessor and lessee, respectively. The term of the lease was from February 1, 2012 to January 31, 2013 with a monthly rental in the amount of P6,500.00.^[2]

Complainant alleged that as payments for the months of October to December 2012, respondent, using his wife's checks, issued three (3) checks in the amount of P6,500.00 each in favor of complainant. However, these checks were dishonored upon presentment for the reason "account closed."^[3]

On May 21, 2013, complainant sent respondent a demand letter, but the same was ignored. She thereafter filed a complaint before the Barangay Lupon of San Jose, Antipolo City, but she and respondent failed to reach a settlement and so a certificate to file an action was issued in favor of complainant.^[4] On August 1, 2013, complainant sent another demand letter to respondent, but it also remained unheeded. Thus, on September 10, 2013, complainant filed a small claims action for sum of money before the Municipal Trial Court in Cities (MTCC) of Antipolo City against respondent and his wife.^[5]

Respondent and his wife did not participate in the proceedings before the MTCC. Thus, upon motion of complainant, the case was submitted for decision.^[6] In its October 22, 2013 Decision,^[7] the MTCC ruled in favor of complainant and ordered respondent and his wife to pay the unpaid rentals from October 2012 to November 2013 in the total amount of P91,000.00.^[8]

On December 17, 2013, the MTCC issued a writ of execution and a notice to vacate was sent to respondent. However, complainant alleged that until the filing of her administrative complaint on December 15, 2014, or one year after the issuance of the writ of execution, respondent continued to occupy the property.^[9]

Complainant averred that she was perplexed about the conduct of respondent in consistently giving her false hopes, which, in her opinion, ran contrary to the ideals of his legal profession. She said she only understood it all after she learned about the prior suspension of respondent from the practice of law and the revocation of his notarial commission.^[10]

In his Answer,^[11] respondent explained that he held office in the subject property, but due to his financial distress by reason of his one (1)-year suspension from the practice of law and revocation of his notarial

commission, he was forced to close his office and leave the premises. He countered that the rentals from February 2012 to November 2012 were duly paid through the checks his wife issued on his behalf. He denied ever receiving any demand letter from complainant or being summoned for conciliation before a barangay.[12]

Respondent acknowledged the decision of the MTCC of Antipolo City in the small claims action filed against him by complainant, but denied that he ignored the writ of execution and the notice to vacate. He maintained that he had long vacated the property even before complainant asked for his ejectment. Respondent also maintained that even before complainant filed the case, he offered to pay his arrears in installment, but complainant allegedly refused because she wanted to be paid in full instead. Respondent recounted that, in fact, during the execution stage of the decision of the MTCC, he instructed his secretary, who was accompanied by the sheriff, to tender the amount of P20,000.00 as part of payment to complainant in her office. Complainant, however, allegedly refused to accept such partial payment.[13]

Respondent expressed that he is very much willing to pay his debts, albeit in installment as he has yet to regain a vibrant practice after his suspension from the practice of his legal profession.[14]

The IBP Findings

In its Report and Recommendation,[15] the Integrated Bar of the Philippines-Commission on Bar Discipline (IBP-CBD) found that respondent has not learned from his previous suspension by the Court. Since he was aware that he cannot meet his obligation to pay his lease, the most prudent thing respondent could have done was to immediately vacate the premises. He only did so, however, after the MTCC issued a writ of execution. In short, respondent continued to occupy the property without paying rentals for almost a year.[16]

The IBP-CBD also held that although the checks were drawn against the account of his wife, it was as if respondent himself issued them. The checks were issued in favor of complainant to cover the payment of respondent's lease obligation. It can safely be assumed therefore that respondent knew that the checking account of his wife was already closed.[17]

Thus, the IBP-CBD recommended that respondent be suspended from the practice of law for six (6) months and that, as mandated in the decision of the MTCC, respondent be ordered to pay his financial obligations to complainant in the amount of P91,000.00 with legal interest from May 21, 2013, the date of the formal demand.[18]

The IBP-Board of Governors (IBP-BOG) adopted the findings of the IBP-CBD, but modified its recommended penalty from a six (6)-month suspension to disbarment. The IBP-BOG ruled in this wise in view of respondent's failure to pay rentals of his law office despite demand; his continuously occupying the premises without paying rentals even after complainant filed a case with the MTCC of Antipolo City for almost one year; his having vacated the premises only after the MTCC issued a writ of execution; his issuance of three (3) worthless checks as payment of rentals under the name of his wife; and his being a habitual violator of the CPR.[19]

Respondent filed a motion for reconsideration[20] of the Resolution of the IBP-BOG, lamenting that the penalty imposed was too harsh. He recounted that he had no original intention to rent the place, and that it was complainant's friends who initiated the lease, suggesting that a part thereof would be rented out for medical purposes and a part would be rented out as respondent's notarial office. Respondent claimed that complainant's friends later changed their minds.[21]

Respondent also maintained that he had no intention to deceive complainant, pointing out that it was she who drafted the lease contract and who proposed that post-dated checks be issued to cover the monthly rentals. Respondent likewise emphasized that there were nine (9) post-dated checks in total and only three (3) of these

were dishonored.[22]

Moreover, respondent insisted that he had no intention to evade his obligation, reiterating that he approached complainant several times to offer paying the accrued rentals in installment, but she always refused and only wanted to be paid in full.[23]

Complainant, in her Comment[24] to the motion for reconsideration, countered that prior to her filing of the small claims action before the MTCC, she repeatedly reached out to respondent about his obligation, but to no avail. It was only after the writ of execution was issued by the MTCC that respondent wanted to settle in installment. Complainant argued that under the Rules of Court, there is no piecemeal payment in execution of judgments for money.[25]

The IBP-BOG in its Resolution[26] dated September 28, 2017 denied respondent's motion for reconsideration.

The Issue

Whether respondent should be administratively held liable for his failure to pay the monthly rentals due the complainant, for the dishonor of the checks issued in payment of these monthly rentals, and for his alleged obstinate refusal to vacate the premises.

The Court's Ruling

The Court adopts the findings and recommendation of the IBP-BOG with modification.

The fact that respondent incurred delay in the payment of his rental obligations with complainant is undisputed. Respondent does not deny this, but contends that he is willing to pay complainant in installment. Respondent has also explained that when he entered into the contract of lease with complainant from February 2012 to January 2013, they agreed that the monthly payment of P6,500.00 shall be drawn from the checking account of his wife. Respondent also does not deny that checks were dishonored, but raises it as a defense of his good faith that only three (3) out of the nine (9) checks issued were dishonored.

The way respondent downplays his offenses cannot be countenanced. His non-payment of just debts and his hand in the issuance of worthless checks constitute gross misconduct on respondent's part which deserve to be sanctioned.

Gross misconduct is defined as "improper or wrong conduct, the transgression of some established and definite rule of action, a forbidden act, a dereliction of duty, willful in character, and implies a wrongful intent and not a mere error in judgment." In *Sosa v. Mendoza*,[27] the Court ruled that failure to pay debts constitutes violation of Rule 1.01 of the CPR, because it is willful in character and implies a wrongful intent; it is not considered a mere error in judgment. Canon 1, Rule 1.01 of the CPR states:

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.

Similarly, Canon 7, Rule 7.03 of the CPR provides:

CANON 7 — A lawyer shall at all times uphold the integrity and dignity of the legal profession and support the activities of the integrated bar.

x x x x

Rule 7.03 — A lawyer shall not engage in conduct that adversely reflects on his fitness to practice law, nor shall he, whether in public or private life, behave in a scandalous manner to the discredit of the legal profession.

In this case, respondent began defaulting in his obligation in October 2012, when the post-dated check issued for that month was dishonored. The two remaining post-dated checks were likewise dishonored subsequently. Complainant sent demand letters to respondent and sought the help of the barangay for conciliation, but her attempts to get respondent to pay all proved futile. Respondent simply denied he received these notices. While he acknowledged the decision of the MTCC, it is nonetheless quite telling that he also did not participate in the proceedings before it despite notice. Verily; it cannot escape the attention of the Court that several months had already passed from October 2012, when the first check was dishonored, after the first demand letter was sent to respondent in May 2013. It also took almost a year from October 2012 to September 2013, when complainant filed the small claims action against respondent. It is revealing of respondent's character that he let the months slip by without attending to his obligation, and belies his avowal that he had no intention to renege.

Thus, in light of the prolonged silence of respondent, the Court is inclined to believe the version of complainant that the alleged willingness of respondent to pay, albeit in piecemeal, was a belated attempt on his part to settle after the MTCC had already issued the writ of execution. As correctly pointed out by complainant, she had no obligation to accept the payment plan of respondent, considering his previous failure to pay promptly^[28] and the express provision under Section 9, Rule 39 of the Revised Rules of Court that the officer enforcing an execution of a judgment for money shall demand from the judgment obligor the immediate payment of the full amount stated in the writ of execution and all lawful fees.

Furthermore, a lawyer's act of issuing worthless checks, punishable under Batas Pambansa Blg. (BP) 22, constitutes serious misconduct.^[29] In *Ong v. Delos Santos*,^[30] the Court also held that a lawyer who issues a worthless check is in breach of his oath to obey the laws.^[31] The Court explained thus:

[BP 22] has been enacted in order to safeguard the interest of the banking system and the legitimate public checking account users. The gravamen of the offense defined and punished by [BP 22], according to *Lozano v. Martinez*, is the act of making and issuing a worthless check, or any check that is dishonored upon its presentment for payment and putting it in circulation; the law is designed to prohibit and altogether eliminate the deleterious and pernicious practice of issuing checks with insufficient funds, or with no credit, because the practice is deemed a public nuisance, a crime against public order to be abated. The Court has observed in *Lozano v. Martinez*:

The effects of the issuance of a worthless check 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. The harmful practice of putting valueless commercial papers in circulation, multiplied a thousandfold, 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, x x x^[32]

Here, the fact that the checks were drawn in the name of respondent's wife and not directly in his name is of no moment. As respondent himself has admitted, he stood as the lessee of the property subject of the lease contract and acknowledged that he and complainant had agreed that the post-dated checks drawn in the name of his wife would be used in payment of the monthly rentals. Being a lawyer, respondent was well aware of, or was nonetheless presumed to know, the objectives and coverage of BP 22. Yet, he knowingly violated the law and thereby "exhibited his indifference towards the pernicious effect of his illegal act to public interest and public order."^[33]

The issuance of checks which were later dishonored for having been drawn against a closed account indicates a lawyer's unfitness for the trust and confidence reposed on him, shows such lack of personal honesty and good moral character as to render him unworthy of public confidence, and constitutes a ground for disciplinary action.^[34] In the same manner, respondent should not have resorted to persistently ignoring the demands made

against him by the complainant to settle his obligations. If he were truly in dire financial straits, he could have facilely explained his circumstances to complainant and be, at the very least, forthcoming about it.

The Court has constantly reminded lawyers that as guardians of the law, they are mandated to obey and respect the laws of the land and to uphold the integrity and dignity of the legal profession.[35] 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 reflects the values and norms of the legal profession as embodied in the CPR.[36] Respondent utterly failed in this regard.

As regards the proper penalty to be imposed upon respondent, the Court notes the differing penalties the Court has imposed in the past for offenses similar to those committed by herein respondent.

In *Lim v. Rivera*,[37] the Court observed that in the cases of *Lao v. Medel*,[38] *Rangwani v. Diño*,[39] and *Enriquez v. De Vera*,[40] the Court imposed the penalty of one (1)-year suspension from the practice of law for deliberate failure to pay just debts and for the issuance of worthless checks. Meanwhile, in *Sanchez v. Torres*,[41] the Court increased the penalty to two (2) years in light of the amount of the loan which was P2,200,000.00, and the fact that respondent therein had repeatedly asked for extensions of time to file an answer and a motion for reconsideration, which he nonetheless failed to submit, and had likewise failed to attend the disciplinary hearings set by the IBP.[42]

In *Barrientos v. Libiran-Meteoro*,[43] on the other hand, the Court merely imposed a penalty of a six (6)-month suspension against the respondent therein who failed to pay just debts and who issued worthless checks. The Court tempered the penalty in view of her payment of a portion of her debt, as evidenced by receipts amounting to P50,000.00.

Here, the IBP recommends that the Court impose the penalty of disbarment against respondent, highlighting his habit of violating the CPR. The Court agrees.

In imposing the appropriate penalty in administrative cases, it is the duty of the Court to exercise its sound judicial discretion based on the surrounding facts of the case.[44] Well-settled is the rule in our jurisdiction that disbarment ought to be meted out only in clear cases of misconduct that seriously affect the standing and character of the lawyer as an officer of the court and that the Court will not disbar a lawyer where a lesser penalty will suffice to accomplish the desired end.[45] The Court, however, does not hesitate to impose the penalty of disbarment when the guilty party has become a repeat offender.[46] Thus, the Court in *Flores v. Mayor, Jr.*,[47] after finding respondent therein guilty of clear neglect of duty and gross ignorance of the law, considered his previous suspension by the Court in meting out the extreme penalty of disbarment. The Court concluded in this wise:

The Court, however, does not hesitate to impose the penalty of disbarment when the guilty party has become a repeat offender.

In *Maligsa v. Cabanting*, the respondent lawyer was disbarred after the Court found out that he had notarized a forged deed of quitclaim. The penalty of disbarment was imposed after considering that he was previously suspended from the practice of law for six months on the ground that he had purchased his client's property while it was still the subject of a pending certiorari proceeding.

In *Flores v. Chua*, the respondent lawyer was disbarred after he was found guilty of notarizing a forged deed of sale. The penalty of disbarment was imposed because in a previous administrative case, respondent was found guilty of violating Rule 1.01[16] of the Code of Professional Responsibility. He was also sternly warned that a repetition of a similar act or violation in the future would be dealt with more severely.

Herein respondent was already suspended from the practice of law for a period of six (6) months in another case, *Lahm III v. Mayor, Jr.*, in which he was found guilty of gross ignorance of the law in violation of the Lawyer's Oath and the Code of Professional Responsibility. For that offense, he was warned that the commission of the same or a similar offense in the future would result in the imposition of a more severe penalty. In light of respondent's previous suspension from the practice of law in an earlier administrative case as above[-]mentioned, the recommendation of the IBP Board to disbar respondent is only proper.[48]

Here, the Court takes judicial notice of the fact that for the past eight (8) years, respondent has been disciplined by the Court thrice. Glaringly, as well, his other misdeeds also constituted gross misconduct.

In *Isenhardt v. Real*,[49] the Court revoked the notarial commission of respondent for notarizing a document even without the appearance of one of the parties. The Court held that "[respondent violated his oath as a lawyer and the [CPR] when he made it appear that [the] complainant [therein] personally appeared before him and subscribed an SPA authorizing her brother to mortgage her property." [50] As such, respondent was disqualified from reappointment as notary public for a period of two (2) years and was suspended from the practice of law for a period of one (1) year, effective immediately. The Court warned him that a repetition of the same or similar offense in the future shall be dealt with more severely.

In 2016, in *Fabie v. Real*,[51] the Court suspended respondent anew from the practice of law for a period of six (6) months after he was found liable for abandoning his client's cause and for failing to return the amount of P40,000.00 given to him as legal fees. The Court also warned respondent that a repetition of the same or similar offense in the future shall be dealt with more severely.

Yet, again, in a Resolution dated June 10, 2019, the Court in *Pacificar v. Real*[52] suspended respondent from the practice of law for a period of three (3) months for neglecting his client's cause despite receiving P155,500.00 as attorney's fees.

Given the foregoing, it would not be inaccurate to conclude that respondent has a penchant for violating his oath as a lawyer and the CPR. He had been repeatedly warned that a similar violation will merit a more severe penalty, and yet, his blatant disregard of the Code and his sworn duty has, time and again, brought embarrassment and dishonor to the legal profession.[53] The Court cannot afford to be lenient this time. Membership in the legal profession is a privilege, and whenever it is made to appear that an attorney is no longer worthy of the trust and confidence of his clients and the public, it becomes not only the right but also the duty of the Court to withdraw the same.[54]

Finally, however, the Court cannot order respondent to pay his financial obligations to complainant, as recommended by the IBP. The delineation between which obligations the Court can order a respondent-lawyer to perform has already been settled in *Tria-Samonte v. Obias*. [55] The Court clarified therein that disciplinary proceedings against lawyers are only confined to the issue of whether or not the respondent-lawyer is still fit to be allowed to continue as a member of the Bar and that the only concern is his or her administrative liability. Thus, matters which have no intrinsic link to the lawyer's professional engagement, such as the liabilities of the parties which are purely civil in nature,[56] should be threshed out in a proper proceeding of such nature, and not during administrative-disciplinary proceedings, as in this case.[57] Considering that the liability of respondent here with regard to the amount involved is purely civil in nature, it being his obligation as a lessee, the Court cannot properly order respondent to pay complainant said amount. The remedy of complainant in this score lies with the MTCC which, as it turns out, has already granted her motion for execution.

WHEREFORE, the Court finds respondent Atty. Leonardo M. Real GUILTY of gross misconduct in violation of the Lawyer's Oath and the Code of Professional Responsibility. He is hereby DISBARRED from the practice of

law. The Office of the Bar Confidant is DIRECTED to remove the name of Leonardo M. Real from the Roll of Attorneys.

This Decision is without prejudice to any pending or contemplated proceedings to be initiated against respondent.

Let copies of this Decision be furnished the Office of the Bar Confidant, to be appended to respondent's personal record as a member of the Bar, the Integrated Bar of the Philippines, the Office of the Court Administrator, the Department of Justice, and all courts in the country for their information and guidance.

This Decision takes effect immediately.

SO ORDERED.

Peralta, C.J., Perlas-Bernabe, Leonen, Caguioa, Gesmundo, J. Reyes, Jr., Hernando, Carandang, Lazaro-Javier, Inting, Zalameda, Lopez, Delos Santos, and Gaerlan, JJ., concur.
Baltazar-Padilla, J., on leave.

[1] Rollo, pp. 2-8.

[2] Id. at 2-3, 58.

[3] Id. at 3, 9.

[4] Id. at 3.

[5] See id. at 3, 10-11.

[6] Id. at 3-4, 10.

[7] Id. at 10-11.

[8] Id. at 11.

[9] Id. at 4.

[10] Id. at 5.

[11] Id. at 19-22.

[12] Id. at 19-20.

[13] Id. at 20-21.

[14] Id. at 21.

[15] Id. at 58-60.

[16] Id. at 59.

[17] Id.

[18] Id. at 59-60.

[19] Id. at 57.

[20] Id. at 61-64.

- [21] Id. at 61-62.
- [22] Id. at 62.
- [23] Id.
- [24] Id. at 67-75.
- [25] Id. at 68.
- [26] Id. at 81-82.
- [27] A.C. No. 8776, March 23, 2015, 754 SCRA 61.
- [28] See *Lao v. Medel*, A.C. No. 5916 (Formerly CBD 01-825), July 1, 2003, 405 SCRA 227, 232.
- [29] *Enriquez v. De Vera*, A.C. No. 8330, March 16, 2015, 753 SCRA 235, 245.
- [30] A.C. No. 10179 (Formerly CBD 11-2985), March 4, 2014, 717 SCRA 663.
- [31] Id. at 665.
- [32] Id. at 668.
- [33] Id. at 669.
- [34] See *Cuizon v. Macalino*, A.C. No. 4334, July 7, 2004, 433 SCRA 479, 484.
- [35] *Saladaga v. Astorga*, A.C. Nos. 4697 & 4728, November 25, 2014, 741 SCRA 603, 605.
- [36] *A-1 Financial Sevices, Inc. v. Valerio*, A.C. No. 8390 (Formerly CBD 06-1641), July 2, 2010, 622 SCRA 616, 621.
- [37] A.C. No. 12156, June 20, 2018, 867 SCRA 35.
- [38] *Supra* note 28.
- [39] A.C. No. 5454, November 23, 2004, 443 SCRA 408.
- [40] *Supra* note 29.
- [41] A.C. No. 10240 (Formerly CBD No. 11-3241), November 25, 2014, 741 SCRA 620.
- [42] *Lim v. Rivera*, *supra* note 37, at 42.
- [43] A.C. No. 6408 (CBD 01-840), August 31, 2004, 437 SCRA 209.
- [44] See *Lim v. Rivera*, *supra* note 37, at 42.
- [45] See *De Jesus v. Sanchez-Malit*, A.C. No. 6470, July 8, 2014, 729 SCRA 272, 285.
- [46] *Flores v. Mayor, Jr.*, A.C. No. 7314, August 25, 2015, 768 SCRA 161, 169.
- [47] Id.
- [48] Id. at 169-170.
- [49] A.C. No. 8254 (Formerly CBD Case No. 04-1310), February 15, 2012, 666 SCRA 20.
- [50] Id. at 24.

[51] A.C. No. 10574 (Formerly CBD Case No. 11-3047), September 20, 2016, 803 SCRA 388.

[52] A.C. No. 9022, June 10, 2019 (Unsigned Resolution).

[53] *San Juan v. Venida*, A.C. No. 11317, August 23, 2016, 801 SCRA 268, 278.

[54] *Id.* at 279.

[55] A.C. No. 4945. October 8, 2013, 707 SCRA 1.

[56] *Id.* at 12.

[57] *Dagala v. Quesada, Jr.*, A.C. No. 5044, December 2, 2013, 711 SCRA 206, 217.

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