

TOMAS G. TAN, COMPLAINANT, VS. ATTY. DENNIS C. PANGAN, RESPONDENT.

A.C. No. 12878. January 31, 2023

Ponente: LEONEN, SAJ.

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LEONEN, SAJ.:

A lawyer who issues worthless checks is guilty of gross misconduct and violates Canon 1[1] and Rule 1.01[2] of the Code of Professional Responsibility.[3]

While the Court is mindful of exercising its power to disbar only for the most imperative of reasons,[4] the Court will "not hesitate to impose the penalty of disbarment when the guilty party has become a repeat offender." [5]

This resolves a disbarment complaint filed against Atty. Dennis C. Pangan (Atty. Pangan). The Report and Recommendation of the Integrated Bar of the Philippines recommended that Atty. Pangan be suspended from the practice of law for two years, while the Integrated Bar of the Philippines Board of Governors issued a Resolution adopting the Report and Recommendation with the modification that Atty. Pangan be suspended from the practice of law for only one year.

On October 16, 2016, Tomas G. Tan (Tan) filed a disbarment complaint against Atty. Pangan for violation of the Code of Professional Responsibility.[6]

Tan stated that sometime in June 2013, he engaged the services of Atty. Pangan as collaborating counsel in Civil Case No. 02-299, which was pending before the Regional Trial Court of Makati City, Branch 66.[7]

As Atty. Pangan claimed that he could deliver a favorable court decision in the case, Tan paid the professional fee of PHP 2,050,000.00, with money-back guarantee if Atty. Pangan failed. This was embodied in an Agreement[8] dated June 20, 2013 executed by both parties.[9]

However, in its Decision[10] dated December 5, 2014, the Regional Trial Court ruled against Tan.

Failing to fulfill his promise, Atty. Pangan issued Asia United Bank (AUB) Check No. 0000028291 in the amount of PHP 2,000,000.00, postdated to April 30, 2016.[11]

When Tan presented the check for payment on its maturity date, it bounced for being drawn against insufficient funds.[12]

Tan sent Atty. Pangan a Demand Letter dated May 6, 2016, to no avail. Despite the latter's repeated promises and the lapse of two years, Atty. Pangan failed to comply with his obligation in the June 20, 2013 Agreement.[13]

On June 10, 2016, Tan instituted a criminal case for estafa against Atty. Pangan before the Office of the City Prosecutor of Manila.[14] Tan also filed the present disciplinary complaint[15] against Atty. Pangan, praying that he be disbarred and ordered to pay him PHP 2,050,000.00, with interest from December 2014.[16]

Tan argues that Atty. Pangan should have complied with the terms of the June 20, 2013 Agreement by returning

the PHP 2,050,000.00 to him once the Regional Trial Court issued the unfavorable decision. His failure to do so, coupled with his issuance of a bouncing check, are violations of his oath as a lawyer.[17]

In his Answer,[18] Atty. Pangan asserted that he did not commit any violation as he performed his duties within the bounds of law.[19] He claimed that he wanted to elevate the case to the Court of Appeals in order to correct the errors of the trial court, but Tan terminated his services. Despite this, he is willing to return the agreed-upon amount of PHP 2,050,000.00 at any time, but requested that he be paid for the work and time he spent on the case on a quantum meruit basis.[20]

Further, Atty. Pangan denied that he received the demand letter, as it was delivered to his old address.[21]

In his Reply,[22] Tan stated Atty. Pangan already billed him a total of PHP 35,000.00 for his legal services, which Tan already paid. As such, Atty. Pangan's claim that he was not paid for his legal services was false.[23]

On March 14, 2019, the Integrated Bar of the Philippines issued a Report and Recommendation[24] stating that Atty. Pangan violated the Code of Professional Responsibility when he issued a bouncing check. It was recommended that Atty. Pangan be suspended from the practice of law for two years.[25]

The Integrated Bar of the Philippines Board of Governors passed the June 17, 2019 Resolution[26] adopting the Report and Recommendation with the modification that Atty. Pangan would be suspended from the practice of law for one year.

On December 7, 2020, this Court noted the Letter dated March 12, 2020 of the Integrated Bar of the Philippines transmitting to the Court the documents pertaining to the case, as well as the Notice of Resolution dated June 17, 2019 of the Integrated Bar of the Philippines Board of Governors.[27]

On December 6, 2021, this Court issued a Resolution stating that while its December 7, 2020 Resolution was returned unserved based on the postal carrier's "RTS-Moved out" notation on the envelope, such resolution was deemed as served to Atty. Pangan.[28]

The issues for this Court's resolution are:

First, whether respondent violated the Code of Professional Responsibility; and

Second, whether respondent should be administratively disciplined and ordered to pay complainant the amount of PHP 2,050,000.00.

As officers of the court, lawyers are required to observe "rigid standards of mental fitness, [maintain] the highest degree of morality[,] and [faithfully comply] with the rules of the legal profession[.]"[29] Thus, only individuals who are "competent intellectually, academically[,] and, equally important, morally[,] "[30] are given the privilege to practice in the legal profession.[31] This Court, in the exercise of its sound judicial discretion, will not hesitate to discipline a lawyer who falls short of these standards.[32]

This Court has consistently ruled that a lawyer who issues worthless checks is guilty of gross misconduct and violates Canon 1[33] and Rule 1.01[34] of the Code of Professional Responsibility[35] as it constitutes "willful dishonesty and immoral conduct as to undermine the public confidence in law and lawyers." [36] The deleterious effects of a lawyer's issuance of a bouncing check on the legal profession were explained by the Court in this manner:

We have held that the issuance of checks which were later dishonored for having been drawn against a closed account indicates a [lawyers'] unfitness for the trust and confidence on [them]. It shows a lack of personal honesty and good moral character as to render [them] unworthy of public confidence. The issuance of a series

of worthless checks also shows the remorseless attitude of respondent, unmindful to the deleterious effects or such act to the public interest and public order. It also manifests a [lawyers'] low regard to [their] commitment to the oath [they have] taken, seriously and irreparably tarnishing the image of the profession [they] should hold in high esteem.[37] (Citations omitted)

In this case, respondent did not "deny having received the amount stated in the Complaint as well as the agreement signed by the parties"[38] and even asserted that he was not "reneging on his commitment to return the money paid." [39] There is likewise no denial regarding his issuance of a bouncing check, which was attached to the Complaint.[40]

This Court finds that respondent's acts of reneging on a promise to return money despite repeated demands, his issuance of a bouncing check, and the substantial sum of money involved amount to gross misconduct.[41]

Having established respondent's administrative liability, the Court now determines the proper penalty to be imposed upon him. On this note, the Court takes judicial notice of the fact that respondent has been disciplined thrice within the last four years.

In *Collado v. Atty. Pangan*, [42] respondent failed to inform his clients of the unfavorable ruling in two cases and failed to appeal.[43] As such, this Court suspended respondent from the practice of law for six months, with a warning that "a repetition of any of the infractions attributed to him in [the] case, or any similar act, will be dealt with more severely." [44]

Respondent was likewise penalized twice in the consolidated case of *Tan-Te Seng v. Atty. Pangan*. [45] In A.C. No. 12829, respondent was suspended from the practice of law for one year as he violated the prohibition on representing conflicting interests. The complainant therein consulted with respondent regarding her son's estate proceedings and asked him to draft an extrajudicial settlement. Instead, respondent abandoned the complainant's cause, drafted an extrajudicial settlement where he disregarded the law on succession and excluded complainant as among the heirs, and even openly represented the opposing party in the Annulment/Rescission of Extrajudicial Settlement of Estate and Issuance of Letters of Administration case filed by complainant. To aggravate matters, respondent filed a criminal case against complainant using a document that the latter had entrusted to him in confidence. Likewise, in A.C. No. 12830, respondent was admonished and sternly warned for describing complainant as a "devil," "with a devil smile," and "atat na atat" in his Counter-Affidavit.[46]

While the Court is mindful of exercising its power to disbar only for the most imperative of reasons,[47] respondent's proven propensity for violating his oath as a lawyer and the provisions of the Code of Professional Responsibility merit the ultimate penalty of disbarment. The Court will "not hesitate to impose the penalty of disbarment when the guilty party has become a repeat offender." [48] "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." [49]

Respondent's absolute disregard of his oath as a lawyer is evident in the manner he practices and renders his legal services. Despite the repeated warnings and sanctions imposed on him for his past transgressions, respondent continues to embarrass and dishonor the legal profession.[50] As such, we hold that respondent forfeited his privilege to be a part of this sacred and noble profession and must be meted with the ultimate penalty of disbarment.

Finally, respondent is ordered to pay the amount of PHP 2,050,000.00 received by him in his professional capacity and that he admits is owed to private complainant.

While disciplinary proceedings are investigations by the Court to determine a lawyer's fitness to remain in the

profession,[51] this Court has definitively ruled that "when the matter subject of the inquiry pertains to the mental and moral fitness of the respondent to remain as member of the legal fraternity, the issue of whether the respondent be directed to return the amount received from his client shall be deemed within the Court's disciplinary authority." [52] This includes amounts intrinsically linked to the lawyer's professional engagement.[53]

It is undisputed that the PHP 2,050,000.00 respondent received is intrinsically linked to his professional engagement as complainant's lawyer. This is clear from the wording of the Agreement dated June 20, 2013:

For our work and legal representations, we will only charge you the amount of [PHP] 2,150,000.00 for the whole task which has to be paid as follows:

[PHP] 2,050,000.00

—

Upon the signing of this Agreement

[PHP] 100,000.00

—

Upon the delivery of the favorable decision of the Regional Trial Court which is before Christmas 2013[54]
(Emphasis supplied)

Thus, as respondent received PHP 2,050,000.00 as part of his legal fees, it is but just that he be ordered to return the amount to complainant, with legal interest.[55]

On this note, the Court holds that the private complainant's institution of a criminal case of estafa against respondent does not prevent this Court from ordering the return of the money subject thereof. This is apparent in the cases of *Angeles v. Atty. Lina-ac*, [56] *Sison, Jr. v. Atty. Camacho*, [57] and *Bayonla v. Atty. Reyes* [58] where the respondent lawyers were ordered by the Court to return the amounts they received in their personal capacity, despite the pendency of the criminal cases.

ACCORDINGLY, respondent Atty. Dennis C. Pangan is found GUILTY of grave misconduct and violation of the Lawyer's Oath and the Code of Professional Responsibility and the Lawyer's Oath. Respondent is ordered DISBARRED from the practice of law. His name is ordered STRICKEN from the Roll of Attorneys.

Furthermore, Atty. Pangan is DIRECTED to RETURN to complainant Tomas G. Tan the amount of PHP 2,050,000.00, which shall earn interest of 6% per annum from finality of this Decision until its full payment. He is further DIRECTED to submit to this Court proof of payment within 10 days from said payment.

Let a copy of this Decision be furnished to the Office of the Bar Confidant, to be entered into Atty. Pangan's records. Copies shall likewise be furnished to the Integrated Bar of the Philippines and the Office of the Court Administrator for circulation to all courts concerned.

SO ORDERED.

Gesmundo, C.J., Caguioa, Hernando, Lazaro-Javier, Inting, Zalameda, M. Lopez, Gaerlan, Rosario, J. Lopez, Dimaampao, Marquez, Kho, Jr., and Singh, JJ., concur.

[1] Canon 1 - A lawyer shall uphold the constitution, obey the laws of the land and promote respect for law of and

legal processes.

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

[3] *Lehnert v. Atty. Diño*, 839 Phil. 305, 308 (2018) [Per J. Leonen, En Banc].

[4] *Genato v. Atty. Mallari*, 865 Phil. 247, 260 [Per Curiam, En Banc].

[5] *Philippine Island Kids International Foundation, Inc. v. Atty. Pallugna*, A.C. No. 11653, November 23, 2021 [Per Curiam, En Banc].

[6] *Rollo*, pp. 2-5.

[7] *Id.* at 2, 124.

[8] *Id.* at 6-7.

[9] *Id.* at 2-3, 124.

[10] *Id.* at 8-13.

[11] *Id.* at 14.

[12] *Id.* at 3, 124.

[13] *Id.*

[14] *Id.* at 4.

[15] *Id.* at 2-5.

[16] *Id.* at 4.

[17] *Id.* at 3-4.

[18] *Id.* at 41-43.

[19] *Id.* at 42.

[20] *Id.* at 41.

[21] *Id.* at 42.

[22] *Id.* at 47-48.

[23] *Id.*

[24] *Id.* at 123-125. The Integrated Bar of the Philippines' Report and Recommendation in CBD Case No. 16-5127 was penned by Commissioner Rebecca Villanueva-Maala of the Commission on Bar Discipline, Pasig City.

[25] *Id.* at 124-125.

[26] *Id.* at 122. The June 17, 2019 Resolution in CDB Case No. 16-5127 was issued by the National Secretary Patricia-Ann T. Prodigalidad of the Board of Governors, Integrated Bar of the Philippines, Pasig City.

[27] *Id.* at 127.

[28] *Id.* at 133.

[29] Angeles v. Atty. Lina-ac, 845 Phil. 464, 475 (2019) [Per J. Leonen, En Banc]; Bernardo v. Atty. Mejia, 558 Phil. 398, 402 (2007) [Per J. Nachura, En Banc].

[30] Dizon v. Atty. De Taza, 736 Phil. 60, 70 (2014) [Per J. Reyes, En Banc], citing Resurreccion v. Atty. Sayson, 360 Phil. 313, 322 (1998) [Per Curiam, En Banc].

[31] Id.

[32] Del Mundo v. Atty. Capistrano, 685 Phil. 687, 693 (2012) [Per J. Perlas-Bernabe, Third Division].

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

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

[35] Lehnert v. Atty. Diño, 839 Phil. 305, 308 (2018) [Per J. Leonen, En Banc].

[36] Bernasconi v. Atty. Demaisip, 894 Phil. 91, 97 (2021) [Per J. Gaerlan, En Banc], citing Barrios v. Atty. Martinez, 485 Phil. 1, 11 (2004) [Per Curiam, En Banc].

[37] Wilkie v. Limos, 591 Phil. 1, 8 (2008) [Per J. Leonardo-De Castro, First Division].

[38] Rollo, p. 116.

[39] Id. at 117.

[40] Id. at 14.

[41] Bernasconi v. Atty. Demaisip, 894 Phil. 91, 98 (2021) [Per J. Gaerlan, En Banc].

[42] A.C. No. 12145, March 13, 2019 [Notice, First Division].

[43] Id.

[44] Id.

[45] A.C. No. 12829 & 12830, 885 Phil. 42 (2020) [Per J. Lazaro-Javier, First Division].

[46] Id.

[47] Genato v. Atty. Mallari, 865 Phil. 247, 260 [Per Curiam, En Banc].

[48] Philippine Island Kids International Foundation, Inc. v. Atty. Pallugna, A.C. No. 11653, November 23, 2021 [Per Curiam, En Banc].

[49] Vda. Francisco v. Atty. Real, 880 Phil. 545, 558-559 (2020) [Per Curiam, En Banc].

[50] Id. at 558.

[51] Dizon v. Atty. De Taza, 736 Phil. 60, 67 (2014) [Per J. Reyes, En Banc].

[52] Balingit v. Atty. Cervantes, 799 Phil. 1, 11-12 (2016) [Per J. Jardeleza, Third Division].

[53] Sison, Jr. v. Atty. Camacho, 777 Phil. 1, 15 (2016) [Per Curiam, En Banc].

[54] Rollo, p. 6.

[55] Spouses Lopez v. Atty. Limos, 780 Phil. 113, 124 (2016) [Per J. Perlas-Bernabe, En Banc].

[56] 845 Phil. 464, 475 (2019) [Per J. Leonen, En Banc].

[57] 777 Phil. 1, 11-12, 15 (2016) [Per Curiam, En Banc].

[58] 676 Phil. 500, 515-517 (2011) [Per J. Bersamin, En Banc].

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