EMILIO GRANDE, COMPLAINANT, VS. ATTY. EVANGELINE DE SILVA, RESPONDENT.

A.C. No. 4838. July 29, 2003

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

Complainant Emilio Grande was the private offended party in Criminal Cases Nos. 96-1346 to 96-1353, filed with the Regional Trial Court of Marikina City, Branch 273, for Estafa and Violation of Batas Pambansa Bilang 22, entitled "People of the Philippines, Plaintiff versus Sergio Natividad, Accused." During the proceedings, respondent Atty. Evangeline de Silva, counsel for the accused, tendered to complainant Check No. 0023638 in the amount of P144,768.00, drawn against her account with the Philippine National Bank, as settlement of the civil aspect of the case against her client. Complainant refused to accept the check, but respondent assured him that the same will be paid upon its presentment to her drawee bank. She manifested that as a lawyer, she would not issue a check which is not sufficiently funded. Thus, respondent was prevailed upon by complainant to accept the check. Consequently, he desisted from participating as a complaining witness in the criminal case, which led to the dismissal of the same and the release of the accused, Sergio Natividad.

When complainant deposited the check, the same was returned unpaid by the drawee bank for the reason: "Account Closed." On June 19, 1997, complainant wrote a letter to respondent demanding that she pay the face value of the check.[1] However, his demand was ignored by respondent; hence, he instituted a criminal complaint against her for Estafa and Violation of Batas Pambansa Bilang 22 with the Office of the City Prosecutor of Marikina, which was docketed as I.S. No. 97-1036. On September 22, 1997, the Marikina City Prosecutor filed the necessary information for violation of Batas Pambansa Bilang 22 against respondent Atty. Evangeline de Silva.[2]

On November 10, 1997, complainant filed the instant administrative complaint for disbarment of respondent for deceit and violation of the Lawyer's Oath.[3]

In a Resolution dated February 2, 1998 sent to respondent's given address at Carmelo Compound, Newton Avenue, Mayamot, Antipolo City, she was required to comment on the complaint within ten (10) days from notice.[4] However, it was returned unserved with the notation "Moved".[5] The Assistant National Secretary of the IBP submitted the latest address of respondent as 274 M.H. Del Pilar Street, Pasig City.[6]

On June 20, 2001, another resolution requiring respondent to comment on the administrative complaint filed against her was served at the aforesaid address. This was again returned unserved with the notation: "Refused". Thus, the case was referred to the IBP Commission on Bar Discipline (IBP-CBD) for investigation, report and recommendation.[7]

In a Report dated December 6, 2001, Investigating Commissioner Florimond C. Rous found respondent guilty of deceit, gross misconduct and violation of the Lawyer's Oath. Thus, he recommended that respondent be suspended from the practice of law for two (2) years.

On October 19, 2002, the IBP Board of Governors passed Resolution No. XV-2002-554 which adopted the recommendation of the Investigating Commissioner that respondent be suspended from the practice of law for two (2) years.

We fully agree with the findings and recommendation of the IBP Board of Governors.

The record shows that respondent prevailed upon complainant to accept her personal check by way of settlement for the civil liability of her client, Sergio Natividad, with the assurance that the check will have sufficient funds when presented for payment. In doing so, she deceived complainant into withdrawing his complaint against her client in exchange for a check which she drew against a closed account.

It is clear that the breach of trust committed by respondent in issuing a bouncing check amounted to deceit and constituted a violation of her oath, for which she should be accordingly penalized.[8] Such an act constitutes gross misconduct and the penalties for such malfeasance is prescribed by Rule 138, Section 27of the Rules of Court, to wit:

> SEC. 27. Disbarment and suspension of attorneys by Supreme Court, grounds therefore. - A member of the bar may be disbarred or suspended from his office as attorney by the Supreme Court for any deceit, malpractice or other gross misconduct in such office, grossly immoral conduct or by reason of his conviction of a crime involving moral turpitude, or for any violation of the oath which he is required to take before the admission to practice, or for a willful disobedience appearing as attorney for a party without authority to do so.

The nature of the office of an attorney requires that a lawyer shall be a person of good moral character. Since this qualification is a condition precedent to a license to enter upon the practice of law, the maintenance thereof is equally essential during the continuance of the practice and the exercise of the privilege. Gross misconduct which puts the lawyer's moral character in serious doubt may render her unfit to continue in the practice of law.[9]

The loss of moral character of a lawyer for any reason whatsoever shall warrant her suspension or disbarment,[10] because it is important that members of the legal brotherhood must conform to the highest standards of morality.[11] Any wrongdoing which indicates moral unfitness for the profession, whether it be professional or non-professional, justifies disciplinary action. Thus, a lawyer may be disciplined for evading payment of a debt validly incurred. Such conduct is unbecoming and does not speak well of a member of the bar, for a lawyer's professional and personal conduct must at all times be kept beyond reproach and above suspicion.[12]

Moreover, the attitude of respondent in deliberately refusing to accept the notices served on her betrays a deplorably willful character or disposition which stains the nobility of the legal profession.[13] Her conduct not only underscores her utter lack of respect for authority; it also brings to the fore a darker and more sinister character flaw in her psyche which renders highly questionable her moral fitness to continue in the practice of law: a defiance for law and order which is at the very core of her profession.

Such defiance is anathema to those who seek a career in the administration of justice because obedience to the dictates of the law and justice is demanded of every lawyer. How else would respondent even endeavor to serve justice and uphold the law when she disdains to follow even simple directives? Indeed, the first and foremost command of the Code of Professional Responsibility could not be any clearer:

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

Needless to state, respondent's persistent refusal to comply with lawful orders directed at her with not even an explanation for doing so is contumacious conduct which merits no compassion. The duty of a lawyer is to uphold

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the integrity and dignity of the legal profession at all times. She can only do this by faithfully performing her duties to society, to the bar, to the courts and to her clients.[14] We can not tolerate any misconduct that tends to besmirch the fair name of an honorable profession.

WHEREFORE, in view of the foregoing, respondent ATTY. EVANGELINE DE SILVA is SUSPENDED from the practice of law for a period of Two (2) Years, effective upon receipt hereof. Let copies of this Decision be entered in her record as attorney and be furnished the Integrated Bar of the Philippines and all courts in the country for their information and guidance.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Puno, Vitug, Panganiban, Quisumbing, Carpio, Austria-Martinez, Corona, Carpio-Morales, Callejo, Sr., Azcuna, and Tinga, JJ., concur.
Sandoval-Gutierrez, J., on official leave.

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[1] Rollo, p. 4.

[2] Id., pp. 5-6.

[3] Id., pp. 1-3.

[4] Id., p. 7.

[5] Id., p. 16.

[6] Id., p. 21.

[7] Id., p. 27.

[8] Cesar A. Espiritu v. Atty. Juan Cabredo IV, A.M. No. 5831, 13 January 2003.

[9] Balinon v. De Leon, 94 Phil. 277 [1954].

[10] Royong v. Oblena, 117 Phil. 865 [1963]; In re De los Angeles, 106 Phil. 1 [1959]; Mortel v. Aspiras, 100 Phil. 586 [1956].

[11] Pangan v. Ramos, 194 Phil. 1 [1981].

[12] Constantino v. Saludares, A.M. No. 2029, 7 December 1993, 228 SCRA 233.

[13] Sencio v. Calvadores, A.M. No. 5841, 20 January 2003.

[14] Reyes v. Javier, A.C. No. 5574, 2 February 2002.

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