

**PHILIPPINE AMUSEMENT AND GAMING CORPORATION,
REPRESENTED BY ATTY. CARLOS R. BAUTISTA, JR., COMPLAINANT,
VS. ATTY. DANTE A. CARANDANG, RESPONDENT.**

A.C. NO. 5700. January 30, 2006

Ponente: SANDOVAL-GUTIERREZ, J.

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SANDOVAL-GUTIERREZ, J.:

Before us is a verified complaint for disbarment filed by the Philippine Amusement and Gaming Corporation (PAGCOR) against Atty. Dante A. Carandang.

The complaint alleges that Atty. Carandang, respondent, is the president of Bingo Royale, Incorporated (Bingo Royale), a private corporation organized under the laws of the Philippines.

On February 2, 1999, PAGCOR and Bingo Royale executed a "Grant of Authority to Operate Bingo Games." Article V of this document mandates Bingo Royale to remit 20% of its gross sales to PAGCOR. This 20% is divided into 15% to PAGCOR and 5% franchise tax to the Bureau of Internal Revenue.

In the course of its operations, Bingo Royale incurred arrears amounting to P6,064,833.14 as of November 15, 2001. Instead of demanding the payment therefor, PAGCOR allowed Bingo Royale and respondent Atty. Carandang to pay the said amount in monthly installment of P300,000.00 from July 2001 to June 2003.

Bingo Royale then issued to PAGCOR twenty four (24) Bank of Commerce checks in the sum of P7,200,000.00 signed by respondent.

However, when the checks were deposited after the end of each month at the Land Bank, U.N. Avenue Branch, Manila, they were all dishonored by reason of Bingo Royale's "Closed Account."

Despite PAGCOR's demand letters dated November 12 and December 12, 2001, and February 12, 2002, respondent failed to pay the amounts of the checks. Thus, PAGCOR filed with the Office of the City Prosecutor of Manila criminal complaints for violations of Batas Pambansa (B.P.) Blg. 22 against respondent.

PAGCOR contends that in issuing those bouncing checks, respondent is liable for serious misconduct, violation of the Attorney's Oath and violation of the Code of Professional Responsibility; and prays that his name be stricken from the Roll of Attorneys.

In his "Opposition" to the complaint, respondent averred that he is not liable for issuing bouncing checks because they were drawn by Bingo Royale. His act of doing so "is not related to the office of a lawyer."

Respondent explained that since the start of its operations, Bingo Royale has been experiencing financial difficulties due to meager sales. Hence, it incurred arrearages in paying PAGCOR's shares and failed to pay the amounts of the checks.

On November 20, 2001, PAGCOR closed the operations of Bingo Royale. This prompted the latter to file with the

Regional Trial Court, Branch 59, Makati City, a complaint for damages against PAGCOR, docketed as Civil Case No. 01-1671.

Subsequently, Bingo Royale became bankrupt. Respondent now maintains that the dishonor of the checks was caused by circumstances beyond his control and pleads that our power to disbar him must be exercised with great caution.

On February 24, 2003, we resolved to refer this case to the Integrated Bar of the Philippines (IBP) for investigation, report and recommendation. [1]

In his Report and Recommendation, Atty. Doroteo B. Aguila, the Investigating IBP Commissioner, made the following findings and observations:

Whether to issue or not checks in favor of a payee is a voluntary act. It is clearly a choice for an individual (especially one learned in the law), whether in a personal capacity or officer of a corporation, to do so after assessing and weighing the consequences and risks for doing so. As President of BRI, he cannot be said to be unaware of the probability that BRI, the company he runs, could not raise funds, totally or partially, to cover the checks as they fell due. The desire to continue the operations of his company does not excuse respondent's act of violating the law by issuing worthless checks. Moreover, inability to pay is not a ground, under the Civil Code, to suspend nor extinguish an obligation. Specifically, respondent contends that because of business reverses or inability to generate funds, BRI should be excused from making good the payment of the checks. If this theory is sustained, debtors will merely state that they no longer have the capacity to pay and, consequently, not obliged to pay on time, nor fully or partially, their debt to creditors. Surely, undersigned cannot agree with this contention.

As correctly pointed out by complainant, violation of B.P. Blg. 22 is an offense that involves public interest. In the leading case of *People v. Tañada*, the Honorable Supreme Court explained the nature of the offense, thus –

x x x

The gravamen of the offense punished by B.P. Blg. 22 is the act of making and issuing a worthless check or a check that is dishonored upon its presentation for payment xxx. The thrust of the law is to prohibit under pain of penal sanctions the making of worthless checks and putting them in circulation. Because of its deleterious effects on the public interest, the practice is proscribed by law. The law punishes the act not as an offense against property but an offense against public order.

x x x

The effects of the issuance of a worthless check transcends the private interests of the parties directly involved in the transaction and touches the interest 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 thousand fold, 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 (Emphasis supplied)

The Code of Professional Responsibility requires a lawyer to obey the laws of the land and promote respect for law and the legal processes. It also prohibits a lawyer from engaging in unlawful conduct (Canon 1 & Rule 1.01). By issuing the bouncing checks in blatant violation of B.P. Blg. 22, respondent clearly was irresponsible and displayed lack of concern for the rights of others nor for the canons of professional responsibility (*Castillo v. Taguines*, 254 SCRA 554). Atty. Carandang deserves to be suspended from the practice of law for a period of one year. Consistent with the ruling in this *Castillo* case, suspension for one year is the deserved minimum penalty for the outrageous conduct of a lawyer who has no concern for the property rights of others nor for the canons of professional responsibility. Moreover, conviction for the offense of violation of B.P. Blg. 22 is not even essential

for disbarment (*De Jesus v. Collado*, 216 SCRA 619).

Commissioner Aguila then recommended that respondent be suspended from the practice of law for one (1) year.

On September 27, 2003, the IBP Board of Governors passed Resolution No. XVI-2003-177 adopting and approving Commissioner Aguila's Report and Recommendation with modification in the sense that the recommended penalty is reduced to suspension of six (6) months, thus:

RESOLVED TO ADOPT and APPROVE, as it is hereby ADOPTED and APPROVED, the Report and Recommendation of the Investigating Commissioner of the above-entitled case, herein made part of the Resolution/Decision as Annex "A" and, finding the recommendation fully supported by the evidence on record and the applicable laws and rules, with modification, and considering that the Code of Professional Responsibility requires a lawyer to obey the laws of the land and promote respect of law and the legal processes, and also prohibits a lawyer from engaging in unlawful conduct, Atty. Dante A. Carandang is hereby SUSPENDED from the practice of law for six (6) months. [2]

Section 1, B. P. Blg. 22 provides:

Where the check is drawn by a corporation, company or entity, the person or persons who actually signed the check on behalf of such drawer shall be liable under this Act. (Emphasis supplied)

Clearly, even if the check was drawn by Bingo Royale, still respondent is liable.

In *People v. Tuanda*, [3] we explained the nature of violation of B.P. Blg. 22 as follows:

The gravamen of the offense punished by B.P. Blg. 22 is the act of making and issuing a worthless check or a check that is dishonored upon its presentation for payment xxx. The thrust of the law is to prohibit under pain of penal sanctions, the making of worthless checks and putting them in circulation. Because of its deleterious effects on the public interest, the practice is proscribed by the law. The law punishes the act not as an offense against property but an offense against public order.

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 thousand fold, 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.

As a lawyer, respondent is deemed to know the law, especially B. P. Blg. 22. By issuing checks in violation of the provisions of this law, respondent is guilty of serious misconduct. In *Camus v. Civil Service Board of Appeals*, [4] we defined misconduct as follows:

Misconduct has been defined as "wrong or improper conduct;" and "gross" has been held to mean "flagrant; shameful" (Webster). This Court once held that the word misconduct implies a wrongful intention and not a mere error of judgment.

In *Lizaso v. Amante*, [5] we held that a lawyer may be disciplined not only for malpractice in connection with his profession, but also for gross misconduct outside of his professional capacity, thus:

The nature of the office, the trust relation which exists between attorney and client, as well as between court and attorney, and the statutory rule prescribing the qualifications of attorney, uniformly require that an attorney shall be a person of good moral character. xxx So it is held that an attorney will be removed not only for malpractice and dishonesty in his profession, but also for gross misconduct not connected with his professional duties, which shows him to be unfit for the office and unworthy of the principles which his license and the law confer upon him. (Underscoring supplied)

Respondent likewise violated the Attorney's Oath that he will, among others, obey the laws; and the Code of Professional Responsibility, specifically the following provisions:

Cannon 1 – A lawyer shall uphold the Constitution, obey the laws of the land and promote respect for the law and legal processes.

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

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.

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.

WHEREFORE, Atty. Dante A. Carandang is declared GUILTY of serious misconduct and violations of the Attorney's Oath and the Code of Professional Responsibility. As recommended by the IBP Board of Governors, he is SUSPENDED from the practice of law for six (6) months effective from notice.

Let a copy of this Decision be furnished the Office of the Bar Confidant, the Integrated Bar of the Philippines, and all courts in the land for their information and guidance. The Office of the Bar Confidant is DIRECTED to spread a copy of this Decision on the personal record of Atty. Carandang.

SO ORDERED.

Puno, (Chairperson), Corona, Azcuna, and Garcia, JJ., concur.

[1] Rollo, p. 169.

[2] IBP Records, p. 74.

[3] A.C. No. 3360, January 30, 1990, 181 SCRA 692, 696, citing *Lozano v. Martinez*, 146 SCRA 323 (1986).

[4] G.R. No. 13685, May 31, 1961, 2 SCRA 370, 375.

[5] A.C. No. 2019, June 3, 1991, 198 SCRA 1, 10, citing *In Re Vincent Pelaez*, 44 Phil. 567 (1923).

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