

SELWYN F. LAO, COMPLAINANT, VS. ATTY. ROBERT W. MEDEL, RESPONDENT.

A.C. No. 5916 (Formerly CBD 01-825). July 01, 2003

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

The deliberate failure to pay just debts and the issuance of worthless checks constitute gross misconduct, for which a lawyer may be sanctioned with one-year suspension from the practice of law.

The Case and the Facts

This administrative case stems from a Complaint-Affidavit^[1] filed with the Integrated Bar of the Philippines-Commission on Bar Discipline (IBP-CBD) by Selwyn F. Lao. Atty. Robert W. Medel was charged therein with dishonesty, grave misconduct and conduct unbecoming an attorney.

The material averments of the Complaint are summarized by the IBP-CBD in this wise:

"The Complaint arose from the [respondent's] persistent refusal to make good on four (4) RCBC checks totaling [t]wenty [t]wo [t]housand (P22,000.00) [p]esos. These dishonored checks were issued by defendant in replacement for previous checks issued to the complainant. Based on the exchange of letters between the parties, it appears that [respondent], in a letter dated June 19, 2001, had committed to `forthwith effect immediate settlement of my outstanding obligation of P22,000.00 with Engr. Lao, at the earliest possible time, preferably, on or before the end of June 2000.' Again, in a letter dated July 3, 2000, the [respondent] made a `request for a final extension of only ten (10) days from June 30, 2000 (or not later than July 10, 2000), within which to effect payment of P22,000.00 to Engr. Lao.' Needless to say, the initiation of this present complaint proves that contrary to his written promises, Atty. Medel never made good on his dishonored checks. Neither has he paid his indebtedness."^[2]

In his Answer^[3] dated July 30, 2001, Atty. Medel reasons that because all of his proposals to settle his obligation were rejected, he was unable to comply with his promise to pay complainant. Respondent maintains that the Complaint did not constitute a valid ground for disciplinary action because of the following:

"(a). Under Sec. 27, Rule 138 of the Rules, 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 admission to practice, or for a wil[l]ful disobedience of any lawful order of a superior court, or for corruptly or wil[l]fully appearing as an attorney for a party to case without authority so to do. The practice of soliciting cases at law for the purpose of gain, either personally or through paid agents or brokers, constitutes malpractice;

"(a.1). Applying the afore-cited legal provision to the facts obtaining in the present case, it is clear that the offense with which the respondent is being charged by the complainant, is merely a violation of Batas Pambansa Bilang 22 (B.P. 22, for brevity), which is a special law, and is not punishable under the Revised Penal Code (RPC, for brevity). It is self-evident therefore, that the offense is not in the same category as a

violation of Article 315, paragraph 2, (d), RPC, which is issuing a post-dated check or a check in payment of an obligation, with insufficient funds in the drawee bank, through false pretenses or fraudulent acts, executed prior to or simultaneously with the commission of the fraud, which is a crime involving moral turpitude;

"(b). If the respondent is to be disciplined by the Supreme Court, under Sec. 27, Rule 138 of the Rules, for the issuance of a worthless check, in violation of B.P. 22, for payment of a pre-existing obligation to the complainant, then, verily, the said Rule 138, Sec. 27, would be a cruel and an unjust law, which the Honorable Supreme Court would not countenance;

"(c). A careful examination of the specific grounds enumerated, for disbarment or suspension of a member of the Bar, under Sec. 27 of Rule 138 of the Rules, clearly shows beyond a shadow of doubt that the alleged issuance of a worthless check, in violation of B.P. 22, is NOT one of the grounds for disciplinary action against a member of the Bar, to warrant his disbarment or suspension from his office as attorney, by the Supreme Court; and

"(d). The issuance of a worthless check by a member of the Bar, in violation of B.P. 22, does NOT constitute dishonest, immoral or deceitful conduct, under Canon 1 and Rule 1.01 of the Code of Professional Responsibility. This is because, the door to the law profession swings on reluctant hinges. Stated otherwise, unless there is a clear, palpable and unmitigated immoral or deceitful conduct, of a member of the Bar, in violation of his oath as an attorney, by the mere issuance of a worthless check, in violation of B.P. 22, the Supreme Court is inclined to give the said attorney, the benefit of the doubt."[4]

On August 22, 2001, complainant submitted his Reply.[5] Thereafter, IBP-CBD Commissioner Renato G. Cunanan, to whom the case was assigned by the IBP for investigation and report, scheduled the case for hearing on October 4, 2001. After several cancellations, the parties finally met on May 29, 2002. In that hearing, respondent acknowledged his obligation and committed himself to pay a total of P42,000 (P22,000 for his principal debt and P20,000 for attorney's fees). Complainant agreed to give him until July 4, 2002 to settle the principal debt and to discuss the plan of payment for attorney's fees in the next hearing.

On July 4, 2002, both parties appeared before the IBP-CBD for their scheduled hearing. But, while waiting for the case to be called, respondent suddenly insisted on leaving, supposedly to attend to a family emergency. Complainant's counsel objected and Commissioner Cunanan, who was still conducting a hearing in another case, ordered him to wait. He, however, retorted in a loud voice, "It's up to you, this is only disbarment, my family is more important." [6] And, despite the objection and the warning, he arrogantly left. He made no effort to comply with his undertaking to settle his indebtedness before leaving.

Report and Recommendation of the IBP

In his September 19, 2002 Report,[7] Commissioner Cunanan found respondent guilty of violating the attorney's oath and the Code of Professional Responsibility. The former explained that, contrary to the latter's claim, violation of BP 22 was a crime that involved moral turpitude. Further, he observed that "[w]hile no criminal case may have been instituted against [respondent], it is beyond cavil that indeed, [the latter] committed not one (1) but four counts of violation of BP 22." [8] The "refusal [by respondent] to pay his indebtedness, his broken promises, his arrogant attitude towards complainant's counsel and the [commission sufficiently] warrant the imposition of sanctions against him." [9] Thus, the investigating commissioner recommended that respondent be suspended from the practice of law.

In Resolution No. XV-2002-598,[10] the Board of Governors of the IBP adopted the Report and Recommendation of Commissioner Cunanan and resolved to suspend respondent from the practice of law for two years. The Resolution, together with the records of the case, was transmitted to this Court for final action, pursuant to Rule 139-B Sec. 12(b).

The Court's Ruling

We agree with the findings and recommendation of the IBP Board of Governors, but reduce the period of suspension to one year.

Administrative Liability of Respondent

Lawyers are instruments for the administration of justice. As vanguards of our legal system, they are expected to maintain not only legal proficiency but also a high standard of morality, honesty, integrity and fair dealing.[11] In so doing, the people's faith and confidence in the judicial system is ensured.

In the present case, respondent has been brought to this Court for failure to pay his debts and for issuing worthless checks as payment for his loan from complainant. While acknowledging the fact that he issued several worthless checks, he contends that such act constitutes neither a violation of the Code of Professional Responsibility; nor dishonest, immoral or deceitful conduct.

The defense proffered by respondent is untenable. It is evident from the records that he made several promises to pay his debt promptly. However, he reneged on his obligation despite sufficient time afforded him. Worse, he refused to recognize any wrongdoing and transferred the blame to complainant, on the contorted reasoning that the latter had refused to accept the former's plan of payment. It must be pointed out that complainant had no obligation to accept it, considering respondent's previous failure to comply with earlier payment plans for the same debt.

Moreover, before the IBP-CBD, respondent had voluntarily committed himself to the payment of his debts, yet failed again to fulfill his promise. That he had no real intention to settle them is evident from his unremitting failed commitments. His cavalier attitude in incurring debts without any intention of paying for them puts his moral character in serious doubt.

Verily, lawyers must at all times faithfully perform their duties to society, to the bar, to the courts and to their clients. As part of those duties, they must promptly pay their financial obligations. Their conduct must always reflect the values and norms of the legal profession as embodied in the Code of Professional Responsibility. On these considerations, the Court may disbar or suspend lawyers for any professional or private misconduct showing them to be wanting in moral character, honesty, probity and good demeanor -- or to be unworthy to continue as officers of the Court.[12]

It is equally disturbing that respondent remorselessly issued a series of worthless checks, unmindful of the deleterious effects of such act to public interest and public order.[13]

Canon 1 of the Code of Professional Responsibility mandates all members of the bar to obey the laws of the land and promote respect for law. Rule 1.01 of the Code specifically provides that "[a] lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct." In *Co v. Bernardino*,[14] the Court considered the issuance of worthless checks as a violation of this Rule and an act constituting gross misconduct. It explained thus:

"The general rule is that a lawyer may not be suspended or disbarred, and the court may not ordinarily assume jurisdiction to discipline him for misconduct in his non-professional or private capacity (*In Re Pelaez*, 44 Phil. 5569 [1923]). Where, however, the misconduct outside of the lawyer's professional dealings is so gross a character as to show him morally unfit for the office and unworthy of the privilege which his licenses and the law confer on him, the court may be justified in suspending or removing him from the office of attorney (*In Re Sotto*, 38 Phil. 569 [1923]).

"The evidence on record clearly shows respondent's propensity to issue bad checks. This gross misconduct on his part, though not related to his professional duties as a member of the bar, puts his moral character in serious doubt. The Commission, however, does not find him a hopeless case in the light of the fact that he eventually

paid his obligation to the complainant, albeit very much delayed.

"While it is true that there was no attorney-client relationship between complainant and respondent as the transaction between them did not require the professional legal services of respondent, nevertheless respondent's abject conduct merits condemnation from this Court.

"As early as 1923, however, the Court laid down in *In Re Vicente Pelaez* [44 Phil.567 (1923)] the principle that it can exercise its power to discipline lawyers for causes which do not involve the relationship of an attorney and client x x x In disciplining the respondent, Mr. Justice Malcolm said: x x x As a general rule, a court will not assume jurisdiction to discipline one of its officers for misconduct alleged to have been committed in his private capacity. But this is a general rule with many exceptions x x x. The nature of the office, the trust relation which exists between attorney and client, as well as between court and attorney, and the statutory rules prescribing the qualifications of attorneys, uniformly require that an attorney shall be a person of good moral character. If that qualification is a condition precedent to a license or privilege to enter upon the practice of the law, it would seem to be equally essential during the continuance of the practice and the exercise of the privilege. 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 privileges which his license and the law confer upon him x x x.

"Ten years later, in *Piatt v. Abordo* where the erring lawyer was suspended for one year from the practice of law for attempting to engage in an opium deal, Justice Malcolm reiterated that an attorney may be removed not only for malpractice and dishonesty in his profession, but also for gross misconduct not related to his professional duties which show him to be an unfit and unworthy lawyer. The courts are not curators of the morals of the bar. At the same time the profession is not compelled to harbor all persons whatever their character, who are fortunate enough to keep out of prison. As good character is an essential qualification for admission of an attorney to practice, when the attorney's character is bad in such respects as to show that he is unsafe and unfit to be entrusted with the powers of an attorney, the courts retain the power to discipline him x x x Of all classes and professions, the lawyer is most sacredly bound to uphold the law x x x and to that doctrine we give our unqualified support."

We likewise take notice of the high-handed manner in which respondent dealt with Commissioner Cunanan during the July 4, 2002 hearing, when the former was expected to settle his obligation with complainant. We cannot countenance the discourtesy of respondent. He should be reminded that the IBP has disciplinary authority over him by virtue of his membership therein.[15]

Thus, it was imperative for him to respect the authority of the officer assigned to investigate his case. Assuming that he had a very important personal matter to attend to, he could have politely explained his predicament to the investigating commissioner and asked permission to leave immediately. Unfortunately, the former showed dismal behavior by raising his voice and leaving without the consent of complainant and the investigating commissioner.

We stress that membership in the legal profession is a privilege.[16] It demands a high degree of good moral character, not only as a condition precedent to admission, but also as a continuing requirement for the practice of law.[17] In this case, respondent fell short of the exacting standards expected of him as a guardian of law and justice.[18]

Accordingly, administrative sanction is warranted by his gross misconduct. The IBP Board of Governors recommended that he be suspended from the practice of law for two years. However, in line with *Co v. Bernardino*,[19] *Ducat Jr. v. Villalon Jr.*[20] and *Saburnido v. Madroño*[21] -- which also involved gross misconduct of lawyers -- we find the suspension of one year sufficient in this case.

WHEREFORE, Atty. Robert W. Medel is found guilty of gross misconduct and is hereby SUSPENDED for one

year from the practice of law, effective upon his receipt of this Decision. He is warned that a repetition of the same or a similar act will be dealt with more severely.

Let copies of this Decision be entered in the record of respondent and served on the IBP, as well as on the court administrator who shall circulate it to all courts for their information and guidance.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Puno, Vitug, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Corona, Carpio-Morales, Callejo, Sr., and Azcuna, JJ., concur.

Quisumbing, J., on leave.

Austria-Martinez, J., on official leave.

[1] Dated April 2, 2001; rollo, pp. 1-5.

[2] Report of the IBP-CBD, p. 1; rollo, p. 77.

[3] Rollo, pp. 37-43.

[4] Answer, pp. 3-5; id., pp. 39-41.

[5] Rollo, pp. 44-46.

[6] Report of the IBP Investigating Commissioner, p. 2; id., p. 78.

[7] Id., pp. 77-79. The case was deemed submitted for decision on February 1, 2003, for failure of respondent to file an appeal of the IBP-CBD Board of Governors' Resolution No. XV-2002-598.

[8] IBP-CBD's Report, p. 2; rollo, p. 78.

[9] Ibid.

[10] Resolution No. XV-2002-598; rollo, p. 76.

[11] *Maligsa v. Atty. Cabanting*, 338 Phil 912, May 14, 1997.

[12] Ibid; *Co v. Bernardino*, AC No. 3919, January 28, 1998; *Nakpil v. Valdes*, 286 SCRA 758, March 4, 1998; *Calub v. Suller*, 323 SCRA 556, January 28, 2000; *Cruz v. Jacinto*, 328 SCRA 636, March 22, 2000.

[13] *People v. Tuanda*, 181 SCRA 692, January 30, 1990; citing *Lozano v. Martinez*, 146 SCRA 324, 338 340, December 18, 1996.

[14] *Supra*, per Bellosillo, J.

[15] *Toledo v. Abalos*, 315 SCRA 419, September 29, 1999.

[16] *Dumadag v. Lumaya*, 334 SCRA 513, June 29, 2000; *Arrieta v. Llosa*, 346 Phil 932, November 28, 1997; *NBI v. Reyes*, 326 SCRA 109, February 21, 2000.

[17] *Nakpil v. Valdes*, *supra*; *Rayos-Ombac v. Rayos*, 285 SCRA 93, January 28, 1998; *Co v. Bernardino*, *supra*; *Igual v. Javier*, 324 Phil 698, March 7, 1996.

[18] *Radjaie v. Alovera*, 337 SCRA 244, August 4, 2000.

[19] *Supra*.

[20] 337 SCRA 622, August 14, 2000.

[21] 366 SCRA 1, September 26, 2001.

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