

PEOPLE OF THE PHILIPPINES, COMPLAINANT, VS. ATTY. FE T. TUANDA, RESPONDENT.

Adm. Case No. 3360. January 30, 1990

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PER CURIAM:

In a Motion to Lift Order of Suspension dated 12 July 1989, respondent Fe T. Tuanda, a member of the Philippine Bar, asks this Court to lift the suspension from the practice of law imposed upon her by a decision of the Court of Appeals dated 17 October 1988 in C.A. - G.R. CR No. 05093.

On 17 December 1983, respondent received from one Herminia A. Marquez several pieces of jewelry, with a total stated value of P36,000.00, for sale on a commission basis, with the condition that the respondent would turn over the sales proceeds and return the unsold items to Ms. Marquez on or before 14 February 1984. Sometime in February 1984, respondent, instead of returning the unsold pieces of jewelry which then amounted to approximately P26,250.00, issued three checks: (a) a check dated 16 February 1984 for the amount of P5,400.00; (b) a check dated 23 February 1984 also for the amount of P5,400.00; and (c) a check dated 25 February 1984 for the amount of P15,450.00. Upon presentment for payment within ninety (90) days after their issuance, all three (3) checks were dishonored by the drawee bank, Traders Royal Bank, for insufficiency of funds. Notwithstanding receipt of the notice of dishonor, respondent made no arrangements with the bank concerning the honoring of checks which had bounced and made no effort to settle her obligations to Ms. Marquez.

Consequently, four (4) informations were filed against respondent with the Regional Trial Court of Manila: (a) one for estafa, docketed as Criminal Case No. 85-38358; and (b) three (3) for violation of B.P. Blg. 22, docketed respectively as Criminal Cases Nos. 85-38359, 85-38360 and 85-38361. In due time, after trial, the trial court rendered a decision dated 25 August 1987 which:

- (a) acquitted respondent of the charge of estafa; and
- (b) convicted respondent of violation of B.P. Blg. 22 in all three (3) cases, and sentenced respondent to pay a fine of P6,000.00, with subsidiary imprisonment in case of insolvency and to indemnify the complainant in the amount of P5,400.00 in Criminal Case No. 85-38359;
- (c) to pay a fine of P6,000.00, with subsidiary imprisonment in case of insolvency and to indemnify the complainant in the amount of P5,400.00, in Criminal Case No. 85-38360; and
- (d) to pay a fine of P16,000.00, with subsidiary imprisonment in case of insolvency, and to indemnify the complainant in the amount of P15,450.00, in Criminal Case No. 85-38361, and to pay the costs in all three (3) cases.

On appeal, the Court of Appeals in C.A. - G.R. CR No. 05093 affirmed in toto the decision of the trial court but, in addition, suspended respondent Tuanda from the practice of law. The pertinent portion of the decision read as follows:

"For reasons above stated and finding the evidence sufficient to sustain the conviction, the judgment is hereby

AFFIRMED subject to this modification.

It appearing from the records that the accused Fe Tuanda is a member of the Bar, and the offense for (sic) which she is found guilty involved moral turpitude, she is hereby ordered suspended from the practice of law and shall not practice her profession until further action from the Supreme Court, in accordance with Sections 27 and 28 of Rule 138 of the Rules of Court. A copy of this decision must be forwarded to the Supreme Court as required by Section 29 of the same Rule.

SO ORDERED."[1]

On 16 December 1988, respondent filed a Notice of Appeal with the Court of Appeals. The Court of Appeals, in a Resolution dated 9 January 1989, noted respondent's Notice of Appeal and advised her "to address her Notice of Appeal to the Honorable Supreme Court, the proper forum." On 1 February 1989, respondent filed with this Court a Notice of Appeal.

In a Resolution dated 31 May 1989, the Supreme Court noted without action respondent's Notice of Appeal and declared that the Court of Appeals' decision of 17 October 1988 had become final and executory upon expiration of the period for filing a petition for review on certiorari on 16 December 1988. In that Resolution, the Court found that respondent had lost her right to appeal by certiorari when she posted with this Court a Notice of Appeal instead of filing a petition for review on certiorari under Section 1, Rule 45 of the Revised Rules of Court within the reglementary period.

In the instant Motion to Lift Order of Suspension, respondent states:

"that suspension from the practice of law is indeed a harsh if a not painful penalty aggravating the lower court's penalty of fine considering that accused-appellant's action on the case during the trial on the merits at the lower court has always been motivated purely by sincere belief that she is innocent of the offense charged nor of the intention to cause damage to the herein plaintiff-appellee."

We read the above statement as a claim by the respondent that she had not violated her oath as a member of the Philippine Bar upon the ground that when she issued the checks which bounced, she did not intend to cause damage to complainant Ms. Marquez.

The Court affirms the suspension from the practice of law imposed by the Court of Appeals upon respondent Tuanda. The Court of Appeals correctly ruled that "the offense [of] which she is found guilty involved moral turpitude." We should add that violation of B.P. Blg. 22 is a serious criminal offense which deleteriously affects public interest and public order. In *Lozano v. Martinez*,^[2] the Court explained the nature of the offense of violation of B.P. Blg. 22 in the following terms:

"x x x x x 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. x x x 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.

x x x x x 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 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.”[3]
(Underscoring supplied)

Respondent was thus correctly suspended from the practice of law because she had been convicted of crimes involving moral turpitude. Sections 27 and 28 of Rule 138 of the Revised Rules of Court provide as follows:

"Sec. 27. Attorneys removed or suspended by Supreme Court on what grounds. — A member of the bar may be removed or suspended from his office as attorney by the Supreme Court of 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 wilful disobedience of any lawful order of a superior court, or for corruptly or willfully appearing as an attorney for a party to a 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." (Underscoring supplied)

"Sec. 28. Suspension of attorney by the Court of Appeals or a Court of First Instance. — The Court of Appeals or a Court of First Instance may suspend an attorney from practice for any of the causes named in the last preceding section, and after such suspension such attorney shall not practice his profession until further action of the Supreme Court in the premises." (Underscoring supplied)

We should add that the crimes of which respondent was convicted also import deceit and violation of her attorney's oath and the Code of Professional Responsibility under both of which she was bound to "obey the laws of the land." Conviction of a crime involving moral turpitude might not (as in the instant case, violation of B.P. Blg. 22 does not) relate to the exercise of the profession of a lawyer; however, it certainly relates to and affects the good moral character of a person convicted of such offense. In *Melendrez v. Decena*,^[4] this Court stressed that:

"the nature of the office of an attorney at law requires that she shall be a person of good moral character. This qualification is not only a condition precedent to an admission to the practice of law; its continued possession is also essential for remaining in the practice of law."[5]

ACCORDINGLY, the Court Resolved to DENY the Motion to Lift Order of Suspension. Respondent shall remain suspended from the practice of law until further orders from this Court. A copy of this Resolution shall be forwarded to the Bar Confidant and to the Integrated Bar of the Philippines and spread on the record of respondent.

Fernan, C.J., Narvasa, Melencio-Herrera, Cruz, Paras, Feliciano, Gancayco, Padilla, Bidin, Sarmiento, Cortes, and Griño-Aquino, JJ., concur.
Gutierrez, Jr., Medialdea, and Regalado, JJ., in the result.

[1] Court of Appeals' Decision, p. 7; Rollo p. 14; underscoring supplied.

[2] 146 SCRA 323 (1986).

[3] 146 SCRA at 338 and 340.

[4] Administrative Case No. 2104, promulgated 24 August 1989.

[5] *Id.*, slip op., p. 16; underscoring supplied.

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