

OCA CIRCULAR NO. 4-2003, May 29, 2002

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TO:

The Court of Appeals, Sandiganbayan, Department of Justice, Integrated Bar of the Phils, and the 1st and 2nd level courts.

SUBJECT:

Indefinite Suspension from the practice of law of Atty. Romulo Ricafort

For your information and guidance is the resolution of the Court En Banc dated May 29, 2002 in Administrative Case No. 5054 entitled "Soledad Nunez, represented by Anaia B. Co, Attorney-in-fact for complainant vs. Atty. Romulo Ricafort;

"x x x."

There is no need to stretch one's imagination to arrive at an inevitable conclusion that, respondent gravely abused the confidence that complainant reposed in him and committed dishonesty when he did not turn over the proceeds of the sale of her property. Worse, with palpable bad faith, he compelled the complainant to go to court, for the recovery of the proceeds of the sale and, in the process, to spend money, time and energy therefor. Then, despite Ms deliberate failure to answer the complaint resulting in his having been declared in default, he appealed from the judgment to the Court, of Appeals. Again, bad faith attended such a step because he did not pay the docket fee despite notice. Needless to state, respondent wanted to prolong the travails and agony of the complainant and to enjoy the fruits of what rightfully "belongs to the latter. Unsatisfied with what he had already unjustly and unlawfully done to complainant, respondent issued checks to satisfy the alias writ of execution. But, remaining unrepentant of what he had done and in continued pursuit of a clearly malicious plan not to pay complainant of what had been validly and lawfully adjudged by the court against him, respondent closed the account against which the checks were drawn. There was deceit in this. Respondent never had the intention of paying his obligation as proved by the fact that despite the criminal cases for violation of B.P. Big. 22, he did not pay the obligation.

All the foregoing constituted grave and gross misconduct in blatant violation of Rule 1:01 of Canon 1 of the Code of Professional Responsibility which provides:

"A lawyer shall not engage in unlawful dishonest and immoral or deceitful conduct.

By violating Rule 1:01 of Canon 1 of the Code of Professional Responsibility, respondent diminished public confidence in the law and the lawyers (*Businos v. Ricafoit*, 283 SCRA 407 (1997); *Ducat v. Wlalon*, 337 SCRA 622 (2000). Instead of promoting such confidence and respect, he miserably failed to live up to the standards of the legal profession (*Gonato v. Adaza*, 328 SCRA 694 (2000); *Ducat v. Villalon*, supra).

Respondent's act of issuing bad checks in satisfaction of the alias writ of execution for money judgment rendered by the trial court, was a clear attempt to defeat the ends of justice. His failure to make good the checks despite demands and the criminal cases for violation of B.P. Big. 22 showed Ins continued defiance of

judicial processes, which he, as an officer of the court, was under continuing duty to uphold.

To further demonstrate his very low regard for the courts and judicial processes, respondent even had the temerity of making a mockery of our generosity to him. We granted his three motions: for extension of time to file his comment on the complaint in this case. Yet, not only did he fail to file the comment, he as well did not even bother to explain such failure notwithstanding our resolution declaring him as having waived the filing of the comment. To the Highest Court of the land, respondent openly showed a high degree of irresponsibility amounting to willful disobedience to its lawful orders (*Thermochem Incorporated v. Naval*, 344 SCRA 76, 82 (2000); *Sipin-Nabor v. Atty. Bateria*, Adm. Case No. 4073, 28 June 2001).

Respondent then knowingly and willfully violated Rules 12.04 and 12.03 of Canon 12 of the Code of Professional Responsibility, which respectively provide that lawyers should avoid any action that would unduly delay a case, impede the execution of a judgment or misuse court processes; and that lawyers, after obtaining extensions of time to file pleadings, memoranda or briefs, should not let the period lapse without submitting the same or offering an explanation for their failure to do so.

The penalty of suspension "for at least one (1) year" imposed by the Board of Governors of the IBP is both vague and inadequate. A suspension may either be indefinite or for a specific duration. Besides, under the circumstances of this case a suspension for a year is plainly very light and inadequate. For respondent's deliberate violation or defiance of Rule 1.01 of Canon 1 and Rule 12.03 and 12.04 of Canon 12 of the Code of Professional Responsibility, coupled with his palpable bad faith and dishonesty in his dealings with the complainant, respondent deserves a graver penalty. That graver penalty is indefinite suspension from the practice of law.

IN VIEW of the foregoing, respondent Atty. Romulo Ricafort is hereby INDEFINITELY SUSPENDED from the practice of law, and is directed to pay complainant Soledad Nunez the amount of P13,800 within ten (10) days from notice of this resolution."

A copy of the decision was served upon respondent on June 21, 2002.

PRESBITERO J. VELASCO, JR.

Court Administrator

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