

EN BANC

[A.C. NO. 6971, February 23, 2006]

QUIRINO TOMLIN II, COMPLAINANT, VS. ATTY. SALVADOR N. MOYA II, RESPONDENT.

DECISION**YNARES-SANTIAGO, J.:**

On December 1, 2003, Quirino Tomlin II filed a complaint^[1] before the Commission on Bar Discipline of the Integrated Bar of the Philippines (IBP) against Atty. Salvador N. Moya II for allegedly reneging on his monetary obligations and for having issued bouncing checks; thereby violating the Code of Professional Responsibility^[2] and Batas Pambansa (B.P.) Blg. 22.^[3]

Complainant averred that respondent borrowed from him P600,000.00 partially covered by seven postdated checks. However, when complainant tried to encash them on their respective due dates, the checks were all dishonored by the drawee bank, to wit:

Check No.	Due Date	Amount	Reason for Dishonor
MOB 1011326	May 16, 2001	P13,500.00	RTCOCI
MOB 1011311	June 11, 2001	P30,000.00	RTCOCI
MOB 1011328	June 17, 2001	P5,000.00	Account Closed
MOB 1011313	August 12, 2001	P50,000.00	Account Closed
MOB 1011329	August 16, 2001	P5,000.00	Account Closed
MOB 1011314	August 19, 2001	P50,000.00	Account Closed
MOB 1011330	September 18, 2001	P5,000.00	Account Closed

Complainant made several demands, the last being a formal letter^[4] sent on September 25, 2002;^[5] however, respondent still failed and refused to pay his debt without justifiable reason. Consequently, complainant instituted a case for seven counts of violation of B.P. Blg. 22 against the respondent before the Municipal Trial Court of Sta. Maria, Bulacan.^[6] In addition, he filed the instant case for respondent's disbarment.

On December 1, 2003, respondent was directed to file his answer but instead he

filed several motions for extension of time to file a responsive pleading^[7] and a motion to dismiss complaint.^[8]

Respondent alleged that the case should be dismissed outright for violation of the rule on non-forum shopping. He argued that complainant did not inform the IBP about the cases he filed for violations of B.P. Blg. 22 against respondent pending before the Municipal Trial Court of Sta. Maria, Bulacan.^[9] Respondent argued that the filing of the administrative case despite the pendency of the criminal cases is a form of harassment which should not be allowed.

On April 28, 2004, the Commission on Bar Discipline denied^[10] the motion to dismiss for being a prohibited pleading under Section 2, Rule 3 of its Rules of Procedure. Respondent's motion for reconsideration^[11] was likewise denied on June 16, 2004.^[12]

Thereafter, respondent filed several motions for extension of time to file an answer.^[13] His last motion for extension was however denied for lack of merit. Consequently, the Commission on Bar Discipline declared him in default.^[14]

Respondent thereafter filed a manifestation with motion to terminate proceedings on the ground of prescription^[15] and omnibus motion to recall the default order.^[16]

On January 3, 2005, the Commission on Bar Discipline required the parties to submit their respective verified position papers after which the case shall be considered submitted for resolution.^[17]

Only the complainant submitted his position paper.^[18]

In the Report and Recommendation dated March 31, 2005, the Investigating Commissioner noted that respondent failed to file an answer and/or position paper despite several requests for extension, in disregard of the orders of the IBP. Moreover, it was observed that the pending criminal action against respondent does not pose a prejudicial question to the resolution of the issues in the present administrative case. Hence, it was recommended that respondent be suspended from the practice of law for one year.

On October 22, 2005, the IBP Board of Governors adopted and approved the report of the Investigating Commissioner, but modified the penalty of suspension from the practice of law from one year to two years.

We agree with the findings and recommendation of the IBP.

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. In so doing, the people's faith and confidence in the judicial system is ensured.^[19] Lawyers may be disciplined – whether in their professional or in their private capacity – for any conduct that is wanting in morality, honesty, probity and good demeanor.^[20] Any gross misconduct of a lawyer in his profession or private capacity is a ground for the

imposition of the penalty of suspension or disbarment because good character is an essential qualification for the admission to the practice of law and for the continuance of such privilege.^[21]

In the present case, respondent admitted his monetary obligations to the complainant but offered no justifiable reason for his continued refusal to pay. Complainant made several demands, both verbal and written, but respondent just ignored them and even made himself scarce. Although he acknowledged his financial obligations to the complainant, respondent never offered nor made arrangements to pay his debt. On the contrary, he refused to recognize any wrongdoing nor shown remorse for issuing worthless checks, an act constituting gross misconduct.^[22] Respondent must be reminded that it is his duty as a lawyer to faithfully perform at all times his duties to society, to the bar, to the courts and to his clients. As part of his duties, he must promptly pay his financial obligations.^[23]

The contention that complainant violated the rule against forum shopping with the filing of this administrative complaint is bereft of merit. There is forum-shopping whenever, as a result of an adverse opinion in one forum, a party seeks a favorable opinion (other than by appeal or certiorari) in another^[24] or when he institutes two or more actions or proceedings grounded on the same cause on the supposition that one or the other court would make a favorable disposition.^[25] Forum shopping applies only to judicial cases or proceedings, not to disbarment proceedings.^[26]

Moreover, Criminal Case Nos. 6-367-03 to 6-373-03 for violation of B.P. Blg. 22 refer to the respondent's act of making or drawing and issuance of worthless checks; while the present administrative case seeks to discipline respondent as a lawyer for his dishonest act of failing to pay his debt in violation of the Code of Professional Responsibility.

Respondent, being a member of the bar, should note that administrative cases against lawyers belong to a class of their own. They are distinct from and they may proceed independently of criminal cases. The burden of proof in a criminal case is guilt beyond reasonable doubt while in an administrative case, only preponderance of evidence is required. Thus, a criminal prosecution will not constitute a prejudicial question even if the same facts and circumstances are attendant in the administrative proceedings.^[27]

Besides, it is not sound judicial policy to await the final resolution of a criminal case before a complaint against a lawyer may be acted upon; otherwise, this Court will be rendered helpless from applying the rules on admission to and continuing membership in the legal profession during the whole period that the criminal case is pending final disposition when the objectives of the two proceedings are vastly disparate.^[28]

Finally, we note that respondent failed to file his answer and verified position paper despite several opportunities given him by the IBP, that is, from the time he received on December 20, 2003^[29] the Order^[30] of the IBP requiring him to file an answer until March 31, 2005 when the Investigating Commissioner submitted the Report and Recommendation. Instead, he filed several motions for extension of time, motion to dismiss the complaint, motion for reconsideration, manifestation with motion to terminate proceedings, and omnibus motion to recall the default