

## **THIRD DIVISION**

**[ A.C. No. 5252, May 20, 2004 ]**

**PRISCILLA Z. ORBE, COMPLAINANT, VS. ATTY. HENRY ADAZA,  
RESPONDENT.**

### **D E C I S I O N**

**VITUG, J.:**

On 27 March 2000, Mrs. Priscilla Z. Orbe charged respondent Atty. Henry Adaza with gross misconduct and as being unfit to continue his membership in the Bar. In a three-page complaint-affidavit complainant averred that respondent obtained a loan from the former and, to secure the repayment thereof, drew and issued two BPI Family Bank checks. When the first check (No. 0350973) was presented for payment upon maturity, the same was dishonored for insufficient funds. According to complainant, respondent, acting with malice and deceit, dated the second check "January 24, 1996," so that, once presented for payment, it would be, considering, in passing, that the loan was incurred on 23 November 1996, a stale check. She alleged that, despite repeated verbal and written demands, respondent had failed to make good his obligation.

Acting on the complaint, the Court required respondent to comment thereon within ten (10) days from notice. In a letter, dated 26 September 2000, complainant asked that the complaint be now considered submitted for resolution in view of the failure of Atty. Adaza to comply with the order of the Court requiring him to file his comment. In a resolution, dated 06 December 2000, the Court noted the letter of complainant, and it directed that the complaint be thereby referred to the Integrated Bar of the Philippines (IBP) for investigation, report and recommendation.

Despite proper notice to respondent requiring him to file his answer to the complaint, respondent continued to ignore the matter. Finally, on 20 February 2002, the case was set for hearing by the IBP Commission on Bar Discipline. The complainant appeared. Respondent did not show up despite his having been duly notified of the hearing by personal service effected on 12 February 2002. Respondent's failure to appear prompted the Commission on Bar Discipline to grant the request of complainant to allow her to adduce evidence *ex- parte*. An order was issued setting the proceedings on 18 March 2002 for such reception of evidence. A copy of the order was served on respondent on 28 February 2002 at his given address.

On 21 February 2002, the Commission received a letter from Atty. Adaza, sent via the facilities of PTT, requesting for a resetting of the hearing from 18 March to 18 April 2002, claiming that he was already committed to attend a hearing at the Regional Trial Court, Branch 7, of Dipolog City on 20 March 2002.

The proceedings set for 18 March 2002 for the reception of complainant's evidence ex-parte was held, but the same was without loss of right on the part of respondent to conduct, if desired, a cross-examination of the witness. The evidence of complainant showed that complainant used to avail of the notarial services of Atty. Adaza at his law office at Padre Faura, Ermita, Manila. In 1995, respondent requested complainant, and the latter agreed, to be the primary sponsor in the baptismal of his daughter. In November 1996, respondent accompanied by a certain Arlene went to the residence of complainant to seek a loan. The latter lent respondent the sum of P60,000.00 payable with interest at 5% a month. Respondent issued two (2) BPI Family Bank Checks No. 35073 and No. 35076, each for P31,800.00, dated 23 December 1996 and 24 January 1996, respectively. When presented for collection Check No. 035073 was dishonored by the drawee bank for having been drawn against insufficient funds. The other check, Check No. 035076, bearing the date 24 January 1996, was not accepted for being a stale check.

Efforts were exerted by complainant to see respondent but her efforts proved to be futile. Several demand letters were sent to the respondent by Atty. Ernesto Jacinto, complainant's lawyer, but these letters also failed to elicit any response. A criminal complaint for violation of Batas Pambansa Blg. 22 was filed with the Office of the Prosecutor of Quezon City for Check No. 035073. Finding probable cause, the complaint was subsequently elevated to the Metropolitan Trial Court. A warrant of arrest was issued by the court, but respondent somehow succeeded in evading apprehension. Sometime in November 2000, respondent went to the house of complainant and promised to pay the checks within a month's time. Complainant agreed to have the service of the warrant of arrest withheld but, again, respondent failed to make good his promise.

The cross-examination of complainant Priscilla Orbe was set on 22 May 2002. The stenographer was directed to transcribe the stenographic notes as soon as possible for the benefit of Atty. Adaza. An order was issued to this effect, and a copy thereof was served upon respondent on 09 April 2002.

On 22 May 2002, the complainant appeared for cross-examination but Atty. Adaza did not appear despite due notice. In light of the manifestation of complainant that she had no other witness to present and was ready to close her evidence, she was given a period of fifteen (15) days within which to file a formal offer and respondent was given a like period to thereupon submit his comment and/or opposition thereto. The order, dated 22 May 2002, was served on Atty. Adaza on 28 May 2002. The formal offer of complainant's evidence was deemed submitted for resolution on 25 June 2002 pending proof of service of a copy thereof upon respondent and the filing of the necessary comment or opposition thereto by the latter.

In an order, dated 16 October 2002, the Commission set the reception of evidence for respondent on 13 November 2002 in order to give him another opportunity to rebut the evidence of complainant. Respondent again failed to appear on the date set therefor, prompting the Commission to rule on the admissibility of Exhibits "A" to "D" with their submarkings. There being no appearance on the part of respondent despite due notice, the case was considered submitted for resolution by the Commission in its order of 26 February 2003.

The Commission submitted its report and recommendation, dated 28 May 2003, recommending the suspension of respondent Atty. Henry Adaza from the practice of