

EN BANC

[Administrative Case No. 5054, May 28, 2002]

SOLEDAD NUÑEZ, REPRESENTED BY ANANIAS B. CO, ATTORNEY-IN-FACT FOR COMPLAINANT, PETITIONER, VS. ATTY. ROMULO RICAFORT, RESPONDENT.

RESOLUTION

PER CURIAM:

This is an administrative complaint filed on 21 April 1999 by Soledad Nuñez, a septuagenarian represented by her attorney-in-fact Ananias B. Co, Jr., seeking the disbarment of respondent Atty. Romulo Ricafort on the ground of grave misconduct.

From the documents submitted by the complainant, it appears that sometime in October 1982 she authorized respondent to sell her two parcels of land located in Legazpi City for P40,000. She agreed to give respondent 10 percent of the price as commission. Respondent succeeded in selling the lots, but despite complainant's repeated demands, he did not turn over to her the proceeds of the sale. This forced complainant to file against respondent and his wife an action for a sum of money before the Regional Trial Court of Quezon City. The case was docketed as Civil Case No. Q-93-15052.

For his failure to file an answer, respondent was declared in default and complainant was required to present *ex-parte* her evidence. On 29 September 1993, the court rendered its decision (Annex "C" of the Complaint) ordering respondent herein to pay complainant the sum of P16,000 as principal obligation, with interest thereon at the legal rate from the date of the commencement of the action, *i.e.*, 8 March 1993, until it is fully paid, and to pay the costs of suit.

Respondent and his wife appealed from the decision to the Court of Appeals. However, the appeal was dismissed for failure to pay the required docket fee within the reglementary period despite notice.

On 23 October 1995 complainant filed in Civil Case No. Q-93-15052 a motion for the issuance of an alias writ of execution, which the court granted on 30 October 1995. The next day, the alias writ of execution was issued (Annex "B" of Complaint). It appears that only a partial satisfaction of the P16,000 judgment was made, leaving P13,800 thereof unsatisfied. In payment for the latter, respondent issued four postdated checks drawn against his account in China Banking Corporation, Legazpi City.

Upon presentment, however, the checks were dishonored because the account against which they were drawn was closed (Annexes "D" and "E" of Complaint). Demands for respondent to make good the checks fell on deaf ears, thus forcing complainant to file four criminal complaints for violation of B.P. Blg. 22 before the

Metropolitan Trial Court of Quezon City (Annexes "F," "G," "H" and "I" of the Complaint).

In the "Joint Affidavit" of respondent and his wife filed with the Office of the Prosecutor, Quezon City, respondent admitted having drawn and issued said four postdated checks in favor of complainant. Allegedly believing in good faith that said checks had already been encashed by complainant, he subsequently closed his checking account in China Banking Corporation, Legazpi City, from which said four checks were drawn. He was not notified that the checks were dishonored. Had he been notified, he would have made the necessary arrangements with the bank.

We required respondent to comment on the complaint. But he never did despite our favorable action on his three motions for extension of time to file the comment. His failure to do so compelled complainant to file on 10 March 2000 a motion to cite respondent in contempt on the ground that his strategy to file piecemeal motions for extension of time to submit the comment "smacks of a delaying tactic scheme that is unworthy of a member of the bar and a law dean."

In our resolution of 14 June 2000, we noted the motion for contempt; considered respondent to have waived the filing of a comment; and referred this case to the Integrated Bar of the Philippine (IBP) for investigation, report and recommendation or decision within ninety days from notice of the resolution.

In her Report and Recommendation dated 12 September 2000, Investigating Commissioner Atty. Milagros V. San Juan concluded that respondent had no intention to "honor" the money judgment against him in Civil Case No. Q-93-15052 as can be gleaned from his (1) issuance of postdated checks; (2) closing of the account against which said checks were drawn; and (3) continued failure to make good the amounts of the checks. She then recommends that respondent be declared "guilty of misconduct in his dealings with complainant" and be suspended from the practice of law for at least one year and pay the amount of the checks issued to the complainant.

In its Resolution No. XV-2001-244 of 27 October 2001, the Board of Governors of the IBP approved and adopted Atty. San Juan's Report and Recommendation.

We concur with the findings of the Investigating Commissioner, as adopted and approved by the Board of Governors of the IBP, that respondent Atty. Romulo Ricafort is guilty of grave misconduct in his dealings with complainant. Indeed, the record shows respondent's grave misconduct and notorious dishonesty.

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 his 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