



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated July 13, 2022, which reads as follows:

“A.C. No. 13402 (Po Kwai Kong v. Atty. Sim O. Mata, Jr.). — Submitted to this Court is a Notice of Resolution dated 2 December 2021 of the Board of Governors of the Integrated Bar of the Philippines (IBP), pursuant to Rule 139-B of the Rules of Court, which reduced the penalty of suspension to one (1) year against respondent Atty. Sim O. Mata, Jr. (Atty. Mata, Jr.), who was found by the IBP-Commission on Bar Discipline (IBP-CBD) to have violated Canons 1, 7 and 11 of the Code of Professional Responsibility (CPR).

Facts

On 27 August 2013, Atty. Mata, Jr. purchased various computer products and accessories valued at ₱354,960.00 from Advance 2000, Inc., a corporation of which complainant Po Kwai Kong (Kong) is the President, payable within fifteen (15) days through a post-dated check.¹ On the same day, the goods were delivered to MMJ Trading, which was owned by Atty. Mata, Jr. As payment, Atty. Mata, Jr. issued PNB Check No. 0003001 dated 12 September 2013² in the amount of ₱354,960.00. However, when the check was deposited and presented for payment, it was dishonored and returned with the notation, ‘PAYMENT STOPPED,’ because the check was ‘unfunded,’ as shown in the PNB Advice of Returned Check.³

Despite repeated demands, Atty. Mata, Jr. refused and failed to settle his obligation to Advance 2000, Inc. On 16 December 2013, Kong made a final demand⁴ to Atty. Mata, Jr., but it remained unheeded. This prompted Kong to file the letter-complaint,⁵ dated 23 January 2014, on 12 February

¹ *Rollo* (CBD Vol. I), p. 37.

² *Id.* at 32.

³ *Id.* at 32.

⁴ *Id.* at 33.

⁵ *Id.* at 33.

2014 before the IBP-CBD, seeking to disbar Atty. Mata, Jr. for committing an act involving moral turpitude in issuing an unfunded check.

The IBP-CBD directed⁶ Atty. Mata, Jr. to submit his answer within fifteen (15) days from receipt of a copy of the complaint, but he failed to do so. On 12 May 2015, the IBP-CBD issued a Notice of Mandatory Conference,⁷ directing both parties to attend the mandatory conference on 3 June 2015 at the IBP Building in Pasig City. At the scheduled conference, only Kong's representative appeared. Thus, the IBP-CBD terminated the conference and ordered both parties to submit their respective position papers.⁸ Again, only Kong filed a position paper.

On 29 September 2015, the IBP-CBD ruled that Atty. Mata, Jr.'s issuance of the worthless check and his refusal to comply with its directives warrant disciplinary sanction and recommended his suspension from the practice of law and as a member of the Bar for two (2) years:

WHEREFORE, premises considered, this Office hereby recommends the **SUSPENSION** of Atty. Sim O. Mata, Jr., from the practice of law and as a member of the Bar for a period of two (2) years,

RESPECTFULLY SUBMITTED.⁹

The IBP-CBD applied and quoted the Court's ruling in *Heenan v. Atty. Espejo*,¹⁰ which held, in relevant part:

It has already been settled that the deliberate failure to pay just debts and its issuance of worthless checks constitute gross misconduct, for which a lawyer may be sanctioned.

x x x

Further, the misconduct of Atty. Espejo is aggravated by her unjustified refusal to obey the orders of the IBP directing her to file an answer to the complaint of Victoria and to appear at the scheduled mandatory conference.

x x x

Undoubtedly, Atty. Espejo's issuance of worthless checks and her blatant refusal to heed the directives of the Quezon City Prosecutor's Office and the IBP contravene Canon 1, Rule 1.01; Canon 7, Rule 7.03; and Canon 11 of the Code of Professional Responsibility.

⁶ Id. at 9.

⁷ Id. at 11.

⁸ Id. at 13.

⁹ *Rollo* (CBD Vol. II), p. 7.

¹⁰ A.C. No. 10050, December 3, 2013.

x x x

We find the penalty of suspension from the practice of law for two (2) years, as recommended by the IBP, commensurate under the circumstances. *xxx*¹¹

On 29 November 2016, the IBP Board of Governors adopted the ruling of the IBP-CBD:

RESOLVED to ADOPT the findings of facts and recommendation of the Investigating Commissioner imposing the penalty of SUSPENSION from the practice of law for a period of two (2) years.¹²

On 2 December 2021, acting on Atty. Mata, Jr.'s motion for reconsideration, the IBP Board of Governors reduced the penalty of suspension to one (1) year:

RESOLVED, to PARTIALLY GRANT, as it is hereby PARTIALLY GRANTED, the Motion for Reconsideration filed by the Respondent Atty. Sim O. Mata, Jr. in the instant case, and to recommend instead the imposition upon him of the reduced penalty of **SUSPENSION from the practice of law for One (1) Year**, after taking into consideration the facts of the case.¹³

On 25 March 2022, the IBP, through Atty. Avelino V. Sales, Jr., Director for Bar Discipline, transmitted the case to the Court, with the IBP's recommendation.¹⁴

Issue

Should Atty. Mata, Jr. be penalized with suspension from the practice of law for non-payment of a financial obligation, issuance of a worthless check and non-compliance with the orders of the CBD?

The Ruling of the Court

The Court adopts the findings and recommendation of the IBP.

Membership in the legal profession is a privilege, which demands a high degree of good moral character. This is not only a condition precedent to admission, but also a continuing requirement for the practice of law.¹⁵ The

¹¹ *Rollo* (CBD Vol. II), pp.4-7.

¹² *Id.* at 1.

¹³ *Id.* at 164.

¹⁴ *Id.* at 163.

¹⁵ *Wilkie v. Atty. Limos*, 591 Phil. 1 (2008).

Court is duty-bound to sanction a lawyer who lacks moral character, probity and good demeanor.

The CPR guides the conduct of lawyers, who must always reflect the values and norms of the legal profession whether they perform their duties as a member of the Bar or in their private capacities. As early as 1923 in *In Re Vicente Pelaez*,¹⁶ the Court explained that:

[A]s a general rule, a court will not assume jurisdiction to discipline one of its officers for misconduct alleged to have been committed in his private capacity. But this is a general rule with many exceptions. The courts sometimes stress the point that the attorney has shown, through misconduct outside of his professional dealings, a want of such professional honesty as render him unworthy of public confidence, and an unfit and unsafe person to manage the legal business of others. The reason why such a distinction can be drawn is because it is the court which admits an attorney to the bar, and the court requires for such admission the possession of a good moral character.

This had since been codified in Rule 7.03 of the CPR, thus:

Rule 7.03 — A lawyer shall not engage in conduct that adversely reflects on his fitness to practice law, nor shall he, whether in public or private life, behave in a scandalous manner to the discredit of the legal profession.

Lawyers must at all times faithfully perform their duties to society, to the bar, to the courts and to their clients. One of these many duties is to promptly pay their financial obligations.¹⁷ Failure to do so constitutes gross misconduct, especially when coupled with the act of issuing worthless checks. As such, it is deemed a violation of Canon 1 and Rule 1.01 of the CPR, which reads:

CANON 1 — A lawyer shall uphold the constitution, obey the laws of the land and promote respect for law and for legal processes.

Rule 1.01 — A lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct.

In one case, a lawyer was suspended for one (1) year for failing to pay his debt amounting to P22,000.00 despite repeated demands and for issuing several worthless checks.¹⁸ In another case, a lawyer failed to pay his debt amounting to P600,000.00 and even issued seven (7) post-dated checks, which were all dishonored; thus, he was suspended for two (2) years.¹⁹

¹⁶ *In Re suspension of Vicente Pelaez*, 44 Phil. 567 (1923).

¹⁷ *Lao v. Atty. Medel*, 435 Phil. 115 (2003).

¹⁸ *Id.*

¹⁹ *Tomlin II v. Atty. Moya, II*, 518 Phil. 325 (2006).

Finally, another lawyer failed to timely pay her debt amounting to ₱250,000.00 plus interests and also issued two (2) worthless checks, but was suspended for three (3) months only because at the time of the ruling, she had already fully paid her obligation.²⁰

There is no dispute that Atty. Mata, Jr. remained liable to pay ₱354,960.00 for the purchases he made from Advance 2000, Inc. after the check he issued as payment was dishonored. Despite repeated demands, Atty. Mata, Jr. still failed to pay, which is indicative of his disregard for his financial obligations. As a lawyer, he is expected to obey the law and honor an obligation when it becomes due, but he did not. This is gross misconduct unbecoming of a lawyer and violative of Rule 1.01, Canon 1 of the CPR.

Atty. Mata, Jr.'s misconduct was further aggravated by his blatant disregard of the IBP-CBD's authority when he failed to submit his answer to the complaint, attend the scheduled mandatory conference and submit his position paper, despite due notice, which contravenes Canon 11 of the CPR:

Canon 11 — A lawyer shall observe and maintain the respect due to the courts and to judicial officers and should insist on similar conduct by others.

The Court constantly reminds lawyers to be mindful of their conduct not only in the performance of their professional duties, but also in their private capacities because it reflects on their fitness to practice law. Considering the privileged nature of admission to the Bar, a lawyer is expected to meet the high standards of good moral character.

Atty. Mata, Jr. demonstrated a lack of moral fitness expected of a member of the legal profession when he deliberately failed to pay his obligation to Kong and, worse, issued a worthless check, aggravated by his disregard of the IBP-CBD's orders. Following precedents that establish that issuance of a worthless check involves moral turpitude,²¹ but considering that Atty. Mata, Jr.'s gross misconduct involved an act performed in his private capacity and not conduct as a lawyer, We adopt the imposition of a one (1)-year suspension from the practice of law.

WHEREFORE, the Court hereby finds respondent Atty. Sim O. Mata, Jr. **GUILTY** of serious misconduct and violation of Canon 1, Rule 1.01, Canon 7, Rule 7.03 and Canon 11 of the Code of Professional Responsibility. Accordingly, effective immediately, the Court hereby **SUSPENDS** him from the practice of law for one (1) year.

²⁰ *Willie v. Atty. Limos*, supra note at 15.

²¹ *Wong v. Atty. Moya, II*, 590 Phil. 279 (2008)

Furthermore, respondent is **DIRECTED** to report to this Court the date of his receipt of this Resolution to enable it to determine when his suspension from the practice of law shall take effect.

Let copies of this Resolution be furnished to: (1) the Office of the Bar Confidant to be appended to respondent's personal record as an attorney; (2) the Integrated Bar of the Philippines for its information and guidance; and (3) the Office of the Court Administrator for circulation to all courts in the country.

SO ORDERED."

By authority of the Court:

MisDCCBatt
MISAEAL DOMINGO C. BATTUNG III
Division Clerk of Court *09/16/22*

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