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(3) No chapter in the region is given the right to elect a governor for two (2) or more terms in the rotation.

In view of the foregoing, I vote to:

(1) GRANT the petition;

(2) Declare **Atty. Opinion as DISQUALIFIED** to be seated as Governor of IBP Eastern Visayas Region for the 2013-2015 term and order him to immediately **VACATE** office; and

(3) PROCLAIM Atty. Maglana as the duly elected Governor of IBP Eastern Visayas Region for the 2013-2015 term.

EN BANC

[A.C. No. 7676. June 10, 2014]

AMADO T. DIZON, *complainant, vs.* **ATTY. NORLITA DE TAZA,** *respondent.*

SYLLABUS

1. LEGAL ETHICS; LAWYERS; DISCIPLINARY PROCEEDINGS TO ASCERTAIN WHETHER A LAWYER IS FIT TO BE ONE; ELUCIDATED.— The Court has time and again ruled that disciplinary proceedings are investigations by the Court to ascertain whether a lawyer is fit to be one. There is neither a plaintiff nor a prosecutor therein. As this Court held in *Gatchalian Promotions Talents Pool, Inc. v. Atty. Naldoza*, citing *In the Matter of the Proceedings for Disciplinary Action Against Atty. Almacen, et al. v. Yaptinchay*: "Disciplinary proceedings against lawyers are *sui generis*. *Neither purely civil nor purely criminal, they do not involve a trial of an action or a suit, but are rather investigations by the Court into the conduct of one of its officers.*

> Not being intended to inflict punishment, [they are] in no sense a criminal prosecution. Accordingly, there is neither a plaintiff nor a prosecutor therein. [They] may be initiated by the Court *motu proprio*. *Public interest is [their] primary objective, and the real question for determination is whether or not the attorney is still a fit person to be allowed the privileges as such*. Hence, in the exercise of its disciplinary powers, the Court merely calls upon a member of the Bar to account for his actuations as an officer of the Court with the end in view of preserving the purity of the legal profession and the proper and honest administration of justice by purging the profession of members who by their misconduct have prove[n] themselves no longer worthy to be entrusted with the duties and responsibilities pertaining to the office of an attorney. x x x.

2. POLITICAL LAW; ADMINISTRATIVE LAW; ADMINISTRATIVE PROCEEDINGS; ONLY SUBSTANTIAL EVIDENCE IS REQUIRED.— "In administrative proceedings, only substantial evidence, *i.e.*, that amount of relevant evidence that a reasonable mind might accept as adequate to support a conclusion, is required."

3. LEGAL ETHICS; LAWYERS; UNFITNESS FOR TRUST AND CONFIDENCE MANIFESTED IN THE ISSUANCE OF WORTHLESS CHECKS.— "We have held that the issuance of checks which were later dishonored for having been drawn against a closed account indicates a lawyer's unfitness for the trust and confidence reposed on her. It shows a lack of personal honesty and good moral character as to render her unworthy of public confidence. The issuance of a series of worthless checks also shows the remorseless attitude of respondent, unmindful to the deleterious effects of such act to the public interest and public order. It also manifests a lawyer's low regard to her commitment to the oath she has taken when she joined her peers, seriously and irreparably tarnishing the image of the profession she should hold in high esteem."

4. ID.; ID.; DUTY TO RENDER AN ACCOUNTING FOR MONEY RECEIVED FROM A CLIENT FOR A PARTICULAR PURPOSE.— When a lawyer receives money from the client for a particular purpose, the lawyer is bound to render an accounting to the client showing that the money

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was spent for that particular purpose. And if he does not use the money for the intended purpose, the lawyer must immediately return the money to his client.

5. ID.; ID.; DISBARMENT OR SUSPENSION; GROUNDS.— Section 27, Rule 138 of the Revised Rules of Court provides for the disbarment or suspension of a lawyer for any of the following: (1) deceit; (2) malpractice; (3) gross misconduct in office; (4) grossly immoral conduct; (5) conviction of a crime involving moral turpitude; (6) violation of the lawyer's oath; (7) willful disobedience of any lawful order of a superior court; and (8) willfully appearing as an attorney for a party without authority to do so.

D E C I S I O N

REYES, *J.*:

This concerns an administrative complaint[1] for disbarment against Atty. Norlita De Taza (Atty. De Taza) for the latter's demand for and receipt of exorbitant sums of money from her client purportedly to expedite the proceedings of their case which was pending before the Court.

The Facts

Amado Dizon (complainant) alleged that sometime in February 2005, he, along with his siblings engaged the services of Romero De Taza Cruz and Associates to represent them in the case of *Eliza T. Castaneda, et al. v. Heirs of Spouses Martin and Lucia Dizon* with G.R. No. 174552.[2]

The complainant claimed that sometime in February 2007, Atty. De Taza demanded the sum of Seventy-Five Thousand Pesos (₱75,000.00) from him to expedite the proceedings before the Court. This amount was over and above the parties' stipulated retainer fee as evidenced by a contract.[3]

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[1] *Rollo*, pp. 1-2.

[2] *Id.* at 1.

[3] *Id.* at 3.

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According to the complainant, unknown to him at that time was that, a month earlier or in January 2007, Atty. De Taza had already demanded and received a total of Eight Hundred Thousand Pesos (₱800,000.00) from his sibling Aurora Dizon, for the same reason that Atty. De Taza proffered to him, which was to expedite the proceedings of their case before the Court. Handwritten receipts[4] signed by one Atty. Norlita De Taza were submitted by the complainant, which state:

15 Jan. 2007

Receipt

That the amount received ₱300,000 shall be used to expedite the case which, in turn shall result in the following:

1. Decision favorable to plaintiff w/in 2 mos. from receipt of said amount;
2. Back rentals up to present should be returned, if the same should not be included in the Decision, the ₱300,000.00 shall be returned.

Signed
Atty. Norlita De Taza[5]

18 Jan. 2007

Receipt

The amount of ₱500,000 has been advanced as part of expense [sic] to expedite the process before the courts. The said amount has been advanced by Ms. Aurora Dizon and the same should be reimbursed to her by her siblings upon winning the case with finality.

Signed
Atty. Norlita De Taza[6]

On October 24, 2007, the complainant went to this Court in Padre Faura, Manila and learned that the Court had already

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[4] *Id.* at 4-5.

[5] *Id.* at 5.

[6] *Id.* at 4.

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denied the petition on November 20, 2006, contrary to Atty. De Taza's representations that the case was still pending. He tried to communicate with Atty. De Taza, but she could no longer be found.[7]

Thereafter, on November 6, 2007, the complainant instituted a complaint for disbarment[8] against Atty. De Taza. He also attached several affidavits and documents[9] from other individuals who attested that Atty. De Taza issued bouncing checks and/or failed to pay off her debts to them. A certain Ana Lynda Pineda executed an affidavit[10] which was attached to the complaint, alleging that Atty. De Taza issued 11 checks[11] in her favor amounting to ₱481,400.00, which were all dishonored by the bank. Demand letters sent to her went unheeded.

Likewise, Darwin Tiamzon, a creditor of Atty. De Taza, whose affidavit[12] was attached to the complaint, averred that Atty. De Taza issued a check[13] for ₱50,000.00 as payment for her loan. Said check was dishonored by the bank for being drawn against a closed account.

Furthermore, a certain Eleanor Sarmiento submitted an affidavit,[14] stating that Atty. De Taza owes her ₱29,560.39 and failed to pay the said amount despite repeated demands.

On November 14, 2007, the complainant through a letter[15] informed the Court that Atty. De Taza is planning to leave the country as she was joining her husband in the United States of America (U.S.A.).

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[7] *Id.* at 1.

[8] *Id.* at 1-2.

[9] *Id.* at 11-26.

[10] *Id.* at 11-13.

[11] *Id.* at 14-16.

[12] *Id.* at 23.

[13] *Id.* at 25.

[14] *Id.* at 26.

[15] *Id.* at 28.

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In a Resolution[16] dated December 10, 2007, Atty. De Taza was required by the Court to file a Comment. However, the copy of the Resolution was returned unserved with the postal carrier's notation "RTS (Return to Sender)-Moved." The Court then resolved by virtue of the Resolution[17] dated July 2, 2008, to send a copy to Atty. De Taza's office address at Romero De Taza Cruz and Associates. Said copy was also returned unserved with the notation "RTS-not connected."

It was then required in the Resolution[18] dated October 8, 2008 that the complainant inform the Court of Atty. De Taza's new address, which the complainant faithfully complied with by giving Atty. De Taza's new address in the U.S.A. The Court, in its Resolution[19] dated January 26, 2009, directed the Clerk of Court to resend a copy of the Resolution dated December 10, 2007 with a copy of the complaint to Atty. De Taza using the latter's U.S.A. address.

Like the previous occasions, the copy of the Resolution dated December 10, 2007 with the complaint was returned; this time, with the postal carrier's notation "RTS-Unclaimed". The Court in its Resolution[20] dated September 9, 2009, held that the said copy of the Resolution was deemed served and resolved to consider Atty. De Taza as having waived the filing of her comment. The case was referred to the Integrated Bar of the Philippines (IBP) for investigation, report and recommendation.

A Notice of Mandatory Conference[21] was sent to the parties, in which they failed to appear. Thus, the parties were directed to file their respective position papers. The complainant, in a letter[22] addressed to the IBP, averred that he was already residing

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[16] *Id*. at 30.

[17] *Id*. at 33.

[18] *Id*. at 63.

[19] *Id*. at 68.

[20] *Id*. at 101-102.

[21] *Id*. at 104.

[22] *Id*. at 107.

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abroad and maintained that he had already submitted his documentary evidence at the time of the filing of his complaint. Atty. De Taza, for her part, did not file any position paper.

In its Report and Recommendation[23] dated January 4, 2011, the IBP Commission on Bar Discipline recommended that Atty. De Taza be suspended for a period of two years from the practice of law.

The IBP Board of Governors modified the Commission on Bar Discipline's recommendation in a Resolution[24] dated January 3, 2013, *viz*:

RESOLVED to ADOPT and APPROVE, as it is hereby unanimously ADOPTED and APPROVED, ***with modification****, the Report and Recommendation of the Investigating Commissioner in the above-entitled case, herein made part of this Resolution as Annex "A", and finding the recommendation fully supported by the evidence on record and the applicable laws and rules, and considering Respondent's demand of [₱]800,000.00 to expedite the case pending in the Supreme Court when, in fact, the case had long been dismissed, Atty. Norlita De Taza is hereby* ***SUSPENDED from the practice of law for one (1) year****.*[25] (Emphasis supplied)

The Issue

WHETHER ATTY. DE TAZA SHOULD BE HELD ADMINISTRATIVELY LIABLE FOR ISSUING BOUNCING CHECKS, DEMANDING AND/OR RECEIVING MONEY FROM HER CLIENTS UNDER THE GUISE OF HAVING THE PROCEEDINGS BEFORE THE COURT EXPEDITED.

Ruling

The Court acknowledges the fact that Atty. De Taza was not able to refute the accusations against her. Numerous attempts

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[23] *Id.* at 121-123.

[24] *Id.* at 120.

[25] *Id.*

were made to afford her an opportunity to defend herself from the complainant's allegations, but all these efforts were only met with silence. Whether her transfer of residence was an unscrupulous move on her part to evade her creditors, only she would certainly know. But as far as the Court is concerned, all means were exhausted to give Atty. De Taza an avenue to oppose the complainant's charges. Her failure and/or refusal to file a comment will not be a hindrance for the Court to mete out an appropriate sanction.

The Court has time and again ruled that disciplinary proceedings are investigations by the Court to ascertain whether a lawyer is fit to be one. There is neither a plaintiff nor a prosecutor therein. As this Court held in *Gatchalian Promotions Talents Pool, Inc. v. Atty. Naldoza*,[26] citing *In the Matter of the Proceedings for Disciplinary Action Against Atty. Almacen, et al. v. Yaptinchay*:[27]

"Disciplinary proceedings against lawyers are *sui generis*. *Neither purely civil nor purely criminal, they do not involve a trial of an action or a suit, but are rather investigations by the Court into the conduct of one of its officers*. Not being intended to inflict punishment, [they are] in no sense a criminal prosecution. Accordingly, there is neither a plaintiff nor a prosecutor therein. [They] may be initiated by the Court *motu proprio*. *Public interest is [their] primary objective, and the real question for determination is whether or not the attorney is still a fit person to be allowed the privileges as such*. Hence, in the exercise of its disciplinary powers, the Court merely calls upon a member of the Bar to account for his actuations as an officer of the Court with the end in view of preserving the purity of the legal profession and the proper and honest administration of justice by purging the profession of members who by their misconduct have prove[n] themselves no longer worthy to be entrusted with the duties and responsibilities pertaining to the office of an attorney. x x x.[28] (Italics supplied)

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[26] 374 Phil. 1 (1999).

[27] 142 Phil. 353 (1970).

[28] *Supra* note 26, at 10-11.

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"In administrative proceedings, only substantial evidence, *i.e.*, that amount of relevant evidence that a reasonable mind might accept as adequate to support a conclusion, is required."[29] Based on the documentary evidence submitted by the complainant, it appears that Atty. De Taza manifested a propensity for borrowing money, issuing bouncing checks and incurring debts which she left unpaid without any reason. The complainant even submitted a document evidencing Atty. De Taza's involvement in an *estafa* and violation of *Batas Pambansa* (B.P.) No. 22 case filed before the Office of the City Prosecutor in Angeles City (I.S. 07-J-2815-36) for drawing checks against a closed account, among other complaint-affidavits executed by her other creditors. Such conduct, while already off-putting when attributed to an ordinary person, is much more abhorrent when the same is exhibited by a member of the Bar. As a lawyer, Atty. De Taza must remember that she is not only a symbol but also an instrument of justice, equity and fairness.

"We have held that the issuance of checks which were later dishonored for having been drawn against a closed account indicates a lawyer's unfitness for the trust and confidence reposed on her. It shows a lack of personal honesty and good moral character as to render her unworthy of public confidence. The issuance of a series of worthless checks also shows the remorseless attitude of respondent, unmindful to the deleterious effects of such act to the public interest and public order. It also manifests a lawyer's low regard to her commitment to the oath she has taken when she joined her peers, seriously and irreparably tarnishing the image of the profession she should hold in high esteem."[30]

Atty. De Taza's actuations towards the complainant and his siblings were even worse as she had the gall to make it appear to the complainant that the proceedings before the Court can be expedited and ruled in their favor in exchange for an

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[29] *Babante-Caples v. Caples*, A.M. No. HOJ-10-03, November 15, 2010, 634 SCRA 498, 502.

[30] *Wilkie v. Atty. Limos*, 591 Phil. 1, 8 (2008).

exorbitant amount of money. Said scheme was employed by Atty. De Taza just to milk more money from her clients. Without a doubt, Atty. De Taza's actions are reprehensible and her greed more than apparent when she even used the name of the Court to defraud her client.

When a lawyer receives money from the client for a particular purpose, the lawyer is bound to render an accounting to the client showing that the money was spent for that particular purpose. And if he does not use the money for the intended purpose, the lawyer must immediately return the money to his client.[31] In this case, the purpose for which Atty. De Taza demanded money is baseless and non-existent. Thus, her demand should not have even been made in the first place.

Section 27, Rule 138 of the Revised Rules of Court provides for the disbarment or suspension of a lawyer for any of the following: (1) deceit; (2) malpractice; (3) gross misconduct in office; (4) grossly immoral conduct; (5) conviction of a crime involving moral turpitude; (6) violation of the lawyer's oath; (7) willful disobedience of any lawful order of a superior court; and (8) willfully appearing as an attorney for a party without authority to do so.[32]

The Court in *Victoria C. Heenan v. Atty. Erlinda Espejo*[33] suspended the respondent from the practice of law for two years when the latter issued checks which were dishonored due to insufficiency of funds. In *A-1 Financial Services, Inc. v. Valerio*,[34] the same penalty was meted out by this Court to the erring lawyer who issued worthless checks to pay off her loan.

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[31] *Natividad P. Navarro and Hilda S. Presbitero v. Atty. Ivan M. Solidum, Jr.*, A.C. No. 9872, January 28, 2014.

[32] *Arellano University, Inc. v. Mijares III*, A.C. No. 380, November 20, 2009, 605 SCRA 93, 97.

[33] A.C. No. 10050, December 3, 2013.

[34] A.C. No. 8390, July 2, 2010, 622 SCRA 616.

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Additionally, in *Anacta v. Resurreccion*,[35] the Court held that suspension from the practice of law for four years was the appropriate sanction for a lawyer who defrauded his client into paying ₱42,000.00 to him for the purported filing of a petition for annulment of marriage. The respondent therein presented to his client a copy of the petition with stamped receipt from the trial court when in reality, no such petition was filed.

In *Celaje v. Atty. Soriano*,[36] the respondent therein demanded ₱14,000.00 from the complainant to be put up as injunction bond and asked for additional sums of money on other occasions, supposedly to pay the judge who was handling the case. When the complainant verified this with the judge, the judge denied the respondent's allegations. The complainant later learned that the bond was also unnecessary, as the application for a writ was already denied by the trial court. Due to the foregoing, the Court suspended the respondent from the practice of law for two years.

"Law is a noble profession, and the privilege to practice it is bestowed only upon individuals who are competent intellectually, academically and, equally important, morally. Because they are vanguards of the law and the legal system, lawyers must at all times conduct themselves, especially in their dealings with their clients and the public at large, with honesty and integrity in a manner beyond reproach."[37] "The Judiciary has been besieged enough with accusations of corruption and malpractice. For a member of the legal profession to further stoke the embers of mistrust on the judicial system with such irresponsible representations is reprehensible and cannot be tolerated."[38]

All told, the Court holds that there is no reason to deviate from the report and recommendation of the IBP Commission

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[35] A.C. No. 9074, August 14, 2012, 678 SCRA 352.

[36] 561 Phil. 341 (2007).

[37] *Resurreccion v. Sayson*, 360 Phil. 313, 322 (1998).

[38] *Berbano v. Atty. Barcelona*, 457 Phil. 331, 345 (2003).

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on Bar Discipline which is to suspend Atty. De Taza from the practice of law for two years.

WHEREFORE, respondent Atty. Norlita De Taza is hereby **SUSPENDED** from the practice of law for **TWO YEARS** with a **STERN WARNING** that a repetition of the same or similar infraction would be dealt with more severely.

Let copies of this Decision be furnished all courts of the land, the Integrated Bar of the Philippines, as well as the Office of the Bar Confidant for their information and guidance, and let it be entered in Atty. Norlita De Taza's record in this Court.

SO ORDERED.

Sereno, C.J., Carpio, Velasco, Jr., Leonardo-de Castro, Brion, Peralta, Bersamin, del Castillo, Villarama, Jr.,Perez, Mendoza, Perlas-Bernabe, and *Leonen, JJ.,* concur.

EN BANC

[A.M. No. P-13-3123. June 10, 2014]

ALBERTO VALDEZ, *complainant, vs.* **DESIDERIO W. MACUSI, JR., Sheriff IV, Regional Trial Court, Branch 25, Tabuk, Kalinga,** *respondent.*

SYLLABUS

1. REMEDIAL LAW; CIVIL PROCEDURE; EXECUTION OF JUDGMENTS; RETURN OF WRIT OF EXECUTION; THIRTY-DAY PERIOD FOR EXECUTION AND PERIODIC REPORT EVERY 30 DAYS; NON COMPLIANCE THEREWITH RENDERS THE SHERIFF GUILTY OF SIMPLE NEGLECT OF DUTY.— [Under] Section 14, Rule 39 of the 1997 Rules of Civil Procedure, x x x [t]he 30-day period imposed for the execution of the