

**ATTY. PABLO B. FRANCISCO, COMPLAINANT, VS. ATTY. MA. VICTORIA SUÑEGA-LAGMAN, RESPONDENT.***A.C. No. 13035. June 27, 2023*

Ponente: ZALAMEDA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/a-c-no-13035/>**ZALAMEDA, J.:**

Before Us is a Complaint for disbarment filed by Atty. Pablo B. Francisco (Atty. Francisco) against Atty. Ma. Victoria Suñega-Lagman (Atty. Suñega-Lagman) in relation to the performance of the latter's duties as investigating prosecutor of the Department of Justice (DOJ), Office of the Regional Prosecutor – Region IV.

**Antecedents**

On 19 May 2021, the Court, through the Office of the Bar Confidant, received a Complaint[1] from Atty. Francisco accusing Atty. Suñega-Lagman of violating Canon 6 of the Code of Professional Responsibility (CPR),[2] grave misconduct, and gross ignorance of the law for not finding probable cause in the criminal complaint he filed for perjury, docketed as NPS No. XV-18D-INV-18H-02960.[3]

Atty. Francisco alleged that he was the respondent in a disciplinary complaint filed before the Integrated Bar of the Philippines (IBP)-Commission. on Bar Discipline (CBD), and docketed as CBD Case No. 18-5542, which was filed by the officers of the Brookside Residents Association, Inc. (BRAI) – the homeowners' association at Brookside Hills Subdivision, Cainta, Rizal (Brookside Hills). The complaining BRAI officers accused Atty. Francisco of violating the Canons of Judicial Ethics for filing multiple frivolous charges against them and other BRAI officers in court, the prosecutor's office, as well as various government agencies.[4]

In his defense, Atty. Francisco claimed that he filed said complaints because the BRAI officers entered several questionable transactions allegedly to the detriment of Brookside Hills homeowners. Atty. Francisco alleged that the BRAI officers executed a Compromise Agreement dated 3 March 2009 with the developer of Brookside Hills, St. Louis Realty Corporation (SLRC), whereby the money judgment in favor of BRAI in HLURB Case No. REM-012794-5778 was settled by the BRAI officers from PHP 109 million to PHP 5 million plus some real properties, the market value of which, purportedly, did not approximate the judgment debt due from SLRC.[5]

Meanwhile, Atty. Francisco filed a criminal complaint for perjury against the BRAI officers. It was eventually assigned to respondent Atty. Suñega-Lagman for preliminary investigation. Atty. Francisco based his complaint on the alleged fact that during the proceedings before the CBD, the complaining BRAI officers stipulated facts in their notarized Conference Brief that were supposedly willful or deliberate falsehoods. The BRAI officers offered as stipulation the fact that they were not yet officers of BRAI when the Compromise Agreement with SLRC was executed on 3 March 2009, and, therefore, not parties to it. However, Atty. Francisco pointed out that the Compromise Agreement was signed by Antonio Medina, a complainant in the CBD case, together with a certain Manuel D. De Paz, who were allegedly BRAI officers at the time of the subject transaction. Thus, according to Atty. Francisco, the BRAI officers should be indicted for perjury for the false statement they deliberately made in their notarized Conference Brief.[6]

However, Atty. Suñega-Lagman issued a Resolution dismissing Atty. Francisco's criminal complaint. She ruled that no willful and deliberate assertion of falsehood could be attributed to the complainants because the stipulated facts were mere proposals that Atty. Francisco was free to accept or reject.[7]

Aggrieved, Atty. Francisco filed the present administrative Complaint against respondent Atty. Suñega-Lagman. He avers that respondent's Resolution was characterized by whim, caprice, and despotism. In Atty. Francisco's mind, the reason cited in her ruling, i.e., that the statements of the BRAI officers were mere proposals for stipulation, satisfies the third element of perjury: that the false statement contains a deliberate assertion of falsehood. Further, Atty. Francisco discusses why, under the law and jurisprudence, his complaint for perjury should not have been dismissed. He insists that Atty. Suñega-Lagman's dismissal based on her failure to apply "basic legal commands embodied in the law and the rules" to the undisputed facts of his case constitutes gross ignorance of the law, and a failure to discharge her duty to see that justice is done, which is mandated by the CPR.[8]

#### Issue

The sole issue for determination is whether respondent should be held liable for violations of the CPR, grave misconduct, and gross ignorance of the law.

#### Ruling of the Court

Recently, in *Guevarra-Castil v Trinidad (Guevarra-Castil)*,[9] the Court En Banc issued guidelines (hereinafter referred to as the "Guevarra--Castil guidelines") in determining jurisdiction over disciplinary complaints against lawyers employed in the government. The Court held:

Then, in order to do away with the ostensible confusion, and the unethical practice of effective forum shopping, taking into account the suggestions of Senior Associate Justice Estela M. Perlas-Bernabe during the deliberations on this case, the Court hereby lays the following rules in the filing and handling of complaints against government lawyers, to serve as guidelines for both the bench and the bar:

1. All complaints against and which seek to discipline government lawyers in their respective capacities as members of the Bar must be filed directly before this Court. Conversely, complaints which do not seek to discipline them as members of the Bar shall be dismissed for lack of jurisdiction and referred to the Ombudsman or concerned government agency for appropriate action.

2. In connection with paragraph 1, upon filing, the Court must determine whether the concerned agency, the Ombudsman, or the Court, has jurisdiction over the complaint against the government lawyer. In making such determination, the following must be considered: did the allegations of malfeasance touch upon the errant lawyer's continuing obligations under the CPR and/or the Lawyer's Oath? To put it more simply, the primordial question to be asked in making this determination is this: do the allegations in the complaint, assuming them to be true, make the lawyer unfit to practice the profession?

2a. If the question in paragraph 2 yields a positive answer, the case properly lies before the Court, which shall retain jurisdiction. This is so because again, the power to regulate the practice of law, and discipline members of the bar, belongs to Us. Necessarily, proceedings to be had before this Court should concern these and only these matters. This rule shall hold, even if the complaint also contains allegations of administrative and/or civil service rules infractions. In such situation however; the Court shall limit its ruling only to the matter of the respondent's fitness as a lawyer.

2b. On the other hand, if the question in paragraph 2 yields a negative answer, the Court, for lack of jurisdiction, shall dismiss the case and refer the same to the appropriate government office or the Ombudsman.

3. If multiple complaints have been filed, the process shall be the same.

In the event that paragraph 2b shall apply, and results in a situation where one or more complaint/s have been

dismissed and referred to the appropriate government office or the Ombudsman, and one or more complaint/s have been retained by this Court, the cases shall proceed independently from one another.[10]

Through the abovequoted guidelines, Guevarra-Castil unequivocally abandoned the doctrine enunciated in *Spouses Buffe v. Gonzales*[11] and other earlier decisions which stated that the Court has no jurisdiction to discipline, as member of the Bar, government lawyers who committed acts or omissions involving their official duties.[12]

It must be remembered, however, that Guevarra-Castil centers on the involvement of a government lawyer in an extramarital affair with her coworker. The instant case presents the Court its first opportunity to apply the Guevarra-Castil guidelines to a government lawyer charged with administrative offenses involving the performance of her official duties.

We also note that on 11 April 2023, the Court, through its Sub-Committee for the Revision of the Code of Professional Responsibility,[13] promulgated the new Code of Professional Responsibility and Accountability[14] (hereinafter referred to as the "new CPRA," to distinguish it from the CPR), which expressly repealed the CPR, including jurisprudential principles that are inconsistent with the new CPRA. Further, the new CPRA was made to apply to pending cases such as the one under consideration. Sections 1 and 2 of the new CPRA's General Provisions state:

SECTION 1. Transitory provision. — The CPRA shall be applied to all pending and future cases, except to the extent that in the opinion of the Supreme Court, its retroactive application would not be feasible or would work in justice, in which case the procedure under which the cases were filed shall govern. (n)

SECTION 2. Repealing clause. — The Code of Professional Responsibility of 1988, Sections 20 to 37 of Rule 138, and Rule 139-B of the Rules of Court are repealed.

The lawyer's oath as found in Rule 138 of the Rules of Court is amended and superseded.

Any resolution, circular, bar matter, or administrative order issued by or principles established in the decisions of the Supreme Court inconsistent with the CPRA is deemed, modified or repealed. (Emphasis supplied.)

However, the Guevarra-Castil guidelines and the new CPRA are not inconsistent with each other. In fact, the new CPRA's provision on filing of complaints against government lawyers appears to be based on the Guevarra--Castil guidelines. Thus, Canon VI, Sections 2 and 6, provide:

SECTION 2. How instituted. — Proceedings for the disbarment, suspension, or discipline of lawyers may be commenced by the Supreme Court on its own initiative, or upon the filing of a verified complaint by the Board of Governors of the Integrated Bar of the Philippines (IBP), or by any person, before the Supreme Court or the IBP. However, a verified complaint against a government lawyer which seeks to discipline such lawyer as a member of the Bar shall only be filed in the Supreme Court. x x x

x x x

SECTION 6. Complaint against a government lawyer. — When a complaint is filed against a government lawyer, the Investigating Commissioner shall determine, within five days from assignment by raffle, whether the concerned agency, the Ombudsman, or the Supreme Court has jurisdiction. If the allegations in the complaint touch upon the lawyer's continuing obligations under the CPRA or if the allegations, assuming them to be true, make the lawyer unfit to practice the profession, then the Investigating Commissioner shall proceed with the case. Otherwise, the Investigating Commissioner shall recommend that the complaint be dismissed. (n)[15]

Perhaps the only minor difference between the two involves the referral to IBP of a complaint involving a

government lawyer. The Guevarra--Castil guidelines are silent on this matter. Meanwhile, the new CPRA seems to impose upon the investigating commissioner of the IBP the duty to determine which among the Court, the Ombudsman, or the concerned agency has jurisdiction over the complaint. We note, nevertheless, that under Canon VI, Section 2, referral to the IBP is optional. Thus:

SECTION 2. How instituted. — x x x

x x x

A verified complaint filed with the Supreme Court may be referred to the IBP for investigation, report and recommendation, except when filed directly by the IBP, in which case, the verified complaint shall be referred to the Office of the Bar Confidant or such fact-finding body as may be designated. (n)

Further, Canon VI, Section 30 provides:

SECTION 30. Proceedings initiated before the Supreme Court. — In proceedings initiated by the Supreme Court, or proceedings commenced by complaint filed with the Supreme Court, the Supreme Court may refer the case for investigation, report and recommendation to the Office of the Bar Confidant, or the IBP, or other fact-finding body that is designated or created by the Supreme Court for such purpose.

Cases referred to the Office of the Bar Confidant, or other fact-finding body, or the IBP shall proceed in the same manner provided in Sections 5 to 29 of this Canon.

In any event, the report and recommendation on the investigation shall be reviewed directly by the Supreme Court, which shall take such necessary action on the report and recommendation as may be warranted. (R140, sec. 12; R139-B, sec. 13)

In this regard, the Court would exercise its option to not refer the case to the IBP. First, referral to the IBP would only prolong the controversy, which could be prevented considering that the Court is very willing to meticulously apply here, step-by-step, the Guevarra-Castil guidelines, insofar as they are consistent with the new CPRA. And second, and as will be discussed later, the acts or omissions complained of constitute a violation of both the then CPR as well as the new CPRA, and the DOJ's own rules of conduct.

By doing this, the Court likewise aims to address whatever gaps, intricacies, or nuances the Guevarra-Castil guidelines may have in relation to the new CPRA. In particular, the Court will endeavor to provide additional factors or matters that may be considered by the Court or the investigating commissioner to address practical matters in applying the Guevarra-Castil guidelines and the new CPRA.

Step 1: Determine allegations in the complaint constituting the acts or omissions complained of.

After an administrative complaint against a government lawyer is lodged, either before the Court, in cases where the complaint seeks to discipline a government lawyer as a member of the Bar,[16] or before the IBP,[17] the Guevarra-Castil guidelines provide that the allegations of the complaint, specifically those constituting the acts or omission of the government lawyer complained of, must be determined. As applied in this case, and stripped of the non-essentials, Atty. Francisco's Complaint alleged:

8. To the dismay and consternation of complainant, however, respondent Lagman dismissed the perjury complaint on a ruling that there can be no willful and deliberate assertion of a falsehood "on the part of Flora Mari et al., because the false statement is a mere proposal for stipulation offered to herein complainant and it's up to him to accept or reject such facts."

Said ruling of respondent Lagman is characterized by whim, caprice and despotism for the following reasons:

x x x

x x x

The reason cited by respondent Lagman for her dismissal of the perjury complaint i.e. (sic) that the false statement are mere proposals for stipulation offered to herein complainant, actually satisfies the third element of perjury i.e. (sic) that the false statements contain a deliberate assertion of falsehood.

x x x

Yet, respondent Lagman ruled that said statement is not "willful and deliberate assertion of falsehood", as would warrant the dismissal of the complaint.

The false statement, therefore, is not a mere proposal as what respondent Lagman characterized it. It is an open invitation for complainant and the IBP to accept the statement as true. Respondent Lagman's reason for dismissing the complaint actually is one of the elements of the existence of perjury... the falsehood was deliberate. Ignorance of the law is manifest.[18]

The portions excluded from the quotation above pertain only to Atty. Francisco's own interpretation of the relevant laws and jurisprudence and his litany of why under said laws and jurisprudence, his complaint for perjury should not have been dismissed.

Based on the foregoing, the act or omission complained of is clear: Atty. Francisco filed the present disciplinary Complaint against Atty. Suñega-Lagman who issued a Resolution dismissing his complaint for lack of probable cause. In so ruling, Atty. Suñega-Lagman allegedly failed to discern that his adversaries committed a willful and deliberate assertion of falsehood.

Step 2: Assume that these allegations are true, and determine whether they constitute 1) a violation of the new CPRA or 2) make the lawyer unfit to practice the profession.

This guideline has been adopted and modified under the new CPRA, which now provides that assuming the allegations in the complaint are true, the investigating commissioner shall determine whether the same actually touch upon the lawyer's continuing obligations under the new CPRA or make the lawyer unfit to practice the profession.[19] By supplication, the same may also be applied by the Court with regard to administrative complaints against government lawyers directly filed before It in determining whether it indeed has jurisdiction over them.

This is a crucial step in the process of determining jurisdiction and is akin to the test applied in determining whether a civil complaint could be dismissed for failure to state a cause of action. In *Heirs of Clavano v. Genato*,[20] the Court held:

It is a well-settled rule that in a motion to dismiss based on the ground that the complaint fails to state a cause of action, the question submitted to the court for determination is the sufficiency of the allegations in the complaint itself. Whether those allegations are true or not is beside the point, for their truth is hypothetically admitted by the motion. The issue rather is: admitting them to be true, may the court render a valid judgment in accordance with the prayer of the complaint? Stated otherwise, the sufficiency of the cause of action must appear on the face of the complaint in order to sustain a dismissal on this ground. No extraneous matter may be considered nor facts not alleged, which would require evidence and therefore must be raised as defenses and await the trial. In other words, to determine the sufficiency of the cause of action, only the facts alleged in the complaint, and no others should be considered.[21] (Emphases supplied.)

The abovequoted ruling also emphasizes that during this step, the investigating commissioner, or the Court for that matter, will only "assume" or "hypothetically admit" these factual allegations to be true. The reason is evident: At this stage, the investigating commissioner or the Court is not delving into the merit of the case, but

only in the process of determining whether it has jurisdiction over the complaint.

Here, Atty. Francisco claims that Atty. Suñega-Lagman's failure to consider the alleged falsity in the stipulation of facts as deliberate falsehood perpetrated by his opponents and her dismissal of his criminal complaint constitute gross ignorance of the law and a violation of Canon 6, Rule 6.01 of the CPR, which states:

Rule 6.01 - The primary duty of a lawyer engaged in public prosecution is not to convict but to see that justice is done. The suppression of facts or the concealment of witnesses capable of establishing the innocence of the accused is highly reprehensible and is cause for disciplinary action.

In his Complaint, Atty. Francisco argues:

Such act of dismissal based on a wayward ground is a dismal failure to follow basic legal commands embodied in the law and the rules and constitutes gross ignorance of the law.

If the law, rule or principle is so elementary, not to know it or to act as if one does not know it already constitutes gross ignorance of the law, without the complainant having to prove malice or bad faith on the part of the erring Judge, as the same can clearly be inferred from the error committed x x x.

The primary duty of a lawyer in public prosecution is to see that justice is done ---- to the State that its penal laws are not broken and order maintained; to the victim that his or her rights are vindicated and to the offender, that he is justly punished for his crime.

The law makes it a legal duty for the prosecuting officers to file the charges against whomsoever the evidence may show to be responsible for the offense x x x.[22]

To be held liable for gross ignorance of the law, as a rule, there must be a showing that the error was gross and patent as to support a conclusion that the actor was so moved with malice, bad faith, corruption, fraud, and dishonesty.[23] Nevertheless, in *Coronado v. Judge Rojas*, [24] the Court explained that ignorance of an elementary rule, law, or principle is considered gross even in the absence of proof of malice, bad faith, corruption, fraud, and dishonesty. When the law is sufficiently basic or elementary, to not know it or to act as if one does not know it constitutes gross ignorance of the law. Otherwise, not knowing it would only amount to simple — not gross — ignorance of the law.[25]

If We are to assume that false statements in stipulations of facts are deliberate falsehoods based on basic and elementary principles of law, then Atty. Suñega-Lagman's dismissal of the complaint could indeed constitute gross ignorance of the law.

Similarly, as regards Atty. Suñega-Lagman's alleged violation of Canon 6, Rule 6.01 of the CPR, the Court had, on few occasions, albeit in nondisbarment cases, ruled that part of the public prosecutor's duty under Canon 6 of the CPR is to ensure "that justice is done — to the State, that its penal laws are not broken and order maintained; to the victim, that his or her rights are indicated; and to the offender, that he [or she] is justly punished for his [or her] crime." [26]

Emphasis should be given to the fact that Rule 6.01 of the CPR found its way to the new CPRA as Canon II, Section 31, which states:

SECTION 31. Prosecution of criminal cases. — The primary duty of a public prosecutor is not to convict but to see that justice is done.

Suppressing facts, concealing of, tampering with or destroying evidence, coaching a witness, or offering false testimony is cause for disciplinary action.

The obligations of a public prosecutor shall also be imposed upon lawyers in private practice who are

authorized to prosecute under the direct supervision and control of the public prosecutor. (6.01a)

In sum, assuming that the allegations in the Complaint are true, coupled with a cursory review of the relevant legal bases that were also alleged in the Complaint, it appears that Atty. Suñega-Lagman's actuations could be considered violations of the CPR (now the new CPRA).

3. Accept jurisdiction if the acts or omission complained of as alleged in the complaint 1) seek to discipline such lawyer as a member of the Bar; or 2) constitute a violation of the New CPRA, or 3) make such lawyer unfit for practice. Otherwise, refer the case to the concerned agency, the Ombudsman, or the Supreme Court, or dismiss the same.

Under Section 2, Canon VI of the new CPRA, a verified complaint against a government lawyer which seeks to discipline such lawyer as a member of the Bar shall only be filed with the Supreme Court. Section 6 thereof also states that in cases of complaints against a government lawyer, the investigating commissioner shall determine whether the concerned agency, the Ombudsman; or the Supreme Court has jurisdiction. Further, the IBP shall proceed with the case 1) if the allegations in the complaint touch upon the lawyer's continuing obligations under the new CPRA, or 2) if the allegations, assuming them to be true, make the lawyer unfit to practice the profession. Otherwise, the investigating commissioner shall recommend that the complaint be dismissed.

As applied to the present case, since the allegations in the Complaint, assuming them to be true, seek to discipline Atty. Suñega-Lagman — as a member of the Bar — as one unfit to practice the profession, the Court can assume jurisdiction over the Complaint.

However, there may be instances when the act or omission complained of constitutes a violation of both the New CPRA and the code of conduct of the agency to which the respondent government lawyer belongs.

Allegations of acts or omissions pertaining to the government lawyers' performance of their official duties would almost always touch upon their fitness to practice the profession.

Due to the comprehensiveness and prevalence of the CPR then, and now the new CPRA, misconduct committed by government lawyers in their official capacities or performance of official duties, may likewise qualify as a transgression that could affect their fitness as lawyers.

To illustrate, in *Sismaet v. Atty. Cruzabra*,<sup>[27]</sup> the respondent, as registrar of deeds, was accused of gross ignorance of the law, violation of her duty to pay that respect and courtesy due to courts of justice, and a violation of the trust and confidence required of her as the registrar of deeds, for her act of annotating an affidavit of cancellation on a party's adverse claim. In *Fermin v. Atty. Bedol*,<sup>[28]</sup> respondent, who was a Provincial Election Supervisor III of the Commission on Elections (COMELEC), was found guilty of violating Canon 1 of the CPR for issuing a notice of special election prior to the issuance of the COMELEC resolution calling for such election. As reference, Canon 1 of the then CPR provides:

CANON 1 — A LAWYER SHALL UPHOLD THE CONSTITUTION, OBEY THE LAWS OF THE LAND AND PROMOTE RESPECT FOR LAW AND FOR LEGAL PROCESSES.

While the government lawyers in the above discussed cases were correctly found guilty of violating the CPR, these cases also show that even the most basic function of a government lawyer could expose him or her to administrative liability if attended by allegations of negligence, ignorance of the law, bad faith, malice etc. Moreover, the generality of the CPR, particularly Canon 1, renders an allegation of any violation of law or

departure from any established rule or legal process a potential violation of said Code. As far as the new CPRA is concerned, Canon III, Section 2 is a provision similar to Canon 1. Thus:

SECTION 2. The responsible and accountable lawyer. — A lawyer shall uphold the constitution, obey the laws of the land, promote respect for laws and legal processes, safeguard human rights, and at all times advance the honor and integrity of the legal profession. (1a)

As an officer of the court, a lawyer shall uphold the rule of law and conscientiously assist in the speedy and efficient administration of justice. (12a)

As an advocate, a lawyer shall represent the client with fidelity and zeal within the bounds of the law and the CPRA. (17a, 19a)

In these instances, if the allegations in the disbarment complaint are assumed to be true, a violation of the new CPRA would almost surely be discovered.

Acts or omissions considered as violation of the New CPRA may also constitute a violation of the concerned agency's code of conduct

The broadness and universality of the CPR then, and now the new CPRA, also introduce the possibility that the wrongdoing committed could constitute a violation of both the CPR/ new CPRA on one hand, and on the other, the code of conduct of the agency employing the respondent government lawyer. This is not the same as the "allegations of administrative and/or civil service rules infractions" mentioned in paragraph 2a of the Guevarra-Castil guidelines. The present case, for example, did not allege any administrative or civil service rules infractions but focused on violations of the CPR. However, as will be discussed next, the alleged malfeasance committed by Atty. Suñega-Lagman also qualifies as a violation of the DOJ's Code of Conduct.

Indeed, in 2010, the DOJ had launched the Codes of Conduct of the Prosecution Service,[29] which include the Code of Conduct for Prosecutors and Code of Conduct for Members of the Prosecution Service Support Staff. Further, the DOJ, on 11 March 2011, issued Department Circular (DC) No. 017, Series of 2011, declaring the immediate effectivity of the Codes of Conduct.[30]

The Code of Conduct for Prosecutors states:

3. Dedication, Diligence and Competence – As the people's representative, a prosecutor must perform duties with utmost competence, responsibility, earnestness, and vigor.

x x x

3.4. A prosecutor should prepare a well-reasoned and defensible resolution taking into consideration the undisputed facts and circumstances and those established by the evidence vis-à-vis the applicable laws and jurisprudence. The resolution should concisely summarize the facts, arguments, and applicable laws and jurisprudence of the case, state the rationale for the prosecutor's determination, and indicate in specific and unmistakable terms any laws violated.

While it was already discussed that the alleged wrongdoing committed by Atty. Suñega-Lagman could constitute gross ignorance of the law, it could also be considered a violation of the abovequoted rule of the Code of Conduct for Prosecutors, which imposes upon a public prosecutor the duty to know and apply the laws and jurisprudence applicable to the undisputed facts of the case being investigated. This is precisely the bone of Atty. Francisco's contention. He claims that Atty. Suñega-Lagman failed to apply "basic legal commands embodied in the law and

the rules" to the undisputed facts of his case. Interestingly, the annotated version of the Code of Conduct for Prosecutors, quoted under this rule, the case of *Mercado et al., v. Hon. Salcedo*,<sup>[31]</sup> which discussed gross ignorance of the law:

Where the law is straightforward and its application to the facts is plainly evident, not to know the law, or to act as if one does not know it, constitutes gross ignorance of the law. A judge owes the public and the court the duty to be proficient in the law and is expected to keep abreast of laws and prevailing jurisprudence; otherwise, he erodes the confidence of the public in the courts. Ignorance of the law by a judge can easily be the mainspring of injustice.<sup>[32]</sup>

With respect to Atty. Suñega-Lagman's alleged violation of Canon 6.01 of the CPR, or Canon II, Section 31 of the new CPRA, the same could be a violation of Rules 3.1 and 4.1.a of the Code of Conduct for Prosecutors, which states:

3.1. A prosecutor must recognize and respect the substantive rights of all parties and observe, not misuse, all rules of procedure.

During inquest, a prosecutor must patiently and diligently explain to all parties present the nature of the proceedings and the rights of the respondent, including the right to preliminary investigation and to be assisted by counsel of the respondent's choice.

A prosecutor must ensure that each respondent is permitted to exercise the right to a preliminary investigation and prepare for a defense except in cases under summary investigation.

x x x

4.1. A prosecutor should exert effort to discontinue the prosecution of the case once an impartial investigation shows that the charge is unfounded.

x x x

- A prosecutor should never compromise his/her office when conducting an inquest proceeding, summary investigation, or preliminary investigation. "Utang na loob" should not be a consideration in resolving cases in favor of a party. A prosecutor should always administer justice impartially, without fear or favor, ensuring that the guilty do not escape liability and the innocent do not suffer. (Emphasis supplied)<sup>[33]</sup>

While not the focus of the Complaint here, but only to bolster the Court's contention, the annotated version of the Codes of Conduct of the Prosecution Service appears to suggest that Rule 3.2 of the Code of Conduct for Prosecutors, which states that "[a] prosecutor must exercise good judgment in handling inquest proceedings, summary and preliminary investigations of all cases,"<sup>[34]</sup> is analogous to the following canons of the CPR:

Code of Professional Responsibility, Canon 12:

"A lawyer shall exert every effort and consider it his duty to assist in the speedy and efficient administration of justice."

Code of Professional Responsibility, Canon 13:

"A lawyer shall rely upon the merits of his cause and refrain from any impropriety which tends to influence, or gives the appearance of influencing the court."

Code of Professional Responsibility, Canon 18:

"A lawyer shall serve his client with competence and diligence."<sup>[35]</sup>

Under the new CPRA, Canon 12 could now be found in the second paragraph of Canon III, Section 2,<sup>[36]</sup> Canon

13 was reworded in Canon I, Section 2,[37] and Canon 18 is now Canon IV.[38]

The foregoing illustrates how the CPR, and expectedly the new CPRA, and the Code of Conduct for Prosecutors are conceptually related, and a malfeasance committed by a government lawyer could pass as simultaneous violations of these codes. The Guevarra-Castil guidelines, as adopted and modified by the new CPRA, however, are silent when the alleged wrongdoing constitutes a violation of both the new CPRA and the concerned agency's own Code of Conduct.

Thus, to address the above discussed issues and to further improve the application of the Guevarra-Castil guidelines, as adopted and modified under the new CPRA, the Court resolves to supplement it with the following additional guidelines that the Court or the Investigating Commissioner of the IBP shall follow in determining jurisdiction over complaints against government lawyers:

- To properly determine whether the malfeasance committed properly pertains to the disciplinary powers of the appropriate government office, the Court or the investigating commissioner shall require the said office to verify the existence of any rules, guidelines, or code governing the conduct of the respondent government lawyer.
- In cases where the complaint alleges a wrongdoing that constitutes a violation of both the new CPRA/CPR, and of the appropriate government office's rules or code of conduct, the Court or the investigating commissioner shall proceed with the case pursuant to Canon VI, Section 6 of the new CPRA. The Court or the investigating commissioner shall refer the complaint to the concerned government office for its appropriate action, even if there is a finding that the respondent government lawyer is not liable under the new CPRA.

The first additional guideline is an acknowledgment that the different government offices may have formulated and may be enforcing their own disciplinary rules and codes of conduct that are still not within the knowledge of the Court. Thus, to correctly determine who should assume jurisdiction, the Court will exert all reasonable efforts to familiarize itself with the different rules or codes implemented by the different government offices.

The second addition aims to afford the concerned agency the opportunity to discipline its ranks for committing acts inimical to its mandate, which may be overlooked because of the direct filing of the complaint before the Court. This is consistent with Canon II, Section 28 of the new CPRA, which provides that a government lawyer's violation of the code shall be separate and distinct from liability under pertinent laws or rules, which include the concerned government office's own rules and code of conduct. Thus, said government office could still proceed independently against its lawyers despite a finding that the latter is still fit to practice the profession. Canon II, Section 28 of the new CPRA states:

SECTION 28. Dignified government service. — Lawyers in government service shall observe the standard of conduct under the CPRA, the Code of Conduct and Ethical Standards for Public Officials and Employees and other related laws and issuances in the performance of their duties.

Any violation of the CPRA by lawyers in government service shall be subject to disciplinary action, separate and distinct from liability under pertinent laws or rules[39]. (6a)

#### Application to the case at bar

Applying the foregoing to the present case, the Court resolves to acquire jurisdiction over the present Complaint and determine whether Atty. Suñega-Lagman could be held liable under the new CPRA.

Atty. Sunega-Lagman's failure to discern falsehood in her resolution dismissing Atty. Francisco's complaint is not

gross ignorance of the law.

As discussed, before a member of the Bar could be found guilty of gross ignorance of the law, the actuation of the lawyer charged must not only be found to be erroneous, but it must be demonstrated that he or she was actuated by bad faith, dishonesty, hatred, or some other like motive.[40] Thus:

In order, however, to be found guilty of gross ignorance of the law, this Court has laid down a caveat that for liability to attach, the assailed order, decision or actuation of the judge in the performance of official duties must not only be found to be erroneous but, most importantly, that he was actuated by bad faith, dishonesty, hatred or some other like motive.[41]

Nevertheless, where the law is straightforward and the facts so evident, failure to know it or to act as if one does not know it constitutes gross ignorance of the law.[42]

Here, Atty. Francisco foregoes any allegation or proof that Atty. Suñega-Lagman was motivated by bad faith, dishonesty, hatred, or some ill--motive. Instead, Atty. Francisco claims that Atty. Suñega-Lagman was ignorant of a basic and elementary principle of law, i.e., that offer of stipulation of fact in a pre-trial brief that was allegedly not true is also a deliberate assertion of falsehood that exposes the offeror to liability for perjury.

We disagree.

To consider a principle of law basic and elementary, its application must be too evident or obvious either because: (1) there is a legal provision defining it, (2) it is contained in a body of rules, or (3) its meaning is already settled in jurisprudence. That is not the case here.

Certainly, there is no law or rule stating definitively that an offer to stipulate a fact that happens to be untrue would make the offeror liable for perjury. Beyond doubt, there is nothing of this import that could be found in Rule 118 of the Rules of Criminal Procedure.[43] If that were the case, then all offers for stipulation of facts that had been denied by the opposing party would have been considered perjurious. There is also no jurisprudence telling us the same. The case of *Monfort v. Salvatierra* (Monfort),[44] relied upon by Atty. Francisco, does not apply squarely here. In *Monfort*, the false statement was contained in a declarative statement in a counter-affidavit, not in an offer for stipulation in a pre-trial conference brief.

Interestingly, Canon VI, Section 33(h) of the new CPRA appears to have abandoned the principle stating that ignorance of an elementary rule, law, or principle is considered gross even in the absence of proof of malice, bad faith, corruption, fraud, and dishonesty.[45] The new CPRA now requires bad faith, malice, or corrupt motives before a lawyer can be held liable for gross ignorance of the law:

SECTION 33. Serious offenses. — Serious offenses include:

x x x

(h) Gross ignorance of the law or procedure, or the disregard of basic rules and settled jurisprudence, when either is attended by bad faith, malice or corrupt motive; x x x

However, neither could We ascribe bad faith, malice, or corrupt motives in Atty. Suñega-Lagman's decision to dismiss Atty. Francisco's criminal complaint. A review of respondent's ruling revealed that it was not arrived at arbitrarily. Respondent cited grounds based on her personal assessment of the facts and of the applicable laws and jurisprudence. Thus:

Perjury is the willful and corrupt assertion of a falsehood under oath or affirmation administered by authority

of law on a material matter. The elements of the felony are:

- (a) That the accused made a statement under oath or executed an affidavit upon a material matter.
- (b) That the statement or affidavit was made before a competent officer, authorized to receive and administer oath.
- (c) That in that statement or affidavit, the accused made a willful and deliberate assertion of a falsehood.
- (d) That the sworn statement or affidavit containing the falsity is required by law or made for a legal purpose.

A mere assertion of a false objective fact, a falsehood, is not enough. The assertion must be deliberate and willful. Perjury being a felony by dolo, there must be malice on the part of the accused. Willfully means intentionally; with evil intent and legal malice, with the consciousness that the alleged perjurious statement is false with the intent that it should be received as statement of what was true in fact. It is equivalent to "knowingly." "Deliberately" implies meditated as distinguished from inadvertent acts. It must appear that the accused knows his statement to be false or as consciously ignorant of the truth. x x x

The alleged perjurious statements of respondents herein are embodied in a Conference Brief under II STIPULATION OF FACT submitted by them in CBD Case No. 18-5542 (Adm. Case No. 11683) against complainant herein.

Considering that these statements alleged to be perjurious are mere proposals for stipulations offered to herein complainant and it is up to the latter to accept or reject such facts, there can be no "willful and deliberate assertion of a falsehood" on the part of herein respondents.

Henceforth, the instance case is dismissed for lack of probable cause.[46]

It must be emphasized that the Court, in deciding administrative complaints against public prosecutors, is not interested in judging whether respondent's ratiocination on the application is correct. Our only concern here is to decide whether respondent's error was so gross as to amount to fraud and dishonesty.[47]

Indeed, even if we consider the possibility that Atty. Suñega-Lagman committed a mistake in her resolution, not every error bespeaks ignorance of the law and that, if committed in good faith, does not warrant administrative sanction, so long as it is within the parameters of tolerable misjudgment.[48]

Our public prosecutors are not infallible and may make mistakes at some point while discharging their duties. These errors, nevertheless, would not automatically expose them to disciplinary sanctions unless proven to be so gross as to constitute blatant ignorance of our existing laws and jurisprudence. Otherwise, they would be incessantly threatened with the possibility of being administratively disciplined for every mistake they make, even the honest ones. Undoubtedly, this constant fear among our prosecutors would negatively affect their performance of their official duties, and ultimately, the effective administration of justice.

Atty. Suñega-Lagman did not violate Canon II, Section 31 of the new CPRA (formerly Canon 6, Rule 6.01 of the CPR).

The dispensation of justice is not a one-sided exercise. Indeed, while prosecutors' primary duty is to see that justice is done — to the State, that its penal laws are not broken and order maintained, and to the victims, that their rights are vindicated[49] — their duty to the alleged offenders is not always to ensure that they are punished. Canon II, Section 31 of the new CPRA is clear: The primary duty of a lawyer engaged in public prosecution is not to convict, or in our case, to indict, but to see that justice is done. Here, it was already established that Atty.

Suñega-Lagman's resolution was not tainted with malice, bad faith, fraud, or dishonesty. This belies the claim that Atty. Suñega-Lagman shirked her duty under Canon 6 of the CPR or Canon II of the new CPRA.

Pursuant to Section 28 of the new CPRA, the Court deems it proper to furnish the DOJ a copy of the Complaint as well as the Court's Decision for appropriate action

Considering that the new CPRA provides that any violation thereof by lawyers in the Government shall be subject to disciplinary action, separate and distinct from under pertinent laws or rules, We deem it proper to furnish the DOJ a copy of the Complaint and the Court's Decision for its appropriate action vis-à-vis its own Code of Conduct for Prosecutors.

ACCORDINGLY, the present administrative complaint against Atty. Ma. Victoria Suñega-Lagman is DISMISSED for lack of merit. Nevertheless, let a copy of the Complaint and this Decision be furnished to the Internal Affairs Unit of the Department of Justice for its appropriate action.

**SO ORDERED.**

Leonen,/\*\*] SAJ. (Acting C.J.), Caguioa, Hernando, Lazaro-Javier, Inting, M. Lopez, Gaerlan, Rosario, J. Lopez, Dimaampao, Marquez, Kho, Jr., and Singh, JJ., concur.  
Gesmundo,[\*] C.J., on official leave.

[\*] On official leave.

[\*\*] Acting Chief Justice per Special Order No. 2989 dated 24 June 2023.

[1] Rollo, pp. 1-10.

[2] CANON 6 – THESE CANONS SHALL APPLY TO LAWYERS IN GOVERNMENT SERVICES IN THE DISCHARGE OF THEIR TASKS.

Rule 6.01 – The primary duty of a lawyer engaged in public prosecution is not to convict but to see that justice is done. The suppression of facts or the concealment of witnesses capable of establishing the innocence of the accused is highly reprehensible and is cause for disciplinary action.

Rule 6.02 – A lawyer in the government service shall not use his public position to promote or advance his private interests, nor allow the latter to interfere with his public duties.

Rule 6.03 – A lawyer shall not, after leaving government service, accept engagement or employment in connection with any matter in which he had intervened while in said service.

[3] Rollo, p. 1.

[4] Id. at 2.

[5] Id.

[6] Id. at 3-4.

[7] Id. at 5.

- [8] Id. at 5-9.
- [9] A.C. No. 10294, 12 July 2022.
- [10] Id.
- [11] 797 Phil. 143 (2016).
- [12] Guevarra-Castil v. Trinidad, supra note 9.
- [13] Headed by Associate Justice Amy C. Lazaro-Javier as Chairperson, and Associate Justices Samuel H. Gaerlan and Maria Filomena D. Singh as Vice Chairpersons.
- [14] A.M. No 22-09-01-SC, approved on 11 April 2023.
- [15] Emphasis and underscoring supplied.
- [16] Section 2, Canon VI, CPRA.
- [17] Section 6, Canon VI, CPRA.
- [18] Rollo, pp. 5-8.
- [19] Section 6, Canon VI, CPRA.
- [20] 170 Phil. 275 (1977).
- [21] Id. at 276, emphasis and underscoring supplied.
- [22] Rollo, pp. 8-9.
- [23] Andres v. Nambi, 753 Phil. 225, 230 (2015).
- [24] 553 Phil. 258 (2007).
- [25] Baldado v. Bugtas, A.M. No. RTJ-00-1586, 24 October 2003.
- [26] People v. Caoili, 815 Phil. 839 (2017).
- [27] A.C. No. 5001, 7 September 2020.
- [28] A.C. No. 6560, 16 September 2019.
- [29] "DOJ Launches 'Codes of Conduct of the Prosecution Service,'" 24 December 2010, <[https://www.doj.gov.ph/news\\_article.html?newsid=62](https://www.doj.gov.ph/news_article.html?newsid=62)>, last accessed on 13 April 2023.
- [30] DOJ Department Circular No. 017 (2011):
- The Codes of Conduct shall take effect immediately. The IAUs shall take cognizance of all administrative complaints filed after their creation and constitution. All administrative cases pending before the constitution of the IAUs shall continue to be handled and resolved under existing procedures.
- [31] A.M. No. RTJ-03-1781-82, 16 October 2009.
- [32] Codes of Conduct of the Prosecution, Service, p. 29.
- [33] Id. at 26, 30-31.
- [34] Id. at 27.

[35] Id. at 28.

[36] SECTION 2. The responsible and accountable lawyer. — x x x

As an officer of the court, a lawyer shall uphold the rule of law and conscientiously assist in the speedy and efficient administration of justice (12a)

[37] SECTION 2. Merit-based practice. — A lawyer shall rely solely on the merits of a cause and not exert, or give the appearance of, any influence on, nor undermine the authority of, the court, tribunal or other government agency, or its proceedings. (13a)

### **[38] CANON IV COMPETENCE AND DILIGENCE**

A lawyer professionally handling a client's cause shall, to the best of his or her ability, observe competence, diligence, commitment, and skill consistent with the fiduciary nature of the lawyer-client relationship, regardless of the nature of the legal matter or issues involved, and whether for a fee or pro bono. (n)

[39] Emphasis supplied.

[40] *Sevilla v. Quintin*, 510 Phil. 487, 498 (2005).

[41] Id. at 498, emphasis supplied.

[42] *Department of Justice v. Misláng*, A.M. No. RTJ-14-2369 & RTJ-14-2372, 26 July 2016.

[43] Rule 118 or the Rules of Criminal Procedure provides:

#### **RULE 118**

##### **Pre-Trial**

Section 1. Pre-trial; mandatory in criminal cases. — In all criminal cases cognizable by the Sandiganbayan, Regional Trial Court, Metropolitan Trial Court, Municipal Trial Court in Cities, Municipal Trial Court and Municipal Circuit Trial Court, the court shall after arraignment and within thirty (30) days from the date the court acquires jurisdiction over the person of the accused, unless a shorter period is provided for in special laws or circulars of the Supreme Court, order a pre-trial conference to consider the following:

- (a) plea bargaining;
- (b) stipulation of facts;
- (c) marking for identification of evidence of the parties;
- (d) waiver of objections to admissibility of evidence;
- (e) modification of the order of trial if the accused admits the charge but interposes a lawful defense; and
- (f) such other matters as will promote a fair and expeditious trial of the criminal and civil aspects of the case. (secs. 2 and 3, cir. 38-98)

Section 2. Pre-trial agreement. — All agreements or admissions made or entered during the pre-trial conference shall be reduced in writing and signed by the accused and counsel, otherwise, they cannot be used against the accused. The agreements covering the matters referred to in section 1 of this Rule shall be approved by the court. (sec. 4, cir. 38-98)

Section 3. Non-appearance at pre-trial conference. — If the counsel for the accused or the prosecutor does not appear at the pre-trial conference and does not offer an acceptable excuse for his lack of cooperation, the court may impose proper sanctions or penalties. (sec. 5, cir. 38-98)

Section 4. Pre-trial order. — After the pre-trial conference, the court shall issue an order reciting the actions taken, the facts stipulated, and evidence marked. Such order shall bind the parties, limit the trial to matters not disposed of, and control the course of the action during the trial, unless modified by the court to prevent manifest injustice.

(3)

[44] 546 Phil. 274 (2007).

[45] See *Coronado v. Judge Rojas*, *supra*.

[46] *Rollo*, pp. 15-16.

[47] See *Andres v. Nambi*, *supra* note 23.

[48] *Department of Justice v. Mislang*, *supra* note 24.

[49] *People v. Pareja y Cruz*, 724 Phil. 759, 765 (2014).

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