Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

CLARITA MENDOZA and CLARISSE MENDOZA, Complainants,	**A.C. No. 11433** **[Formerly CBD Case No. 17-5301]**
	Present:
- versus -	CAGUIOA, *J., Chairperson,* INTING, GAERLAN, DIMAAMPAO, and SINGH, *JJ.*
ATTY. LEMUEL B. NOBLEZA, ATTY. HONESTO D. NOCHE,* and ATTY. RANDY C. CAINGAL, Respondents.	Promulgated: June 5, 2024 MictDcBatt

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DECISION

CAGUIOA, *J.*:

Before the Court is a Verified Complaint[1] for disbarment for gross ignorance of the law or procedure, violation of the Code of Professional Responsibility[2] (CPR), and violation of the Lawyer's Oath.

The instant disbarment complaint stemmed from proceedings before the Office of the City Prosecutor of Valenzuela (Valenzuela OCP). Complainant Clarita Mendoza (Clarita) is the accused in a criminal case for unjust vexation (unjust vexation case), while complainant Clarisse Mendoza (Clarisse) is the accused in another criminal case for violation of Republic Act No. 7610 (RA 7610 case). Complainants claim that the criminal cases filed

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* Deceased as of August 2017, *rollo*, p. 161, IBP-CBD Report and Recommendation dated October 30, 2019.

1 *Id.* at 1–8.

2 The Code of Professional Responsibility and Accountability (CPRA) became effective on May 30, 2023. Based on its Transitory Provision, the CPRA generally "applie[s] to all pending and future cases."

against them were offshoots of the Resolution[3] dated May 24, 2016 in XV-17-INV-16B-156 on the preliminary investigation conducted by Senior Associate City Prosecutor, Atty. Randy C. Caingal (SACP Caingal), recommended for approval by Deputy City Prosecutor, Atty. Honesto D. Noche (DCP Noche), and approved by City Prosecutor, Atty. Lemuel B. Nobleza (CP Nobleza).[4]

After the filing of the *Informations*[5] before Branch 270, Regional Trial Court of Valenzuela City (RTC) against complainants, the latter sought to question the Resolution and concurrently pursued the instant disbarment case against respondents. Specifically, complainants filed on June 13, 2016 a Very Urgent Motion for Reconsideration before the Valenzuela OCP,[6] and the instant disbarment complaint with the Office of the Bar Confidant (OBC) on July 1, 2016[7] against CP Nobleza, DCP Noche, and SACP Caingal. On July 4, 2016, they filed before the Valenzuela OCP a Manifestation with Ex-Parte Motion for Early Resolution of "Very Urgent Motion for Reconsideration," attaching therein copies of the disbarment complaints against respondents and the sitting RTC judge.[8]

In response to this, respondents inhibited[9] themselves from resolving the Very Urgent Motion for Reconsideration and referred the case to the Department of Justice (DOJ) "[t]o erase any cloud of doubt as to the impartiality of the [Valenzuela OCP] in resolving [the motion] and for [complainants] to have . . . peace of mind."[10] In an Order[11] dated August 9, 2017, Senior Assistant State Prosecutor Olivia L. Torrevillas denied the Very Urgent Motion for Reconsideration filed by complainants. Pertinently, the DOJ's Order also noted the collateral attack against respondents, *viz.*:

> We find the motion bereft of any merit in as much as *[complainants] resorted to an irrelevant collateral attack on the investigating prosecutor as well as the Deputy City Prosecutor and City Prosecutor of Valenzuela City* without however having been able to sufficiently establish and clearly point out that they have committed grave reversible error in resolving the instant case. We agree with the findings of the City Prosecutor that there exists probable cause to warrant [complainants'] indictment for violation of the crimes charged.[12] (Emphasis supplied)

Meanwhile, in the disbarment complaint, complainants prayed that respondents should be disbarred and be meted out the appropriate sanctions for committing the following offenses:

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3 *Rollo*, pp. 11–12.
4 *Id.* at 2, Verified Complaint.
5 *Id.* at 9–10.
6 *Id.* at 79, Respondents' Verified Position Paper dated September 20, 2019.
7 *Id.* at 1, Verified Complaint.
8 *Id.* at 79, Respondents' Verified Position Paper dated September 20, 2019.
9 *Id.* at 98–99, Respondents' Memorandum dated July 4, 2016.
10 *Id.* at 99.
11 *Id.* at 101–104.
12 *Id.* at 102.

Gross ignorance of the law or procedure	Respondents filed the unjust vexation case with the RTC even though the penalty for said offense is *arresto menor*, which falls under the jurisdiction of Metropolitan/ Municipal Trial Courts (MTCs).[13]
	Respondents filed a Motion for Consolidation of the unjust vexation case and the RA 7610 case even though the unjust vexation case falls within the jurisdiction of the MTCs and the RA 7610 case falls within the jurisdiction of the RTCs.[14]
	Respondents recommended bail of PHP 80,000.00 for Clarisse despite the mandatory prohibition against excessive bail and without considering the factors in fixing a "*reasonable amount of bail*," as may be clearly gleaned from the Resolution itself.[15]
Violation of the Code of Professional Responsibility and the Lawyer's Oath	Respondents filed a falsified/ fabricated case against Clarita. Respondents falsely charged Clarita with committing an offense on or about February 28, 2016 but there is no record or basis that the offense was committed on said date and was the subject matter of a preliminary investigation.[16]
	Respondents filed a falsified/ fabricated criminal case against Clarisse. Respondents arbitrarily and falsely alleged that Clarisse had committed "psychological abuse, cruelty, and emotional maltreatment" in the *Information* even if such allegation was never claimed by one of the minor-victims and their parents, and the allegation was never

13 *Id.* at 3, Verified Complaint
14 *Id.*
15 *Id.* at 4. (Emphasis in the original)
16 *Id.* at 3–4.

	included in the Resolution. Furthermore, complainants assert that there is absolutely no evidence proving this allegation.[17]

On September 14, 2016, the Court referred[18] the administrative case to the Integrated Bar of the Philippines (IBP) for investigation, report, and recommendation. Thereafter, respondents were ordered[19] to submit an Answer to the complaint. In their Answer[20] dated March 31, 2017, respondents argued as follows:

1) Respondents had correctly filed the *Informations* with the RTC sitting as Family Court, considering that the victims were minors, as indicated in the birth certificates submitted during the preliminary investigation conducted before the Valenzuela OCP;[21]

2) Contrary to complainants' misleading statements, respondents had conducted a preliminary investigation as seen from the case records;[22]

3) Based on the documents presented during said preliminary investigation, there was evidence showing that minor-victims had suffered psychological abuse, cruelty, and emotional maltreatment;[23] and

4) The recommended bail is proper pursuant to the DOJ 2000 Bail Bond Guide,[24] stating that the violation for Section 10(a) of RA 7610 is PHP 80,000.00.[25]

Additionally, respondents pointed out that complainants had manifested during the preliminary investigation that they were ignorant of legal proceedings, but they suddenly showcased knowledge of laws and rules in their complaint. Clearly, a lawyer was advising them of the erroneous application of laws. Respondents claim that this counsel should be subjected to disciplinary actions by the Commission on Bar Discipline (CBD) for violating the Lawyer's Oath, specifically the undertaking to "***not wittingly or willingly promote or sue any groundless, false or unlawful suit, or give aid nor consent to the same.***"[26]

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17 *Id.* at 4–6.
18 *Id.* at 18, Notice.
19 *Id.* at 20–22, IBP-CBD Order dated March 16, 2017, penned by Commissioner Joel L. Bodegon.
20 *Id.* at 23–35.
21 *Id.* at 27.
22 *Id.* at 27–31.
23 *Id.*
24 *Id.* at 41–42.
25 *Id.* at 31–32.
26 *Id.* at 32. (Emphasis in the original)

In an Urgent Motion for Early Resolution with Waiver of Rights and Offer of Exhibits/Evidence[27] dated July 27, 2017, complainants waived all the grounds relied upon in their Verified Complaint for respondents' disbarment, except the issue on whether respondents had falsified/fabricated the RA 7610 case against Clarisse and submitted the disbarment case for early resolution.

On August 20, 2019, the Investigating Commissioner of the IBP-CBD Manuel Joseph B. Ibañez III (Investigating Commissioner Ibañez III) ordered[28] the parties to file their respective verified Position Papers. In compliance with the order, respondents filed their Verified Position Paper[29] dated September 20, 2019 and complainants submitted their Position Paper[30] dated October 1, 2019, which indicated that their previous motion dated July 27, 2017 shall serve as their position paper.

On October 30, 2019, Investigating Commissioner Ibañez III issued a Report and Recommendation[31] to dismiss the disbarment complaint against respondents, *viz.*:

> In sum, the undersigned is of the considered belief that . . . respondents fully and properly performed the duties and functions expected of them as public prosecutors . . . Thus, it is respectfully recommended that the instant *Disbarment Complaint* against respondents be dismissed for lack of merit.
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> **RESPECTFULLY SUBMITTED**[.][32] (Emphasis in the original)

In a Resolution[33] dated June 13, 2020, the IBP Board of Governors (IBP-BOG) approved and adopted the Report and Recommendation of Investigating Commissioner Ibañez III, *viz.*:

> *RESOLVED to APPROVE and ADOPT, as it is hereby APPROVED and ADOPTED, the Report and Recommendation of the Investigating Commissioner in the above-entitled case to* ***DISMISS*** *the case, after finding the recommendation to be fully supported by the evidence on record and the applicable laws and rules.*[34] (Emphasis in the original)

After a judicious review of the records of the case, the Court adopts the IBP's findings of fact and recommendation to dismiss the disbarment case against respondents.

At the outset, it bears underscoring that respondents are all government lawyers working for the Valenzuela OCP and in response to their issuance of the Resolution dated May 24, 2016 and the filing of the *Informations* against complainants with the Family Court, complainants pursued two remedies:

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27 *Id.* at 53–58.
28 *Id.* at 74, Order dated August 20, 2019.
29 *Id.* at 76–95.
30 *Id.* at 141–142.
31 *Id.* at 157–164.
32 *Id.* at 164.
33 *Id.* at 155–156.
34 *Id.* at 155.

(1) questioning the Resolution before the Valenzuela OCP and eventually, the DOJ; and (2) filing the instant disbarment case against respondents (as well as the sitting judge in the Family Court where the cases were filed). Notably, in the disbarment complaint, complainants allege that respondents' prosecutorial functions have been exercised in gross ignorance of the law or procedure and in violation of the Lawyer's Oath and the CPR.

The goal of the Code of Professional Responsibility and Accountability*[35] *(CPRA) to curb the practice of "effective forum shopping"

On April 11, 2023, the Court approved the CPRA.[36] Save for certain exceptions,[37] the CPRA governs disbarment cases against government lawyers. Pertinent provisions of the CPRA read:

> **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 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.
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> *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.
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> . . . .
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> **SECTION 6.** ***Complaint against a government lawyer.*** — *When a complaint is filed against a government lawyer, the Investigating Commissioner shall determine, within five (5) calendar 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.[38] (Emphasis supplied)

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35 A.M. No. 22-09-01-SC, April 11, 2023 [Notice, *En Banc*].

36 *Supreme Court Officially Launches the Code of Professional Responsibility and Accountability*, SUPREME COURT WEBSITE, April 18, 2023, *available at* https://sc.judiciary.gov.ph/supreme-court-officially-launchesthe-code-of-professional-responsibility-and-accountability/ (last accessed on May 16, 2024).

37 **GENERAL PROVISIONS**

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 injustice, in which case the procedure under which the cases were filed shall govern.

38 Canon VI.

As seen from the provisions above, after the Court's referral of the case, the Investigating Commissioner shall preliminarily determine under whose jurisdiction the case falls. This ensures that at an early stage, there can already be a recommendation by the Investigating Commissioner to dismiss the case for lack of jurisdiction.

In this regard, it is worth noting that even prior to the effectivity of the CPRA, the Court has been acutely aware of—and has attempted to address—**effective forum shopping** against government lawyers. In *Guevarra-Castil v. Trinidad*[39] (*Guevarra-Castil*), the Court laid out rules on the filing and handling of complaints against government lawyers, to serve as guidelines for both the Bench and the Bar. Pertinently, the Court emphasized therein the rationale for the issuance of such jurisprudential guidelines, *viz.*:

> Further, owing to the *sui generis* nature of a disbarment complaint as with impeachment, forum shopping can neither be invoked by a government lawyer against whom separate complaints have been filed. *The Court emphasizes that it is not unaware of this unethical practice — which may be called* ***effective forum shopping — whereby complainants weaponize the law and file, successively or simultaneously, multiple complaints against government lawyers: usually one before the IBP, and another before the concerned agency****. While technically, there is no forum shopping as the reliefs commonly sought are different,* ***such is a practice that should strongly be shunned for it serves no other purpose than to vex government lawyers.***[40] (Emphasis supplied)

The above explanation makes it clear that the Court's guidelines therein were geared towards **curbing or deterring the practice of effective forum shopping**. While the rules on handling complaints against government lawyers may have been recast when the CPRA became effective, this same rationale continues to animate the disciplinary procedure against government lawyers in the CPRA.

At this juncture, it is important to expound on the nature of the IBP Investigating Commissioner's determination under Section 6 of the CPRA.

Keeping in mind the Court's goal of curbing and deterring the practice of effective forum shopping, it is clear that Section 6 of the CPRA was **never** meant to straitjacket the Investigating Commissioner to merely make a cursory reading of the complaint to check whether there are any claims hinting at ethical violations committed by the government lawyer and thereafter proceed with assessing the case on the merits. Indeed, the part in Section 6, which echoes *Guevarra-Castil*, simply states that "[i]f 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."[41] It bears emphasis, however, that this

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39 A.C. No. 10294, July 12, 2022 [*Per Curiam, En Banc*].

40 *Id.* at 7–8. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

41 CPRA, Canon VI.

instruction must always appreciate the **context** of the disbarment complaint. An opposite reading of Section 6 will **always** allow for a disciplinary case against government lawyers to prosper. To illustrate, as in this case, assuming the allegations against respondents that they fabricated criminal charges against complainants were true, that would certainly make respondents unfit to practice law. This very low threshold, however, reduces the Court's jurisprudential pronouncements against effective forum shopping into mere lip service because this mechanical interpretation will never be able to detect, or at all prevent, effective forum shopping.

Several cases illustrate how, in determining jurisdiction, the Court's manner of sifting through the allegations of the complaint takes into consideration the **context** in which the disbarment complaint was filed, as opposed to just mechanically applying the directive to proceed with the case as long as there are allegations touching upon the lawyer's continuing obligations under the CPRA.

In *Rodullo v. Atty. Gurango-Mendoza*,[42] respondent prosecutors (namely, Assistant City Prosecutors and a City Prosecutor) were charged with violation of Canon 6 of the CPR, grave misconduct, and gross ignorance of the law because, in issuing a Resolution unfavorable to complainants, they allegedly "blatantly [ignored] the pieces of evidence on record."[43] Examining the context of the case against respondents, the Court therein dismissed the case for lack jurisdiction—despite the ostensible allegations of violation of the CPR—because, among others, the Court determined that "[t]he cause of action against respondents solely pertains to the performance or discharge of their official duties as investigating prosecutors and city prosecutor."[44] Notably, this case involved an administrative complaint against government lawyers which was filed **after** complainants failed to have respondents' assailed Resolution reconsidered.

In *Bagamasbad v. Atty. Dino*,[45] complainant filed a disbarment case against respondent in his capacity as Deputy General Counsel of Bangko Sentral ng Pilipinas (BSP) for acting unfavorably on complainant's report against the president of Banco de Oro (BDO) by dismissing the same for lack of jurisdiction. Pertinently, while the complaint had alleged respondent's supposed violation of the CPR and the Lawyer's Oath, the Court looked at the context of the disbarment complaint and determined that "the instant administrative complaint [is] a pure harassment suit"[46] since another complaint was also filed before the Office of the Ombudsman. Further, the Court underscored therein that "respondent's accountability as an official performing or discharging his official duties is always to be differentiated from his accountability as a member of the Philippine Bar."[47] Since the charges in the complaint pertained to respondent's performance or discharge

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42 A.C. No. 13727, July 10, 2023 [Notice, Second Division].
43 *Id.*
44 *Id.*
45 A.C. No. 13578, August 30, 2023 [Notice, Third Division].
46 *Id.*
47 *Id.* (Citation omitted)

of his official duties as Deputy General Counsel of the BSP, the Court stated that "jurisdiction properly lies with the Ombudsman and, by virtue of Section 17 of the New Central Bank Act, as amended, the BSP Governor."[48]

In the same vein, while being a precursor of the CPRA, the Court likewise carefully examined the context of the case to determine jurisdiction before proceeding with assessing the merits of the disbarment case in *Guevarra-Castil*, which involved a respondent lawyer/police officer who had an illicit affair with another married police officer. Notably, the Court held therein that respondent's conduct did not relate to, or was not remotely accomplished by virtue of, her position as a police officer. In other words, before proceeding with a ruling on the merits, the Court determined that the allegations in the complaint had explicitly established that respondent should be disciplined in her capacity as a lawyer, not as a public employee or official.

To be sure, if the Investigating Commissioner were only broadly tasked under Section 6 of the CPRA to proceed with the case automatically if there are any claims suggesting ethics violations of government lawyers—regardless of any other circumstances—the Court's efforts in curbing effective forum shopping will easily be defeated. Cunning complainants need only to suggest, even vaguely and without substance, the bad faith in the government lawyers' official acts, knowing fully well that even if the disbarment complaint will be dismissed eventually for lack of merit, **their goal of vexing the government lawyers would have already been accomplished when the disciplinary proceedings eventually force government lawyers to defend themselves twice in the discharge of their official functions, both in disbarment and administrative proceedings**.

Section 6 of the CPRA was precisely introduced by the Court to efficiently weed out the practice of effective forum shopping for the protection of public servants because, at this early stage of the disciplinary proceedings, government lawyers are **not yet** required to take attention out of their regular duties to defend their official actions by filing various pleadings (e.g., Verified Answer,[49] Preliminary Conference Brief,[50] and Verified Position Paper[51]) and attending clarificatory hearings,[52] if any. In this regard, the Investigating Commissioner is tasked to determine whether the jurisdiction over the case belongs to the concerned agency, the Ombudsman, or the Court. This empowers the Investigating Commissioner to immediately recommend the dismissal of cases subject to the Court's adoption and approval, especially when the disbarment complaints take on the form of effective forum shopping. ***In other words***, if the allegations in the complaint fail to tender an independent and/or genuine unethical violation committed by the government lawyer in performing their official

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48 *Id.* (Citation omitted)
49 CPRA, Canon VI, sec. 14.
50 CPRA, Canon VI, sec. 20.
51 CPRA, Canon VI, sec. 21.
52 CPRA, Canon VI, sec. 22.

functions, and the circumstances of the case ostensibly resemble effective forum shopping because complainants really want to question the correctness of the official acts of the government lawyers in the disbarment complaint, then the Investigating Commissioner is empowered to recommend its dismissal for lack of jurisdiction to the Court.

Indeed, considering the breadth of the CPRA (which encompasses most aspects of a lawyer's life) and the ease by which unethical conduct of government lawyers can be alleged by harassers without basis, the determination to proceed in evaluating the case on the merits and going through the whole process of disciplinary proceedings should be exercised with caution and deliberation, as directed by the CPRA itself. Otherwise, complainants who file sham disbarment complaints can achieve their goal of vexing government lawyers as long as they hurdle the very low bar of suggesting unethical conduct, which they often do through the mere citation of the Lawyer's Oath or the Canons of the CPRA. This will result in routinely subjecting government lawyers to lengthy disciplinary proceedings, requiring them to file pleadings and attend hearings to prove the correctness of the performance of their official functions therein.

In this regard, consistent with the CPRA's stance against effective forum shopping for the protection of government lawyers, it is important to emphasize the CPRA's mandate to **first** determine under whose jurisdiction the case belongs **before** proceeding to decide the case on the merits. This determination by the Investigating Commissioner will result in a **recommendation** to dismiss the case, which the Court may then decide not to accept should it find compelling reasons to proceed with the merits.

This case should be dismissed for lack of jurisdiction, but the circumstances compel the Court to dismiss the case based on the merits.

Here, the disbarment complaint contains allegations of unethical conduct, namely "Gross Ignorance of the Law or Procedure" and "Violation of the Code of Professional Responsibility and the Lawyer's Oath." However, a closer assessment of the allegations will readily reveal that the intention is really to question the correctness of respondents' official actions while using certain phrases hinting at unethical conduct to successfully pass off as an ostensible disbarment complaint:

Alleged offense	**Acts complained of purportedly constituting "unethical conduct"**
Gross ignorance of the law or Procedure	Respondents filed the unjust vexation case with the "wrong court."
	Respondents filed the Motion for Consolidation of the two criminal cases even if purportedly they are

	cognizable by courts of different jurisdictions.
	Respondents recommended "excessive bail."
Violation of the Code of Professional Responsibility and the Lawyer's Oath	Respondents falsely charged Clarita with committing an offense on or about February **28**, 2016, but there is no record or basis that the offense was committed on said date and was the subject matter of a preliminary investigation because the subject of the preliminary investigation was an incident that happened on February **8**, 2016.
	Respondents falsified/fabricated the RA 7610 case against Clarisse. The evidence does not prove that Clarita had violated RA 7610.

From the allegations above, in addition to the fact that complainants had concurrently assailed—and failed to overturn—the May 24, 2016 Resolution of respondents, it is clear that this is another instance of **effective forum shopping** designed to harass government lawyers. As mentioned, complainants' use of this unsavory tactic was also observed by the DOJ, which noted the collateral attack against respondents when it denied complainants' motion to reconsider the assailed Resolution for lack of merit. In view of the foregoing—had the CPRA already been effective when the case was referred to the Investigating Commissioner—**the Investigating Commissioner should have already recommended its dismissal to the Court for lack of jurisdiction pursuant to Section 6 of the CPRA**.

Unfortunately, since the proceedings happened before the CPRA became effective and the Investigating Commissioners were not yet explicitly empowered to recommend the dismissal of the case for lack of jurisdiction, the goal of complainants in employing their devious strategy of effective forum shopping was already accomplished: they were able to successfully weaponize and exploit the rules to vex and punish respondents-government lawyers for an outcome unfavorable to complainants resulting from respondents' performance of official duties. Consequently, respondents here were forced to take their full focus out of their regular tasks and day-to-day responsibilities to justify and defend the correctness of their official actions in an improper forum, i.e., in the context of disbarment proceedings. As borne out by the records, respondents were constrained to: (1) prepare and submit their Verified Answer;[53] (2) attend the mandatory conference, even if complainants themselves were absent;[54] (3) prepare and submit their Mandatory Conference Brief; [55] (4) prepare and submit their

[53] *Rollo*, p. 20, IBP-CBD Order dated March 16, 2017.
[54] *Id.* at 45, IBP-CBD Order dated July 6, 2017.
[55] *Id.* at 46–51.

Verified Position Paper; and (5) inhibit from their regular duties in the criminal cases involving complainants to remove any doubt as to their impartiality.[56]

Surely, the old regime of conducting full-blown inquisitions against government lawyers every single time a complainant hurdles the very low bar of hinting or barely suggesting respondents' unethical conduct cannot be countenanced, especially now that the CPRA is already replete with measures ensuring that the Court can ably root out those truly not fit to practice the profession. It is worth emphasizing that every time clearly-sham disbarment complaints against government lawyers are dignified by going through all the steps of the disciplinary proceedings—perhaps with the misguided assurance that justice will be served anyway since the cases will be dismissed on the merits eventually—everyone's time and resources (especially the government's) will be squandered, except for complainants', because they do not even have to show up during the disciplinary proceedings or file pleadings other than the verified complaint to ensure the commencement and continuation of the disciplinary process against government lawyers. Notably, Section 16 of the CPRA provides that investigations will not be interrupted or terminated by desistance, settlement, compromise, restitution, withdrawal, or failure to prosecute. Section 24 of the CPRA also states that non-appearance of the parties shall be deemed a waiver of their right to participate. Put simply, complainants are not adversely affected if they lose interest or merely decide to abandon participation in the case, knowing that the Court or the IBP will proceed with the witch-hunt against the government lawyers anyway.

That being said, **the Court may still dismiss the instant disbarment case for lack of jurisdiction** because despite the baseless claims of unethical conduct, a closer examination of the allegations will readily reveal that complainants are really questioning the correctness of respondents' performance of official functions. Indeed, referring this administrative complaint to the Ombudsman will be in keeping with Section 13(1), Article XI of the 1987 Constitution, which authorizes the Ombudsman to "[i]nvestigate on its own, or on complaint by any person, any act or omission of any public official, employee, office or agency, when such act or omission appears to be illegal, unjust, improper, or inefficient."

Nevertheless — since the damage has already been done, such that respondents have already been constrained to defend their official actions in disbarment proceedings and because referring this matter to another agency will continue to prolong the clearly unmeritorious proceedings against respondents — the Court shall very well decide on the merits in this case to end the protracted controversy.

Section 32 of the CPRA provides for the quantum and burden of proof in administrative cases, *viz.*:

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[56] *Id.* at 98–99, Respondents' Memorandum dated July 4, 2016.

> **SECTION 32.** ***Quantum and burden of proof.*** — In administrative disciplinary cases, *the complainant has the burden of proof to establish with substantial evidence the allegations against the respondent.* Substantial evidence is that amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion. (Emphasis supplied)

Here, complainants completely failed to present substantial evidence to establish their allegations of "Gross Ignorance of the Law or Procedure" and "Violation of the Code of Professional Responsibility and the Lawyer's Oath," and, in fact, lied in their complaint to make it appear that respondents had committed unethical conduct, as seen from the records.

Regarding the claim that respondents had allegedly filed the unjust vexation case with the "wrong court" and the claim that respondents had erroneously filed the Motion for Consolidation of the two criminal cases even if purportedly they are cognizable by courts of different jurisdictions, these allegations are not meritorious because the victims in the unjust vexation case and the RA 7610 case are minors. Thus, the jurisdiction to try the case is correctly within the Family Courts.[57]

Anent the allegation that respondents recommended "excessive bail," complainants presented no proof on this allegation in the complaint. On the other hand, respondents were able to show that the recommended bail is pursuant to the DOJ 2000 Bail Bond Guide, which clearly pegs the amount of bail for the violation of Section 10(a) of RA 7610 at PHP 80,000.00.

On the claim that respondents had "falsified/fabricated" the unjust vexation case against Clarita and that there was no preliminary investigation conducted for an offense that happened on February 28, 2016, this is easily debunked by an examination of the case records showing that a preliminary investigation was indeed conducted. Apparently, this claim is also complainants' convoluted manner of: (1) pointing out that the date of the offense stated in the *Informations* (February 28, 2016) does not match the date of the offense (February 8, 2016) in the Resolution; and (2) misrepresenting this error as an unethical act of fabricating/falsifying a case. Investigating Commissioner Ibañez III's discussion on this unmeritorious allegation is well-taken, *viz.*:

> Second, and referring to the third issue (Falsification of charge of Unjust Vexation), We are inclined to think that the referral to "February 28, 2016" is, as respondents maintain, a typographical or clerical error, especially considering that all other records and evidence submitted refer to

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[57] An Act Establishing Family Courts, Granting Them Exclusive Original Jurisdiction Over Child and Family Cases, Amending Batas Pambansa Bilang 129, As Amended, Otherwise Known as the Judiciary Reorganization Act of 1980, Appropriating Funds Therefor and For Other Purposes, Republic Act No. 8369, sec. 5, approved on October 28, 1997, provides:

> SEC. 5. *Jurisdiction of Family Courts.*— The family courts shall have exclusive original jurisdiction to hear and decide the following cases:
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> a) Criminal cases where one or more of the accused is below eighteen (18) years of age but not less than nine (9) years of age, or where one or more of the victims is a minor at the time of the commission of the offense[.]

> February 8, 2016. Nevertheless, this is also not a novel nor fatal issue. For criminal offenses where the date of commission is not a material element, it is not necessary to allege such date with absolute certainty, it only being necessary under the Rules of Court, that the same be approximated. In fact, it is not fatal to the prosecution if subsequently, the allegation in an [*Information*] with respect to the date of commission is different from the one established during the trial. In such cases, the [*Information*] is generally supplanted by the evidence presented during the trial or even corrected by a formal amendment of the [*Information*].[58] (Citations omitted)

As regards the allegation that respondents had falsified/fabricated the RA 7610 case against Clarisse because the evidence does not prove that Clarita had committed such a violation, there is absolutely no proof in the complaint that respondents committed bad faith in issuing the Resolution and filing the *Information* against Clarisse. Besides, as mentioned, the DOJ already agreed with respondents' finding of probable cause to indict them of the offenses charged.

All in all, the Court agrees with Investigating Commissioner Ibañez III's finding that "respondents fully and properly performed the duties and functions expected of them as public prosecutors of Valenzuela City."[59] Thus, this disbarment complaint should be dismissed for lack of merit. In any event, as noted by Investigating Commissioner Ibañez III, DCP Noche has already passed away sometime in August 2017.[60] Thus, the administrative case against him is automatically dismissed pursuant to Section 12, Canon VI of the CPRA which states that "[t]he death of the lawyer during the pendency of the case shall cause its dismissal."

A final note

To recall, in their Answer, respondents had observed that a lawyer was clearly advising complainants of the erroneous application of laws and claim that this counsel should be subjected to disciplinary actions for violating the old Lawyer's Oath, specifically the undertaking to "***not wittingly or willingly promote or sue any groundless, false or unlawful suit, or give aid nor consent to the same***."[61] Based on the foregoing discussion, this suggestion is well-taken and the assisting counsel would have been subjected to an administrative case had it not been for the fact that no assisting counsel signed complainants' pleadings, presumably because said assisting counsel knew of the baselessness of the allegations in the disbarment complaint and feared punishment. It bears emphasizing that while the Lawyer's Oath has been updated upon the effectivity of the CPRA, the undertaking to not do falsehood and to not pervert the law remains, as seen in the Revised Lawyer's Oath: "I shall do no falsehood nor shall I pervert the law to unjustly favor nor prejudice anyone."

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58 *Rollo*, p. 162, IBP-CBD Report and Recommendation dated October 30, 2019.
59 *Id.* at 164.
60 *Id.* at 161.
61 *Id.* at 32, Respondents' Answer dated March 31, 2017. (Emphasis in the original)

This is yet another reason for the Court to repeat that, before subjecting government lawyers to the full extent of disciplinary proceedings, the CPRA mandates that jurisdiction must first be determined with caution. That sham disbarment proceedings will eventually be dismissed for lack of merit anyway is **never** a justification to ignore this clear requirement, lest the Court and the IBP be passive instruments to the misuse of disciplinary proceedings as a reliable and predictable means to routinely vex and punish public servants for doing their jobs.

With the issuance of the CPRA, the Court stands by its constitutional mandate[62] "to regulate the admission to, and the practice of law, which necessarily includes the authority to discipline, suspend, or even disbar misbehaving members of the legal profession, whenever proper and called for."[63] Even as it continues to exercise this duty, the Court is keenly aware that its disciplinary processes may be exploited, abused, and weaponized by unsavory characters. This is precisely why the Court has introduced measures to guard against such misuse in the CPRA, including the directive to ensure proper jurisdiction in cases involving government lawyers.

ACCORDINGLY, the disbarment complaint against respondents Atty. Lemuel B. Nobleza, Atty. Honesto D. Noche,[64] and Atty. Randy C. Caingal is **DISMISSED** for lack of merit.

SO ORDERED.

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

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62 CONST., art. VIII, sec. 5, par. 5, which states:

> **Section 5.** The Supreme Court shall have the following powers:
>
> . . . .
>
> (5) Promulgate rules concerning the protection and enforcement of constitutional rights, pleading, practice, and procedure in all courts, the admission to the practice of law, the Integrated bar, and legal assistance to the underprivileged. Such rules shall provide a simplified and inexpensive procedure for the speedy disposition of cases, shall be uniform for all courts of the same grade, and shall not diminish, increase, or modify substantive rights. Rules of procedure of special courts and quasi-judicial bodies shall remain effective unless disapproved by the Supreme Court.

63 *Guevarra-Castil v. Trinidad*, *supra* note 39, at 5. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

64 The administrative case against him is automatically dismissed pursuant to Section 12, Canon VI of the CPRA.

WE CONCUR:

HENRI JEAN PAUL B. INTING
Associate Justice

SAMUEL H. GAERLAN
Associate Justice

JAPAR B. DIMAAMPAO
Associate Justice

MARIA FILOMENA D. SINGH
Associate Justice