



Republic of the Philippines
Supreme Court
Manila

EN BANC

ABIGAIL SUMEG-ANG
CHANGAT,* DARWIN DEL
ROSARIO, and PAULINE
SUMEG-ANG,

Complainants,

- versus -

ATTY. VERA JOY BAN-EG,
Respondent.

A.C. No. 13757

Present:
GISMUNDO, C.J.,
LEONEN,
CAGUIOA,
HERNANDO,**
LAZARO-JAVIER,***
INTING,
ZALAMEDA,****
LOPEZ, M.,
GAERLAN,
ROSARIO,***
LOPEZ, J.,
DIMAAMPAO,
MARQUEZ,
KHO, JR., and
SINGH, JJ.

Promulgated:

October 22, 2024

DECISION

* Also referred to as "Abegail Sumeg-ang Changat" in some parts of the *rollo*.
** On official business.
*** On official leave.
**** On leave.

PER CURIAM:

This administrative case arose from an Affidavit-Complaint¹ filed by complainants Abigail Sumeg-ang Changat (Abigail), Darwin Del Rosario (Darwin), and Pauline Sumeg-ang (Pauline); (collectively, the complainants) against Atty. Vera Joy Ban-eg (respondent) before the Integrated Bar of the Philippines (IBP), alleging that respondent violated Rule 1.01 of the Code of Professional Responsibility (CPR) for issuing bounced checks, as well as the unauthorized operation of an investment house.

The Facts

In their Complaint, complainants recount their interactions with respondent in different occasions.

Darwin alleged that he heard of the investment house, Abundance International (Abundance), as operated by respondent and a certain Karen Puguon (Puguon), through his acquaintances. Upon his inquiry, Puguon explained that Abundance was a legitimate investment company which allows investors to double their investments in three months. The promise of high returns and his reliance on respondent's status as a lawyer enticed Darwin to attend a seminar conducted by respondent, and thereat, respondent allegedly showed the account of her son showing the results of the investing in Abundance.²

Following respondent and Puguon's representations, Darwin placed PHP 1,000,000.00 to respondent's investment scheme to which respondent herself drew and signed four checks, namely Check Nos. 0060097, 0060098, 0060099, 0060100, respectively dated July 28, 29, 30, and 31, 2015 with the value of PHP 250,000.00 each to secure the investment. According to Darwin, he was promised that he would receive a profit of PHP 1,000,000.00 at the end of the third month.³

At one time, Darwin and Pauline met with respondent at a hotel where respondent explained another investment scheme which further convinced them of the legitimacy of her operations.⁴

When Check Nos. 0060097 and 0060098 became due, Darwin asked respondent if he could deposit them. Respondent replied that he should not deposit them considering that the returns were already available. Respondent convinced him that she would instead give the money in November. Thus,

¹ *Rollo*, pp. 1-7.

² *Id.* at 1-2.

³ *Id.* at 2.

⁴ *Id.*

respondent changed the date of the checks to November 29, 2015 and November 28, 2015, respectively. In explaining the delay, respondent claimed that she and her son contracted dengue. To compensate for the delay, respondent issued Check No. 0061576⁵ with the amount of PHP 250,000.00 dated November 30, 2015. However, upon allegedly presenting all the issued checks to the bank for payment, the same were dishonored for the reason of the account being closed.⁶

Thus, Darwin visited respondent in her office, but she was nowhere to be found. This led to Darwin sending notices of dishonor to respondent demanding the latter to make good the checks, but to no avail. The foregoing circumstance led Darwin to conclude that he was defrauded by respondent. Moreover, he discovered that Abundance is not even a registered corporation or investment house nor were respondent and Puguon registered brokers based on a certification made by the Securities and Exchange Commission (SEC).⁷

On the other hand, Pauline narrated that she met Puguon where the latter explained that she and respondent operated Abundance which was registered with the SEC and that they offered two investment options.⁸ As similarly stated by Darwin, she and Darwin went to a hotel to meet with respondent where the latter explained another investment scheme which similarly convinced her to invest. She likewise believed in the authenticity of the scheme since respondent was a lawyer.⁹

The foregoing instances led Pauline to place PHP 100,000.00 into respondent's investment company on June 7, 2015. Upon visiting respondent's office, Puguon brought out blank checks that were presigned by respondent and issued a check under Check No. 0060003¹⁰ with a value of PHP 200,000.00 dated August 7, 2015. While issuing the check, respondent likewise instructed Pauline to refrain from depositing the same. This instruction caused the check to become stale. Aside from her initial investment, Pauline invested an additional amount of PHP 200,000.00 which was promised to be returned in August or September 2015. Thus, respondent likewise issued checks under Check Nos. 0061415, 0061416, and 0061569 in the total amount of PHP 363,000.00 to secure the investment.¹¹ However, similar to what happened to Darwin, respondent likewise told Pauline that she could not return the principal on the investments on time because she and her son contracted dengue.¹²

⁵ *Id.* at 9.

⁶ *Id.* at 2.

⁷ *Id.* at 2-3.

⁸ *Id.* at 3.

⁹ *Id.*

¹⁰ *Id.* at 12.

¹¹ *Id.* at 3-4.

¹² *Id.* at 4.

Sometime in October 2015, Pauline started to go to respondent's office to demand for the return of the principal amount that she gave. Instead of payment, respondent gave Pauline a prepared document to sign. Pauline did not immediately sign the document in front of respondent because she did not understand the contents of the document.¹³ The document entitled "[Acknowledgment] and Agreement" stated that Abundance would use the investments to operate its business and in return Pauline would receive her share in the profit on a certain date. Thereafter, Abundance, through respondent and Puguon, will work to return the remaining balance within a period of three to six months from the date of the agreement as secured by a postdated check.¹⁴

Come the months of November and December 2015, Pauline alleged that respondent still refused to face them and settle the problem. Despite her demands, Pauline was forced to similarly issue notices of dishonor against respondent in January 2016. The foregoing circumstances led her to file the present Complaint together with a criminal complaint for syndicated estafa.¹⁵

Similar to Darwin and Pauline, Abigail caught word of a double-your-money investment scheme operated by respondent through Abundance. Enticed by Puguon, Abigail invested PHP 350,000.00 with a condition that she will only receive her investment and profits at the end of the third month.¹⁶ Sometime in the second week of June 2015, Puguon told her that the investment scheme was not working and, thus, she advised Abigail to enter the alleged profits into a three-month lock-in scheme. However, she would no longer receive a 100% return and instead receive 50% of the returns. To secure the reinvestment, Puguon issued checks which were presigned by respondent.¹⁷

Sometime in the second week of July 2015, respondent personally gave Abigail the first payout of her profit. Respondent thereafter told Abigail that the investment scheme with a 100% return was now available leading the latter to shell out another PHP 50,000.00.¹⁸ As what Darwin and Pauline experienced, respondent told Abigail to wait for the next payout as her son was confined in the hospital due to dengue.¹⁹

Abigail then asked for an update in September 2015 and yet respondent allegedly advised her to wait for another month. When October 2015 came, Abigail allegedly stated that she did not receive any update from respondent or Puguon. When asked for an update at another time, Puguon told Abigail to wait until December. After some negotiations, however, Puguon paid Abigail

¹³ *Id.*

¹⁴ *Id.* at 4, 13.

¹⁵ *Id.* at 4.

¹⁶ *Id.* at 5.

¹⁷ *Id.*

¹⁸ *Id.* at 6.

¹⁹ *Id.*

PHP 50,000.00, but asked her to return the checks that she received. In turn, Abigail only gave the check for one of her payouts.²⁰

With the checks going stale, Abigail then presented the checks to the bank for payment. Similar to what Darwin experienced, the checks were dishonored as the account was already closed. This led Abigail to send respondent a Notice of Dishonor. Despite her attempts, respondent and Puguon refused to answer her calls and messages.²¹

The foregoing circumstances led Darwin, Pauline, and Abigail to file a joint affidavit-complaint before the IBP alleging that the respondent's actions violated the CPR particularly Rule 1.01 and other pertinent provisions of the Code.²²

Acting on the Complaint, the IBP Commission on Bar Discipline (IBP-CBD) issued an Order²³ dated March 2, 2016, requiring respondent to submit her answer within 15 days from the receipt thereof.²⁴

After finding out that its Order dated March 2, 2016 was returned, the IBP-CBD exerted efforts to locate respondent and found that she was connected with the Maritime Industry Authority (MARINA). Hence, in an Order²⁵ dated February 1, 2017, the IBP-CBD again ordered respondent to submit her answer within 15 days from the receipt thereof. In this relation, the Order dated February 1, 2017 was sent to respondent's address located in MARINA.²⁶

Considering that there was no showing on record that respondent received the February 1, 2017 Order, the IBP-CBD, in an Order²⁷ dated May 16, 2017, again ordered that another copy of the Complaint and annexes be sent by personal service at respondent's address in MARINA.²⁸ Respondent was ordered to submit her answer within 15 days from the receipt thereof. The IBP-CBD warned that respondent's failure to submit her answer would cause her to be considered in default.²⁹ The copy of the May 16, 2017 Order was personally received by Sandy Alarcon on respondent's behalf on June 1, 2017.³⁰

²⁰ *Id.*

²¹ *Id.* at 6.

²² *Id.*

²³ *Id.* at 16.

²⁴ *Id.*

²⁵ *Id.* at 18.

²⁶ *Id.*

²⁷ *Id.* at 19.

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.* (Dorsal portion).

Thereafter, the IBP-CBD directed complainants and respondent to appear before it for a mandatory conference and submit their mandatory conference briefs. Despite having been notified, the IBP-CBD noted that the parties failed to appear for the mandatory conference.³¹

Due to the lapse of considerable time, the IBP-CBD issued an Order³² dated April 7, 2022 terminating the mandatory conference proceedings and required the parties to submit their position papers.³³ Considering that the parties did not submit their position papers, the IBP-CBD was, thus, constrained to submit the case for its report and recommendation.³⁴

The IBP's Report and Recommendation

In a Report and Recommendation³⁵ dated June 27, 2022, the IBP-CBD recommended that respondent be suspended from the practice of law for a period of two years and be sternly warned that the repetition of the same or similar conduct will be dealt with more severely.³⁶

In making its recommendation, the IBP-CBD held that complainants have substantially proven that respondent violated the Lawyer's Oath and Rule 1.01 of the CPR and was similarly found guilty of serious misconduct for having issued dishonored checks as proven by Check Nos. 0060099, 0060100, and 0061576. The IBP-CBD explained that the issuance of checks which were later dishonored for having been drawn against a closed account indicated respondent's unfitness for the trust and confidence reposed on her. Similarly, the IBP-CBD likewise took note of respondent's disregard of legal processes and the directives of the IBP-CBD for her failure to respond to the complaint, as well as her failure to personally appear in the mandatory conference.³⁷

On the other hand, the IBP-CBD was unable to sustain complainants' allegation of respondent's misrepresentation of Abundance being an investment company and the existence of lucrative investment schemes. According to the IBP-CBD, the existence of the SEC's Certification of Non-Registration of Corporation/Partnership is not substantial evidence to prove the fact of misrepresentation. It stated that aside from their bare allegations, complainants had nothing more to substantially prove their claim that respondent made such misrepresentations.³⁸

³¹ *Id.* at 20–30.

³² *Id.* at 31–32.

³³ *Id.* at 32.

³⁴ *Id.* at 33.

³⁵ *Id.* at 38–45. Signed by Commissioner Diana S. Fajardo-Lampa of the Commission on Bar Discipline of the Integrated Bar of the Philippines.

³⁶ *Id.* at 44.

³⁷ *Id.* at 41–44.

³⁸ *Id.* at 44.

Finally, in recommending the penalty to be imposed, the IC took note of *Cabacungan v. Ban-eg Bongayon*,³⁹ where respondent was previously suspended from the practice of law for a period of one year for breaching her contract and nonpayment of investments, as well as her act of ignoring the orders and directives of the IBP-CBD.⁴⁰

In a Resolution⁴¹ dated October 1, 2022, the IBP Board of Governors adopted and approved the IBP-CBD's recommendation with modification. Aside from the penalty of suspension, it also recommended that respondent should be fined in the total amount of PHP 15,000.00 for her failure to respectively file her answer, mandatory conference brief, and position paper.⁴²

The Issue Before the Court

The essential issue in this case is whether respondent should be held administratively liable for the acts complained of.

The Court's Ruling

The Court adopts the findings and recommendations of the IBP with modifications, as will be explained hereunder.

I.

Preliminarily, it is significant to note that on April 11, 2023, the Court *En Banc* unanimously approved A.M. No. 22-09-01-SC or the "Code of Professional Responsibility and Accountability" (CPRA), repealing the CPR, Sections 20 to 37 of Rule 138, and Rule 139-B of the Rules of Court. Section 3 of the General Provisions of the CPRA states that it "shall take effect fifteen (15) calendar days after its publication in the Official Gazette or any newspaper of general circulation." The CPRA was published in the Philippine Star and Manila Bulletin on May 14, 2023 and hence, already effective on May 30, 2023.⁴³

Related to the effectivity of the CPRA, Section 1 of the General Provisions of the CPRA states its provisions "*shall be applied to all pending and future cases, except to the extent that in the opinion of the [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.*"

³⁹ A.C. No. 12465, April 26, 2021 [Unsigned Resolution, First Division].

⁴⁰ *Rollo*, p. 43.

⁴¹ *Id.* at 36–37. Penned by IBP National Secretary Doroteo Lorenzo B. Aguila.

⁴² *Id.* at 36.

⁴³ *See Request of the Public Attorney's Office to Delete Section 22, Canon III of the Proposed Code of Professional Responsibility and Accountability*, A.M. No. 23-05-05-SC, July 11, 2023 [Per J. Singh, *En Banc*].

Hence, the Court shall resolve the present case under the framework of the CPRA, to the extent that it is applicable.

II.

“The practice of law is not a right but merely a privilege bestowed by the State upon those who show that they possess, and continue to possess, the qualifications required by law for the conferment of such privilege. A high sense of morality, honesty and fair dealing is expected and required of members of the bar. They must conduct themselves with great propriety, and their behavior must be beyond reproach anywhere and at all times.”⁴⁴

Hence, the Court *En Banc*, in promulgating the Code of Professional Responsibility and Accountability (CPRA), reiterated in the preamble therein that every lawyer is bound to act in accordance with ethical standards not only in professional matters but also in their private matters.⁴⁵ In other words, the Court will not and does not distinguish as to the nature of the transgressions made by a lawyer whether they were done in their private capacity or in the practice of the profession.⁴⁶ The lack of dichotomy in appreciating a lawyer’s actions is further reflected in Canon II of the CPRA:

A lawyer shall, at all times, act with propriety and maintain the appearance of propriety in personal and professional dealings, observe honesty, respect and courtesy, and uphold the dignity of the legal profession consistent with the highest standards of ethical behavior.

In this relation, Canon II, Sections 1 and 2 of the CPRA require lawyers to engage in proper and dignified conduct, *viz.*:

SECTION 1. *Proper conduct.* — A lawyer shall not engage in unlawful, dishonest, immoral, or deceitful conduct. (1.01)

SECTION 2. *Dignified conduct.* — A lawyer shall respect the law, the courts, tribunals, and other government agencies, their officials, employees, and processes, and act with courtesy, civility, fairness, and candor towards fellow members of the bar. (8a).

A lawyer shall not engage in conduct that adversely reflects on one’s fitness to practice law, nor behave in a scandalous manner, whether in public or private life, to the discredit of the legal profession. (emphasis supplied)

A review of the records shows that respondent failed to act in a proper and dignified form of conduct for issuing checks which were later on

⁴⁴ *Mendoza v. Atty. Diciembre*, 599 Phil. 182, 191 (2009) [*Per Curiam, En Banc*].

⁴⁵ Code of Professional Responsibility and Accountability, Preamble. See also *Mendoza v. Atty. Diciembre*, 599 Phil. 182, 191–192 (2009) [*Per Curiam, En Banc*].

⁴⁶ *Cojuangco, Jr. v. Atty. Palma*, 481 Phil. 646, 655 (2004) [*Per Curiam, En Banc*].

dishonored for having been drawn against a closed account. In *Wilkie v. Atty. Limos*,⁴⁷ the Court held that the issuance of worthless checks reflects the “lack of personal honesty and good moral character as to render her unworthy of public confidence.”⁴⁸ By doing so, a lawyer knowingly violates the law, particularly Batas Pambansa Blg. 22 or the Bouncing Checks Law—thereby exhibiting their indifference towards the pernicious effects of their illegal act.⁴⁹ By violating the law in issuing worthless checks, the same constitutes as a form of serious misconduct warranting the need to discipline members of the Bar.⁵⁰

Here, complainants were able to substantially prove that respondent issued multiple checks, particularly those with Check Numbers 0060099, 0060100, and 0061576, which were later on dishonored for having been drawn against a closed account. Accordingly, the Court finds respondent guilty of serious misconduct, violating Canon II, Sections 1 and 2 of the CPRA.

On the other hand, the IBP-CBD held that the complainants failed to substantially prove allegation of respondent’s act of misrepresentation regarding Abundance being a registered investment house and her capacity to operate the same. According to the IBP-CBD, the certification issued by the SEC was insufficient to prove their allegations. Contrary to the IBP-CBD’s findings, the Court finds that complainants were able to substantially prove respondent’s act of misrepresentation.

As earlier stated, Canon II, Section 1 of the CPRA obligates lawyers not to engage in *unlawful, dishonest, immoral, or deceitful conduct*. The Court had previously ruled that to be “dishonest” means a person’s “disposition to lie, cheat, defraud or betray; be untrustworthy; lacking in integrity, honesty, probity, integrity in principle, fairness and straightforwardness.”⁵¹

On the other hand, to be “deceitful” means “the proclivity for fraudulent and deceptive misrepresentation, artifice or device that is used upon another who is ignorant of the true facts, to the prejudice and damage of the party imposed upon.”⁵² Hence, the person must have knowledge of the falsity, especially if the parties are not on equal terms, and was done with the intent that the aggrieved party act thereon, and the latter indeed acted in reliance of the false statement or deed in the manner contemplated to his injury.⁵³

⁴⁷ 591 Phil. 1 (2008) [Per J. Leonardo-De Castro, First Division].

⁴⁸ *Id.* at 8.

⁴⁹ *Enriquez v. Atty. De Vera*, 756 Phil. 1, 11 (2015) [Per J. Leonen, Second Division].

⁵⁰ *De Jesus v. Atty. Collado*, 290-A Phil. 410 (1992) [*Per Curiam, En Banc*].

⁵¹ See *Salagada v. Astorga*, 748 Phil. 1, 13 (2014) [Per J. Leonardo-De Castro, *En Banc*]; *Kare v. Atty. Tumalian*, 864 Phil. 791 (2019) [Per J. Peralta, Third Division]; *Aguinaldo v. Asuncion*, 887 Phil. 496 (2020) [Per C.J. Peralta, First Division].

⁵² *Saladaga v. Astorga*, p. 13.

⁵³ *Id.*

In relation to the Court's ruling on what amounts to dishonesty and deceitfulness, Canon II, Section 11 of the CPRA obligates any lawyer from not making false representations. The failure to do so renders a lawyer administratively liable and subject to the discipline of the Court, to wit:

SECTION 11. *False representations or statements; duty to correct.*

— A lawyer shall not make false representations or statements. A lawyer shall be liable for any material damage caused by such false representations or statements.

In *Pacao v. Atty. Limos*,⁵⁴ the Court *En Banc* held that respondent was guilty of misrepresentation and deceit when respondent misrepresented that she was duly authorized by a corporation to act on its behalf.⁵⁵

In *Lizaso v. Atty. Amante*,⁵⁶ the Court *En Banc* found respondent to have acted in deceitful and immoral conduct when respondent failed to account and return the money delivered to him for investment purposes by the complainant. In that case, respondent employed a scheme where he was able to entice the complainant from investing in a venture as the same would guarantee an interest of daily profits. Respondent's failure to return the amounts given by the complainant compelled the Court to make a conclusion that respondent controverted complainant's monies to his personal uses. Accordingly, the Court imposed the penalty of an indefinite suspension against respondent therein.⁵⁷

In *Aca v. Atty. Salvado*,⁵⁸ the Court *En Banc* held that respondent violated the CPR for having lured complainant into investing in his businesses with the promise of yielding high interest. In finding respondent liable, the Court held that the respondent's stature as a member of the Bar had, in one way or another, influenced complainant's decision to invest, and hence, he was expected to make truthful representations when dealing with persons. Thus, the Court imposed the penalty of suspension from the practice of law for a period of two years against Atty. Aca.⁵⁹

Considering the foregoing decisions of the Court, a review of the complaint together with the attached documents therein leads the Court, as will be discussed below, to conclude that complainants were able to substantially prove that respondent is guilty of deceit for misrepresenting the capacity of Abundance to operate as an investment house which led to complainants being induced to give their monies to respondent and Puguon.

⁵⁴ 787 Phil. 121 (2016) [*Per Curiam, En Banc*].

⁵⁵ *Id.* at 126–129.

⁵⁶ 275 Phil. 1 (1991) [*Per Curiam, En Banc*].

⁵⁷ *Id.*

⁵⁸ 779 Phil. 214 (2016) [*Per Curiam, En Banc*].

⁵⁹ *Id.* at 222–225.

Here, the SEC's certification would show not only that Abundance is not a registered corporation and had no license to sell securities, but also, respondent is not listed as a registered broker or dealer in securities. Respondent's deception to misrepresent Abundance with the capacity to operate as an investment house is further supported by the issuance of the document entitled "[Acknowledgment] and Agreement." The document acknowledges: (a) the existence of Abundance; (b) its capacity to operate; and (c) the promise of Abundance to give complainants their share of the profits invested therein.⁶⁰

Further, the investment scheme conducted through Abundance and the promise of profits to be given to the complainants is further evidenced by: (a) the checks issued by respondent to complainants, some of which have been dishonored by the bank; (b) respondent conducted a seminar for Darwin and Pauline where she would show her son's account which showed the results of the investing in Abundance; (c) respondent personally gave Abigail the first payout of her profit to further lure the latter into handing over more money; (d) respondent assured that the complainants would receive the intended profits by issuing the dishonored checks; and (e) respondent acquiescing to Puguon's use of blank checks that she pre-signed.⁶¹

Finally, the Court finds that respondent's misrepresentation caused damage to complainants because of their reliance on respondent's stature as a member of the Bar. Similar to Court's observation in *Aca*, the Court likewise finds that complainants in this case would not have parted without taking into account respondent's membership to the Bar. As held in *Aca*, "[t]he public is, indeed, inclined to rely on representations made by lawyers. As a [person] of law, a lawyer is necessarily a leader of the community, looked up to as a model citizen."⁶² Thus, respondent, being a person learned in law, is expected to make truthful representations when dealing with persons, clients or otherwise.⁶³

On another note, as recommended by the IBP, respondent must likewise be held accountable for her failure to comply with the IBP's directives. Canon IV, Section 4 of the CPRA obligates lawyers to observe diligence in all undertakings, to wit:

SECTION 4. *Diligence in all undertakings.* — A lawyer shall observe diligence in all professional undertakings, and shall not cause or occasion delay in any legal matter before any court, tribunal, or other agency.

⁶⁰ *Rollo*, p. 13.

⁶¹ *Id.* at 8, 9, 11, 12, 14.

⁶² 779 Phil. 214, 223 (2016) [*Per Curiam, En Banc*].

⁶³ *Id.*



This obligation stemmed from Rule 12.04 of the CPR which provides a lawyer's duty when interacting with courts:

Rule 12.04 - A lawyer shall not unduly delay a case, impede the execution of a judgment or misuse Court processes.

It must be emphasized that this duty should be observed not only before the courts.⁶⁴ In *Almendarez, Jr. v. Atty. Langit*,⁶⁵ the Court *En Banc* reiterated the rule that “a lawyer must observe and maintain respect not only to the courts, but also to judicial officers and other constituted authorities, including the IBP.”⁶⁶ This is in accordance with Canon VI, Section 2 of the CPRA (previously Rule 139-B of the Rules of Court) which empowers the IBP to conduct proceedings for the disbarment, suspension, or discipline of lawyers. Thus, lawyers should be mindful of their duty as members of the Bar to maintain their respect towards a duly constituted authority.⁶⁷

However, in light of the Court's recent ruling in *Uy v. Atty. Libiran-Meteoro*,⁶⁸ the Court has clarified that disobedience to the orders of the IBP “must be willful and deliberate” to be considered as a less serious offense.⁶⁹ Similar to factual circumstances in *Uy*, respondent could not have intentionally failed to comply with the orders of the IBP since all attempts to send these orders failed—respondent did not receive the IBP's orders in the first place.

Nevertheless, and as held in *Uy*, respondent cannot get away scot-free. In *Uy*, the Court held that a member of the Bar's failure to report one's change of residential or office address to the IBP chapter secretary within 60 days pursuant to Section 19 of the Revised IBP By-Laws⁷⁰ amounts to a light offense under Canon VI, Section 35(a) of the CPRA. Here, the IBP served the notice to submit an answer to respondent at her residential address located at Camp Allen, Baguio City, but the same was returned considering that respondent had already moved out from such address. Despite the IBP's efforts to determine respondent's connection with MARINA, the notices still failed to reach respondent.

Taken together, the Court finds respondent guilty of the following acts (a) violation of Canon II, Sections 1 and 2 of the CPRA for issuing checks which were later dishonored; (b) violation of Canon II, Sections 1 and 11 of the CPRA for using deceit in misrepresenting her capacity to give complainants profits causing damage to them; and (c) violation of Canon VI,

⁶⁴ *Jacolbia v. Atty. Panganiban*, 871 Phil. 33, 40–41 (2020) [Per J. Perlas-Bernabe, *En Banc*].

⁶⁵ 528 Phil. 814 (2006) [Per J. Carpio, *En Banc*].

⁶⁶ *Id.* at 821.

⁶⁷ *Robiñol v. Atty. Bassig*, 821 Phil. 28, 35 (2017) [Per J. Tijam, *En Banc*].

⁶⁸ A.C. No. 13368, May 21, 2024, [Per Curiam, *En Banc*].

⁶⁹ *Id.*

⁷⁰ B.M. No. 4261, March 8, 2023 [Notice, *En Banc*].

Section 35(a) of the CPRA for violating IBP rules and issuances governing membership in the IBP.

Respondent's administrative liability having been established, the Court shall now proceed to determine the penalty/penalties to be imposed upon her.

*Understanding the penalty framework
of the CPRA*

Preliminarily, the facts of the present case give the Court an opportune time to first elaborate and explain the operability of the penalty framework of the CPRA as found in Canon VI thereof.

Unlike the CPR, the CPRA has introduced a systematic framework in the determination of the appropriate penalty to be imposed on a respondent-lawyer in administrative cases: *first*, the classification of an act based on its gravity (Canon VI, Sections 33 to 35); *second*, the imposable penalty depending on the gravity of the offense committed (Canon VI, Section 37); *third*, the enumeration of circumstances (i.e., mitigating or aggravating circumstances) which modify the penalty to be imposed (Canon VI, Section 38); *fourth*, the effects of these circumstances in determining the penalty to be imposed (Canon VI, Section 39); and *fifth*, the procedure to be applied in cases where a respondent-lawyer is found administratively liable for more than one offense (Canon VI, Section 40).

Under the CPRA, offenses committed by respondent-lawyers have three classifications based on the gravity of the offense: serious;⁷¹ less serious;⁷² and light⁷³ offenses. Each classification has corresponding penalties under Canon VI, Section 37, which reads:

SECTION 37. *Sanctions.* –

(a) If the respondent is found guilty of a serious offense, any of the following sanctions, or a combination thereof, shall be imposed:

- (1) Disbarment;
- (2) Suspension from the practice of law for a period exceeding six (6) months;
- (3) Revocation of notarial commission and disqualification as notary public for not less than two (2) years; or
- (4) A fine exceeding [PHP] 100,000.00.

(b) If the respondent is found guilty of a less serious offense, any of the following sanctions, or a combination thereof, shall be imposed:

⁷¹ See CODE OF PROF. RESPONSIBILITY & ACCOUNTABILITY, CANON VI, SEC. 33.

⁷² See CODE OF PROF. RESPONSIBILITY & ACCOUNTABILITY, CANON VI, SEC. 34.

⁷³ See CODE OF PROF. RESPONSIBILITY & ACCOUNTABILITY, CANON VI, SEC. 35.

- (1) Suspension from the practice of law for a period within the range of one (1) month to six (6) months, or revocation of notarial commission and disqualification as notary public for less than two (2) years;
- (2) A fine within the range of [PHP] 35,000.00 to [PHP] 100,000.00.

(c) If the respondent is found guilty of a light offense, any of the following sanctions shall be imposed:

- (1) A fine within the range of [PHP] 1,000.00 to [PHP] 35,000.00;
- (2) Censure; or
- (3) Reprimand.

In addition to the above sanctions in paragraph (c), the respondent may also be required to do community service or service in the IBP legal aid program.

The CPRA further provides that in all cases where the “offense involves money or property owed, which is intrinsically linked to the lawyer-client relationship, the respondent shall be ordered to return the same.”⁷⁴

In relation to the gravity of the offense committed by the respondent-lawyer, Canon VI, Section 38 of the CPRA complements Section 37 by stating the circumstances which could modify the penalty to be imposed on him/her:

SECTION 38. *Modifying circumstances.* — In determining the appropriate penalty to be imposed, the Court may, in its discretion, appreciate the following mitigating and aggravating circumstances:

(a) Mitigating circumstances:

- (1) First offense, except in charges of gross misconduct, bribery or corruption, grossly immoral conduct, misappropriating a client's funds or properties, sexual abuse, and sale, distribution, possession and/or use of illegal drugs or substances;
- (2) Absence of bad faith or malice;
- (3) Return of the amounts owed;
- (4) Expression of remorse;
- (5) Reconciliation with the complainant;
- (6) Rectification of wrongdoing;
- (7) Act or omission did not prejudice the client;
- (8) Age;
- (9) Number of years in the practice of law;
- (10) Humanitarian considerations; and
- (11) Other analogous circumstances.

(b) Aggravating Circumstances:

- (1) Finding of previous administrative liability where a penalty is imposed, regardless of nature or gravity;
- (2) Age;
- (3) Number of years in the practice of law;
- (4) Employment of fraudulent means to conceal the offense;

⁷⁴ CODE OF PROF. RESPONSIBILITY & ACCOUNTABILITY, CANON VI, SEC. 37.

- (5) Respondent's act or omission was tainted with bad faith or malice, except when it is an element of the offense;
- (6) Lack of remorse;
- (7) Failure to comply with the orders of the Court and the IBP in relation to an administrative case; and
- (8) Other analogous circumstances.

Once the existence of modifying circumstances have been determined, Canon VI, Section 39 of the CPRA provides for the manner of imposition of penalties:

SECTION 39. *Manner of Imposition.* — If one (1) or more aggravating circumstances and no mitigating circumstances are present, the Supreme Court may impose the penalties of suspension or fine for a period or amount not exceeding double of the maximum prescribed under this Rule. The Supreme Court may, in its discretion, impose the penalty of disbarment depending on the number and gravity of the aggravating circumstances.

If one (1) or more mitigating circumstances and no aggravating circumstances are present, the Supreme Court may impose the penalties of suspension or fine for a period or amount not less than half of the minimum prescribed under the CPRA.

If there are both aggravating and mitigating circumstances present, the Supreme Court may offset each other.

Notably, Canon VI, Section 40 of the CPRA provides guidance in the determination of the impossible penalty in cases where: (a) there is a finding of liability for separate acts in a single administrative proceeding; or (b) a single act or omission constitutes more than one offense:

SECTION 40. *Penalty for Multiple Offenses.* — If the respondent is found liable for more than one (1) offense arising from separate acts or omissions in a single administrative proceeding, the Court shall impose separate penalties for each offense. Should the aggregate of the imposed penalties exceed five (5) years of suspension from the practice of law or [PHP] 1,000,000.00 in fines, the respondent may, in the discretion of the Supreme Court, be meted with the penalty of disbarment.

If a single act or omission gives rise to more than one (1) offense, the respondent shall still be found liable for all such offenses, but shall, nonetheless, only be meted with the appropriate penalty for the most serious offense.

From the foregoing provision, it can be understood that the Court has the discretion to determine whether the respondent-lawyer may be disbarred in cases contemplating the first paragraph (i.e., there is a finding of liability for separate acts in a single administrative proceeding) depending on the aggregate impossible penalties and fines. On the other hand, the second paragraph (i.e., a single act or omission constitutes more than one offense)

contemplates a situation where the respondent-lawyer shall only be meted with the penalty for the most serious offense.

At this juncture, the Court takes the opportunity to discuss how modifying circumstances should be applied in the two paragraphs contemplated by Section 40.

In cases contemplated under the first paragraph, it is necessary to determine whether the modifying circumstances are directly connected or applicable to a respective act or omission tried in the same proceeding.

To illustrate, a complaint was filed against a previously suspended lawyer for fabricating a court ruling, and thereafter, using the same to swindle one's client into paying success fees by making the latter believe that the lawyer was able to secure a favorable ruling. In such situation, it may be possible for the lawyer to be held liable for two acts: (a) the falsification of a court decision; and (b) the act of swindling. In determining the penalty to be imposed against the respondent-lawyer, it is possible for the aggravating circumstance of previous administrative liability to be applied to both acts considering how the said circumstance does not directly correlate to a specific act. At the same time, it is also possible to apply the aggravating circumstance of concealment of an offense under Canon VI, Section 38(b)(4) insofar as the lawyer concealed the fact of falsification from his client in order to swindle the latter. In other words, the act of swindling was attended by two aggravating circumstances, while the act of falsification was attended by only one aggravating circumstance. As can be seen in the illustration, the modification of penalties imposed against the lawyer for two separate offenses may result in two different outcomes.

Regarding the second paragraph, Canon VI, Section 40, in relation to Section 39, provides a more straightforward approach where the Court shall only be required to consider the modifying circumstances related to the most serious offense to determine the imposable penalty.

In essence, the foregoing provisions applicable in the determination of the imposable penalty in administrative disciplinary cases against lawyers can be summarized by the foregoing process below:

First, the Court and/or the IBP shall determine the gravity of the offense in accordance with Sections 33 to 35, Canon VI of the CPRA.

Second, the Court and/or the IBP shall determine the existence of the applicable modifying circumstances in accordance with Section 38, Canon VI of the CPRA.

Third, the Court and/or the IBP shall apply the applicable modifying circumstances to determine the appropriate penalty in accordance with Sections 37 and 39, Canon VI of the CPRA.

In determining the imposable penalty concerning the first paragraph in Section 40, Canon VI of the CPRA, the Court shall first consider the gravity of each offense and subsequently determine whether the modifying circumstances are directly connected or applicable to specific acts or omissions tried in the proceeding. In relation to the second paragraph, the Court shall only consider the modifying circumstances affecting the most serious offense.

*Application of the penalty framework
in the present case.*

Applying the foregoing guidelines to this case, the Court finds that the present case falls within the first scenario contemplated under Canon VI, Section 40 due to the existence three separate acts violating the provisions of the CPRA, namely: (a) respondent's act of issuing checks which were later dishonored; (b) respondent's deceitful act of misrepresenting her capacity to give complainants profits causing damage to them; and (c) respondent's violation of IBP rules and issuances governing membership in the IBP.

Taking into account Canon VI, Sections 33 to 35 of the CPRA, the Court categorizes each act committed by respondent as follows: (a) the violation of Canon II, Sections 1 and 2 of the CPRA for issuing checks which were later dishonored as a *serious offense* (i.e., gross misconduct, or any inexcusable, shameful or flagrant unlawful conduct, and serious dishonesty, fraud, or deceit, including falsification of documents and making untruthful statements); (b) violation of Canon II, Sections 1 and 11 of the CPRA for misrepresenting her capacity to give complainants profits causing damage to them as a *serious offense* (i.e., serious dishonesty, fraud, or deceit, including falsification of documents and making untruthful statements); and (c) violation of Canon VI, Section 35(a) of the CPRA for respondent's violation of IBP rules and issuances governing membership in the IBP as a *light offense*.

Considering the modifying circumstances found in Canon VI, Section 38 of the CPRA, the Court finds the existence of aggravating circumstance of "finding of previous administrative liability where a penalty is imposed, regardless of nature or gravity" to be present in this case.⁷⁵ To expound, the Court takes judicial notice of the previous administrative case of respondent in *Cabacungan*⁷⁶ where the Court imposed the penalty of suspension of one year against respondent. In *Cabacungan*, the Court found respondent's act of enticing therein complainant to invest and earn profits, and thereafter her failure to return the investments despite repeated demands and follow ups showed that she was deceitful, dishonest, and insincere. The Court likewise

⁷⁵ CODE OF PROF. RESPONSIBILITY & ACCOUNTABILITY, CANON VI, SEC. 38(B)(1).

⁷⁶ *Cabacungan v. Baneg-eng Bongayon*, A.C. No. 12465, April 26, 2021 [Unsigned Resolution, First Division].

considered respondent's act of ignoring the directives of the IBP-CBD to respond to the accusations against her despite due notice.⁷⁷

The Court, thus, holds that the existence of *Cabacungan* should be considered as an aggravating circumstance to be applied in determining the appropriate penalty. This is because the factual antecedent of the present case illustrates how respondent is a repeat offender in her participation in various fraudulent investment schemes. To the Court's mind, the repetition of these forms of conduct reflects respondent's callousness to the import of Court's power to discipline erring members of the Bar.

In this relation, the Court finds that the afore-described aggravating circumstance should be applied to the three distinct and separate acts committed by respondent because the present aggravating circumstance is not directly connected to a specific act committed by respondent.

Based on the foregoing considerations, the Court shall now determine the penalty to be imposed upon respondent in accordance with Canon VI, Sections 37 and 39 of the CPRA.

Penalty for the issuance of worthless checks in violation of sections 1 and 2, Canon II, of the CPRA

In *De Jesus v. Atty. Collado*,⁷⁸ the Court meted out the penalty of a suspension for a period of one year against therein respondent for issuing post-dated checks that were dishonored upon presentment for payment before the bank. The Court likewise suspended the erring lawyer in *Enriquez v. Atty. De Vera*⁷⁹ for a period of one year for similarly making and issuing a worthless check. With the nature of the act as a serious offense and the existence of an aggravating circumstance, and adopting the IBP's recommendation, the Court imposes on respondent the penalty of suspension from the practice of law for a period of two years.

Penalty for misrepresenting respondent's capacity to give complainants profits causing damage to them in violation of Canon II, Sections 1 and 11 of the CPRA.

In *Lizaso*, the Court meted out the penalty of an indefinite suspension against the erring lawyer for his failure to account and return the money

⁷⁷ *Id.*

⁷⁸ 290-A Phil. 410 (1992) [*Per Curiam, En Banc*].

⁷⁹ 756 Phil. 1 (2015) [*Per J. Leonen, Second Division*].

delivered to him for investment purposes by the complainant therein after enticing the latter into his investment scheme. On the other hand, the Court in *Aca*, suspended therein respondent for a period of two years due to his misrepresentations and having lured therein complainant into investing in his businesses with the promise of yielding high interest, as well as the fact that he issued to therein complainant worthless checks which were dishonored as a way to settle his obligations.

With the nature of the act as a serious offense and applying the existence of the above-discussed aggravating circumstance, the Court imposes on respondent the penalty of suspension from the practice of law for a period of four years.

*Penalty for respondent's violation of
IBP rules and issuances governing
membership in the IBP in violation of
Canon VI, Section 35(a) of the CPRA*

In *Uy*,⁸⁰ the Court held that violation of IBP rules and issuances governing membership in the IBP carried with it a fine amounting to PHP 35,000.00. Following *Uy*, and considering the presence of an aggravating circumstance, the Court likewise imposes on respondent a fine of PHP 35,000.00. Similar to *Uy*, respondent's failure to update her records caused serious delays in the proceedings as the IBP-CBD, had tried but failed to serve the various orders to different addresses.

*Respondent should be disbarred
applying Canon VI, Section 40 of the
CPRA*

Disbarment is the most severe form of disciplinary sanction and, as such, the power to disbar must always be exercised with great caution, only for the most imperative reasons and in clear cases of misconduct affecting the standing and moral character of the lawyer as an officer of the court and member of the Bar.⁸¹ In the present case, respondent has been found liable for three separate and distinct acts with three penalties, particularly: *first*, the penalty of suspension for a period of two years for the issuance of worthless checks; *second*, the penalty of suspension for a period of four years for the use of deceit to make misrepresentations; and *third*, the penalty of a fine in the amount of PHP 35,000.00 for violating IBP rules and issuances governing members to the IBP. Applying the first paragraph of Canon VI, Section 40 of the CPRA, respondent is hereby disbarred from the practice of law

⁸⁰ *Uy v. Atty. Libiran-Meteoro*, A.C. No. 13368, May 21, 2024 [*Per Curiam, En Banc*].

⁸¹ *In Re: Resolution Dated 05 August 2008 In A.M. No. 07-4-11-SC v. Atty. Lopez*, 908 Phil. 512, 533 (2021) [*Per Curiam, En Banc*]; *Tan v. Atty. Alvarico*, 888 Phil. 345, 365 (2020) [*Per C.J. Peralta, First Division*]; *Arma v. Atty. Montevilla*, 581 Phil. 1, 7 (2008) [*Per J. Nachura, Third Division*]; *Atty. Dela Cruz v. Atty. Diesmos*, 528 Phil. 927, 933 (2006) [*Per J. Austria-Martinez, First Division*].

considering that the penalties imposed on respondent has exceeded the period of five years. To the Court's mind, the circumstances surrounding respondent demonstrates her penchant to deceive persons causing damage not only to her victims but also to the image of the Bar.

At this juncture, it bears clarifying that the resolution of the instant administrative case and consequent imposition of the foregoing penalties are without prejudice to any criminal and/or civil cases which may be filed by complainants against respondent. Notably, complainants may only recover the monies owed to them by respondent in a proper civil action considering how the same did not arise from a lawyer-client relationship.⁸²

A final word. The public places the legal profession high upon a pedestal with the expectation that lawyers make truthful representations when dealing with persons.⁸³ Hence, the members of the Bar are individually obligated to fulfill this expectation wholeheartedly and not just for show. To renege on this obligation tarnishes not only the character of the lawyer committing unethical acts, but also the entirety of the legal profession. As the popular adage goes, "with great power there must also come—great responsibility."⁸⁴

ACCORDINGLY, the Court finds respondent Atty. Vera Joy Ban-eg **GUILTY** of violating the Code of Professional Responsibility and Accountability. She is **DISBARRED** from the practice of law and her name is ordered **STRICKEN OFF** the Roll of Attorneys **EFFECTIVE IMMEDIATELY**.

Moreover, respondent is **ORDERED** to pay a **FINE** in the amount of PHP 35,000.00, to be paid within 30 days from receipt of this Decision.

Let copies of this Decision be furnished: (1) the Office of the Bar Confidant to be appended to respondent's personal record as a member of the Bar; (2) the Integrated Bar of the Philippines for its information and guidance; (3) the Office of the Court Administrator for circulation to all courts in the country; and (4) the Department of Justice.

This Decision is immediately executory.

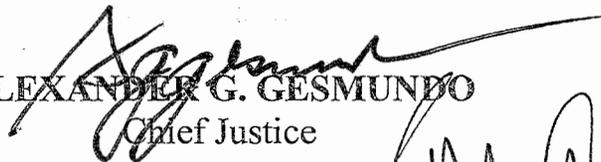
SO ORDERED.

⁸² CODE OF PROF. RESPONSIBILITY & ACCOUNTABILITY, CANON VI, SEC. 37.

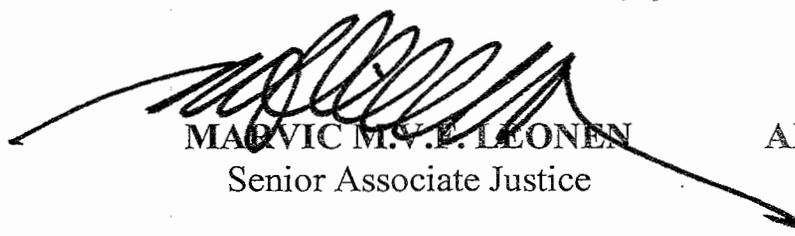
⁸³ *Aca v. Salvado*, 779 Phil. 214, 223 (2016) [*Per Curiam, En Banc*].

⁸⁴ See *Kimble v. Marvel Entertainment, LLC*, 576 U.S. 446 (2015), citing S. Lee and S. Ditko, *Amazing Fantasy* No. 15: "Spider-Man," p. 13 (1962).

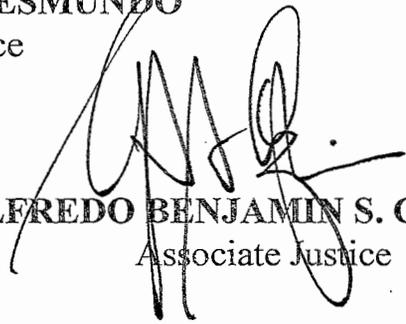
WE CONCUR:



ALEXANDER G. GESMUNDO
Chief Justice



MARVIC M.V.E. LEONEN
Senior Associate Justice



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

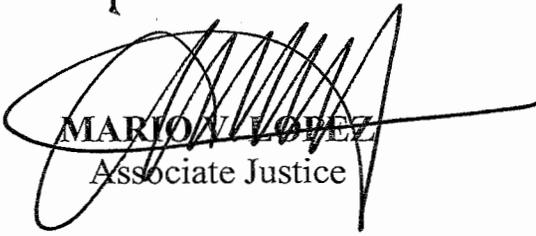
On official business
RAMON PAUL L. HERNANDO
Associate Justice

On official leave
AMY C. LAZARO-JAVIER
Associate Justice



HENRI JEAN PAUL B. INTING
Associate Justice

On leave
RODIL V. ZALAMEDA
Associate Justice



MARION V. LOPEZ
Associate Justice

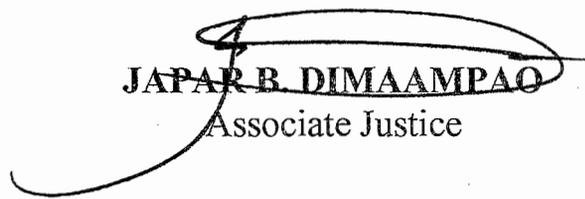


SAMUEL H. GAERLAN
Associate Justice

On official leave
RICARDO R. ROSARIO
Associate Justice



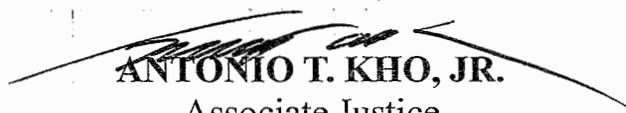
JHOSEP V. LOPEZ
Associate Justice



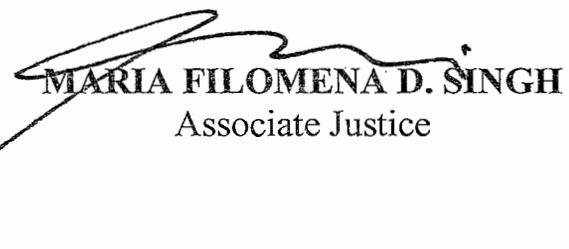
JAPAR B. DIMAAMPAO
Associate Justice



JOSE MIDAS P. MARQUEZ
Associate Justice



ANTONIO T. KHO, JR.
Associate Justice



MARIA FILOMENA D. SINGH
Associate Justice

