

RE: LETTER-COMPLAINT OF CONCERNED CITIZENS AGAINST SOLICITOR GENERAL AGNES VST. DEVANADERA, ATTY. ROLANDO FALLER, AND ATTY. SANTIAGO VARELA.

A.M. No. 07-11-13-SC. June 30, 2008

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

The Office of the Chief Justice (OCJ) received on September 5, 2007 an unverified letter-complaint[1] dated August 26, 2007 written by "Concerned Citizens" and addressed to Chief Justice Reynato S. Puno.

In that August 26, 2007 letter-complaint, the "Concerned Citizens" informed that on August 6, 2007, they filed before the Court "through" the Office of the Chief Justice, a complaint for disbarment/disciplinary action against former Government Corporate Counsel (GCC), now Solicitor General Agnes Vst. Devanadera, along with the present GCC Alberto C. Agra and other lawyers of the Office of the Government Corporate Counsel (OGCC), for "engaging directly or indirectly in partisan political activities" during the May 14, 2007 national and local elections, and for violating the Anti-Graft and Corrupt Practices Act." To the August 26, 2007 letter-complaint was attached a copy of the complaint of the "Concerned Citizens" filed on August 6, 2007, with annexes.

The "Concerned Citizens" further informed in the August 26, 2007 letter that they filed also on August 6, 2007 a complaint[2] before the Office of the Ombudsman against now Solicitor General Devanadera and Attys. Faller and Varela and that they were "filing [the following] complaints on the basis of the same facts and incidents [they] filed against the above three (3) lawyers in the Ombudsman" for:

x x x Violation of the Code of Professional Responsibility. We are not lawyers, however, we believe that these three (3) government lawyers violated the Code of Professional Responsibility namely: Canon 1 (A lawyer shall uphold the constitution, obey the laws of the land and promote respect for law and legal processes) and Canon 6 (These canons shall apply to lawyers in government services in the discharge of their official tasks.) We also believe that as complainants who called the attention of the Supreme Court, the unethical acts of these three (3) lawyers are related to the discharge of their functions (Malversation under Art. 217 of the Revised Penal Code, Violation of Sec. 3(e), Anti-Graft and Corrupt Practices Act, Dishonesty, grave Misconduct in office and Conduct Prejudicial to the Best Interest of the Service) and can be proceeded independently by the Ombudsman and the disbarment/disciplinary proceedings can be undertaken by separately by the Supreme Court because the sole question for determination in disbarment/disciplinary proceedings is whether the said three (3) government lawyers, as members of the Philippine bar are fit to be allowed the privilege as such or not.

x x x x (Emphasis and underscoring supplied)

By Resolution of November 20, 2007,[3] the Court required Solicitor General Devanadera, GCC Agra and Attys. Faller and Varela to Comment on the August 26, 2007 letter-complaint within ten days from notice.

The Solicitor General et al. filed their separate comments,[4] praying for the outright dismissal of the complaint

for being anonymous and contrary to the intent of Section 1, Rule 139-B of the Rules of Court which provides:

Section 1. How instituted. – Proceedings for the disbarment, suspension, or discipline of attorneys may be taken by the Supreme Court *motu proprio*, or by the Integrated Bar of the Philippines (IBP) upon the verified complaint of any person. The complaint shall state clearly and concisely the facts complained of and shall be supported by affidavits of persons having personal knowledge of the facts therein alleged and/or by such documents as may substantiate said facts. (*Italics in the original; emphasis and underscoring supplied*)

Solicitor General Devanadera states in her Comment[5] dated December 17, 2007 that, in any event, since she is holding a cabinet rank, pursuant to Republic Act No. 9417, she is not covered by the prohibition of Section 261 (i) of the Omnibus Election Code,[6] the law that prohibits partisan political activity. She cites "*Santos v. Yatco*, 106 Phil. 745," which held that, so she states, "the ban on prohibited campaigning stated in Section 261(i) of the Omnibus Election Code does not extend to those officers and employees outside of the civil service such as members of the Cabinet." [7]

Solicitor General Devanadera and Attys. Faller and Varela later filed a joint Motion for Clarification with Motion to Admit Supplemental Comment[8] manifesting that there might have been a misunderstanding on what this Court wanted them to comment on, hence, their filing of a Supplemental Comment.[9]

In their Supplemental Comment, Solicitor General Devanadera et al. inform that they had not received a copy of the above-mentioned August 6, 2007 letter-complaint for disbarment allegedly filed before this Court through the OCJ but that they came to learn about it only because a copy thereof was attached to the August 26, 2007 letter-complaint. They add, however, that there were no annexes attached to that copy of the August 6, 2007 letter-complaint, thus denying them due process as they are prevented from refuting each document-annex and the conclusions drawn therefrom.[10]

The Solicitor General et al. just the same moved for the dismissal of the August 26, 2007 letter-complaint for prematurity as the resolution of the complaint filed before the Office of the Ombudsman, if indeed there was, is material in determining whether they committed error in the performance of their duties.[11]

Section 1 of Rule 139-B (Disbarment and Discipline of Attorneys) of the Rules of Court requires that the complaint against an attorney must be verified. In *Fernandez v. Atty. Novero, Jr.*, [12] however, this Court held that failure to verify the complaint constitutes a mere formal defect, and the Court may "order the correction of the unverified pleadings or act on it and waive strict compliance with the rules in order that the ends of justice may be served."

Complainant "Concerned Citizens" provided no mailing address or contact information in their letter-complaint. And they did not proffer any justification for not coming out in the open other than the self-serving reason of "for self-preservation," which is contrary to their claim that they are "not afraid to rock the boat ... so that the proper government authorities will hear the plain and painful truths."

Anonymous v. Geverola [13] which the Solicitor General et al. cites is instructive:

An anonymous complaint is always received with great caution, originating as it does from an unknown author. However, a complaint of such sort does not always justify its outright dismissal for being baseless or unfounded for such comp[la]int may be easy of verification and may, without much difficulty, be substantiated and established by other competent evidence... [14] (*Emphasis and underscoring supplied*)

A reading of the August 26, 2007 letter-complaint, however, shows that the allegations are vague. And the attachments thereto are mere photocopies, not to mention the plaint of the Solicitor General et al. that they were not furnished copies of the annexes to the August 6, 2007 complaint. The Court is thus inclined to, as it does,

dismiss the complaint.

The duty of the Court towards members of the bar is not only limited to the administration of discipline to those found culpable of misconduct but also to the protection of the reputation of those frivolously or maliciously charged.[15] The Court will not thus shirk from its responsibility to mete out proper disciplinary punishment to lawyers who are shown to have failed to live up to their sworn duties; but neither will it hesitate to extend its protective arm to those the accusation against whom is not indubitably proven.[16] For a lawyer's good name is, in the ultimate analysis, his most important possession.[17]

Indeed, the success of a lawyer in his profession depends almost entirely on his reputation. Anything which will harm his good name is to be deplored as a lawyer's reputation is "a plant of tender growth, and its bloom, once lost, is not easily restored." The eventual dismissal however of the administrative case, as in this case, should more than redeem and maintain petitioner's good name. [18]

A word more. Santos v. Yatco, which was cited by the Solicitor General, is actually entitled "Delos Santos, et al. v. Hon. Yatco, et al." Nowhere, however, in the Decision in said case, a 1959 case, did this Court dwell on Section 261 (i) of the Omnibus Election Code of the Philippines (Batas Pambansa Blg. 881), which was actually enacted into law only on December 3, 1985. The Court thus takes this opportunity to again enjoin lawyers to be more circumspect in the citation of cases or authorities in support of their positions.

...But if inferior courts and members of the bar meticulously discharge their duty to check and recheck their citations of authorities culled not only from this Court's decisions but from other sources..., appellate courts will be precluded from acting on misinformation, as well as be saved precious time in finding out whether the citations are correct.[19] (Emphasis and underscoring supplied)

WHEREFORE, the August 26, 2007 complaint against former Government Corporate Counsel, now Solicitor General Agnes Vst. Devanadera, and Attys. Rolando Faller and Santiago Varela[20] of the Office of the Government Corporate Counsel is DISMISSED.

SO ORDERED.

Puno, C.J., Quisumbing, Ynares-Santiago, Carpio, Austria-Martinez, Corona, Azcuna, Tinga, Chico-Nazario, Velasco, Jr., Nachura, Reyes, Leonardo-De Castro, and Brion, JJ., concur.

[1] Rollo, pp. 3-4.

[2] Id. at 3.

[3] Id. at 62.

[4] The comments of Solicitor General Devanadera, GCC Agra and Atty. Faller are dated December 17, 2007 and were filed on even date (rollo, pp. 72-89). Atty. Varela's Comment is dated December 26, 2007 and was filed on even date (rollo, pp. 65-68).

[5] Rollo, pp. 72-77.

[6] Sec. 261. Prohibited acts. - The following shall be guilty of an election offense:

x x x x

(i) Intervention of public officers and employees. – Any officer or employee in the civil service, except those holding political offices; any officer, employee, or member of the Armed Forces of the Philippines, or any police

force, special forces, home defense forces, barangay self-defense units and all other para-military units that now exists or which may hereafter be organized who, directly or indirectly, intervenes, in any election campaign or engages in any partisan political activity, except to vote or to preserve public order, if he is a peace officer.

[7] Rollo, p. 75, underscoring in the original.

[8] Id. at 96-101.

[9] Id. at 102-109.

[10] Id. at 103-104.

[11] Id. at 107-108.

[12] 441 Phil. 506, 513 (2002).

[13] 344 Phil. 688 (1997).

[14] Id. at 696-697.

[15] Dela Cruz v. Diesmos, A.C. No. 6850, July 27, 2006, 496 SCRA 525, 534.

[16] Asturias v. Serrano, A.C. No. 6538, November 25, 2005, 476 SCRA 97, 107.

[17] Ibañez v. Viña, A.C. No. 1648, September 26, 1981, 107 SCRA 607, 613.

[18] Saludo, Jr. v. Court of Appeals, G.R. No. 121404, May 3, 2006, 489 SCRA 14, 20.

[19] Insular Life Assurance Co. Ltd. Employees Association-NATU, et al. v. Insular Life Assurance Co., Ltd., et al., 147 Phil. 194, 229 (1971).

[20] Since the "Concerned Citizens'" information in their letter-complaint dated August 26, 2007 is that they are filing the complaint "on the basis of the same facts and incidents . . . against the above three lawyers in the Ombudsman – Solicitor General Devanadera and Attys. Faller and Varela - GCC Agra appears not to be among the three charged herein.

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