

JUDGE ADORACION G. ANGELES, PETITIONER, VS. HON. MANUEL B. GAITE, ACTING DEPUTY EXECUTIVE SECRETARY FOR LEGAL AFFAIRS; HON. WALDO Q. FLORES, SENIOR DEPUTY EXECUTIVE SECRETARY, O...

G.R. No. 165276. November 25, 2009

Ponente: PERALTA, J.

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PERALTA, J.:

Before this Court is a Petition for Review,[1] under Rule 43 of the 1997 Rules of Civil Procedure, assailing the February 13, 2004 Decision[2] and September 16, 2004 Resolution[3] of the Court of Appeals (CA) in CA-G.R. SP No. 76019.

The facts of the case, as alleged by petitioner and likewise adopted by the CA, are as follows:

Petitioner [Judge Adoracion G. Angeles] was the foster mother of her fourteen (14) year-old grandniece Maria Mercedes Vistan who, in April 1990 was entrusted to the care of the former by the girl's grandmother and petitioner's sister Leonila Angeles Vda. de Vistan when the child was orphaned at the tender age of four.

Petitioner provided the child with love and care, catered to her needs, sent her to a good school and attended to her general well-being for nine (9) memorable and happy years. The child also reciprocated the affections of her foster mother and wrote the latter letters.

Petitioner's love for the child extended to her siblings, particularly her half-brother respondent Michael Vistan, a former drug-addict, and the latter's family who were regular beneficiaries of the undersigned's generosity. Michael would frequently run to the undersigned for his variety of needs ranging from day to day subsistence to the medical and hospital expenses of his children.

In the evening of 11 April 1999, Michael Vistan had a falling out with petitioner for his failure to do a very important errand for which he was severely reprimanded over the phone. He was told that from then on, no assistance of any kind would be extended to him and that he was no longer welcome at petitioner's residence.

Feeling thwarted, he, in conspiracy with his co-horts (sic), retaliated on 12 April 1999 by inducing his half-sister, Maria Mercedes, to leave petitioner's custody. Michael used to have free access to the undersigned's house and he took the girl away while petitioner was at her office.

In the evening of that day, 12 April 1999, petitioner, accompanied by her friend Ines Francisco, sought Michael Vistan in his residence in Sta. Cruz, Guiguinto, Bulacan to confront him about the whereabouts of his half-sister. He disclosed that he brought the girl to the residence of her maternal relatives in Sta. Monica, Hagonoy, Bulacan. Petitioner then reported the matter and requested for the assistance of the 303[rd] Criminal Investigation and Detective Group Field Office in Malolos, Bulacan to locate the girl. Consequently, PO3 Paquito M. Guillermo and Ruben Fred Ramirez accompanied petitioner and her friend to Hagonoy, Bulacan where they coordinated with police officers from the said place. The group failed to find the girl. Instead, they were given the run-around as the spouses Ruben and Lourdes Tolentino and spouses Gabriel and Olympia

Nazareno misled them with the false information that Maria Mercedes was already brought by their brother Carmelito Guevarra and the latter's wife Camilia to Casiguran, Quezon Province.

On 13 April 1999, petitioner filed a complaint for Kidnapping under Article 271 of the Revised Penal Code (Inducing a Minor to Abandon His Home) against Michael Vistan, the Tolentino spouses, the Nazareno spouses and Guevarra spouses, all maternal relatives of Maria Mercedes Vistan.

Warrants of arrest were subsequently issued against them and to evade the long arm of the law, Michael Vistan went into hiding. He dragged along with him his half-sister Maria Mercedes.

From 12 April 1999 to 16 April 1999, Michael Vistan, with his little sister in tow, shuttled back and forth from Guiguinto to Hagonoy, Bulacan as well as in Manila and Quezon City, living the life of a fugitive from justice. He eventually brought the girl to ABS-CBN in Quezon City where he made her recite a concocted tale of child abuse against herein petitioner hoping that this would compel the latter to withdraw the kidnapping charge which she earlier filed.

In the early morning of 16 April 1999, Michael Vistan brought Maria Mercedes to the DSWD after he felt himself cornered by the police dragnet laid for him.

Prompted by his overwhelming desire to retaliate against petitioner and get himself off the hook from the kidnapping charge, Michael Vistan had deliberately, maliciously, selfishly and insensitively caused undue physical, emotional and psychological sufferings to Maria Mercedes Vistan, all of which were greatly prejudicial to her well-being and development.

Thus, on 1 December 1999, petitioner filed a complaint against Michael Vistan before the Office of the Provincial Prosecutor in Malolos, Bulacan for five counts of Violation of Section 10 (a), Article VI of RA 7610, otherwise known as the Child Abuse Act, and for four counts of Violation of Sec. 1 (e) of PD 1829. She likewise filed a complaint for Libel against Maria Cristina Vistan, aunt of Michael and Maria Mercedes.

In a Resolution dated March 3, 2000, Investigating Prosecutor Benjamin R. Caraig recommended upheld (sic) the charge of Violation of RA 7160 but recommended that only one Information be filed against Michael Vistan. The charge of Violation of PD 1829 was dismissed. Nonetheless, the Resolution to uphold the petitioner's complaint against Maria Cristina Vistan must (sic) remained.

However, Provincial Prosecutor Amando C. Vicente denied the recommendation of the Investigating Prosecutor that Michael Vistan be indicted for Violation RA 7610. He also approved the recommendation for the dismissal of the charge for Violation of PD 1829.

On 14 April 2000, petitioner filed a Motion for Partial Reconsideration. This was denied in a Resolution dated 28 April 2000.

Petitioner then filed a Petition for Review before the Department of Justice on 18 May 2000. She also filed a Supplement thereto on 19 May 2000.

In a Resolution dated 5 April 2001, Undersecretary Manuel A.J. Teehankee, acting for the Secretary of Justice, denied the petition for review. The undersigned's Motion for Reconsideration filed on 25 April 2001 was likewise denied by then DOJ Secretary Hernando B. Perez in a Resolution dated 15 October 2001.

On 26 November 2001, the undersigned filed a Petition for Review before the Office of President. The petition was dismissed and the motion for reconsideration was denied before said forum anchored on Memorandum Circular No. 58 which bars an appeal or a petition for review of decisions/orders/resolutions of the Secretary of Justice except those involving offenses punishable by reclusion perpetua or death.[4]

On March 18, 2003, petitioner filed a petition for review[5] before the CA assailing the Order of the Office of President. Petitioner argued that the Office of the President erred in not addressing the merits of her petition by

relying on Memorandum Circular No. 58, series of 1993. Petitioner assailed the constitutionality of the memorandum circular, specifically arguing that Memorandum Circular No. 58 is an invalid regulation because it diminishes the power of control of the President and bestows upon the Secretary of Justice, a subordinate officer, almost unfettered power.[6] Moreover, petitioner contended that the Department of Justice (DOJ) erred in dismissing the complaint against respondent Michael Vistan for violations of Presidential Decree No. 1829[7] (PD No. 1829) and for violation of Republic Act No. 7610[8] (RA No. 7610).[9]

On February 13, 2004, the CA rendered a Decision, dismissing the petition, the dispositive portion of which reads:

WHEREFORE, premises considered, the instant petition is hereby DISMISSED for lack of merit.[10]

The CA affirmed the position of the Solicitor General (OSG) to apply the doctrine of qualified political agency, to wit:

When the President herself did not revoke the order issued by respondent Acting Deputy Executive Secretary for Legal Affairs nor saw the necessity to exempt petitioner's case from the application of Memorandum Circular No. 58, the act of the latter is deemed to be an act of the President herself.[11]

Moreover, the CA ruled that the facts of the case as portrayed by petitioner do not warrant the filing of a separate Information for violation of Section 1(e) of PD No. 1829.[12] Lastly, the CA ruled that the DOJ did not err when it dismissed the complaint for violation for RA No. 7610 as the same was not attended by grave abuse of discretion.

Petitioner filed a Motion for Reconsideration,[13] which was, however, denied by the CA in a Resolution dated September 16, 2004.

Hence, herein petition, with petitioner raising the following assignment of errors, to wit:

- THE HONORABLE COURT OF APPEALS ERRED IN UPHOLDING THE RELIANCE OF THE OFFICE OF THE PRESIDENT IN THE PROVISIONS OF MEMORANDUM CIRCULAR NO. 58.
- THE HONORABLE COURT OF APPEALS ERRED IN UPHOLDING THE DISMISSAL BY THE DOJ SECRETARY OF THE COMPLAINT OF VIOLATION OF SECTION 1(E). P.D. 1829 (OBSTRUCTION OF JUSTICE) AGAINST PRIVATE RESPONDENT MICHAEL VISTAN.
- THE HONORABLE COURT OF APPEALS ERRED IN UPHOLDING THE DISMISSAL OF THE COMPLAINT OF VIOLATION OF R.A. 7610 (CHILD ABUSE) AGAINST PRIVATE RESPONDENT MICHAEL VISTAN.[14]

The petition is without merit.

Petitioner's arguments have no leg to stand on. They are mere suppositions without any basis in law. Petitioner argues in the main that Memorandum Circular No. 58 is an invalid regulation, because it diminishes the power of control of the President and bestows upon the Secretary of Justice, a subordinate officer, almost unfettered power.[15] This argument is absurd. The President's act of delegating authority to the Secretary of Justice by virtue of said Memorandum Circular is well within the purview of the doctrine of qualified political agency, long been established in our jurisdiction.

Under this doctrine, which primarily recognizes the establishment of a single executive, "all executive and administrative organizations are adjuncts of the Executive Department; the heads of the various executive departments are assistants and agents of the Chief Executive; and, except in cases where the Chief Executive is required by the Constitution or law to act in person or the exigencies of the situation demand that he act

personally, the multifarious executive and administrative functions of the Chief Executive are performed by and through the executive departments, and the acts of the secretaries of such departments, performed and promulgated in the regular course of business, are, unless disapproved or reprobated by the Chief Executive, presumptively the acts of the Chief Executive." [16] The CA cannot be deemed to have committed any error in upholding the Office of the President's reliance on the Memorandum Circular as it merely interpreted and applied the law as it should be.

As early as 1939, in *Villena v. Secretary of Interior*, [17] this Court has recognized and adopted from American jurisprudence this doctrine of qualified political agency, to wit:

x x x With reference to the Executive Department of the government, there is one purpose which is crystal-clear and is readily visible without the projection of judicial searchlight, and that is, the establishment of a single, not plural, Executive. The first section of Article VII of the Constitution, dealing with the Executive Department, begins with the enunciation of the principle that "The executive power shall be vested in a President of the Philippines." This means that the President of the Philippines is the Executive of the Government of the Philippines, and no other. The heads of the executive departments occupy political positions and hold office in an advisory capacity, and, in the language of Thomas Jefferson, "should be of the President's bosom confidence" (7 Writings, Ford ed., 498), and, in the language of Attorney-General Cushing (7 Op., Attorney-General, 453), "are subject to the direction of the President." Without minimizing the importance of the heads of the various departments, their personality is in reality but the projection of that of the President. Stated otherwise, and as forcibly characterized by Chief Justice Taft of the Supreme Court of the United States, "each head of a department is, and must be, the President's alter ego in the matters of that department where the President is required by law to exercise authority" (*Myers v. United States*, 47 Sup. Ct. Rep., 21 at 30; 272 U.S., 52 at 133; 71 Law. ed., 160). [18]

Memorandum Circular No. 58, [19] promulgated by the Office of the President on June 30, 1993 reads:

In the interest of the speedy administration of justice, the guidelines enunciated in Memorandum Circular No. 1266 (4 November 1983) on the review by the Office of the President of resolutions/orders/decisions issued by the Secretary of Justice concerning preliminary investigations of criminal cases are reiterated and clarified.

No appeal from or petition for review of decisions/orders/resolutions of the Secretary of Justice on preliminary investigations of criminal cases shall be entertained by the Office of the President, except those involving offenses punishable by reclusion perpetua to death x x x.

Henceforth, if an appeal or petition for review does not clearly fall within the jurisdiction of the Office of the President, as set forth in the immediately preceding paragraph, it shall be dismissed outright x x x.

It is quite evident from the foregoing that the President himself set the limits of his power to review decisions/orders/resolutions of the Secretary of Justice in order to expedite the disposition of cases. Petitioner's argument that the Memorandum Circular unduly expands the power of the Secretary of Justice to the extent of rendering even the Chief Executive helpless to rectify whatever errors or abuses the former may commit in the exercise of his discretion [20] is purely speculative to say the least. Petitioner cannot second-guess the President's power and the President's own judgment to delegate whatever it is he deems necessary to delegate in order to achieve proper and speedy administration of justice, especially that such delegation is upon a cabinet secretary - his own alter ego.

Nonetheless, the power of the President to delegate is not without limits. No less than the Constitution provides for restrictions. Justice Jose P. Laurel, in his ponencia in *Villena*, makes this clear:

x x x Withal, at first blush, the argument of ratification may seem plausible under the circumstances, it should be observed that there are certain prerogative acts which, by their very nature, cannot be validated by

subsequent approval or ratification by the President. There are certain constitutional powers and prerogatives of the Chief Executive of the Nation which must be exercised by him in person and no amount of approval or ratification will validate the exercise of any of those powers by any other person. Such, for instance, is his power to suspend the writ of habeas corpus and proclaim martial law (par. 3, sec. 11, Art. VII) and the exercise by him of the benign prerogative of mercy (par. 6, sec. 11, *idem*).^[21]

These restrictions hold true to this day as they remain embodied in our fundamental law. There are certain presidential powers which arise out of exceptional circumstances, and if exercised, would involve the suspension of fundamental freedoms, or at least call for the supersedence of executive prerogatives over those exercised by co-equal branches of government.^[22] The declaration of martial law, the suspension of the writ of habeas corpus, and the exercise of the pardoning power, notwithstanding the judicial determination of guilt of the accused, all fall within this special class that demands the exclusive exercise by the President of the constitutionally vested power.^[23] The list is by no means exclusive, but there must be a showing that the executive power in question is of similar gravitas and exceptional import.^[24]

In the case at bar, the power of the President to review the Decision of the Secretary of Justice dealing with the preliminary investigation of cases cannot be considered as falling within the same exceptional class which cannot be delegated. Besides, the President has not fully abdicated his power of control as Memorandum Circular No. 58 allows an appeal if the imposable penalty is reclusion perpetua or higher. Certainly, it would be unreasonable to impose upon the President the task of reviewing all preliminary investigations decided by the Secretary of Justice. To do so will unduly hamper the other important duties of the President by having to scrutinize each and every decision of the Secretary of Justice notwithstanding the latter's expertise in said matter.

In *Constantino, Jr. v. Cuisia*,^[25] this Court discussed the predicament of imposing upon the President duties which ordinarily should be delegated to a cabinet member, to wit:

The evident exigency of having the Secretary of Finance implement the decision of the President to execute the debt-relief contracts is made manifest by the fact that the process of establishing and executing a strategy for managing the government's debt is deep within the realm of the expertise of the Department of Finance, primed as it is to raise the required amount of funding, achieve its risk and cost objectives, and meet any other sovereign debt management goals.

If, as petitioners would have it, the President were to personally exercise every aspect of the foreign borrowing power, he/she would have to pause from running the country long enough to focus on a welter of time-consuming detailed activities-the propriety of incurring/guaranteeing loans, studying and choosing among the many methods that may be taken toward this end, meeting countless times with creditor representatives to negotiate, obtaining the concurrence of the Monetary Board, explaining and defending the negotiated deal to the public, and more often than not, flying to the agreed place of execution to sign the documents. This sort of constitutional interpretation would negate the very existence of cabinet positions and the respective expertise which the holders thereof are accorded and would unduly hamper the President's effectivity in running the government.^[26]

Based on the foregoing considerations, this Court cannot subscribe to petitioner's position asking this Court to allow her to appeal to the Office of the President, notwithstanding that the crimes for which she charges respondent are not punishable by reclusion perpetua to death.

It must be remembered that under the Administrative Code of 1987 (EO No. 292), the Department of Justice, under the leadership of the Secretary of Justice, is the government's principal law agency. As such, the Department serves as the government's prosecution arm and administers the government's criminal justice system by investigating crimes, prosecuting offenders and overseeing the correctional system, which are deep within the

realm of its expertise.[27] These are known functions of the Department of Justice, which is under the executive branch and, thus, within the Chief Executive's power of control.

Petitioner's contention that Memorandum Circular No. 58 violates both the Constitution and Section 1, Chapter 1, Book III of EO No. 292, for depriving the President of his power of control over the executive departments deserves scant consideration. In the first place, Memorandum Circular No. 58 was promulgated by the Office of the President and it is settled that the acts of the secretaries of such departments, performed and promulgated in the regular course of business are, unless disapproved or reprobated by the Chief Executive, presumptively the acts of the Chief Executive.[28] Memorandum Circular No. 58 has not been reprobated by the President; therefore, it goes without saying that the said Memorandum Circular has the approval of the President.

Anent the second ground raised by petitioner, the same is without merit.

Petitioner argues that the evasion of arrest constitutes a violation of Section 1(e) of PD No. 1829, the same is quoted hereunder as follows:

(e) Delaying the prosecution of criminal case by obstructing the service of processes or court orders or disturbing proceedings in the fiscals' offices in Tanodbayan, or in the courts. x x x

Specifically, petitioner contends that respondent's act of going underground obstructed the service of a court process, particularly the warrant of arrest.[29]

This Court does not agree.

There is no jurisprudence that would support the stance taken by petitioner. Notwithstanding petitioner's vehement objection in the manner the CA had disposed of the said issue, this Court agrees with the same. The CA ruled that the position taken by petitioner was contrary to the spirit of the law on "obstruction of justice," in the wise:

x x x It is a surprise to hear from petitioner who is a member of the bench to argue that unserved warrants are tantamount to another violation of the law re: "obstruction of justice." Petitioner is like saying that every accused in a criminal case is committing another offense of "obstruction of justice" if and when the warrant of arrest issued for the former offense/ charge is unserved during its life or returned unserved after its life - and that the accused should be charged therewith re: "obstruction of justice." What if the warrant of arrest for the latter charge ("obstruction of justice") is again unserved during its life or returned unserved? To follow the line of thinking of petitioner, another or a second charge of "obstruction of justice" should be filed against the accused. And if the warrant of arrest issued on this second charge is not served, again, a third charge of "obstruction of justice" is warranted or should be filed against the accused. Thus, petitioner is effectively saying that the number of charges for "obstruction of justice" is counting and/or countless, unless and until the accused is either arrested or voluntarily surrendered. We, therefore, find the position taken by petitioner as contrary to the intent and spirit of the law on "obstruction of justice." x x x[30]

As correctly observed by the CA, the facts of the case, as portrayed by petitioner, do not warrant the filing of a separate information for violation of Section 1(e) of PD No. 1829. This Court agrees with the CA that based on the evidence presented by petitioner, the failure on the part of the arresting officer/s to arrest the person of the accused makes the latter a fugitive from justice and is not equivalent to a commission of another offense of obstruction of justice.[31]

Petitioner, however, vehemently argues that the law does not explicitly provide that it is applicable only to another person and not to the offender himself.[32] Petitioner thus contends that where the "law does not distinguish, we should not distinguish." [33]

Again, this Court does not agree.

Petitioner conveniently forgets that it is a basic rule of statutory construction that penal statutes are to be liberally construed in favor of the accused.[34] Courts must not bring cases within the provision of a law which are not clearly embraced by it. No act can be pronounced criminal which is not clearly made so by statute; so, too, no person who is not clearly within the terms of a statute can be brought within them.[35] Any reasonable doubt must be resolved in favor of the accused.[36]

Indeed, if the law is not explicit that it is applicable only to another person and not the offender himself, this Court must resolve the same in favor of the accused. In any case, this Court agrees with the discussion of the CA, however sarcastic it may be, is nevertheless correct given the circumstances of the case at bar.

Lastly, petitioner argues that the CA erred in upholding the dismissal of the complaint against respondent for violation of Section 10 (a), Article VI, of RA No. 7610. Said Section reads:

Any person who shall commit any other act of child abuse, cruelty or exploitation or responsible for other conditions prejudicial to the child's development, including those covered by Article 59 of PD No. 603, as amended, but not covered by the Revised Penal Code, as amended, shall suffer the penalty of prision mayor in its minimum period.

On this note, the Provincial Prosecutor in disapproving the recommendation of the Investigating Prosecutor to file the information for violation of Section 10(a), Article VI, of RA No. 7610, gave the following reasons:

APPROVED for: (1) x x x (2) x x x The recommendation to file an information for viol. of Sec. 10 (a) RA # 7610 vs. M. Vistan is hereby denied. The affidavit of Ma. Mercedes Vistan, the minor involved, is to the effect that she found happiness and peace of mind away from the complainant and in the company of her relatives, including her brother, respondent Michael Vistan. How can her joining the brother be prejudicial to her with such statement?[37]

Said finding was affirmed by the Secretary of Justice.

This Court is guided by *First Women's Credit Corporation and Shig Katamaya v. Hon. Hernando B. Perez et. al.*, [38] where this Court emphasized the executive nature of preliminary investigations, to wit:

x x x the determination of probable cause for the filing of an information in court is an executive function, one that properly pertains at the first instance to the public prosecutor and, ultimately, to the Secretary of Justice. For this reason, the Court considers it sound judicial policy to refrain from interfering in the conduct of preliminary investigations and to leave the Department of Justice ample latitude of discretion in the determination of what constitutes sufficient evidence to establish probable cause for the prosecution of supposed offenders. Consistent with this policy, courts do not reverse the Secretary of Justice's findings and conclusions on the matter of probable cause except in clear cases of grave abuse of discretion. Thus, petitioners will prevail only if they can show that the CA erred in not holding that public respondent's resolutions were tainted with grave abuse of discretion.[39]

Were the acts of the Provincial Prosecutor or the Secretary of Justice tainted with grave abuse of discretion?

By grave abuse of discretion is meant such capricious and whimsical exercise of judgment which is equivalent to an excess or lack of jurisdiction. The abuse of discretion must be so patent and gross as to amount to an evasion of a positive duty or a virtual refusal to perform a duty enjoined by law, or to act not at all in contemplation of law, as where the power is exercised in an arbitrary and despotic manner by reason of passion or hostility.[40]

Based on the foregoing, this Court finds that the provincial prosecutor and the Secretary of Justice did not act with grave abuse of discretion, as their conclusion of lack of probable cause was based on the affidavit of the alleged

victim herself. The reasons for the cause of action were stated clearly and sufficiently. Was their reliance on the victim's affidavit constitutive of grave abuse of discretion? This Court does not think so.

While petitioner would argue that the victim was "brainwashed" by respondent into executing the affidavit,[41] this Court finds no conclusive proof thereof. Besides, even if their reliance on the victim's affidavit may be wrong, it is elementary that not every erroneous conclusion of fact is an abuse of discretion.[42] As such, this Court will not interfere with the said findings of the Provincial Prosecutor and the Secretary of Justice absent a clear showing of grave abuse of discretion. The determination of probable cause during a preliminary investigation is a function that belongs to the prosecutor and ultimately on the Secretary of Justice; it is an executive function, the correctness of the exercise of which is a matter that this Court will not pass upon absent a showing of grave abuse of discretion.

WHEREFORE, premises considered, the February 13, 2004 Decision and September 16, 2004 Resolution of the Court of Appeals in CA-G.R. SP No. 76019 are hereby AFFIRMED.

SO ORDERED.

Corona, (Chairperson), Chico-Nazario, Velasco, Jr., and Nachura, JJ., concur.

[1] Rollo, pp. 3-17.

[2] Penned by Associate Justice Andres B. Reyes, Jr., with Associate Justices Buenaventura J. Guerrero and Regalado E. Maambong, concurring, *id.* at 31-46.

[3] Rollo, p. 19.

[4] *Id.* at 32-36. (Emphasis supplied.)

[5] *Id.* at 47-61.

[6] *Id.* at 8.

[7] PENALIZING OBSTRUCTION OF APPREHENSION AND PROSECUTION OF CRIMINAL OFFENDERS, January 16, 1981.

[8] AN ACT PROVIDING FOR STRONGER DETERRENCE AND SPECIAL PROTECTION AGAINST CHILD ABUSE, EXPLOITATION AND DISCRIMINATION, AND FOR OTHER PURPOSES, June 17, 1992.

[9] Rollo, pp. 50-51.

[10] *Id.* at 46.

[11] *Id.* at 40-41.

[12] *Id.* at 43.

[13] *Id.* at 20-29.

[14] *Id.* at 7.

[15] *Id.* at 8.

[16] *Villena v. Secretary of Interior*, 67 Phil. 451, 463 (1939).

[17] *Id.*

[18] Villena v. Secretary of Interior, *supra* note 16, at 464. (Emphasis supplied.)

[19] Reiterating and Clarifying the Guidelines Set Forth in Memorandum Circular No. 1266 (4 November 1983) Concerning the Review by the Office of the President of Resolutions Issued by the Secretary of Justice Concerning Preliminary Investigations of Criminal Cases.

[20] Rollo, p. 8.

[21] Villena v. Secretary of Interior, *supra* note 16, at 462-463.

[22] Constantino, Jr. v. Cuisia, G.R. No. 106064, October 13, 2005, 472 SCRA 505, 534.

[23] *Id.*

[24] *Id.*

[25] *Id.* at 505.

[26] *Id.* at 532. (Emphasis supplied.)

[27] Title III, Justice, Chapter 1, GENERAL PROVISIONS:

1. Section 1. Declaration of Policy. - It is the declared policy of the State to provide the government with a principal law agency which shall be both its legal counsel and prosecution arm; administer the criminal justice system in accordance with the accepted processes thereof consisting in the investigation of the crimes, prosecution of offenders and administration of the correctional system; implement the laws on the admission and stay of aliens, citizenship, land titling system, and settlement of land problems involving small landowners and members of indigenous cultural minorities; and provide free legal services to indigent members of the society.

2. Section 2. Mandate. - The Department shall carry out the policy declared in the preceding section.

3. Section 3. Powers and Functions. - To accomplish its mandate, the Department shall have the following powers and functions:

4. (1) Act as principal law agency of the government and as legal counsel and representative thereof, whenever so required;

[28] Villena v. Secretary of Interior, *supra* note 16, at 463.

[29] Rollo, p. 11.

[30] *Id.* at 42-43.

[31] *Id.* at 43.

[32] *Id.* at 12.

[33] *Id.*

[34] Agpalo, *Statutory Construction*, 1990 ed., p. 208, citing *People v. Subido*, 66 SCRA 545 (1975). *People v. Yu Jai*, 99 Phil. 725 (1956); *People v. Terrado*, 125 SCRA 648 (1983), and other cases.

[35] *Id.*, citing *U.S. v. Abad Santos*, 36 Phil. 243 (1917) and *U.S. v. Madrigal*, 27 Phil. 347 (1914).

[36] *Id.*

[37] Rollo, pp. 83-84. (Refer to handwritten annotation.)

[38] G.R. No. 169026, June 15, 2006, 490 SCRA 774.

[39] *Id.* at 777.

[40] *Estrada v. Desierto*, 487 Phil. 169, 182 (2004).

[41] *Rollo*, p. 13.

[42] *Estrada v. Desierto*, *supra* note 40, at 188.

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