

## EN BANC

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

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

### RESOLUTION

**CARPIO MORALES, J.:**

The Office of the Chief Justice (OCJ) received on September 5, 2007 an unverified letter-complaint<sup>[1]</sup> 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<sup>[2]</sup> 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,<sup>[3]</sup> 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,<sup>[4]</sup> 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<sup>[5]</sup> 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,<sup>[6]</sup> 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."<sup>[7]</sup>

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

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.<sup>[10]</sup>

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.<sup>[11]</sup>