

REPUBLIC OF THE PHILIPPINES  
**COMMISSION ON ELECTIONS**  
*SECOND DIVISION*  
MANILA

**ISABELITA BAYUDANG,**  
Complainant/Petitioner

Versus

Case No: SPA 07-015  
Cancellation of Registration

**BAYAN MUNA, ANAKPAWIS, and  
GABRIELA and their representatives  
namely: Satur Ocampo, Liza Maza, Teodoro  
Casino, Crispin Beltran and Rafael Mariano.**  
Respondents.

x-----x

**ANSWER  
WITH SPECIAL AND AFFIRMATIVE DEFENSES**

Respondents Bayan Muna and Rep. Satur Ocampo and Teddy Casino, by  
counsel, respectfully state that:

**PREFATORY**

On 23 February 2007 at around 2:40 in the afternoon, herein respondents  
received the Summons with a copy of the instant Petition requiring them to file  
their verified Answer within a non-extendible period of three (3) days from receipt  
thereof. The petition, which is for cancellation of registration, was also classified  
as a **Special Action**.

It is well to emphasize at the outset that this Petition for cancellation of  
registration clearly falls under Rule 32 of the COMELEC Rules of Procedure  
(1993). The petition therefore should have been classified as a **Special  
Proceedings** case **not** as a Special Action.

Under the COMELEC Rules of Procedure (1993), the respondent in a Special Proceedings case is given a period of **five (5) days** to file an Answer. In this case, which was erroneously classified as a Special Action case, herein respondents were only given **three (3) days** to file their Answer.

Additionally, under the COMELEC Rules, a Special Action case shall be heard summarily after due notice where the presentation of oral testimonies may be dispensed with; where the parties may cross-examine the affiants **not** as a matter of right (which they are entitled to under a Special Proceedings case) but subject to the discretion of the Commission or the Division.

Clearly, such erroneous classification of the petition as a special action case jeopardizes the rights of the respondents under the COMELEC Rules as well as the Constitutional right of the respondents to due process.

It should be emphasized too that the respondents can very well dispute the malicious and perjured allegations of the complainant in this Petition. Unfortunately, the respondents were given an unreasonably non-extendible period of three (3) days) to file their Answer which made it very difficult, if not impossible, for them to respond intelligently to the allegations.

It should be noted that a copy of the Summons including the Petition with its attachments were served upon the respondents in the afternoon of 23 February 2007, which was a Friday. The respondents and their counsels then had to work overtime on a weekend with limited access to pertinent and necessary information because most of the offices are closed.

While the respondents are entitled under the COMELEC Rules to a period of five (5) days to file their Answer, they were given only three (3) days to confer

with their counsels, study the various attachments in the Petition and to review and analyze the allegations in the Petition as well as the allegations of their witnesses and to write and finalize their Answer. Moreover, the allegations in the Petition and in the Affidavits of the witnesses are vague and contain mere general allegations, which make it difficult for the respondents to make an intelligent response.

Worse, the respondents were required to furnish the petitioner a copy of their Answer by personal service. This is despite the fact that the petitioner's residence is located at Brgy. Cruz, Bongabon, Nueva Ecija, which is about 5-6 hours travel time (one way) and is a known place for the death squads of the military.

While it is difficult and highly a security risk to comply with the Commission's directive, the respondents are sending a messenger to personally serve a copy of the Answer to the petitioner. They also sent a copy of the Answer by registered mail and quick mail to the petitioner.

As part of their compliance, the respondents also served a copy of the Answer by registered mail to National Security Adviser Norberto Gonzales, Armed Forces of the Philippines Chief of Staff Hermogenes Esperon and DOJ Secretary Raul Gonzales who appear to be the real parties-in-interest.

In order to protect and preserve their due process rights, the respondents reserve their right to file an amended answer, motion to dismiss on constitutional and jurisdictional grounds, bill of particulars and to avail of the modes of discovery during the trial.

## **Answer to the allegations**

1. Respondents lack the information sufficient to form a belief as to the truth or falsity of paragraphs 1, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 27, 28, of the Petition.
  
2. Respondents specifically DENY the allegations in paragraph 19 for lack of knowledge. The respondents also specifically DENY the allegations in paragraph 19 that “Tumindi ang galit ng CPP/NPA nung 1998 na nagsimula ang eleksiyon ng mga Party-List sa kadahilanang tinanggihan naming suportahan ang Bayan Muna na kanilang bibuo at ang pinili naming suportahan ay ang Akbayan na naipanalò namin” for being **PURE LIES**. It is well to stress that Bayan Muna was not established or organized by the CPP/NPA, nor was it established or organized in 1998 as claimed by the complainant. Clearly, therefore, Bayan Muna could not have possibly participated or suffered a defeat against Akbayan in the 1998 Party-list election.
  
3. Respondents specifically DENY the allegations in paragraph 20 of the Petition for being pure MALICIOUS FABRICATIONS, the truth of the matter being that since Bayan Muna did not exist in 1998, it did not and could not possibly run in the 1998 elections. Aside from her bare and fabricated allegations, the complainant did not present any evidence to substantiate her claim. The complainant could not even identify who the alleged Bayan Muna members who allegedly prohibited the posting of Akbayan posters-streamers and the alleged armed members who allegedly threatened or harassed petitioner and other alleged Akbayan members. To reiterate, Bayan Muna was not yet in existence at the time

of the alleged acts. Moreover, Bayan Muna does not use armed men or other unlawful means in pursuing its goals.

4. Respondents specifically DENY the allegations in Paragraphs 20 & 21 for being ABSOLUTE LIES. Petitioner in stating in paragraph 20 that “x x x binabaklas nila **sa aming harapan** ang mga naikabit/naidikit na mga stickers/streamers ng Akbayan” and in paragraph 21 that “**Personal ko ring nasaksihan** ang pananakot ng mga armadong kasapi ng Bayan Muna at NPA sa mga botante na iboto ang Bayan Muna sa eleksiyon kung hindi ay lilikidahan nila ang sinumang hindi susuporta” may be held criminally liable for perjury since the records of the Honorable Commission will clearly show that Bayan Muna was not yet existing at the time, nor did it run or campaign in the 1998 elections. Hence, it is totally impossible for Bayan Muna members to have committed the alleged acts in her presence.
5. Respondents specifically DENY the allegations in paragraph 22 for being concocted lies. The petitioner’s lies are obvious. She could only make general allegations and could not substantiate her claims with specifics or details of the alleged incidents. It is well to reiterate that pursuant to the declared principles and objectives of the respondents, Bayan Muna and its members and representatives do not espouse or use and initiate violence to pursue its goals. The record and performance of Bayan Muna since its victory in 2001 clearly shows its adherence to the rule of law in pursuing its programs and goals. In fact, when Bayan Muna participated in the party-list elections in 2001 and 2004, Bayan Muna garnered the biggest number of votes, indicating strong popular support for the party’s program of fundamental reforms and the call for “the politics for change”. The overwhelming support received by Bayan Muna clearly contradicts

- petitioner's false claim that Bayan Muna espoused violence to pursue its goals.
6. Respondents specifically DENY the allegations in Paragraph 23 for being malicious and vicious lies. Bayan Muna is aware that the party list groups Anakpawis and Gabriela did not exist 'bago mag eleksyon ng 2001' nor did these party-list groups run in the 2001 elections as Petitioner alleges in Paragraph 20. Moreover, as admitted by the petitioner in paragraph 16 of the petition "[T]aong 1992 ay nagpasya kaming mag-asawa na putulin na ang aming ugnayan sa Kilusan x x x". Clearly, with the petitioner's admission that she left the CPP/NPA as early as 1992, she could not have personal knowledge of the alleged formation of party-list groups by the CPP/NPA.
  7. Respondents specifically DENY the allegations in Paragraph 24 for being pure fabrication. It is well to state that the petitioner could only make general and bare allegations in her petition. She could not present specific details of the alleged incidents. This is understandable because the petitioner's allegations are obviously fabricated with the intention to demolish Bayan Muna as an electoral participant and consistent winner by maligning it and associating it with the CPP/NPA. Consistent with its avowed objectives and principles, Bayan Muna and its members do not threaten with any means of violence the supporters or members of Akbayan or of any party list group. It should be mentioned that the closest rival of Bayan Muna in the 2001 (and even in the 2004) party list election was the Association of Philippine Electric Cooperatives (APEC) **not** Akbayan who was way below in rank during that party list elections. Thus, there is no basis for the petitioner's claim that their change of support to Akbayan weakened the chances of Bayan Muna in the 2001 elections.

8. Respondents specifically deny the allegations in paragraphs 26 to 29 for lack of knowledge and for being pure falsities. It is well to reiterate that Bayan Muna did not and never engage and participated in any violent and unlawful acts or use unlawful means to pursue its goals and objectives. Aside from bare allegations, the petitioner did not present any evidence to substantiate her claim. The petitioner even failed to identify the alleged Bayan Muna members who are allegedly responsible for the death of her husband. Such general and sweeping allegations of the petitioner should not be given any weight and credence by the Commission.
  
9. Respondents specifically DENY the allegations in Paragraph 30 to 31 of the Petition in so far as it mentions the alleged participation of Bayan Muna for being pure fabrication. The respondents have no knowledge about the alleged land grabbing of a certain 'David Yu Hwaming'. Bayan Muna and any of its members did not participate in the alleged acts mentioned by the petitioner in these paragraphs. Again, the petitioner simply made general allegations and failed to make specific and detailed allegations about the incident. There is also no truth to the allegations contained in paragraph 31 of the petition. To reiterate, Bayan Muna adheres to the rule of law and does not use or employ unlawful, illegal and violent means to pursue its goals. Thus, it does not have armed members and did not threaten petitioner, her family and the president of 'totoong petitioner sa lupa ni David Hwaming' whoever this "totoong petitioner" is. The petition admitted that there is a land dispute involving the land of a certain Hwaming. Her husband, had received death threats because of the land dispute. Petitioner even admitted that the killing of her husband was related to that dispute. The progress report dated 19 May 2004

signed by PChief Inspector Welmer Carillo, and attached as an annex to the Petition clearly said so in page 2:

*“ 3. The group of Carlito Bayudan received death threats from another group of Domingo de la Cruz, a group of farmers identified with the owner of the land Vijandre family, where they have a court litigation still pending.*

*x x x*

*6. The widow ISABELITA NANIP VDA DE BAYUDAN is willing to give sworn statement whom according to her are CPP/NPA hitmen connected with the Vijandre's and Domingo de la Cruz as the mastermind.*

*7. Filing of legal offensive against CPP/NPA operating in Bongabon and Domingo dela Cruz Vijandre is being prepared.*

*x x x*

*WHELMER CARILLO  
Police Chief Inspector*

10. Petitioner and even the Philippine National Police did not even mention elections or Bayan Muna in relation to the death of Petitioner's husband. If Petitioner's allegations were true, the supposed series of harassments and years of threats from Bayan Muna should have figured prominently in the police report. Yet, none of the attached police reports, investigations and progress reports mentioned respondents and Bayan Muna at all. It is clear therefore, that the supposed involvement of Bayan Muna is an afterthought, concocted in 2007, more than three years after the killing but only three months before an election.
11. If only for this, the entire complaint should not have even been given due course. If only for this, this frivolous, libelous and perjury laden Petition should be resoundingly dismissed.
12. Respondents specifically DENY the allegations in Paragraph 32 for lack of basis the truth being that, Bayan Muna has not violated RA 7941 or the Party list Law. Bayan Muna categorically and specifically denies all the

allegations in the Petition, including the documentary evidence attached thereto, that alleges election offenses and other violations of the law against respondents. Bayan Muna denies the allegations of wrongdoing or offenses allegedly committed by respondents in the sworn statements of Julie Sinohin. Cleotilde Peralta and Jose Princillo attached to the Petition and other documents entitled “documentary evidence turned over by Cleotilde Peralta” alleging wrongdoing and offences committed by Bayan Muna.

### **SPECIAL AND AFFIRMATIVE DEFENSES**

#### **I**

#### **The Petition has no basis and cause of action**

13. This Honorable Commission cannot allow such a malicious and frivolous complaint-petition littered with brazen lies that are easily verified by this Honorable Commission through its records, to prosper. The allegations in the entire complaint contain false allegations:
  1. Petitioner alleges that Bayan Muna committed crimes and election offenses under RA 7149 and the Omnibus Election Code in her presence (“sa harapan ko”) during the 1998 elections. Bayan Muna does not exist nor did it campaign against Akbayan or any candidate or party for that matter in the 2007 elections.
  2. Petitioner alleges that Bayan Muna was created by the CPP/NPA, and yet, dismally fails to state in the entire petition why she has personal knowledge of the same. Petitioner’s opinion that the CPP/NPA created Bayan Muna is not based on personal knowledge particularly since she

admitted to have returned to their barrio in 1987 and left the NPA for good in 1992.

3. Petitioner alleges that party list groups Anakpawis and Gabriela were established before 2001 and run in the 2001 party list elections. Commission records will however show that both parties did not exist before and run in the 2001 elections.
4. Nowhere in the entire petition was it alleged that Bayan Muna, as an official policy committed violence or threatened voters and detractors. At most, petitioner alleges acts supposedly committed by its members, but nowhere was it alleged much less proven in the Petition, that Bayan Muna as a party 'advocated violence or unlawful means' or "violated or failed to comply with election rules and laws".
5. The election offenses supposedly started in 1998 and yet the complaint was only filed in February 2007. Bayan Muna was elected by the people and topped the party-list elections in 2001 and again in 2004.

## II

**The alleged election offenses alleged by the petitioners have long been dismissed as unmeritorious by the Honorable Commission and even by the people in the 2001 and 2004 elections.**

6. Bayan Muna has always been the target of disqualification cases. The Supreme Court simply dismissed the petition filed against Bayan Muna by Bagong Bayani, among others, in 2001. This Honorable Commission also dismissed a petition for the cancellation of Bayan Muna's registration filed in 2004 by a party list group alleging that Bayan Muna espoused violence and therefore violated election laws. It is foolhardy for the Petitioner to hope a reversal of these clear decisions especially since the Commission

on Elections has made a categorical decision on the issue. The adjudication of these issues must be put to rest.

7. Furthermore, the resounding victory of Bayan Muna both in the 2001 and the 2004 elections is a clear signal that the people and the voters have dismissed these allegations by reposing their trust on Bayan Muna. Bayan Muna not only won in the 2001 and 2004 elections but came out on top as the number one party list group in both elections. Bayan Muna deserves the same benefit accorded to Gov. Rodolfo Aguinaldo and Gov. Lito Lapid in that such massive support and vote from the people showed the allegations lack of legal and factual bases.
8. The repetitious filing of these harassment disqualification cases during election period are not only futile but also a waste of time for this Honorable Commission which is overburdened with work during this period.
9. In fact, the timing of the filing of the instant petition during the campaign period shows bad faith on the part of the Petitioner which is not only vexatious on the part of Bayan Muna but of the currently overworked Commission. The events alleged transpired from three to eight years ago, yet the Petitioner filed the nuisance suit only in 2007 and during the campaign period, a ploy which the public and this Honorable Commission would surely see through. Bayan Muna cannot be disqualified for acts supposedly committed eight years before and two elections ago. If only for these grounds, this Petition must be dismissed.

### III

**There is a prejudicial issue that needs to be resolved before the Honorable Commission can exercise jurisdiction over the Petition**

10. There is a prejudicial issue on the matter considering that Petitioners Felipe and Bayudang have filed a complaint for the same acts before the Nueva Ecija Provincial Prosecutor. The Prosecutor has not filed any criminal complaint in court against Satur Ocampo and Teddy Casino, who are remain protected by the constitutional presumption of innocence. It is legally incongruent and baseless for Bayan Muna be penalized for acts supposedly committed its members, when these members have not been convicted, or even charged, for the said acts.

### IV

**The Petition was not properly verified and should not given due course.**

11. The Rule 7, Sec. 3 (c) of the Comelec Rules of Procedure defined the content of verification thus:

(c) A pleading shall be verified only by an affidavit stating that the person verifying the same has read the pleadings and that the allegations therein are **true of his own knowledge.**

Petitioner attached a mere Verification in her Petition to wit:

3. I have read the contents thereof and the same are true and correct **to the best of my knowledge.**

12. Petitioner Isabelita Bundang could not even categorically declare that she is sure the allegations contained in her Petition are true! She merely states that to the best of her knowledge, the allegations are true. The filing of a Petition containing allegations which even Petitioner cannot vouch as actually true not only confirms respondents' argument that the Petition is full of untruths, but is a waste of the Honorable Commission's time and is trifling with Commission's processes. It is contempt in the highest degree and for which Petitioner Bundang must be punished by this Honorable Commission.

13. Worse, the filing of the Petition containing allegations that is only true 'to the best' of Petitioner's knowledge during the campaign period at that, has caused damage and injury to the Respondents.

Rule 40, Section 15 of the Comelec Rules of Procedure provide that:

*Sec. 15 Costs when Action or Appeal Frivolous—When an action or an appeal is found to be frivolous, double or treble the costs may be imposed on the Petitioner or appellant, which shall be paid by his attorney, if so ordered by the Commission.*

14. Since herein Petition is frivolous and totally baseless, this Honorable Commission must charge Petitioner Bundang to pay an amount that is TREBLE the cost of this suit, not only for the damage said Petition has caused on respondents and the Commission, but also as a declaration against those who will file frivolous harassment suits against candidates at the expense of the Commission.

15. Considering that the Petition violated the requirement under Comelec rules for the verification of the initiatory pleading, the Honorable

Commission cannot admit or give due course to the same, and must therefore be dismissed.

**PRAYER**

WHEREFORE, premises considered, it is respectfully prayed that:

1. UPON THE FILING of this petition, a preliminary hearing be set on Friday 2 March 2007 at 10:00 a.m. or as soon thereafter as may be convenient to the Honorable Commission to consider favorably the merit of the respondents' submission that this Petition is a special proceeding as contemplated in the COMELEC Rules;
2. A regular hearing on this Special Proceeding case by the Commission pursuant to the COMELEC Rules be conducted; and
3. After such hearing, the petition BE DISMISSED.

Other forms of relief that are just and equitable under the premises are also prayed for.

Quezon City for the City of Manila. 26 February 2007.

**NERI JAVIER COLMENARES**

*Counsel for Bayan Muna, Satur Ocampo & Teddy Casino*

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And

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**AMYLYN B. SATO**  
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Roll No. 50389

**NOTICE AND COPY FURNISHED**

**Isabelita Bundang**  
Barangay Cruz, Bongabon,  
Nueva Ecija

**The Clerk of Court**  
2<sup>nd</sup> Division, COMELEC

GREETINGS:

Please take notice that on Friday, 2 March 2007 at 10:00 a.m. or as soon thereafter, as counsel and matter may be heard, the undersigned shall submit as he hereby submits to a preliminary hearing our prayer that this petition be considered a special proceeding pursuant to Rule 32 of the Comelec Rules of Procedure

**NERI JAVIER COLMENARES**