

REPUBLIC OF THE PHILIPPINES
COMMISSION ON ELECTIONS
SECOND DIVISION
MANILA

MEDELYN FELIPE,
Complainant/Petitioner,

versus

Case No: SPA 07-016
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, Rep. Satur Ocampo and Teddy Casino, by counsel, respectfully file this answer and 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 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, 14, and 16 of the Petition.
2. Respondents specifically DENY the allegations in paragraph 13 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 naipanalo 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 declare that Petitioner MEDELYN FELIPE committed the crime of Perjury in violation of the Revised Penal Code for making FALSE and LIBELOUS allegations in her sworn statement that can easily be disproved by the records of the Commission on Elections.
4. Respondents specifically deny the allegations in Paragraph 15 which stated that “Bago dumating ang halalan sa Party list noong taong 2001 ay nakatanggap ako ng banta mula sa armadong miyembro ng ‘BAYANMUNA’, Anakpawis at Gabriela na kasapi din ng NPA na papatayin nila ang aking asawa kung hindi ito titigil sa pagsuporta ng Akbayan” for being pure malicious fabrications. Bayan Muna does not have armed members nor did it, or its members, threaten petitioner.

Respondents are aware that Anakpawis and Gabriela did not exist and did not run in the 2001 elections and could therefore not have demanded that Petitioner's husband withdraw support from Akbayan in the 2001 party list elections.

5. Respondents specifically deny the allegations in Paragraph 17 for being pure lies. 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. Thus, there is no truth to the petitioner's claim that respondents ordered the killing of Petitioner's husband. The affidavit of one Julie Sinohin is not only full of inconsistencies but also false allegations particularly in relation to the alleged criminal acts committed by respondents.

6. Specific denial in relation to the Sworn Statement of CLEOTILDE PERALTA

6.1 Respondents specifically deny the allegation of Cleotilde Peralta in par. 24 of her Sworn Statement that Bayan Muna was being organized in 1998. Bayan Muna applied for registration with the Comelec in 2000 and no chapters exist in 1998. This lie is further exposed since party list groups Anakpawis and Gabriela were only organized in long after 1998.

6.2 Respondents specifically deny her allegations in Par. 25 that Bayan Muna is espousing illegal and violent principles, and planning the assassination of people. The record and performance of Bayan Muna and its representatives prove the petitioner's inane allegations. The [Congress website](#), shows the House Bills principally authored by Bayan Muna through its representatives. Many of these bills reflect his party's

advocacy of good government, economic and political independence, prioritization of vital social services, nationalization of strategic industries, and the removal of all vestiges of the Marcos dictatorship. Two of respondent Ocampo's bills have passed the House : HB 1556 or the anti-enforced disappearance act and HB 2962 or the Martial Law Victims Compensation Act of 2004, which are now pending before the Senate. Meanwhile, Ocampo's HB 3421 was among the bills that formed the basis in what is now known as Republic Act 9346 that repealed the death penalty, becoming the first law he helped as a principal author.

6.3 Respondents specifically deny the allegations in par. 26 the truth of the matter being that respondents do not know Cleotilde Peralta. Rep. Satur Ocampo and Teddy Casino were never in the house of Ms Peralta and Rep. Ocampo and Teddy Casino, who was not even a member of Bayan Muna at the time, never ordered the killing of Mr. Felipe, Mr. Bayudang, Delfin Pimentel, or any one for that matter.

6.4 Respondents specifically DENY the allegations in par. 28 as respondents have no relations with the CPP and the NPA and are not privy to any, nor is it aware of the alleged documents coming from the CPP or the NPA.

6.5 Respondents specifically deny the allegations in Par. 29 to 32 as they have not been helping the NPA nor are they involved in the collection of the Permit to Campaign.

6.6 Respondents deny all the allegations in the sworn statement of Cleotilde Peralta that links respondents to criminal acts and violation of election rules.

6.7 Respondents deny the authenticity of all the documents, and the truthfulness of the contents of the same, attached to the Sworn Statement of Cleotilde Peralta, particularly since it is clear from the annotation in these documents that they came from the custody of the Armed Forces of the Philippines which could easily manufacture such documents. At any rate, these documents are not Bayan Muna documents and does not constitute proof of any criminal act on the part of respondents.

7. Specific Denial on the Statements of Julie Sinohin.

7.1 Respondents specifically deny the allegations of Julie Sinohin in paragraph 11 of her Sworn Statement.

7.2 Respondents specifically deny the allegations in par 12, 13, 16, 17, 22, 23 and 26 linking respondents to criminal acts and violations of election rules.

8. Specific denial on the Sworn Statement of Jose Princillo

8.1 Respondents specifically deny the allegations in Par. 5 of the Sworn Statement of Jose Princillo.

8.2 Respondent also specifically deny the allegations in par. 6, 9 in so far as it alleges involvement by respondents with the CPP-NPA and the commission of other illegal acts.

8.3 Respondents specifically deny the allegations in par. 10. Satur Ocampo did not go to Leyte and meet with Princillo, nor did he conduct talks or discussed with members of the CPP-NPA.

- 8.4 Respondents specifically deny the allegations in par 11, 12, 13, 14 and 15.
- 8.5 Respondents specifically deny the allegations in par.17.
- 8.6 Respondents specifically deny the allegations in par 12.
- 8.7 Respondents specifically deny the allegations in par 13.
- 8.8 Respondents specifically deny the allegations in par.14.
9. 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 or Cause of Action

10. Petitioner in her Petition, merely alleges two main facts to prove her case for the cancellation of registration of Bayan Muna:
- (i) Bayan Muna was created or organized by the CPP-NPA in 1998 and committed elections offenses consisting of threats against petitioner and her husband during the 1998 elections; and Bayan Muna, together with party list groups Anakpawis and Gabriela committed similar election offenses in 2001. These are easily and immediately disproved through the records of this Honorable Commission which will show that

Bayan Muna does not even exist in 1998 and did run in the 1998 elections, and Anakpawis and Gabriela also did not exist and did not run in the 2001 elections. Since these allegations are untrue, Bayan Muna could not have violated Par. 2 and 5, Section 6 of RA 7941 or any other election offense under the Omnibus Election Code.

- (ii) Paragraph 17 which states that based on the sworn testimony of one Julie Sinohin, Satur Ocampo, Liza Maza, Teddy Casino and Rafael Mariano ordered the killing of her husband. This is not only untrue, but such is a mere hearsay in relation to Bayan Muna. In fact, Petitioner does not alleged any criminal offense committed by Bayan Muna as she merely names Satur Ocampo, Liza Maza, Teodoro Casino and Rafael Mariano in the allegation under Par. 17. Since Petitioner did not even allege any act by Bayan Muna in relation to the killing of her husband, then Bayan Muna could not have violated Par. 2 and 5, Section 6 of RA 7941 or any other election offense under the Omnibus Election Code.

11. The entire Petition for that matter, failed to mention Bayan Muna committing election offenses as a political party. In fact, Petitioner did not even allege acts to show or prove that Bayan Muna, as a political party advocated violence or committed election offenses. The Petition for the cancellation of Bayan Muna's registration, therefore, has no basis and cause of action.

II. The facts alleged did not constitute a violation of the RA 7941 and the Omnibus Election Code

12. The facts alleged are not only untrue but also preposterous as it alleges Bayan Muna members threatened Petitioner and her husband for supporting Akbayan in their barrio in Nueva Ecija and that Satur Ocampo, Teddy Casino, Liza Maza and Rafael Mariano personally ordered the liquidation of certain people in their barangay in Nueva Ecija merely because they support Akbayan, who was not even the closest rival of Bayan Muna in any of the party list elections. APEC has always been Bayan Muna's closest rival. Teddy Casino was not even a member of Bayan Muna, nor was he a candidate-nominee in the 2001 party list elections.

13. Moreover, Petitioner failed to prove and show that Bayan Muna advocated violence or any unlawful means to seek its goals. She did not allege any facts which would show that Bayan Muna as a political party violated any election laws or rules. Aside from mere allegations, petitioner failed to prove that the alleged perpetrators are Bayan Muna members.

14. Assuming *arguendo* that the herein individual respondents committed the alleged acts, the same cannot be the basis for the cancellation of Bayan Muna's registration. The act of individuals or members of a political party cannot bind the party. If supposed crimes of members can lead to the disqualification of a political party, then Lakas-NUCD, Kampi, Nationalist Peoples' Coalition and all other political parties would have been disqualified a long time ago. It must be noted that many members of various political parties have been charged or convicted with the assassination of their political rivals, smuggling guns through airports, rape, electoral fraud and other election offenses. Even if the highest official of Kampi or Lakas NUCD is convicted of electoral fraud after the

2004 presidential elections, surely, this Honorable Commission cannot cancel the registration of Lakas and Kampi on that ground.

15. Worse, petitioner even failed to alleged facts which would show that Bayan Muna advocated violence or unlawful means and violated election laws and rules. Petitioner simply forgot to even allege such a simple, yet crucial fact in her complaint.

16. If we are to set aside the preposterousness of the Petitioner's allegations and presume them to be true, said allegations do not constitute an offense or a violation of the party list law and the Omnibus Election Code.

III. 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.

17. 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.

18. 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.

19. 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.

20. 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.

21. If only for these grounds, this Petition must be dismissed.

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

22. 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.

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

23. 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.**

24. Petitioner Medelyn Felipe 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 Medelyn Felipe must be punished by this Honorable Commission.

25. 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.

26. Since herein Petition is frivolous and totally baseless, this Honorable Commission must charge Petitioner Medelyn Felipe 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.

27. 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 TH FILING of this petition, a preliminary hearing be set on Friday 2 March 2007 at 10:00 a.m. or as soon thereafter s 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.
3. A regular hearing on this Special Proceeding case by the Commission pursuant to the COMELEC Rules be conducted; and
4. 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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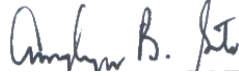
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NOTICE AND COPY FURNISHED

Medelyn Felipe
Barangay Curva, Bongabon,
Nueva Ecija

The Clerk of Court
2nd 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 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

