

EN BANC

[G.R. No. 162203, April 14, 2004]

**AKLAT-ASOSASYON PARA SA KAUNLARAN NG LIPUNAN AT
ADHIKAIN PARA SA TAO, INC., PETITIONER, VS. COMMISSION
ON ELECTIONS (COMELEC), RESPONDENT.**

RESOLUTION

TINGA, J.:

For resolution is the *Petition*^[1] for certiorari and mandamus filed by Aklat-Asosasyon Para Sa Kaunlaran Ng Lipunan At Adhikain Para Sa Tao, Inc. (Aklat) assailing the Commission on Elections (Comelec) *Resolution*^[2] dated January 8, 2004, which dismissed its *Petition*^[3] for re-qualification as a party-list organization, and the *Resolution*^[4] dated February 13, 2004, which denied its *Motion for Reconsideration*.^[5]

Briefly, the facts are as follows:

On November 20, 2003, Aklat filed a *Petition* for declaration of re-qualification as a party-list organization for purposes of the May 2004 elections. It alleged in its petition that it participated in the 2001 elections but was disqualified by the Comelec as it was found not to have complied with the guidelines set by the Court in the case of *Ang Bagong Bayani-OFW Labor Party v. Comelec (Bagong Bayani case)*^[6] for party-list organizations to qualify and participate as such in the party-list elections. Accordingly, Aklat "re-organized itself in order that it will comply with the 8-point guidelines enunciated by the Supreme Court"^[7] in the said case.

In its assailed *Resolution* dated January 8, 2004, the Comelec dismissed the petition stating that Aklat cannot be considered as an organization representing the marginalized and underrepresented groups as identified under Section 5 of Republic Act No. 7941 (R.A. 7941). According to the Comelec, Aklat's statement that it has re-organized itself does not cure this defect as "there is nothing in the petition which will help us identify what particular marginalized and underrepresented group AKLAT is now representing."^[8] Further, the Comelec held that "AKLAT lumped all the sectoral groups imaginable under the classification of regular members just to convince us that it is now cured of its defect."^[9]

On January 15, 2004, Aklat filed a *Motion for Reconsideration* dated January 14, 2004, substantially averring that it has reorganized itself and taken the necessary steps to make it an organization of, by and for the marginalized and underrepresented groups of society, particularly the indigenous cultural communities and the youth. To this end, it has allegedly effected a fundamental change in its purposes as an organization, nature of its membership and focus of its programs.^[10]

The Comelec denied the motion in its questioned *Resolution* dated February 13, 2004, on three grounds, namely: the petition was filed beyond the deadline set by the Comelec in Resolution No. 6320 for registration of party-list organizations; the petition was not one for re-qualification as Aklat was never a registered party-list organization having failed to meet the eight-point guidelines set by the Court in the *Bagong Bayani* case; and that its decision not to extend the deadline for registration of party-list organizations is valid, the Comelec being in the best position to make such a determination.^[11]

In the instant *Petition*, Aklat asserts that under Section 5 of R.A. 7941, petitions for registration as a party-list organization may be filed not later than ninety (90) days before the elections. It therefore had until February 10, 2004, the ninetieth (90th) day before the elections on May 10, 2004, within which to file its petition. Hence, its petition, which was filed on November 20, 2003, was filed within the allowed period. Section 5 of Resolution No. 6320^[12] which requires the filing of such petitions not later than September 30, 2003, is null and void as it amends R.A. 7941.

It further maintains that it has complied with the eight-point guidelines set in the *Bagong Bayani* case. Allegedly, Aklat has a total membership of over 4,000 persons who belong to the marginalized and underrepresented groups. It has established information and coordination centers throughout the country for the benefit and in representation of indigenous cultural communities, farm and factory workers including fisherfolk and the youth. Aklat also asserts that it is different from Asosasyon Para sa Kaunlaran ng Industria ng Aklat (A.K.L.A.T.) which was previously de-registered by the Comelec. Because of all these, Aklat contends that the Comelec gravely abused its discretion when it denied its petition for re-qualification.

The Office of the Solicitor General (OSG) filed a *Comment* dated March 26, 2004, stating that the Comelec did not commit grave abuse of discretion in issuing the assailed Resolutions. According to the OSG, Resolution No. 6320 is not in conflict with and is, in fact, germane to the purpose of R.A. 7941. It was within the scope of the authority granted to the Comelec that it issued Resolution No. 6320 setting the deadline for filing petitions for registration under the party-list system on September 30, 2003. In line with the purpose of R.A. 7941 to enable marginalized sectors to actively participate in legislation, the Comelec must be given sufficient time to evaluate all petitions for registration, at the same time allowing oppositions to be filed to the end that only those truly qualified may be accredited under the party-list system. Besides, Republic Act No. 8436^[13] allows the Comelec to change the periods and dates prescribed by law for certain pre-election acts to ensure their accomplishment.

The OSG further maintains that the petition for re-qualification failed to comply with the provisions of Resolution No. 6320. According to the OSG, the petition was not properly verified there being no showing that Mr. Dominador Buhain, the signatory of the verification and certification of non-forum shopping, was duly authorized by Aklat to verify or cause the preparation and filing of the petition on its behalf. Moreover, Aklat was registered with the Securities and Exchange Commission only on October 20, 2003, a month before it filed its petition for re-qualification. Hence, it has not existed for a period of at least one (1) year prior to the filing of the

petition as required by Section 6 of Resolution No. 6320. The OSG also points out that Aklat failed to support its petition with the documents required under Section 7 of Resolution No. 6320, namely: a list of its officers and members particularly showing that the majority of its membership belongs to the marginalized and underrepresented sectors it seeks to represent, and a track record or summary showing that it represents and seeks to uplift the marginalized and underrepresented sectors of society.

Moreover, the OSG notes that the incorporators and directors of Aklat are invariably known as pillars of the book publishing industry or authors. Hence, even as re-organized, Aklat remains to be an association of authors, book publishers, and publishing companies, rather than the organization of indigenous cultural communities, farm and factory workers, fisherfolk and youth it claims to be.

For its part, the Comelec filed a *Comment* dated March 29, 2004, stating that the period of ninety (90) days prescribed in R.A. 7941 refers to the prohibitive period beyond which petitions for registration may no longer be filed. Furthermore, the documents submitted by Aklat do not prove that its members belong to the marginalized and underrepresented sectors of society.

Aklat's contention that Resolution No. 6320 is null and void as it amends and amplifies R.A. 7941 deserves scant consideration. R.A. 7941 provides:

Sec. 5. **Registration.**—Any organized group of persons may register as a party, organization or coalition for purposes of the party-list system by filing with the COMELEC not *later than ninety (90) days before the election* a petition verified by its president or secretary stating its desire to participate in the party-list system as a national, regional or sectoral party or organization or a coalition of such parties or organizations, attaching thereto its constitution, by-laws, platform or program of government, list of officers, coalition agreement and other relevant information as the COMELEC may require: Provided, That the sectors shall include labor, peasant, fisherfolk, urban poor, indigenous cultural communities, elderly, handicapped, women, youth, veterans, overseas workers, and professionals...[Italics supplied.]

By its wording, R.A. 7941 itself supports the Comelec's position that the period stated therein refers to the prohibitive period beyond which petitions for registration should no longer be filed nor entertained. Put otherwise, it is simply the minimum countback period which is not subject to reduction since it is prescribed by law, but it is susceptible of protraction on account of administrative necessities and other exigencies perceived by the poll body.

Verily, the Comelec has the power to promulgate the necessary rules and regulations to enforce and administer election laws. This power includes the determination, within the parameters fixed by law, of appropriate periods for the accomplishment of certain pre-election acts like filing petitions for registration under the party-list system. This is exactly what the Comelec did when it issued its Resolution No. 6320 declaring September 30, 2003, as the deadline for filing petitions for registration under the party-list system. Considering these, as well as the multifarious pre-election activities that the Comelec is mandated to undertake, the issuance of its Resolution No. 6320 cannot be considered tainted with grave