

## EN BANC

[ G.R. No. 210273, April 19, 2016 ]

**BIBIANO C. RIVERA AND LUIS K. LOKIN, JR., PETITIONERS, VS. COMMISSION ON ELECTIONS (COMELEC), THE SECRETARY-GENERAL OF THE HOUSE OF REPRESENTATIVES, SHERWIN N. TUGNA AND CINCHONA C. CRUZ-GONZALES, RESPONDENTS.**

[G.R. NO. 213069]

**CITIZENS' BATTLE AGAINST CORRUPTION (CIBAC) FOUNDATION AS REPRESENTED BY JESUS EMMANUEL L. VARGAS, PETITIONER, VS. CIBAC NATIONAL COUNCIL AS REPRESENTED BY EMMANUEL JOEL VILLANUEVA, AND THE COMMISSION ON ELECTIONS (COMELEC), RESPONDENTS.**

### DECISION

**REYES, J.:**

Before the Court are two petitions assailing the legitimacy of Citizens' Battle Against Corruption (CIBAC) Party-List's representation. One is a petition for *certiorari*<sup>[1]</sup> under Rule 64 in relation to Rule 65 of the Rules of Court, docketed as G.R. No. 210273, filed by Bibiano C. Rivera (Rivera) and Luis K. Lokin, Jr. (Luis), alleged lawful nominees of the CIBAC Party-List, against the Commission on Elections (COMELEC). The second is a petition for *quo warranto*<sup>[2]</sup> under Rule 66 of the Rules of Court, docketed as G.R. No. 213069, filed by CIBAC Foundation, Inc. against the CIBAC National Council and COMELEC. Upon the recommendation of the Clerk of Court *en banc* in its Memorandum<sup>[3]</sup> dated February 15, 2016, the Court in a Resolution dated February 23, 2016 resolved to consolidate<sup>[4]</sup> the petitions.

### Antecedent Facts

On February 10, 2001, CIBAC was registered as a multi-sectoral party with the COMELEC under Republic Act (R.A.) No. 7941, otherwise known as the Party-List System Act.<sup>[5]</sup>

On April 18, 2012, Emmanuel Joel J. Villanueva (Villanueva), CIBAC National Council's Chairman and President, submitted to COMELEC a "Manifestation of Intent to Participate in the Party-List System of Representation in the May 13, 2013 Elections" as well as a "Certificate of Nomination" containing the following nominees to represent CIBAC in the House of Representatives:<sup>[6]</sup>

1. Sherwin N. Tugna
2. Cinchona C. Cruz-Gonzales
3. Armi Jane R. Borje

4. Virginia S. Jose, and
5. Stanley Clyde C. Flores

On May 31, 2012, CIBAC Foundation, headed by Maria Blanca Kim Bernardo-Lokin (Maria Blanca), who claimed to be CIBAC's President, also submitted a "Manifestation of Intent to Participate in the Party-List System of Representation in the May 13, 2013 Elections"<sup>[7]</sup> and a "Certificate of Nomination"<sup>[8]</sup> of the following persons as CIBAC's nominees:

1. Luis K. Lokin, Jr.
2. Bibiano C. Rivera, Jr.
3. Antonio P. Manahan, Jr.
4. Teresita F. Planas, and
5. Jesus Emmanuel L. Vargas

On September 3, 2012, the COMELEC conducted a summary hearing, pursuant to its Resolution No. 9513 dated August 2, 2012, to settle the issue of whose nominees should represent CIBAC in the 2013 elections.<sup>[9]</sup> Villanueva's group filed a Motion for Clarificatory Judgment,<sup>[10]</sup> dated April 30, 2013, claiming that Maria Blanca was neither CIBAC's President nor a member of its National Council; and that it was CIBAC National Council which, on March 28, 2012, resolved to authorize its President or Secretary-General to sign and submit all necessary documents to signify its participation in the May 2013 elections.<sup>[11]</sup>

Maria Blanca's group filed its Comment/Opposition<sup>[12]</sup> on May 29, 2013, insisting that: (1) CIBAC National Council has been superseded by the Board of Trustees (BOT) of the CIBAC Foundation, following the latter's registration with the Securities and Exchange Commission (SEC) as a non-stock foundation in 2003; (2) since CIBAC National Council is now non-existent, CIBAC's true and legitimate President who has been duly authorized by its BOT to file its Certificate of Nomination for the May 2013 elections is Maria Blanca and not Villanueva; and (3) Pia B. Derla (Derla), CIBAC's Secretary-General, was duly authorized to file the Manifestation of Intent to Participate in the Party-List System of Representation in the May 2013 elections.

On June 5, 2013, CIBAC was proclaimed as one of the winning party-list groups in the May 2013 elections and was given two seats in the House of Representatives.<sup>[13]</sup> Consequently, CIBAC National Council nominees Sherwin N. Tugna<sup>[14]</sup> (Tugna) and Cinchona C. Cruz-Gonzales<sup>[15]</sup> (Gonzales) were sworn in by House Speaker Feliciano Belmonte, Jr. as party-list members of the House of Representatives representing CIBAC.

In the meantime, the COMELEC issued the National Board of Canvassers (NBOC) Resolution No. 0011-13<sup>[16]</sup> dated June 5, 2013 recognizing as CIBAC's nominees those names listed in its Certificate of Nomination dated April 18, 2012, without expressly resolving Villanueva's clarificatory motion. Thereafter, the COMELEC issued, on July 10, 2013, the second assailed NBOC Resolution No. 0013-13<sup>[17]</sup> ruling as moot the "Manifestation and Motion for Proclamation as First Nominee of CIBAC" filed by Luis.

## **G.R. No. 210273**

On December 20, 2013, Rivera and Luis filed a petition for *certiorari*,<sup>[18]</sup> docketed as G.R. No. 210273, seeking to nullify the assailed COMELEC resolutions. They claimed that they were served a certified copy of NBOC Resolution No. 0011-13 only on November 21, 2013, after they had requested the COMELEC for a copy thereof on November 14 2013.

Rivera and Luis argued that: (1) the registration of CIBAC with the SEC as CIBAC Foundation was precisely intended to forestall questions raised in the past as to its qualification to participate in the party-list election as a multi-sectoral party;<sup>[19]</sup> (2) CIBAC National Council has become "defunct", having been replaced by the BOT of CIBAC Foundation since its registration with the SEC in 2003;<sup>[20]</sup> (3) pursuant to Section 6(7) of R.A. No. 7941, CIBAC National Council has lost its authority to represent CIBAC in the COMELEC;<sup>[21]</sup> and (4) it was, in fact, the SEC-registered CIBAC which had been participating in the 2004 and 2007 party-list elections, and not the CIBAC National Council.<sup>[22]</sup>

To support their petition, Rivera and Luis invoke the consolidated cases of *Lokin, Jr. v. COMELEC, et al.*<sup>[23]</sup> (consolidated Lokin case), where the Court annulled the proclamation of Gonzales, nominated by Villanueva's group as a CIBAC party-list representative in the 15<sup>th</sup> Congress, and ordered the proclamation of Luis as its legitimate second nominee. They also cited the case of *Amoves v. House of Representatives Electoral Tribunal, et al.*,<sup>[24]</sup> where the Court declared that Villanueva, CIBAC National Council's President, was ineligible to hold office as a member of the House of Representatives representing the CIBAC Party-list.

Thus, Rivera and Luis sought to nullify the following resolutions of the COMELEC *en banc* in connection with the May 2013 elections:

1. NBOC Resolution No. 0011-13<sup>[25]</sup> dated June 5, 2013, ordering the issuance of a Certificate of Canvass and Proclamation to the CIBAC Party-List, and recognizing its legitimate nominees as follows:
  - Sherwin N. Tugna,
  - Cinchona C. Cruz-Gonzales,
  - Armi Jane R. Borje,
  - Virginia S. Jose, and
  - Stanley Clyde C. Flores
2. NBOC Resolution No. 0013-13,<sup>[26]</sup> dated July 10, 2013, where the COMELEC considered as moot the Manifestation and Motion for Proclamation as first nominee of CIBAC filed by Luis.

## **G.R. No. 213069**

CIBAC Foundation filed a petition for *quo warranto*,<sup>[27]</sup> posted on June 30, 2014, docketed as G.R. No. 213069, arguing in the main that the CIBAC National Council lost its legal existence following the registration of CIBAC with the SEC as CIBAC

Foundation by reason of which it is now governed by a BOT. By recognizing the nominees of CIBAC National Council, CIBAC Foundation insists that the COMELEC unlawfully deprived it of its right and authority to represent CIBAC in Congress.

Thus, CIBAC Foundation raised the issue of whether they are the rightful and legitimate representatives of CIBAC Party-List in the 16<sup>th</sup> Congress.

### **Ruling of the Court**

As a factual backdrop, Villanueva's group, representing CIBAC National Council, first sought registration in November 2000 with the COMELEC as a multi-sectoral party-list organization for the May 2001 elections. Under its Constitution and By-Laws,<sup>[28]</sup> the CIBAC National Council is the governing body empowered to formulate the policies, plans, and programs of CIBAC and to issue decisions and resolutions binding on party members and officers.<sup>[29]</sup>

CIBAC's registration, participation in the May 2001 elections, and eventual proclamation as a winner, was hounded by controversy after the COMELEC ruled that it did not belong to any marginalized sectoral group. In *Ang Bagong Bayani-OFW Labor Party v. COMELEC*,<sup>[30]</sup> the Court issued a Temporary Restraining Order (TRO) directing the COMELEC to refrain from proclaiming the winners in the May 2001 party-list elections, which included CIBAC. In the subsequent Decision<sup>[31]</sup> dated June 26, 2001, the Court reiterated the TRO but ordered the COMELEC to immediately conduct summary evidentiary hearings on the qualifications of the party-list participants in light of the guidelines laid down therein.<sup>[32]</sup>

In its first compliance report, the COMELEC excluded CIBAC from the qualified party-list groups. The Court, however, issued a Resolution dated January 29, 2002, qualifying CIBAC and lifted the TRO to enable the COMELEC to proclaim CIBAC, whose nominee was Villanueva, as one of the party-list winners. This was reiterated in the Court's Resolution<sup>[33]</sup> dated June 25, 2003 as follows:

[W]e accept Comelec's submission, per the OSG, that APEC and CIBAC have sufficiently met the 8-point guidelines of this Court and have garnered sufficient votes to entitle them to seats in Congress. Since these issues are factual in character, we are inclined to adopt the Commission's findings, absent any patent arbitrariness or abuse or negligence in its action. There is no substantial proof that CIBAC is merely an arm of JIL, or that APEC is an extension of PHILRECA. The OSG explained that these are separate entities with separate memberships. Although APEC's nominees are all professionals, its membership is composed not only of professionals but also of peasants, elderly, youth and women. Equally important, APEC addresses the issues of job creation, poverty alleviation and lack of electricity. Likewise, CIBAC is composed of the underrepresented and marginalized and is concerned with their welfare. CIBAC is particularly interested in the youth and professional sectors.<sup>[34]</sup>

The Court also subsequently lifted the TRO against the proclamation of CIBAC's

additional nominee since it garnered 4.96% of the votes cast, entitling it to two seats in the House of Representatives.<sup>[35]</sup>

Interestingly, the present case is a virtual reprise of *Lokin, Jr., et al. v. COMELEC, et al.*,<sup>[36]</sup> which was invoked by the COMELEC in the assailed NBOC Resolution No. 0011-13.<sup>[37]</sup>

By way of background, the same two contending entities as above, each claiming to represent CIBAC, filed with the COMELEC a "Manifestation of Intent to Participate in the Party-List System of Representation in the May 10, 2010 Elections." The first Manifestation,<sup>[38]</sup> filed on November 20, 2009, was signed by Derla, who claimed to be CIBAC's acting Secretary-General, according to an authority granted by the BOT of CIBAC Foundation. However, at 1:30 p.m. of the same day, another Manifestation was submitted by Gonzales and Virginia Jose (Jose), CIBAC's Vice-President and Secretary-General, respectively, by authority of the CIBAC National Council.<sup>[39]</sup>

Claiming that the nomination of Luis and Teresita F. Planas was unauthorized, Villanueva's group filed with the COMELEC a *Petition to Expunge From The Records And/Or For Disqualification*, seeking to nullify the Certificate of Nomination filed by Derla. They contended that: (1) Derla misrepresented herself as "acting secretary-general" since she was not even a member of CIBAC; (2) the Certificate of Nomination and other documents she submitted were unauthorized by the party; and (3) it was Villanueva who was duly authorized to file the Certificate of Nomination on its behalf.<sup>[40]</sup>

The COMELEC First Division granted the petition, ordered the Certificate of Nomination filed by Derla expunged from the records, and declared Villanueva's group's nominees as the legitimate nominees of CIBAC.<sup>[41]</sup> On motion for reconsideration, the COMELEC *en banc* in a *per curiam* Resolution<sup>[42]</sup> dated August 31, 2010 affirmed the First Division's findings, reiterating that Derla was unable to prove her authority to file the said Certificate, whereas Villanueva presented overwhelming evidence that CIBAC Secretary General Jose was duly deputized to submit the Certificate of Nomination pursuant to CIBAC's Constitution and by-laws.<sup>[43]</sup>

On petition for *certiorari* to this Court, Maria Blanca's group insisted that it was CIBAC Foundation which participated in the party-list elections in the 2004 and 2007, not the CIBAC National Council, which had become defunct since 2003, the year when CIBAC Foundation was registered with the SEC. Villanueva's group countered that CIBAC Foundation was established solely for the purpose of acting as CIBAC's legal and financial arm, as provided in the party's Constitution and by-laws, and never to substitute for, or oust CIBAC, the party-list itself.<sup>[44]</sup>

The Court affirmed the COMELEC's ruling that the nominees of Villanueva's group were the legitimate CIBAC nominees. The Court's decision became final and executory on October 20, 2012, thereby settling with finality the question of who are the true nominees of CIBAC Party-List. Significantly, the Court expressly ruled that the BOT of CIBAC Foundation and its acting Secretary-General Derla, were not affiliated with the CIBAC multi-sectoral party, which is registered with COMELEC,