

EN BANC

[G.R. No. 206987, September 10, 2013]

**ALLIANCE FOR NATIONALISM AND DEMOCRACY (ANAD),
PETITIONER, VS. COMMISSION ON ELECTIONS, RESPONDENT.**

DECISION

PEREZ, J.:

Before the Court is a Petition for *Certiorari* with Urgent Prayer for the Issuance of a Temporary Restraining Order and Writ of Mandamus, seeking to compel the Commission on Elections (COMELEC) to canvass the votes cast for petitioner Alliance for Nationalism and Democracy (ANAD) in the recently held 2013 Party-List Elections.

On 7 November 2012, the COMELEC *En Banc* promulgated a Resolution cancelling petitioner's Certificate of Registration and/or Accreditation on three grounds, to wit:

[1]

I.

Petitioner ANAD does not belong to, or come within the ambit of, the marginalized and underrepresented sectors enumerated in Section 5 of R.A. No. 7941 and espoused in the cases of ***Ang Bagong Bayani-OFW Labor Party v. Commission on Elections*** and ***Ang Ladlad LGBT Party v. Commission on Elections***.

II.

There is no proof showing that nominees Arthur J. Tariman and Julius D. Labandria are actually nominated by ANAD itself. The Certificate of Nomination, subscribed and sworn to by Mr. Domingo M. Balang, shows that ANAD submitted only the names of Pastor Montero Alcover, Jr., Baltaire Q. Balangauan and Atty. Pedro Leslie B. Salva. It necessarily follows, that having only three (3) nominees, ANAD failed to comply with the procedural requirements set forth in Section 4, Rule 3 of Resolution No. 9366.

III.

ANAD failed to submit its Statement of Contributions and Expenditures for the 2007 National and Local Elections as required by Section 14 of Republic Act No. 7166 ("R.A. No. 7166").

ANAD went before this Court challenging the above-mentioned resolution. In *Atong Paglaum, Inc. v. Comelec*,^[2] the Court remanded the case to the COMELEC for re-evaluation in accordance with the parameters prescribed in the aforesaid decision.

In the assailed Resolution dated 11 May 2013,^[3] the COMELEC affirmed the cancellation of petitioner's Certificate of Registration and/or Accreditation and disqualified it from participating in the 2013 Elections. The COMELEC held that while ANAD can be classified as a sectoral party lacking in well-defined political constituencies, its disqualification still subsists for violation of election laws and regulations, particularly for its failure to submit at least five nominees, and for its failure to submit its Statement of Contributions and Expenditures for the 2007 Elections.

Hence, the present petition raising the issues of whether or not the COMELEC gravely abused its discretion in promulgating the assailed Resolution without the benefit of a summary evidentiary hearing mandated by the due process clause, and whether or not the COMELEC erred in finding that petitioner submitted only three nominees and that it failed to submit its Statement of Contributions and Expenditures in the 2007 Elections.^[4]

We dismiss the petition.

The only question that may be raised in a petition for *certiorari* under Section 2, Rule 64 of the Rules of Court is whether or not the COMELEC acted with grave abuse of discretion amounting to lack or excess of jurisdiction. For a petition for *certiorari* to prosper, there must be a clear showing of caprice and arbitrariness in the exercise of discretion.^[5]

"Grave abuse of discretion," under Rule 65, has a specific meaning. It is the arbitrary or despotic exercise of power due to passion, prejudice or personal hostility; or the whimsical, arbitrary, or capricious exercise of power that amounts to an evasion or a refusal to perform a positive duty enjoined by law or to act at all in contemplation of law. For an act to be struck down as having been done with grave abuse of discretion, the abuse of discretion must be patent and gross.^[6]

ANAD claims that the COMELEC gravely abused its discretion when it promulgated the assailed Resolution without giving ANAD the benefit of a summary evidentiary hearing, thus violating its right to due process. It is to be noted, however, that ANAD was already afforded a summary hearing on 23 August 2013, during which Mr. Domingo M. Balang, ANAD's president, authenticated documents and answered questions from the members of the COMELEC pertinent to ANAD's qualifications.^[7]

ANAD, nonetheless, insists that the COMELEC should have called for another summary hearing after this Court remanded the case to the COMELEC for re-evaluation in accordance with the parameters laid down in *Atong Paglaum, Inc. v. Comelec*. This is a superfluity.

ANAD was already given the opportunity to prove its qualifications during the summary hearing of 23 August 2012, during which ANAD submitted documents and other pieces of evidence to establish said qualifications. In re-evaluating ANAD's qualifications in accordance with the parameters laid down in *Atong Paglaum, Inc. v. COMELEC*, the COMELEC need not have called another summary hearing. The Comelec could, as in fact it did,^[8] readily resort to documents and other pieces of evidence previously submitted by petitioners in re-appraising ANAD's qualifications.

After all, it can be presumed that the qualifications, or lack thereof, which were established during the summary hearing of 23 August 2012 continued until election day and even thereafter.

As to ANAD's averment that the COMELEC erred in finding that it violated election laws and regulations, we hold that the COMELEC, being a specialized agency tasked with the supervision of elections all over the country, its factual findings, conclusions, rulings and decisions rendered on matters falling within its competence shall not be interfered with by this Court in the absence of grave abuse of discretion or any jurisdictional infirmity or error of law.^[9]

As found by the COMELEC, ANAD, for unknown reasons, submitted only three nominees instead of five, in violation of Sec. 8 of R.A. No. 7941 (*An Act Providing for the Election of Party-List Representatives through the Party-List System, and Appropriating Funds Therefor*).^[10] Such factual finding of the COMELEC was based on the Certificate of Nomination presented and marked by petitioner during the 22 and 23 August 2012 summary hearings.^[11]

Compliance with Section 8 of R.A. No. 7941 is essential as the said provision is a safeguard against arbitrariness. Section 8 of R.A. No. 7941 rids a party-list organization of the prerogative to substitute and replace its nominees, or even to switch the order of the nominees, after submission of the list to the COMELEC.

In *Lokin, Jr. v. Comelec*,^[12] the Court discussed the importance of Sec. 8 of R.A. No. 7941 in this wise:

The prohibition is not arbitrary or capricious; neither is it without reason on the part of lawmakers. The COMELEC can rightly presume from the submission of the list that the list reflects the true will of the party-list organization. The COMELEC will not concern itself with whether or not the list contains the real intended nominees of the party-list organization, but will only determine whether the nominees pass all the requirements prescribed by the law and whether or not the nominees possess all the qualifications and none of the disqualifications. Thereafter, the names of the nominees will be published in newspapers of general circulation. Although the people vote for the party-list organization itself in a party-list system of election, not for the individual nominees, they still have the right to know who the nominees of any particular party-list organization are. The publication of the list of the party-list nominees in newspapers of general circulation serves that right of the people, enabling the voters to make intelligent and informed choices. In contrast, allowing the party-list organization to change its nominees through withdrawal of their nominations, or to alter the order of the nominations after the submission of the list of nominees circumvents the voters' demand for transparency. The lawmakers' exclusion of such arbitrary withdrawal has eliminated the possibility of such circumvention.

Moreover, the COMELEC also noted ANAD's failure to submit a proper Statement of Contributions and Expenditures for the 2007 Elections, in violation of COMELEC Resolution No. 9476, viz: