

## EN BANC

[ G.R. No. 190793, June 19, 2012 ]

### **MAGDALO PARA SA PAGBABAGO, PETITIONER, VS. COMMISSION ON ELECTIONS, RESPONDENT.**

#### **D E C I S I O N**

##### **SERENO, J.:**

Before this Court is a Petition for Certiorari pursuant to Rule 37, Section 1 of the Commission of Elections (COMELEC) Rules of Procedure,<sup>[1]</sup> in relation to Rules 64 and 65 of the Rules of Court, assailing the Resolutions dated 26 October 2009 and 4 January 2010 issued by the COMELEC in SPP Case No. 09-073 (PP).<sup>[2]</sup>

On 2 July 2009, Petitioner Magdalo sa Pagbabago (MAGDALO) filed its Petition for Registration with the COMELEC, seeking its registration and/or accreditation as a regional political party based in the National Capital Region (NCR) for participation in the 10 May 2010 National and Local Elections.<sup>[3]</sup> In the Petition, MAGDALO was represented by its Chairperson, Senator Antonio F. Trillanes IV, and its Secretary General, Francisco Ashley L. Acedillo (Acedillo).<sup>[4]</sup> The Petition was docketed as SPP No. 09-073 (PP) and raffled to the Second Division of the COMELEC (COMELEC–Second Division).<sup>[5]</sup>

In its Order dated 24 August 2009, the COMELEC–Second Division directed MAGDALO to cause the publication of the Petition for Registration and the said Order in three daily newspapers of general circulation, and set the hearing thereof on 3 September 2009.<sup>[6]</sup> In compliance therewith, MAGDALO caused the publication of both documents in *HATAW! No. 1 sa Balita*, *Saksi sa Balita* and *BOMBA BALITA (Saksi sa Katotohanan)*.<sup>[7]</sup>

On 3 September 2009, a hearing was conducted in which MAGDALO (a) established its compliance with the jurisdictional requirements; (b) presented Acedillo as its witness; and (c) marked its documentary evidence in support of its Petition for Registration. The following day, MAGDALO filed its Formal Offer of Evidence.<sup>[8]</sup>

On 26 October 2009, the COMELEC–Second Division issued its Resolution denying the Petition for Registration filed by MAGDALO.<sup>[9]</sup> The relevant portions of the assailed Resolution read:

Magdalo Para sa Pagbabago should be refused registration in accordance with Art. IX-C, Section 2(5) of the Constitution. It is common knowledge that the party's organizer and Chairman, Senator Antonio F. Trillanes IV, and some members participated in the take-over of the Oakwood Premier Apartments in Ayala Center, Makati City on July 27, 2003, wherein

several innocent civilian personnel were held hostage. **This and the fact that they were in full battle gear at the time of the mutiny clearly show their purpose in employing violence and using unlawful means to achieve their goals in the process defying the laws of organized societies.** x x x

x x x

x x x

x x x

WHEREFORE, premises considered, this Petition is hereby DENIED.

SO ORDERED.<sup>[10]</sup> (Emphasis supplied.)

On 3 November 2009, MAGDALO filed a Motion for Reconsideration, which was elevated to the COMELEC En Banc for resolution.<sup>[11]</sup>

Meanwhile, on 27 November 2009, MAGDALO filed a Manifestation of Intent to Participate in the Party-List System of Representation in the 10 May 2010 Elections (Manifestation of Intent), in which it stated that its membership includes “[f]ormer members of the Armed Forces of the Philippines (AFP), Anti-Corruption Advocates, Reform-minded citizens.”<sup>[12]</sup> Thereafter, on 30 November 2009, it filed its Amended Manifestation, which bore the following footnote: <sup>[13]</sup>

With all due respect to the Honorable Commission, the **MAGDALO PARA SA PAGBABAGO (“MAGDALO”)** manifests that the instant *MANIFESTATION* is being filed *ex abutanti* (sic) *cautelam* (out of the abundance of caution) only and subject to the outcome of the resolution of the Motion for Reconsideration filed by Magdalo in SPP No. 09-073 (PP) from the Resolution dated 26 October 2009 of the Second Division of the Honorable Commission denying its Petition for Registration/Accreditation as a Political Party based in the National Capital Region [NCR], which motion is still pending the (sic) Honorable Commission *En Banc*. It is not in any way intended to preempt the ruling of the Honorable Commission but merely to preserve the possibility of pursuing the Party’s participation in the Party-List System of Representation in the eventuality that their Petition is approved.

Thereafter, MAGDALO filed a Manifestation and Motion for Early Resolution dated 23 December 2009, in which it clarified its intention to participate in the 10 May 2010 National and Local Elections as a party-list group.<sup>[14]</sup>

In its assailed Resolution dated 4 January 2010, the COMELEC En Banc denied the Motion for Reconsideration filed by MAGDALO.<sup>[15]</sup>

In the instant Petition, MAGDALO argues that (a) the COMELEC Resolutions were not based on the record or evidence presented; (b) the Resolutions preempted the decision of the trial court in Criminal Case No. 03-2784, in which several members of the military are being tried for their involvement in the siege of the Oakwood Premier Apartments (Oakwood); and (c) it has expressly renounced the use of

force, violence and other forms of unlawful means to achieve its goals. Thus, MAGDALO prays for this Court to: (a) reverse and set aside the 26 October 2009 and 4 January 2010 COMELEC Resolutions; (b) grant its Petition for Registration; and (c) direct the COMELEC to issue a Certificate of Registration.<sup>[16]</sup> The Petition likewise includes a prayer for the issuance of a Temporary Restraining Order (TRO), Writ of Preliminary Mandatory Injunction and/or Injunctive Relief to direct the COMELEC to allow MAGDALO to participate in the 10 May 2010 National and Local Elections.<sup>[17]</sup> However, this Court denied the issuance of a TRO in its Resolution dated 2 February 2010.<sup>[18]</sup>

To support the grant of reliefs prayed for, MAGDALO puts forward the following arguments:

The findings of the assailed resolutions on the basis of which the Petition was denied are based on pure speculation. The Resolutions speculated as to the alleged motives and/or intentions of the founders of petitioner Magdalo, which claims are not based on evidence but on mere conjecture and pure baseless presuppositions;

The assailed Resolutions effectively preempted the court trying the case. The subject Resolutions unfairly jumped to the conclusion that the founders of the Magdalo "*committed mutiny*", "*held innocent civilian personnel as hostage*", "*employed violence*" and "*use[d] unlawful means*" and "*in the process defied the laws of organized society*" purportedly during the Oakwood incident when even the court trying their case, [Regional Trial Court, National Capital Judicial Region, Makati City], Branch 148, has not yet decided the case against them;

– and –

The Resolution violates the constitutional presumption of innocence in favor of founders of the Magdalo and their basic right of to [sic] due process of law.<sup>[19]</sup>

On the other hand, the COMELEC asserts that it had the power to ascertain the eligibility of MAGDALO for registration and accreditation as a political party.<sup>[20]</sup> It contends that this determination, as well as that of assessing whether MAGDALO advocates the use of force, would entail the evaluation of evidence, which cannot be reviewed by this Court in a petition for certiorari.<sup>[21]</sup>

However, MAGDALO maintains that although it concedes that the COMELEC has the authority to assess whether parties applying for registration possess all the qualifications and none of the disqualifications under the applicable law, the latter nevertheless committed grave abuse of discretion in basing its determination on pure conjectures instead of on the evidence on record.<sup>[22]</sup>

Preliminary to the examination of the substantive issues, it must be discussed whether this case has been rendered moot and academic by the conduct of the 10 May 2010 National and Local Elections. Although the subject Petition for Registration

filed by MAGDALO was intended for the elections on even date, it specifically asked for accreditation as a regional political party for purposes of **subsequent elections**.  
[23]

Moreover, even assuming that the registration was only for the 10 May 2010 National and Local Elections, this case nevertheless comes under the exceptions to the rules on mootness, as explained in *David v. Macapagal-Arroyo*:<sup>[24]</sup>

A moot and academic case is one that ceases to present a justiciable controversy by virtue of supervening events, so that a declaration thereon would be of no practical use or value. Generally, courts decline jurisdiction over such case or dismiss it on ground of mootness.

x x x

x x x

x x x

The “moot and academic” principle is not a magical formula that can automatically dissuade the courts in resolving a case. Courts will decide cases, otherwise moot and academic, if: first, there is a grave violation of the Constitution; second, **the exceptional character of the situation and the paramount public interest is involved**; third, when [the] constitutional issue raised requires formulation of controlling principles to guide the bench, the bar, and the public; and fourth, **the case is capable of repetition yet evading review**.<sup>[25]</sup> (Emphasis supplied.)

The second and fourth exceptions are clearly present in the case at bar. The instant action brings to the fore matters of public concern, as it challenges the very notion of the use of violence or unlawful means as a ground for disqualification from party registration. Moreover, considering the expressed intention of MAGDALO to join subsequent elections, as well as the occurrence of supervening events pertinent to the case at bar, it remains prudent to examine the issues raised and resolve the arising legal questions once and for all.

Having established that this Court can exercise its power of judicial review, the issue for resolution is whether the COMELEC gravely abused its discretion when it denied the Petition for Registration filed by MAGDALO on the ground that the latter seeks to achieve its goals through violent or unlawful means. This Court rules in the negative, **but without prejudice to MAGDALO’s filing anew of a Petition for Registration**.

**The COMELEC has a constitutional and statutory mandate to ascertain the eligibility of parties and organizations to participate in electoral contests.** The relevant portions of the 1987 Constitution read:

#### ARTICLE VI – LEGISLATIVE DEPARTMENT

x x x

x x x

x x x

Section 5. (1) The House of Representatives shall be composed of not more than two hundred and fifty members, unless otherwise fixed by

law, who shall be elected from legislative districts apportioned among the provinces, cities, and the Metropolitan Manila area in accordance with the number of their respective inhabitants, and on the basis of a uniform and progressive ratio, and those who, as provided by law, **shall be elected through a party-list system of registered national, regional, and sectoral parties or organizations.**

x x x

x x x

x x x

## ARTICLE IX – CONSTITUTIONAL COMMISSIONS

### C. The Commission on Elections

x x x

x x x

x x x

Section 2. The Commission on Elections shall exercise the following powers and functions:

x x x

x x x

x x x

(5) Register, after sufficient publication, political parties, organizations, or coalitions which, in addition to other requirements, must present their platform or program of government; and accredit citizens' arms of the Commission on Elections. Religious denominations and sects shall not be registered. **Those which seek to achieve their goals through violence or unlawful means,** or refuse to uphold and adhere to this Constitution, or which are supported by any foreign government **shall likewise be refused registration.** x x x. (Emphasis supplied.)

Echoing these constitutional provisions, *Batas Pambansa Bilang 881* (BP 881), otherwise known as the Omnibus Election Code, states:

Sec. 60. *Political party.* – "Political party" or "party," when used in this Act, means an organized group of persons pursuing the same ideology, political ideals or platforms of government and includes its branches and divisions. **To acquire juridical personality, qualify it for subsequent accreditation, and to entitle it to the rights and privileges herein granted to political parties, a political party shall first be duly registered with the Commission.** Any registered political party that, singly or in coalition with others, fails to obtain at least ten percent of the votes cast in the constituency in which it nominated and supported a candidate or candidates in the election next following its registration shall, after notice and hearing, be deemed to have forfeited such status as a registered political party in such constituency.

Sec. 61. *Registration.* – Any organized group of persons seeking registration as a national or regional political party may file with the Commission a verified petition attaching thereto its constitution and by-laws, platforms or program of government and such other relevant information as may be required by the Commission. The Commission shall after due notice and hearing, resolve the petition within ten days