

EN BANC

[G.R. No. 193256, March 22, 2011]

**ABC (ALLIANCE FOR BARANGAY CONCERNS) PARTY LIST,
REPRESENTED HEREIN BY ITS CHAIRMAN, JAMES MARTY LIM,
PETITIONER, VS. COMMISSION ON ELECTIONS AND MELANIO
MAURICIO, JR., RESPONDENTS.**

D E C I S I O N

PERALTA, J.:

This is a special civil action for *certiorari*^[1] alleging that the Commission on Elections (COMELEC) *en banc* acted without jurisdiction or with grave abuse of discretion amounting to lack or excess of jurisdiction in issuing the Resolution dated August 3, 2010, which reinstated the petition to cancel the registration and accreditation of petitioner ABC (Alliance for *Barangay* Concerns) Party-List, and directed the Commission Secretary to schedule a hearing on the petition.

The facts are as follows:

On May 25, 2010, private respondent Melanio Mauricio, Jr. filed a petition^[2] with the COMELEC for the cancellation of registration and accreditation of petitioner ABC Party-List^[3] on the ground that petitioner is a front for a religious organization; hence, it is disqualified to become a party-list group under Section 6 (1)^[4] of Republic Act (R.A.) No. 7941, otherwise known as the *Party-List System Act*.

Private respondent contends that ABC is a front for a religious group called the *Children of God International*, which is more popularly known as *Ang Dating Daan*, based on the following circumstances:

1. Although its National Chairman, James Marty Lim, was being publicly bruited as its first nominee, the real number one nominee of the party is Arnulfo "Noel" Molero, who is a known top official of *Ang Dating Daan*;
2. ABC was organized, established and is being run by *Ang Dating Daan* not as a party-list organization for political purposes [envisioned by R.A. No. 7941 (the Party-List System Act)], but as a religious sect for religious purposes;
3. The resources of *Ang Dating Daan* are being used to finance the campaign of ABC on a nationwide scale; and
4. The membership of ABC is composed of the members of *Ang Dating Daan*.^[5]

Private respondent also alleged that ABC made an untruthful statement in its petition for accreditation, as it stated that it does not possess any of the disqualifications provided by the Party-List System Act when it is disqualified for being, in reality, a religious organization. In addition, he alleged that ABC is receiving support from third parties abroad.

Private respondent prayed that the accreditation of ABC be cancelled, and that it be declared disqualified as a party-list group for violating R.A. No. 7941.

In its Answer,^[6] petitioner ABC denied private respondent's allegations, which were unproven by any material and convincing evidence. It averred that ABC, as a political party, is allowed by law to be registered and run under the party-list system of representation. The COMELEC has approved petitioner's registration and accreditation as a party-list group, and petitioner had participated and was voted upon in the 2007 elections.

Moreover, petitioner stated that as a political party of national constituency, it was founded and headed by Mr. James Marty Lim, who held the position of National President of the Association of *Barangay* Chairmen for 11 years. Its stature as a party-list organization with national constituency that could contribute to the formulation and enactment of appropriate legislation for the marginalized and underrepresented sectors of society should remove any doubt that it was established for religious purposes. Petitioner averred that it has not been identified with any religious entity or aggrupation.

On June 16, 2010, the COMELEC, Second Division issued a Resolution^[7] dismissing the petition based on procedural and substantial grounds.

The dismissal on procedural grounds was grounded on the lack of proper verification of the petition. According to the COMELEC, Second Division, the *Verification with Certification Re: Forum Shopping and Special Power of Attorney* was not duly notarized in accordance with the 2004 Rules on Notarial Practice, as amended. Sections 1 and 6, Rule II of the 2004 Rules on Notarial Practice require that the person appearing before a notary public must be known to the notary public or identified by the notary public through competent evidence of identity. In this case, the COMELEC, Second Division found that the "Acknowledgment" at the end of the verification did not contain the name of private respondent who supposedly appeared before the notary public, and he was not identified by any competent evidence of identity as required by the rules on notarial practice.

The COMELEC, Second Division also dismissed the petition based on substantial grounds, as it found that ABC is not a religious sect, and is, therefore, not disqualified from registration.

On June 22, 2010, private respondent filed a *Motion for Reconsideration with Motion to Annul Proclamation and Suspend its Effects*.^[8] He argued that his petition was not defective since attached to the verification were photocopies of his identification cards. He likewise argued that he should be given the opportunity to present his evidence to support his Petition in accordance with Section 6 of R.A. No. 7941.

On July 6, 2010, petitioner filed its *Comment/Opposition with Extremely Urgent Motion to Dismiss*.^[9]

On July 6, 2010, private respondent submitted a *Supplemental Motion for Reconsideration*^[10] and his evidence to support his petition.

In response thereto, petitioner filed on July 21, 2010 a Supplement^[11] to its *Comment/Opposition with Extremely Urgent Motion to Dismiss* that was filed on July 6, 2010. Petitioner urged the COMELEC to dismiss the petition for lack of jurisdiction, since the Secretary General of the House of Representatives had already recognized ABC as a proclaimed party-list group by asking its first nominee to attend the Orientation Program for the new members of the House of Representatives, Fifteenth Congress on July 8, 2010 at the plenary hall.

On July 30, 2010, private respondent filed a *Comment/Opposition*^[12] to petitioner's motion to dismiss, arguing that ABC was not validly proclaimed; hence, the COMELEC still has jurisdiction over the case.

On August 3, 2010, the COMELEC *en banc* issued a Resolution^[13] partially granting private respondent's *Motion for Reconsideration with Motion to Annul Proclamation and Suspend Its Effects* dated June 22, 2010. The dispositive portion of the Resolution reads:

WHEREFORE, premises considered, the instant motion for reconsideration is PARTIALLY GRANTED. The petition is hereby REINSTATED and the Commission Secretary is hereby DIRECTED TO SCHEDULE a hearing on the petition with notice to the parties.^[14]

Contrary to the findings of the Second Division, the COMELEC *en banc* found that the petition's verification page substantially complied with the 2004 Rules on Notarial Practice, thus:

x x x A perusal of the said verification page immediately shows that photostatic copies of Mauricio, Jr.'s Community Tax Certificate No. CCI2009 30975061, Integrated Bar of the Philippines Lifetime Membership Card, and Permit to Carry Firearms No. 09083204 were attached thereto, thereby making them an integral part of said verification page. Clearly, Mauricio Jr.'s submission of his community tax certificate and two (2) identification cards, with the verification page substantially complies with the requirements of the 2004 Notarial Rules.^[15]

More importantly, the COMELEC *en banc* stated that the records of the case showed that the Resolution of the Second Division was issued without any hearing, which deprived Mauricio of the opportunity to submit evidence in support of his petition. The COMELEC *en banc* averred that Section 6^[16] of R.A. No. 7941 requires the sending out of notices and that an actual hearing is held to ensure that the parties' right to due process is respected. It cited the case of **Sandoval v. Commission on**

Elections,^[17] which held that procedural due process demands notice and hearing.

ABC filed this petition raising the following issues:

1. THE COMMISSION *EN BANC* HAS NO MORE JURISDICTION TO ENTERTAIN THE PETITION FOR CANCELLATION OF REGISTRATION AND ACCREDITATION SINCE ABC WAS ALREADY PROCLAIMED AS WINNER.
2. GRANTING THAT PUBLIC RESPONDENT STILL HAS JURISDICTION, THE COMELEC *EN BANC* COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN IT SET THE PETITION OF MAURICIO FOR HEARING WHEN HE WAS ALREADY GIVEN ALL THE TIME AND OPPORTUNITY TO PRESENT AND SUBSTANTIATE HIS CASE.
3. GRANTING THAT PUBLIC RESPONDENT STILL HAS JURISDICTION, THE COMELEC *EN BANC* COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN IT DID NOT RECOGNIZE THAT ON ITS FACE THE PETITION OF MAURICIO IS UNMERITORIOUS AND PROCEDURALLY DEFECTIVE.
4. GRANTING THAT PUBLIC RESPONDENT STILL HAS JURISDICTION, THE COMELEC *EN BANC* COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN IT SINGLED OUT THE CASE OF ABC, SETTING THE SAME FOR HEARING WHEN ALL THE OTHER CASES OF THE SAME NATURE WERE ALL SUMMARILY AND *MOTU PROPRIO* DISMISSED BY THE COMELEC.
5. BECAUSE OF THE FOREGOING, THE ASSAILED RESOLUTION OF AUGUST 3, 2010 IS A PATENT NULLITY; HENCE, DIRECT RESORT TO THIS HONORABLE SUPREME COURT IS PROPER.^[18]

Petitioner contends that the COMELEC *en banc* no longer had jurisdiction to entertain the petition for cancellation of registration and accreditation of ABC Party-List after it was already proclaimed as one of the winners in the party-list elections of May 10, 2010 per National Board of Canvassers Resolution No. 10-009^[19] promulgated on May 31, 2010.

Petitioner avers that Section 17, Article VI of the Constitution provides that "[t]he Senate and the House of Representatives shall each have an Electoral Tribunal which shall be the sole judge of all contests relating to the election, returns, and qualifications of their respective Members." Hence, once a candidate for House of Representatives is proclaimed, the COMELEC is divested of jurisdiction to pass upon its qualification and the same is vested with the House of Representatives Electoral Tribunal (HRET).

Petitioner states that in this case, there is no dispute that ABC Party-List has been

proclaimed by the COMELEC as one of the winners in the party-list elections of May 10, 2010; therefore, any question as to its qualification should be resolved by the HRET and not by the COMELEC. Petitioner asserts that once a party-list group has been proclaimed winner and its nominees have taken their oath, the COMELEC should be divested of its jurisdiction over both the party-list group and its nominees.

Further, petitioner submits that Section 6 of R.A. No. 7941, which states that the COMELEC may *motu proprio* or upon verified complaint of any interested party remove or cancel, after due notice and hearing, the registration of any national, regional or sectoral party, organization or coalition, is applicable only to a non-winning party-list group. According to petitioner, its submission is supported by the fact that one of the grounds for the cancellation of the registration of any national, regional or sectoral party is failure to obtain the required two percent of votes or to participate in the past two elections which are obviously applicable only to losing party-list groups.

The arguments of petitioner do not persuade.

The jurisdiction of the COMELEC over petitions for cancellation of registration of any political party, organization or coalition is derived from Section 2 (5), Article IX-C of the Constitution, which states:

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

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.

Financial contributions from foreign governments and their agencies to political parties, organizations, coalitions, or candidates related to elections constitute interference in national affairs, and when accepted, shall be an additional ground for the **cancellation** of their registration with the Commission, in addition to other penalties that may be prescribed by law.^[20]

Based on the provision above, the Constitution grants the COMELEC the authority to register political parties, organizations or coalitions, and the authority to cancel the registration of the same on legal grounds. The said authority of the COMELEC is