

## EN BANC

[ G.R. No. 191771, May 06, 2010 ]

**LIBERAL PARTY, REPRESENTED BY ITS PRESIDENT MANUEL A. ROXAS II AND SECRETARY GENERAL JOSEPH EMILIO A. ABAYA, PETITIONER, VS. COMMISSION ON ELECTIONS, NACIONALISTA PARTY, REPRESENTED BY ITS PRESIDENT MANUEL B. VILLAR AND NATIONALIST PEOPLE'S COALITION, ALLEGEDLY REPRESENTED BY ITS CHAIRMAN FAUSTINO S. DY, JR., RESPONDENTS.**

### D E C I S I O N

**BRION, J.:**

This case poses to the Court, at this very late stage of our election period, issues involving the registration of political coalitions, the grant of accreditation to the dominant parties under the first time ever automated election system in the country, and validity of the COMELEC *en banc*'s (*en banc*) authority to act on the registration of political coalitions.

The challenged ruling is a *Per Curiam* Resolution of the Commission on Elections (COMELEC)<sup>[1]</sup> dated April 12, 2010 in SPP-10-(DM) granting the application for registration of the Nacionalista Party-Nationalist People's Coalition (*NP-NPC or coalition*) and deferring the question of the coalition's dominant minority status to a future resolution. The challenge comes from the Liberal Party (*LP*)<sup>[2]</sup> through a petition for *certiorari* and prohibition<sup>[3]</sup> with a prayer for the issuance of a preliminary injunction or a status quo order. We issued a *status quo* order through our Resolution of April 20, 2010.

#### **I. THE BACKGROUND FACTS**

##### **a. General Background**

On July 14, 2009, the COMELEC promulgated Resolution No. 8646 setting **August 17, 2009 as the last day for the filing of petitions for registration of political parties**. On January 21, 2010, the COMELEC promulgated Resolution No. 8752, providing, among others, for the rules for the filing of petitions for accreditation for the determination of the dominant majority party, the dominant minority party, ten major national parties, and two major local parties for the May 10, 2010 elections. Resolution No. 8752 also set the **deadline for filing of petitions for accreditation on February 12, 2010** and required that accreditation applicants be registered political parties, organizations or coalitions.

On February 12, 2010, the LP filed with the COMELEC its petition for accreditation as dominant minority party. On the same date, the Nacionalista Party (*NP*) and the Nationalist People's Coalition (*NPC*) filed a petition for registration as a coalition (*NP-*

NPC) and asked that "it be recognized and accredited as the dominant minority party for purposes of the May 10, 2010 elections."<sup>[4]</sup> It was docketed as an SPP (DM) case, indicating - pursuant to COMELEC Resolution No. 8752 - that it was an accreditation case.

On February 23, 2010, the LP filed its Opposition<sup>[5]</sup> to the NP-NPC's petition on the following grounds:

- 1) The NP-NPC's petition should be denied since it was not a duly registered coalition of political parties at the time of filing of their petition for accreditation as dominant minority party;
- 2) The COMELEC *en banc* has no jurisdiction to entertain the petition for registration as a coalition because the petition should have been first brought before the proper Division;
- 3) The petition for registration as a coalition was filed with the Clerk of the Commission instead of the Law Department in violation of the COMELEC Rules of Procedure;
- 4) The petition for registration as a coalition was filed beyond the August 17, 2009 deadline set by the COMELEC; and
- 5) The respective chapters, incumbents and candidates of the NP and the NPC separately cannot be taken into account for purposes of accreditation as dominant minority party because the NP-NPC as a coalition is an entirely different entity.

The COMELEC issued an Order dated February 16, 2010 and a Notice of Hearing on February 17, 2010 setting for hearing the petitions for accreditation for the purpose of determining the dominant majority party, dominant minority party, ten (10) major national parties and two (2) major local parties in connection with the May 10, 2010 elections. Among the petitions set for hearing were the LP's and the NP-NPC's petitions for accreditation as the dominant minority party.<sup>[6]</sup>

On March 9, 2010, the LP presented Rep. Lualhati Antonino (a member of the NPC's National Convention) as its witness.<sup>[7]</sup> Rep. Antonino testified, among others, that the NPC National Convention did not authorize its National Central Committee to enter into a coalition with the NP,<sup>[8]</sup> and that neither the National Convention nor the general membership was ever consulted about the merger with the NP.<sup>[9]</sup>

On March 10, 2010, the NP-NPC presented former Gov. Faustino Dy, Jr. as its witness to refute Rep. Antonino's testimony.<sup>[10]</sup> On March 15, 2010, the LP and the NP-NPC filed their respective Memoranda.<sup>[11]</sup>

#### **b. The Assailed COMELEC Resolution**

On April 12, 2010, the *en banc* granted the NP-NPC's petition for registration as a coalition through the Resolution assailed in the present case. In the same

Resolution, the *en banc* deferred the resolution of the NP-NPC's application for accreditation as dominant minority party.

**On the issue of jurisdiction**, the *en banc* citing *Baytan v. Comelec*<sup>[12]</sup> held that the registration of coalitions involves the exercise of its administrative powers and not its quasi-judicial powers; hence, the *en banc* can directly act on it. It further held that there is no constitutional requirement that a petition for registration of a coalition should be decided first by a division. In *Baytan*, the Court held that the Constitution merely vests the COMELEC's administrative powers in the "Commission on Elections," while providing that the COMELEC "*may sit en banc or in two divisions*." Thus, the *en banc* can act directly on matters falling within its administrative powers.

The *en banc* ruled further that although the NP-NPC's failure to file the petition with the Law Department constituted a violation of the COMELEC Rules of Procedure (*COMELEC Rules*), the *en banc* has the discretion to suspend the application of the rules in the interest of justice and speedy disposition of cases;<sup>[13]</sup> in any case, the authority to approve or deny the Law Department's recommendation on the registration of the coalition rests with the *en banc*.

On the **timeliness of the filing of the petition**, the *en banc* held that no rule exists setting a deadline for the registration of *coalitions*. It opined that the registration of a coalition is simply a recognition by the COMELEC of a political reality. It held that if the NP-NPC is genuine, then the approval of its registration by the COMELEC is a mere recognition of an "operative fact."

**On the merits**, the *en banc* found that both the NP and the NPC have validly agreed to join forces for political or election purposes. It held that the NP-NPC satisfactorily submitted all the documentary requirements to prove the merger's validity. It opined, too, that if the Constitution and By-Laws of either the NP or the NPC was violated by the merger, the representatives or members of either party possess the legal standing to question the coalition; the LP, a stranger to the internal dynamics of both parties, does not have this required standing.

The *en banc* noted that no representative from either the NP or the NPC ever filed any formal opposition to the NP-NPC petition for registration and accreditation. It thus concluded that hardly any controversy existed for it to resolve. At the same time, it disregarded Rep. Antonino's testimony, since she lost her NPC membership when she admitted support for the candidacy of Sen. Manuel A. Roxas II - the Liberal Party candidate for vice-president - a ground provided under the Constitution and By-Laws of the NPC.<sup>[14]</sup>

### **c. The Sarmiento Dissent**

Commissioner Rene V. Sarmiento dissented on various grounds.<sup>[15]</sup> **First**, he ruled that *the COMELEC sitting en banc had no jurisdiction over NP-NPC's petition for registration as a coalition and accreditation as dominant minority party*.

Rule 32 of the COMELEC Rules governs the registration of coalitions. Rule 32 is found under Letter F of the Rules entitled "Special Proceedings." According to Section 3 of the COMELEC Rules, the Commission sitting in two (2) Divisions, shall

have jurisdiction to hear and decide cases falling under special proceedings, with the exception of the accreditation of citizens' arms of the COMELEC. The dissent concluded that the present petition is within the jurisdiction of the COMELEC sitting in Division and not of the COMELEC sitting *en banc*, citing *Villarosa v. COMELEC*.<sup>[16]</sup>

Commissioner Sarmiento **secondly** took the position that *the relaxation of the Rules is inappropriate in the present case*.

In general, election laws may be divided into three parts for purposes of applying the rules of statutory construction. The first part refers to the provisions for the conduct of elections that election officials are required to follow; these provisions are merely directory. The second part covers those provisions that candidates for office are required to comply with and are necessarily mandatory. The last part embraces those procedural rules designed to ascertain, in case of dispute, the actual winner in the elections; this requires liberal construction. The NP-NPC's petition falls under the second part, so the applicable requirements of law are mandatory. The dissent argued that the relaxation of the rules is not applicable to the present case, because it does not involve the determination of the will of the electorate; thus, the rules governing the registration of coalitions should be construed strictly and not liberally.

Commissioner Sarmiento's **third point** is that *no valid coalition was formed between the NP and the NPC*.

He pointed out that the Constitutions and By-Laws of both parties require that the parties' respective National Conventions give their approval before their parties can enter into any coalition agreement with another political party. The dissent found that the records are bereft of any proof that the National Conventions of both the NP and the NPC authorized their officers to form the NP-NPC. The dissent held that the action of the Executive Committees of the NP and the NPC in issuing the Joint Resolution (declaring the NP-NPC merger) was a clear violation of the parties' Constitutions and By-Laws and was thus *ultra vires* and void.

The dissent also branded the NP-NPC as a sham whose sole purpose was to secure dominant minority party status. The Commissioner noted that members of the NP and NPC are pitted against each other and are vying for the same election positions - an absurd situation in a coalition, since no alliance for a common cause can exist if members of the component parties are competing against each other for the same positions.

Commissioner Sarmiento pointed out as his **last point** that *the NP-NPC cannot seek accreditation as the dominant minority party without the requisite recognition by the COMELEC*.

COMELEC Resolution No. 8752 requires that only political parties duly registered with the COMELEC may seek accreditation as a dominant party. At the time the NP-NPC filed its petition for accreditation on February 12, 2010, it was still seeking registration as a coalition of political parties. By filing the petition, both the NP and the NPC admitted that the COMELEC had not extended any recognition to their coalition; without the requisite recognition and registration, the NP-NPC could not seek accreditation as the dominant minority party for the May 10, 2010 elections.

The dissent also noted that the NP-NPC could no longer seek accreditation since the deadline for filing a petition for accreditation had lapsed. Finally, while the NP and NPC are both duly accredited political parties, their recognition cannot benefit the NP-NPC, since the latter seeks accreditation as an entity separate and distinct from both the NP and the NPC.

## **II. The Petition**

The LP now assails the April 12, 2010 COMELEC Resolution for having been issued with grave abuse of discretion, as follows:

- 1) The COMELEC *en banc* has no jurisdiction *at the first instance* to entertain petitions for registration of political coalitions;
- 2) The COMELEC gravely abused its discretion when it allowed the registration of the purported NP-NPC coalition despite the lapse of the deadline for registration;
- 3) The COMELEC gravely abused its discretion when it allowed the registration of the purported NP-NPC coalition despite patent and manifest violations of the NPC Constitution and By-Laws; and
- 4) The purported NP-NPC coalition is a bogus, sham and paper coalition that makes a mockery of the electoral process.<sup>[17]</sup>

In support of its petition, the petitioner attached the Sworn Affidavits of two prominent members of the NPC, namely: Atty. Sixto S. Brillantes (the current NPC Legal Counsel) and Daniel Laogan (a member of the NPC's National Central Committee) to show that the NP-NPC was entered into without consultations; much less, the approval of the NPC's National Convention which was not even convened.<sup>[18]</sup>

### **a. Comments from the OSG and the COMELEC**

On April 27, 2010, the Office of the Solicitor General (OSG) filed a "Manifestation and Motion In Lieu of Comment." The OSG manifested that the duty to appear and defend on their behalf and on behalf of the COMELEC falls on the respondents, since they are the real parties interested in upholding the assailed COMELEC Resolution. The COMELEC, as a mere nominal party, does not need to file a separate comment. We responded to the OSG's manifestation by requiring the COMELEC to file its own comment, which it did on May 4, 2010.

On the merits, the OSG argues that the present petition is premature. It notes that the petition's real thrust is to foreclose the possibility that respondent NP-NPC would be declared the dominant minority party in the coming May 10, 2010 elections. The OSG emphasizes that the assailed COMELEC Resolution only affirmatively resolved the registration of the NP-NPC, not its accreditation. Thus, the petition's core issue is not yet ripe for adjudication. As expressly indicated in the assailed Resolution, the accreditation has yet to be the subject of a coming separate resolution.