

EN BANC

[G.R. No. 178678, April 16, 2009]

**DR. HANS CHRISTIAN M. SEÑERES, PETITIONER, VS.
COMMISSION ON ELECTIONS AND MELQUIADES A. ROBLES,
RESPONDENTS.**

D E C I S I O N

VELASCO JR., J.:

The Case

Before us is a Petition for Certiorari^[1] under Rule 65 with a prayer for a temporary restraining order and/or preliminary injunction to nullify and enjoin the implementation of the Resolution^[2] dated July 19, 2007 of the Commission on Elections (COMELEC), which declared respondent Melquiades Robles (Robles) as the President of Buhay Hayaan Yumabong (Buhay).

The Undisputed Facts

In 1999, private respondent Robles was elected president and chairperson of Buhay, a party-list group duly registered with COMELEC.^[3] The constitution of BUHAY provides for a three-year term for all its party officers, without re-election.^[4] BUHAY participated in the 2001 and 2004 elections, with Robles as its president. All the required Manifestations of Desire to Participate in the said electoral exercises, including the Certificates of Nomination of representatives, carried the signature of Robles as president of BUHAY.^[5] On January 26, 2007, in connection with the May 2007 elections, BUHAY again filed a Manifestation of its Desire to Participate in the Party-List System of Representation.^[6] As in the past two elections, the manifestation to participate bore the signature of Robles as BUHAY president.

On March 29, 2007, Robles signed and filed a Certificate of Nomination of BUHAY's nominees for the 2007 elections containing the following names: (i) Rene M. Velarde, (ii) Ma. Carissa Coscolluela, (iii) William Irwin C. Tieng, (iv) Melchor R. Monsod, and (v) Teresita B. Villarama. Earlier, however, or on March 27, 2007, petitioner Hans Christian Señeres, holding himself up as acting president and secretary-general of BUHAY, also filed a Certificate of Nomination with the COMELEC, nominating: (i) himself, (ii) Hermenegildo C. Dumlao, (iii) Antonio R. Bautista, (iv) Victor Pablo C. Trinidad, and (v) Eduardo C. Solangon, Jr.^[7]

Consequently, on April 17, 2007, Señeres filed with the COMELEC a Petition to Deny Due Course to Certificates of Nomination.^[8] In it, petitioner Señeres alleged that he was the acting president and secretary-general of BUHAY, having assumed that position since August 17, 2004 when Robles vacated the position. Pushing the point, Señeres would claim that the nominations made by Robles were, for lack of

authority, null and void owing to the expiration of the latter's term as party president. Furthermore, Señeres asserted that Robles was, under the Constitution, [9] disqualified from being an officer of any political party, the latter being the Acting Administrator of the Light Railway Transport Authority (LRTA), a government-controlled corporation. Robles, so Señeres would charge, was into a partisan political activity which civil service members, like the former, were enjoined from engaging in.

On May 10, 2007, the National Council of BUHAY adopted a resolution^[10] expelling Señeres as party member for his act of submitting a Certificate of Nomination for the party. The resolution reads in part:

WHEREAS, Hans Christian M. Señeres, without authority from the National Council, caused the filing of his Certificate of Nomination with the Comelec last 27 March 2007.

WHEREAS, Hans Christian M. Señeres, again without authority from the National Council, listed in his Certificate of Nomination names of persons who are not even members of the Buhay party.

WHEREAS, Hans Christian M. Señeres, knowing fully well that the National Council had previously approved the following as its official nominees, to wit x x x to the 2007 Party-List elections; and that Mr. Melquiades A. Robles was authorized to sign and submit the party's Certificate of Nomination with the Comelec; and, with evident premeditation to put the party to public ridicule and with scheming intention to create confusion, still proceeded with the filing of his unauthorized certificate of nomination even nomination persons who are not members of Buhay.

WHEREAS, Hans Christian M. Señeres, in view of the foregoing, underwent Party Discipline process pursuant to Article VII of the Constitution and By-Laws of the Party.

x x x x

WHEREAS, after a careful examination of the [evidence] on his case, the National Council found Hans Christian M. Señeres to have committed acts in violation of the constitution and by-laws of the party and decided to expel him as a member of the party.

NOW THEREFORE, be it **RESOLVED** as it is hereby **RESOLVED** that the National Council has decided to expel Hans M. Señeres as a member of the party effective close of business hour of 10 May 2007.

BE IT RESOLVED FURTHER, that all rights and privileges pertaining to the membership of Hans M. Señeres with the party are consequently cancelled.

BE IT RESOLVED FURTHER, that the President and Chairman of the National Council of Buhay, Mr. Melquiades A. Robles, is hereby authorized to cause the necessary filing of whatever documents/letters before the

House of Representatives and/or to any other entity/agency/person to remove/drop Mr. Señeres' name in the roll of members in the said lower house. [11]

Later developments saw Robles filing a petition praying for the recognition of Jose D. Villanueva as the new representative of BUHAY in the House of Representatives for the remaining term until June 30, 2007.[12] Attached to the petition was a copy of the expelling resolution adverted to. Additionally, Robles also filed on the same day an "Urgent Motion to Declare Null and Void the Certificate of Nomination and Certificates of Acceptance filed by Hans Christian M. Señeres, Hermenegildo Dumlao, Antonio R. Bautista, Victor Pablo Trinidad and Eduardo Solangon, Jr." [13]

On July 9 and July 18, 2007, respectively, the COMELEC issued two resolutions proclaiming BUHAY as a winning party-list organization for the May 2007 elections entitled to three (3) House seats. [14]

This was followed by the issuance on July 19, 2007 by the *en banc* COMELEC of Resolution E.M. No. 07-043 recognizing and declaring Robles as the president of BUHAY and, as such, was the one "duly authorized to sign documents in behalf of the party particularly the Manifestation to participate in the party-list system of representation and the Certification of Nomination of its nominees." [15] Explaining its action, COMELEC stated that since no party election was held to replace Robles as party president, then he was holding the position in a hold-over capacity. [16]

The COMELEC disposed of the partisan political activity issue with the terse observation that Señeres' arguments on the applicability to Robles of the prohibition on partisan political activity were unconvincing. [17] The dispositive portion of the COMELEC Resolution reads:

WHEREFORE, premises considered, this Commission (En Banc) hereby recognizes Melquiades A. Robles as the duly authorized representative of Buhay Hayaan Yumabong (Buhay) and to act for and in its behalf pursuant to its Constitution and By-Laws.

SO ORDERED. [18]

On July 20, 2007, the first three (3) listed nominees of BUHAY for the May 2007 elections, as per the Certificate of Nomination filed by Robles, namely Rene M. Velarde, Ma. Carissa Coscolluela, and William Irwin C. Tieng, took their oaths of office as BUHAY party-list representatives in the current Congress. [19] Accordingly, on September 3, 2007, the COMELEC, sitting as National Board of Canvassers, issued a Certificate of Proclamation to BUHAY and its nominees as representatives to the House of Representatives. [20]

Aggrieved, petitioner filed the instant petition.

The Issue

Whether or not the COMELEC acted without or in excess of jurisdiction or with grave abuse of discretion amounting to lack or excess of jurisdiction in issuing its challenged Resolution dated June 19, 2007, which declared

respondent Robles as the duly authorized representative of BUHAY, and there is no appeal or any other plain, speedy or adequate remedy in the ordinary course of law except the instant petition.

Our Ruling

The petition should be dismissed for lack of merit.

Petition for Certiorari Is an Improper Remedy

A crucial matter in this recourse is whether the petition for certiorari filed by Señeres is the proper remedy.

A special civil action for certiorari may be availed of when the tribunal, board, or officer exercising judicial or quasi-judicial functions has acted without or in excess of jurisdiction and there is no appeal or any plain, speedy, and adequate remedy in the ordinary course of law for the purpose of annulling the proceeding.^[21] It is the "proper remedy to question any final order, ruling and decision of the COMELEC rendered in the exercise of its adjudicatory or quasi-judicial powers."^[22] For certiorari to prosper, however, there must be a showing that the COMELEC acted with grave abuse of discretion and that there is no appeal or any plain, speedy and adequate remedy in the ordinary course of law.

In the present case, a plain, speedy and adequate remedy in the ordinary course of law was available to Señeres. The 1987 Constitution cannot be more explicit in this regard. Its Article VI, Section 17 states:

Sec. 17. The 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. x x x

This constitutional provision is reiterated in Rule 14 of the 1991 Revised Rules of the Electoral Tribunal of the House of Representatives, to wit:

RULE 14. *Jurisdiction.*--The Tribunal shall be the sole judge of all contests relating to the election, returns and qualifications of the Members of the House of Representatives.

In *Lazatin v. House Electoral Tribunal*, the Court elucidated on the import of the word "sole" in Art. VI, Sec. 17 of the Constitution, thus:

The use of the word `sole' emphasizes the exclusive character of the jurisdiction conferred. The exercise of the power by the Electoral Commission under the 1935 Constitution has been described as `intended to be as complete and unimpaired as if it had remained originally in the legislature.' Earlier, this grant of power to the legislature was characterized by Justice Malcolm as `full, clear and complete.' Under the amended 1935 Constitution, the power was unqualifiedly reposed upon the Electoral Tribunal and it remained as full, clear and complete as that previously granted the legislature and the Electoral Commission. The same may be said with regard to the jurisdiction of the Electoral Tribunals under the 1987 Constitution."^[23]

Then came *Rasul v. COMELEC and Aquino-Oreta*, in which the Court again stressed that "the word `sole' in Sec. 17, Art. VI of the 1987 Constitution and Sec. 250 of the Omnibus Election Code underscore the exclusivity of the Tribunal's jurisdiction over election contests relating to its members."^[24]

The House of Representatives Electoral Tribunal's (HRET's) sole and exclusive jurisdiction over contests relative to the election, returns and qualifications of the members of the House of Representatives "begins only after a candidate has become a member of the House of Representatives."^[25] Thus, once a winning candidate has been proclaimed, taken his oath, and assumed office as a Member of the House of Representatives, COMELEC's jurisdiction over elections relating to the election, returns, and qualifications ends, and the HRET's own jurisdiction begins.^[26]

It is undisputed that the COMELEC, sitting as National Board of Canvassers, proclaimed BUHAY as a winning party-list organization for the May 14, 2007 elections, entitled to three (3) seats in the House of Representatives.^[27] The proclamation came in the form of two Resolutions dated July 9, 2007 and July 18, 2007,^[28] respectively. Said resolutions are official proclamations of COMELEC considering it is BUHAY that ran for election as party-list organization and not the BUHAY nominees.

The following day, on July 19, 2007, the COMELEC issued the assailed resolution declaring "Melquiades A. Robles as the duly authorized representative of Buhay Hayaan Yumabong (Buhay) and to act in its behalf pursuant to its Constitution and By-Laws." COMELEC affirmed that his Certificate of Nomination was a valid one as it ruled that "Robles is the President of Buhay Party-List and therefore duly authorized to sign documents in behalf of the party particularly the Manifestation to participate in the party-list system of representation and the **Certificate of Nomination of its nominees**."^[29] The September 3, 2007 proclamation merely confirmed the challenged July 19, 2007 Resolution. The July 19, 2007 Resolution coupled with the July 9, 2007 and July 18, 2007 proclamations vested the Robles nominees the right to represent BUHAY as its sectoral representatives.

Consequently, the first three (3) nominees in the Certificate of Nomination submitted by Robles then took their oaths of office before the Chief Justice on July 20, 2007 and have since then exercised their duties and functions as BUHAY Party-List representatives in the current Congress.

Without a doubt, at the time Señeres filed this petition before this Court on July 23, 2007, the right of the nominees as party-list representatives had been recognized and declared in the July 19, 2007 Resolution and the nominees had taken their oath and already assumed their offices in the House of Representatives. As such, the proper recourse would have been to file a petition for *quo warranto* before the HRET within ten (10) days from receipt of the July 19, 2007 Resolution and not a petition for certiorari before this Court.^[30]

Since Señeres failed to file a petition for *quo warranto* before the HRET within 10 days from receipt of the July 19, 2007 Resolution declaring the validity of Robles' Certificate of Nomination, said Resolution of the COMELEC has already become final and executory. Thus, this petition has now become moot and can be dismissed