

LABAN NG DEMOKRATIKONG PILIPINO, REPRESENTED BY ITS CHAIRMAN EDGARDO J. ANGARA VS. THE COMMISSION ON ELECTIONS AND AGAPITO A. AQUINO

G.R. No. 161265. February 24, 2004

Ponente: TINGA, J.

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TINGA, J.:

The Bible tells the story of how two women came to King Solomon to decide who among them is the baby's true mother. King Solomon, in his legendary wisdom, awarded the baby to the woman who gave up her claim after he threatened to split the baby into two.

It is fortunate that the two women did not ask the Commission on Elections (COMELEC) to decide the baby's fate; otherwise, it would have cut the baby in half. For that is what the COMELEC exactly did in this case.

On December 8, 2003, the General Counsel of the Laban ng Demokratikong Pilipino (LDP), a registered political party, informed the COMELEC by way of Manifestation that only the Party Chairman, Senator Edgardo J. Angara, or his authorized representative may endorse the certificate of candidacy of the party's official candidates. The same Manifestation stated that Sen. Angara had placed the LDP Secretary General, Representative Agapito A. Aquino, on "indefinite forced leave." In the meantime, Ambassador Enrique A. Zaldivar was designated Acting Secretary General. The Manifestation concluded with this prayer:

A. The Honorable Commission recognizes [sic] only those Certificates of Candidacy to which are attached Certificates of Nomination executed by LDP Party Chairman Edgardo J. Angara or by such other officers of the LDP whom he may authorize in writing, and whose written authorizations shall be deposited with the Honorable Commission by the LDP General Counsel.

B. The Honorable Commission declares [sic] as a nullity, denies [sic] due course or cancels [sic] all Certificates of Candidacy not endorsed by LDP Party Chairman Angara or by such other LDP officials as may be authorized by him.

C. The Honorable Commission takes [sic] note of the designation of Ambassador Enrique "Ike" A. Zaldivar as Acting Secretary General of the LDP, and for the Honorable Commission to honor and recognize the official acts, to the exclusion of everyone, of Ambassador Zaldivar for and in behalf of the LDP as Secretary General.[1]

On December 16, 2003, Rep. Aquino filed his Comment, contending that the Party Chairman does not have the authority to impose disciplinary sanctions on the Secretary General. As the Manifestation filed by the LDP General Counsel has no basis, Rep. Aquino asked the COMELEC to disregard the same.

On December 17, 2003, the parties agreed to file a joint manifestation pending which the proceedings were deemed suspended. On December 22, 2003, however, only the LDP General Counsel filed an Urgent Manifestation reiterating the contents of the December 8, 2003 Manifestation. The COMELEC also received a

Letter from Rep. Aquino stating that the parties were unable to arrive at a joint manifestation.

The next day, the LDP General Counsel filed a Second Urgent Manifestation disputing newspaper accounts that Rep. Aquino had suspended Sen. Angara as Party Chairman.

On December 26, 2003, the COMELEC issued an Order requiring the parties to file a verified petition. It turned out that, two days before, Sen. Angara had submitted a verified Petition, in essence, reiterating the contents of its previous Manifestations. Attached to the Petition was a Resolution[2] adopted by the LDP National Executive Council, stating:

WHEREAS, on September 25, 2003, the National Executive Council of the Laban ng Demokratikong Pilipino (LDP) convened and unanimously passed a resolution granting full authority to Party Chairman Edgardo J. Angara to enter, negotiate and conclude a coalition agreement with other like-minded opposition parties, aggrupations and interest groups with the sole purpose of uniting the political opposition and fielding a unity ticket for the May 10, 2004 elections;

WHEREAS, on December 3, 2003, the LDP, together with the Puwersa ng Masang Pilipino (PMP) and the Partido Demokratiko ng Pilipinas — LABAN (PDP-LABAN) forged a coalition to form the Koalisyon ng Nagkakaisang Pilipino (KNP);

WHEREAS, the Executive Committee of the KNP subsequently adopted its resolution entitled: “Resolution Choosing Mr. Fernando Poe, Jr. as the Standard Bearer of the Koalisyon ng Nagkakaisang Pilipino (KNP) for President of the Republic of the Philippines in the May 10, 2004 National Elections”;

....

WHEREAS, the process of unification of the political opposition and the actions taken in connection therewith by Chairman Angara and by other governing bodies of the LDP required the taking of immediate and forceful action by them to preserve and protect the integrity, credibility, unity and solidarity of the LDP, and ensure the attainment of unification of the political opposition;

WHEREAS, such immediate and forceful action include those that have to do with pre-emptive efforts to diffuse the chaos, confusion and disunity projected by the pronouncements and acts of some officers and members to the general membership of the LDP and the electorate, such as the one taken by the Regional Committee for Region VI (Western Visayas) on December 6, 2003; the enforcement of order in the LDP through the voice of a central leadership in command in an otherwise extraordinary and emergency situation, such as the one taken by Party Chairman Angara on December 6, 2003; the filing of the Manifestation with the COMELEC on the matter of the authorized signatories for the nominations and, the adoption of resolutions by the regional committees affirming their trust and confidence in Chairman Angara, and authorizing him to choose the presidential standard bearer for the May 10, 2004 elections; NOW THEREFORE, BE IT

RESOLVED, AS IT IS HEREBY RESOLVED, By the National Executive Council, to ratify and confirm the Covenant of National Unity, the Declaration of Unity entered into by Party Chairman Edgardo J. Angara, and all acts and decisions taken by him to enforce and implement the same;

RESOLVED, FURTHER, To ratify and confirm all other acts and decisions of Chairman Angara and other governing bodies to preserve the integrity, credibility, unity and solidarity of the LDP; and,

RESOLVED, FINALLY, To reiterate the vote of confidence of the National Executive Council in, and support to, the continued efforts of Chairman Angara to unite the political opposition.[3]

Rep. Aquino filed his Answer to the Petition on December 30, 2003. The COMELEC heard the parties on oral arguments on the same day, after which the case was submitted for resolution.

Pending resolution, a Certificate of Nomination of Sen. Panfilo Lacson as LDP candidate for President was filed with the COMELEC. The Certificate of Nomination was signed by Rep. Aquino as LDP Secretary General.

On January 6, 2004, the COMELEC came to a decision.

The Commission identified the sole issue as “who among the [LDP] officers [are] authorized to authenticate before the Commission that the person filing the certificate of candidacy as party nominee for a certain position is the official candidate of the party chosen in accordance with its Constitution.”[4]

The COMELEC recognized that it “has the authority to act on matters pertaining to ‘the ascertainment of the identity of [a] political party and its legitimate officers....’”[5] In the same breath, however, it held that “internal party matters and wranglings [sic] are purely for the party members to settle among themselves and any unsettled controversy should be brought to the proper forum with jurisdiction.” The “question of who was suspended by whom” was thus left for such proper forum to resolve.[6] Noting that “the intramurals in the LDP as an internal party matter seems to be irreconcilable for the present when the filing of Certificate of Candidacy and Certificate of Nomination are about to reach the deadline,” the COMELEC disposed of the Petition in the following fashion:

WHEREFORE, premises considered, the petition is GRANTED with LEGAL EQUITY for both Petitioner and Oppositor. The candidates for President down to the last Sangguniang Bayan Kagawad nominated and endorsed by LDP Chairman Edgardo J. Angara are recognized by the Commission as official candidates of LDP “Angara Wing”. The candidates from President down to the last Sangguniang Bayan Kagawad as nominated and endorsed by LDP Secretary General Agapito “Butz” Aquino are recognized as official candidates of LDP “Aquino Wing”.

Consequently, each faction or “Wing” is entitled to a representative to any election committee to which it may be entitled as created by the Commission for the May 10, 2004 elections. For the copies of the election returns, the “Angara Wing” will be entitled to the copies corresponding to odd number of precincts, that is, Precinct Nos. 1, 3, 5, etc., and for the “Aquino Wing” to the even number of precincts, that is Precinct Nos. 2, 4, 6, etc. This is on the assumption that the LDP or as a party within a registered Political Coalition becomes a recognized and denominated as a Dormant [sic] Minority Party under the Election Laws. The two LDP “Wings” are further entitled to and be accorded the rights and privileges with corresponding legal obligations under Election Laws.[7]

Commissioners Luzviminda G. Tancangco, Ralph C. Lantion, Resurreccion Z. Borra and Florentino A. Tuason, Jr. concurred in the Resolution authored by Commissioner Rufino S.B. Javier. Chair Benjamin S. Abalos, Sr., joined by Commissioner Mehol K. Sadain, submitted dissenting opinions.

Sen. Angara thus filed the present petition for Certiorari[8] assailing the COMELEC Resolution for having been issued with grave abuse of discretion.

Thereafter, Rep. Aquino filed his Comment.

The Office of the Solicitor General submitted a Manifestation and Motion praying for the granting of the Petition. The COMELEC thus filed a separate Comment to the Petition.

The COMELEC correctly stated that “the ascertainment of the identity of [a] political party and its legitimate officers” is a matter that is well within its authority. The source of this authority is no other than the fundamental law itself, which vests upon the COMELEC the power and function to enforce and administer all laws and regulations relative to the conduct of an election.[9] In the exercise of such power and in the discharge of such function, the Commission is endowed with ample “wherewithal” and “considerable latitude in adopting means and methods that will ensure the accomplishment of the great objectives for which it was created to promote free, orderly and honest elections.”[10]

Thus, in *Kalaw v. Commission on Elections* which involved the leadership fight in the Liberal Party, [11] this Court held:

... that the respondent [COMELEC] has jurisdiction to hear and decide SP Case No. 85-021 [involving a petition to prohibit Eva Estrada Kalaw “from usurping or using the title or position of President of the Liberal Party”] in view of its powers under Article IX-C, Section 2, of the Constitution to, among others, enforce and administer all laws relative to the conduct of elections, decide all questions affecting elections, register and regulate political parties, and insure orderly elections. These powers include the determination of the conflicting claims made in SP Case No. 85-021, which are likely to cause confusion among the electorate if not resolved. Additionally, the COMELEC is mandated by the Election Code to inter alia require candidates to specify their political party affiliation in their certificates of candidacy, allow political parties to appoint watchers, limit the expenditures of each political party, determine whether or not a political party shall retain its registration on the basis of its showing in the preceding elections, etc. These matters include the ascertainment of the identity of the political party and its legitimate officers responsible for its acts and the resolution of such controversies as the one now before it where one party appears to be divided into two wings under separate leaders each claiming to be the president of the entire party.... [Emphasis supplied.]

Likewise in *Palmares v. Commission on Elections*, [12] to which the assailed Resolution made reference and which involved the Nacionalista Party, [13] this Court ruled

... that the COMELEC has jurisdiction over the issue of leadership in a political party. Under the Constitution, the COMELEC is empowered to register political parties [Sec. 2(5), Article IX-C.] Necessarily, the power to act on behalf of a party and the responsibility for the acts of such political party must be fixed in certain persons acting as its officers. In the exercise of the power to register political parties, the COMELEC must determine who these officers are. Consequently, if there is any controversy as to leadership, the COMELEC may, in a proper case brought before it, resolve the issue incidental to its power to register political parties.

This Court then proceeded to quote from *Kalaw*, supra.

The two cited decisions find support in *Sumulong v. Commission on Elections* [14] and *Sotto v. Commission on Elections*, [15] where this Court, in resolving the issue as to who between the factions of a political party was entitled to nominate election inspectors, necessarily settled claims to the party’s leadership. Both cases were decided without question on the COMELEC’s power to determine such claims. In conformity with jurisprudence, this Court did not identify the COMELEC’s jurisdiction as an issue when this case was heard on oral argument.

There is no inconsistency between the above cases on the one hand and this Court’s more recent ruling in *Sinaca v. Mula* [16] on the other. In the latter case, this Court held:

A political party has the right to identify the people who constitute the association and to select a standard bearer who best represents the party’s ideologies and preference. Political parties are generally free to conduct their internal affairs free from judicial supervision; this common-law principle of judicial restraint, rooted in the constitutionally protected right of free association, serves the public interest by allowing the political processes to operate without undue interference. Thus, the rule is that the determination of disputes as to party nominations rests with the party, in the absence of statutes giving the court’s [sic] jurisdiction.

Quintessentially, where there is no controlling statute or clear legal right involved, the court will not assume jurisdiction to determine factional controversies within a political party, but will leave the matter for determination by the proper tribunals of the party itself or by the electors at the polls. Similarly, in the absence of specific constitutional or legislative regulations defining how nominations are to be made, or prohibiting nominations from being made in certain ways, political parties may handle such affairs, including nominations, in such manner as party rules may establish. [Emphasis supplied.]

Sinaca, unlike previous cases, did not involve the question of party identity or leadership; hence, it was not necessary for the COMELEC to delve therein. None of the candidates involved in that case were claiming to be the political party's sole candidate.

In the case at bar, the Party Chairman, purporting to represent the LDP, contends that under the Party Constitution only he or his representative, to the exclusion of the Secretary General, has the authority to endorse and sign party nominations. The Secretary General vigorously disputes this claim and maintains his own authority. Clearly, the question of party identity or leadership has to be resolved if the COMELEC is to ascertain whether the candidates are legitimate party standard bearers or not.

The repercussions of the question of party identity and leadership do not end at the validity of the endorsement of the certificates of candidacy of persons claiming to be the party's standard bearer. The law grants a registered political party certain rights and privileges,[17] which, naturally, redound to the benefit of its candidates. It is also for this significant dimension that Sinaca is not applicable in this case. As conceded in Sinaca itself, the Court will have to assume jurisdiction to determine factional controversies within a political party where a controlling statute or clear legal right is involved.[18] Verily, there is more than one law, as well as a number of clear legal rights, that are at stake in the case at bar.

The law accords special treatment to political parties. The dominant majority party, the dominant minority party as determined by the COMELEC, for instance, is entitled to a copy of the election returns.[19] The six (6) accredited major political parties may nominate the principal watchers to be designated by the Commission.[20] The two principal watchers representing the ruling coalition and the dominant opposition coalition in a precinct shall, if available, affix their signatures and thumbmarks on the election returns for that precinct.[21] Three (3) of the six accredited major political parties are entitled to receive copies of the certificate of canvass.[22] Registered political parties whose candidates obtained at least ten percent (10%) of the total votes cast in the next preceding senatorial election shall each have a watcher and/or representative in the procurement and watermarking of papers to be used in the printing of election returns and official ballots and in the printing, numbering, storage, and distribution thereof.[23] Finally, a candidate and his political party are authorized to spend more per voter than a candidate without a political party.[24]

It is, therefore, in the interest of every political party not to allow persons it had not chosen to hold themselves out as representatives of the party. Corollary to the right of a political party "to identify the people who constitute the association and to select a standard bearer who best represents the party's ideologies and preference"[25] is the right to exclude persons in its association and to not lend its name and prestige to those which it deems undeserving to represent its ideals. A certificate of candidacy makes known to the COMELEC that the person therein mentioned has been nominated by a duly authorized political group empowered to act and that it reflects accurately the sentiment of the nominating body.[26] A candidate's political party affiliation is also printed followed by his or her name in the certified list of candidates.[27] A candidate misrepresenting himself or herself to be a party's candidate, therefore, not only misappropriates the party's name and prestige but foists a deception upon the electorate, who may unwittingly cast its ballot for him or her on the mistaken belief that he or she stands for the party's principles. To prevent this occurrence, the COMELEC has the power and the duty to step in and enforce the law not only to protect the party but, more importantly, the electorate, in line with the Commission's broad constitutional mandate to ensure orderly elections.

Having revisited and clarified the jurisdiction of COMELEC to rule upon questions of party identity and leadership as an incident to its enforcement powers, this Court cannot help but be baffled by the COMELEC's ruling declining to inquire into which party officer has the authority to sign and endorse certificates of candidacy of the party's nominees.

The only issue in this case, as defined by the COMELEC itself, is who as between the Party Chairman and the Secretary General has the authority to sign certificates of candidacy of the official candidates of the party. Indeed, the petitioners' Manifestation and Petition before the COMELEC merely asked the Commission to recognize only those certificates of candidacy signed by petitioner Sen. Angara or his authorized representative, and no other.

To resolve this simple issue, the COMELEC need only to turn to the Party Constitution. It need not go so far as to resolve the root of the conflict between the party officials. It need only resolve such questions as may be necessary in the exercise of its enforcement powers.

The LDP has a set of national officers composed of, among others, the Party Chairman and the Secretary General.[28] The Party Chairman is the Chief Executive Officer of the Party, whose powers and functions include:

- (1) To represent the Party in all external affairs and concerns, sign documents for and on its behalf, and call the meetings and be the presiding officer of the National Congress and the National Executive Council....[29]

The Secretary General, on the other hand, assists the Party Chairman in overseeing the day-to-day operations of the Party. Among his powers and functions is:

- (1) When empowered by the Party Chairman, to sign documents for and on behalf of the Party.... [30]

The Secretary General's authority to sign documents, therefore, is only a delegated power, which originally pertains to the Party Chairman.

Rep. Aquino claims that he was authorized to exercise to sign the party candidates' certificates of candidacy in the previous elections. Indeed, the COMELEC found that:

In fact, during the May 14, 2001 elections, oppositor Agapito "Butz" Aquino, as LDP Secretary General, was authorized by the LDP to sign for the Certificates of Nomination of the LDP Senatorial Candidates, including the Certificate of Nomination for Senatorial Candidate Edgardo J. Angara, a copy of said Certificate of Nomination and a copy of the Certificate for Senator Edgardo J. Angara are attached as Annexes A and B, respectively. This action by Secretary General Aquino is in accordance with the Constitution and By-laws of LDP, not questioned by the LDP signed by its Secretary General. This revocation has not been revoked or recalled by the National Congress of the LDP which is the one authorized to nominate candidates for President and Vice-President, respectively.[31]

Assuming that Rep. Aquino previously had such authority, this Court cannot share the COMELEC's finding that the same "has not been revoked or recalled." No revocation of such authority can be more explicit than the totality of Sen. Angara's Manifestations and Petition before the COMELEC, through which he informed the Commission that Rep. Aquino's had been placed on indefinite forced leave and that Ambassador Zaldivar has been designated Acting Secretary General, who "shall henceforth exercise all the powers and functions of the Secretary General under the Constitution and By-Laws of the LDP." [32] As the prerogative to empower Rep. Aquino to sign documents devolves upon Sen. Angara, so he may choose, at his discretion, to withhold or revoke such power.

Both respondents Rep. Aquino and COMELEC also cited Section 6 of COMELEC Resolution No. 6453[33] as basis for the Party Secretary General's authority to sign certificates of candidacy. Said Section 6 states:

SEC. 6. Certificate of nomination of official candidates by political party. — The certificate of nomination of registered political parties or coalitions of political parties of their official candidates shall be filed not later than the last day for filing of certificates of candidacy, which is January 2, 2004 duly signed and attested under

oath by the party president, chairman, secretary-general or any other duly authorized officer and shall bear the acceptance of the nominee by affixing his signature in the space provided therein. [Emphasis and underscoring supplied.]

Clearly, however, the above provision presupposes that the party president, chairman or secretary-general has been “duly authorized” by the party to sign the certificate of candidacy. COMELEC Resolution No. 6453 cannot grant a party official greater authority than what the party itself grants, lest such Resolution amount to a violation of the party’s freedom of association.

Neither does the Party Secretary General have the power to nominate the official candidates of the LDP. That power resides in the governing bodies of the Party.[34] In particular, the National Congress, which is the highest policy-making and governing body of the Party, has the power

(6) To nominate the official candidates of the Party for President, Vice President, and Senators, and, whenever the corresponding conventions fail to meet or to make the requisite nominations, to nominate the official candidates for municipal city, congressional district, provincial and regional elective offices....[35]

Not only does Rep. Aquino insist on his power to sign Certificates of Candidacy on behalf of the LDP but he would also deny Sen. Angara that power on account of the latter’s preventive suspension. It seems, however, that respondent has abandoned this tack by the silence of his Memorandum on the matter.

In any case, it appears that on November 28, 2003, Representative Rolex Suplico, LDP Region VI Regional Chairman, filed a complaint with Rep. Aquino against Party Chairman Sen. Angara for disloyalty to the Party, gross violation of the Party Constitution, and other divisive acts inimical to the interest of the party and its members. Rep. Aquino, as Secretary General, created a committee composed of three (3) members of the LDP National Executive Council to investigate the complaint and recommend appropriate action thereon. On December 12, 2003, the investigating committee issued a resolution placing Sen. Angara under preventive suspension effective immediately and directing him to refrain from performing acts in behalf of the party until the committee finishes its investigation and submits its final recommendations.

The authority to create the investigating committee supposedly rests on Section 9 (4), Article VI of the LDP Constitution, which enumerates the powers and functions of the Secretary General:

(4) With the concurrence of the Party Chairman, to enforce Party discipline.... {Emphasis supplied.]

Evidently, just as Rep. Aquino has no power to sign and nominate candidates in behalf of the LDP, neither does he have the power to enforce Party discipline or, as an incident thereto, to create an investigating committee, without the Party Chairman’s concurrence. Much less does the investigating committee so created have the power to place the Party Chairman under preventive suspension since its authority stems from a nullity. Simply put, the spring has no source.

The lack of Rep. Aquino’s authority to sign documents or to nominate candidates for the LDP would not result in the denial of due course to or the cancellation of the certificates of candidacy he may have signed on behalf of the LDP.[36] The exclusive ground for the denial of due course to or the cancellation of a certificate of candidacy for any elective office is that any material representation contained therein as required by law is false.[37] Since the signature of Rep. Aquino was affixed either prior to, or on the basis of, the challenged Resolution recognizing his authority to sign on behalf of the LDP, the same would not constitute material representation that is false. In such case, the candidates are simply deemed as not nominated by the LDP and are considered independent candidates pursuant to Section 7 of COMELEC Resolution No. 6453:

SEC. 7. Effect of filing certificate of nomination. — A candidate who has not been nominated by a registered

political party or its duly authorized representative, or whose nomination has not been submitted by a registered political party... shall be considered as an independent candidate.

COMELEC Commissioner Sadain referred to the above provision in his Dissenting Opinion, and this Court finds refreshing wisdom — so sorely wanting in the majority opinion — in his suggestion that:

All other party members representing themselves to be candidates of the party shall not be deprived of their right to file their respective certificates of candidacy and run for office, if so qualified, but that they shall not be accorded the rights and privileges reserved by election laws for official nominees of registered political parties. Instead, they shall be treated as independent candidates.[38]

From the foregoing, it is plain that the COMELEC misapplied equity in the present case. For all its conceded merits, equity is available only in the absence of law and not as its replacement.[39] Equity is described as justice without legality, which simply means that it cannot supplant, although it may, as often happens, supplement the law.[40] The COMELEC should have decided the case on the basis of the party constitution and election laws. It chose not to because of its irrational fear of treading, as respondent Aquino put it, on “unchartered” territories.[41] But, as shown above, these territories have long been charted by jurisprudence and, in any case, the COMELEC need not have sailed far from the shore to arrive at the correct conclusion. In truth, the COMELEC Resolution is indecision in the guise of equity.

Worse, the COMELEC divided the LDP into “wings,” each of which may nominate candidates for every elective position. Both wings are also entitled to representatives in the election committees that the Commission may create. In the event that the LDP is accorded dominant minority party election status, election returns of odd-numbered precincts shall be furnished the Angara wing and those of even-numbered precincts, the Aquino wing.

By creating the two wings, the COMELEC effectively diffused the LDP’s strength and undeniably emasculated its chance of obtaining the Commission’s nod as the dominant minority party.

By allowing each wing to nominate different candidates, the COMELEC planted the seeds of confusion among the electorate, who are apt to be confounded by two candidates from a single political party. In *Recabo, Jr. v. Commission on Elections*,[42] this Court declared that the electoral process envisions one candidate from a political party for each position, and disunity and discord amongst members of a political party should not be allowed to create a mockery thereof. The admonition against mocking the electoral process not only applies to political parties but with greater force to the COMELEC.

By according both wings representatives in the election committees, the COMELEC has eroded the significance of political parties and effectively divided the opposition. The COMELEC has lost sight of the unique political situation of the Philippines where, to paraphrase Justice Perfecto’s concurring opinion in *Sotto, supra*, the administration party has always been unnecessarily and dangerously too big and the opposition party too small to be an effective check on the administration. The purpose of according dominant status and representation to a minority party is precisely to serve as an effective check on the majority. The COMELEC performed a disservice to the opposition and, ultimately, to the voting public, as its Resolution facilitated, rather than forestalled, the division of the minority party.

By splitting copies of the election returns between the two factions, the COMELEC has fractured both wings. The practical purpose of furnishing a party with a copy of the election returns is to allow it to tally the results of the elections at the precinct level. Ultimately, it is a guard against fraud. Thus, resort to copies thereof may be had when the election returns are delayed, lost or destroyed,[43] or when they appear to be tampered or falsified.[44] A split party without a complete set of election returns cannot successfully help preserve the sanctity of the ballot.

It bears reminding respondent Commission of this Court's pronouncement in *Peralta v. Commission on Elections*,^[45] which, while made in the backdrop of a parliamentary form of government, holds equally true under the present government structure:

... political parties constitute a basic element of the democratic institutional apparatus. Government derives its strength from the support, active or passive, of a coalition of elements of society. In modern times the political party has become the instrument for the organization of societies. This is predicated on the doctrine that government exists with the consent of the governed. Political parties perform an "essential function in the management of succession to power, as well as in the process of obtaining popular consent to the course of public policy. They amass sufficient support to buttress the authority of governments; or, on the contrary, they attract or organize discontent and dissatisfaction sufficient to oust the government. In either case they perform the function of the articulation of the interests and aspirations of a substantial segment of the citizenry, usually in ways contended to be promotive of the national weal."

The assailed COMELEC Resolution does not advance, but subverts, this philosophy behind political parties.

As if to rationalize its folly, the COMELEC invokes the constitutional policy towards a free and open party system.^[46] This policy, however, envisions a system that shall "evolve according to the free choice of the people,"^[47] not one molded and whittled by the COMELEC. When the Constitution speaks of a multi-party system, it does not contemplate the COMELEC splitting parties into two. For doing just that, this pretender to the throne of King Solomon acted whimsically and capriciously. Certiorari lies against it, indeed.

WHEREFORE, the assailed COMELEC Resolution is ANNULLED and the Petition is GRANTED IN PART. Respondent Commission on Elections is directed to recognize as official candidates of the Laban ng Demokratikong Pilipino only those whose Certificates of Candidacy are signed by LDP Party Chairman Senator Edgardo J. Angara or his duly authorized representative/s.

SO ORDERED.

Vitug, Panganiban, Quisumbing, Ynares-Santiago, Carpio, Austria-Martinez, Carpio-Morales, Callejo, Sr., and Azcuna, JJ., concur.

Davide, Jr., C.J., in the result.

Puno, J., on leave.

Vitug, J., please see separate opinion.

Sandoval-Gutierrez, J., please see dissenting opinion.

Corona, J., joins the dissenting opinion of J. Gutierrez.

[1] Rollo, p. 58.

[2] Resolution Ratifying and Confirming the Covenant of National Unity, the Declaration of Unity entered into by Party Chairman Edgardo J. Angara, and All Acts and Decisions taken by him to Enforce and Implement the same; Ratifying and Confirming All other Acts and Decisions of Chairman Angara and other Governing Bodies to Preserve the Integrity, Credibility, Unity and Solidarity of the Party; and, further Reiterating the Vote of Confidence of the National Executive Council in, and support to, the continued efforts of Chairman Angara to Unite the Political Opposition.

[3] Rollo, pp. 63-65.

[4] *Id.*, at 44.

[5] *Id.*, at 46.

[6] *Id.*, at 43.

[7] *Id.*, at 47-48. Emphasis in the original.

[8] Sen. Angara was authorized to file the Petition pursuant to a Resolution of the LDP National Executive Council issued adopted and confirmed on January 8, 2004, and stating:

“RESOLVED, That Senator Edgardo J. Angara, LDP Party Chairman, be as he is hereby, authorized to sign, verify, and cause the filing with the Supreme Court, of the Petition for Certiorari from the Resolution dated January 6, 2004 of the Commission on Elections in Election Matter No. 03-018 entitled: “In Re[:] Certificates of Candidacy of Official Candidates of the Laban ng Demokratikong Pilipino for the May 10, 2004 Elections, Laban ng Demokratikong Pilipino, Petitioner.” [Rollo, p. 38.]

[9] Constitution, art. IX-C, sec. 2 (1).

[10] *Sanchez v. Commission on Elections*, 199 Phil. 617 (1982), citing *Cauton v. Comelec*, L-25467, April 27, 1967, 19 SCRA 911 (1967).

[11] G.R. No. 80218, November 5, 1987.

[12] G.R. Nos. 86177-78, August 31, 1989.

[13] Rollo, p. 46, at note 12.

[14] 70 Phil. 703 (1940).

[15] 76 Phil. 516 (1946).

[16] 373 Phil. 896 (1999).

[17] Omnibus Election Code, sec. 60.

[18] Note 13, *supra*.

[19] Rep. Act No. 7166, sec. 27, as amended by Rep. Act No. 8173.

[20] *Id.*, sec. 26.

[21] Rep. Act No. 6646, sec. 12.

[22] Rep. Act. No. 7166, sec. 29.

[23] Rep. Act No. 6646, sec. 8.

[24] Rep. Act No. 7166, sec. 13.

[25] *Sinaca v. Mula*, *supra*.

[26] *Alialy v. Commission on Elections*, L-16165, July 31, 1961, 2 SCRA 957.

[27] Rep. Act. No. 6646, sec. 4.

[28] LDP Constitution, art. VI, sec. 1 (1) and (4).

[29] *Id.*, sec. 5. Emphasis supplied.

[30] *Id.*, sec. 9. Emphasis supplied.

[31] *Rollo*, p. 45.

[32] *Id.*, at 57, 85.

[33] Guidelines on the Filing of Certificates of Candidacy and Nomination of Official Candidates of Registered Political Parties in Connection with the May 10, 2004 National and Local Elections.

[34] The governing bodies of the Party are: (1) the Municipal Committee, (2) the City Committee, (3) the Congressional District Committee, (4) the Provincial Committee, (5) the Regional Committee, for each region, including the National Capital Region and Autonomous Regions, and (6) the National Congress. [LDP Constitution, art. V, sec. 1.] The first four Committees and the Autonomous Region Regional Committee also act as conventions to choose the official candidates of the Party for the elective offices in their corresponding political units. [LDP Constitution, art. V, sec. 3(7), sec. 5 in relation to sec. 3(7), sec. 7 (2), sec. 9 (5) and sec. 13.]

[35] LDP Constitution, art. V, sec. 1.

[36] See *Alialy v. Commission on Elections*, *supra*.

[37] OMNIBUS ELECTION CODE, sec. 78.

[38] *Rollo*, p. 50.

[39] *Tankiko v. Cezar*, G.R. No. 131277, 362 Phil. 184 (1999), 302 SCRA 559.

[40] *Ibid.*

[41] *Comment*, p. 20.

[42] G.R. No. 134293, June 21, 1999, 308 SCRA 793.

[43] Omnibus Election Code, sec. 233.

[44] *Id.*, sec. 235.

[45] L-47771, March 11, 1978, 82 SCRA 30.

[46] *Comment*, p. 6.

[47] Constitution, art. IX-C, sec. 6.

SEPARATE OPINION

VITUG, J.:

The instant petition fundamentally calls on the Court to determine who between Senator Edgardo J. Angara, the Chairman, and Representative Agapito A. Aquino, the Secretary General, of the Laban ng Demokratikong Pilipino (LDP), has the power and the authority under the LDP Constitution to nominate official candidates of the party and to correspondingly sign and endorse the certificate of nomination. The contending parties have performed acts which they, respectively, claim to be within the mandate of the LDP Constitution.

Petitioner Angara asserts that long-standing LDP practice, as well as the provision of Section 5.5, Article VI, of the LDP Constitution,[1] empowers him as the party Chairman to nominate the official candidates of the LDP for president and vice-president in the event that its LDP National Congress does not, or fails to, convene. He states

that the National Executive Council has met on 22 December 2003, where thirty-six (36) out of forty (40) members of the Council attended, during which a resolution "ratifying and confirming the covenant of national unity, the declaration of unity entered into by party Chairman Edgardo J. Angara, and all acts and decisions taken by him to enforce and implement the same; ratifying and confirming likewise all other acts and decisions of Chairman Angara, and other governing bodies to preserve the integrity, credibility, unity and solidarity of the party; and, further reiterating the vote of confidence of the national executive council in, and support to, the continued efforts of Chairman Angara to unite the political opposition," has been adopted.

Respondent Aquino assails the resolution of the National Executive Council in that, allegedly, no proper notices have been sent for the holding of the meeting held on 22 December 2003 and that, on the basis of LDP records, only thirteen (13) members of the council have signed and approved the resolution. He claims that Senator Angara has deliberately refused to call a National Congress of the party. Representative Aquino relies on his authority in past elections to sign certificates of nomination of official candidates of LDP which, according to him, has not been revoked or recalled by the National Congress of the LDP. He also asseverates that on 04 December 2003, during the national meeting at Club Filipino attended by hundreds of members of the LDP, Senator Panfilo Lacson has been nominated unanimously as the party's candidate for president in the national elections scheduled on 10 May 2001, and that it has become ministerial for him, being the authorized signatory of the party, to issue the certificate of nomination in favor of Senator Lacson.

It does appear to me that the matter involved in this controversy is an internal matter that the political party itself should resolve. More importantly, the petition is replete with factual problems which this Court cannot take on. The conflicting claims of the parties, such as the alleged intentional inaction of Senator Angara to convene the National Congress of the party, the disputed membership of the national Executive Council which passed the resolution supporting the questioned actions of petitioner Angara, the determination of an "extraordinary and emergency" situation that would entitle the party chairman to act, the validity of the actions taken at the behest of respondent Aquino in the National Congress on 04 December 2003, are but a few of the factual issues which need to be first established before any decision can conclusively be arrived at. The absence of factual determination by the COMELEC on the matters now being disputed by the parties hardly makes it feasible for this Court to rightly and decisively rule on the case.

Once again, I submit, the Supreme Court is being tasked to exercise the judicial power on something where it should not as yet be asked.

To the above extent, I, therefore, take exceptions from the ruling of the majority.

[1] "To act on such extraordinary or emergency matters, especially those not envisioned or foreseen by this Constitution, which cannot await the call and holding of a meeting of the national Congress or the national Executive Council, upon consultation, whenever practicable with other Party leaders; Provided, that he shall thereafter report any such action taken by him to the Congress or the Council, whichever meets first.

DISSENTING OPINION

SANDOVAL-GUTIERREZ, J.:

The instant case arose from an internal squabble between two (2) factions of the Laban ng Demokratikong Pilipino (LDP), a registered national political party, which put up their respective presidential candidates in the May 2004 national elections.

I find it necessary to state the following important antecedent facts culled from the parties' pleadings, some of which were not mentioned in the ponencia of Justice Dante O. Tinga.

On November 28, 2003, Representative Rolex Suplico (5th District Iloilo), LDP Region VI Chairman, filed with the Office of Representative Agapito A. Aquino, LDP Secretary General, herein respondent, a complaint[1] against Senator Edgardo J. Angara, LDP Chairman, herein petitioner. The complaint charges petitioner with "acts of disloyalty to the party, culpable violation of the LDP Constitution and By-Laws, disregard of duly approved Resolution of the LDP Executive Council, and other divisive acts inimical to the interest of the party."

On December 4, 2003, a National Consultative Meeting of the LDP was held at the Club Filipino, Greenhills, San Juan, Metro Manila wherein Senator Panfilo Lacson was unanimously nominated as the party's official candidate for president in the May 10, 2004 national elections.[2]

On December 8, 2003, LDP General Counsel Demaree J.B. Raval filed with the Commission on Elections (COMELEC) a Manifestation[3] stating that "only its Party Chairman (petitioner Sen. Edgardo J. Angara) and only those whomsoever he may authorize in writing x x x are authorized to endorse, by way of a Certificate of Nomination, the Certificate of Candidacy of an LDP candidate." The Manifestation prays that the COMELEC: (a) recognize only those Certificates of Candidacy endorsed by petitioner Angara or his authorized representative; (b) deny due course all Certificates of Candidacy not endorsed by petitioner Angara or his representative; and (c) note the designation of Ambassador Enrique A. Zaldivar as LDP Acting Secretary General, "in place of Rep. Agapito A. Aquino" who was "placed on indefinite forced leave as LDP Secretary General effective December 6, 2003" by virtue of an Advisory[4] dated December 7, 2003 issued by petitioner.

Going back to the Suplico complaint, respondent Aquino, claiming to have authority as Secretary General under the LDP Constitution and By-Laws, issued an Order[5] dated December 10, 2003, creating a committee composed of three (3) members of the National Executive Council (the LDP governing body) to investigate and recommend appropriate action thereon. He likewise sent petitioner Angara a letter[6] of even dated informing him of the complaint and requesting him to respond thereto within five (5) days from receipt.

On December 12, 2003, the 3-member Investigating Committee of the National Executive Council issued a Resolution[7] placing petitioner on preventive suspension as party Chairman effective immediately and directing him to refrain from exercising official acts in behalf of the party until and after the Committee finishes its investigation and submits its final recommendation to the National Executive Council and/or National Congress. The Resolution states that such suspension is deemed necessary to forestall further dissension within the party members detrimental to the party's image and interest.

On December 16, 2003, respondent Aquino submitted his Comment[8] on the Manifestation, claiming that he was not given prior notice when petitioner Angara "unilaterally placed him on indefinite forced leave." Thus, the Advisory, upon which the Manifestation was based, "is a total nullity" and must "be disregarded" by the COMELEC.

Subsequently, petitioner Angara converted the Manifestation into a verified petition,[9] docketed as E.M. 03-018. The Petition further alleges that on December 22, 2003, the National Executive Council met and, 36 out of its 40 members, adopted a Resolution[10] entitled, "A Resolution Ratifying and confirming the Covenant of National Unity, the Declaration of Unity Entered Into by Party Chairman Edgardo J. Angara, and All Acts and Decisions Taken by him to Enforce and Implement the Same; Ratifying and Confirming All His Other Acts and Decisions and Other Governing Bodies to Preserve the Integrity, Credibility, Unity and Solidarity of the Party; and, Further Reiterating the Vote of Confidence of the National Executive Council in Support of the Continued Efforts of Chairman Angara to Unite the Political Opposition."

Among the actions/decision of petitioner Angara which were allegedly ratified and confirmed by the LDP National Executive Council in said Resolution were: (a) the creation of an opposition coalition Koalisyon ng Nagkakaisang Pilipino (KNP) which later adopted a Resolution entitled, “Resolution Choosing Mr. Fernando Poe, Jr. as the Standard Bearer of the KNP for President of the Republic of the Philippines in the May 10, 2004 National Elections;” (b) the decision to place respondent Aquino on indefinite forced leave; and (c) the filing of the aforementioned LDP Manifestation before the COMELEC.

In his Answer[11] to the Petition, respondent Aquino assailed the “so-called Resolution of the National Executive Council allegedly adopted during a meeting on December 22, 2003,” claiming that it is “unauthorized and illegal” because no proper notices have been sent for the holding of such meeting. Moreover, based on LDP records, only 13 members of the Council have signed and approved the supposed Resolution. Which means that it was not approved by a majority of those present, taking into account petitioner Angara’s claim that 36 Council members attended the meeting. Thus, the supposed Resolution is void and cannot ratify/confirm any act of petitioner Angara.

Respondent Aquino further asserted in his Answer that since the 2001 national elections, he, as LDP Secretary General, was the sole officer who endorsed the Certificates of Nomination of the party’s national candidates and who delegated such authority to duly authorized representatives.

The COMELEC then heard the parties on oral arguments, after which the case was submitted for resolution.

On January 6, 2004, the COMELEC en banc issued the assailed Resolution,[12] the dispositive portion of which reads:

“WHEREFORE, premises considered, the petition is GRANTED with LEGAL EQUITY for both Petitioner and Oppositor. The candidates for President down to the last Sangguniang Bayan Kagawad nominated and endorsed by LDP Chairman Edgardo J. Angara are recognized by the Commission as official candidates of LDP ‘Angara Wing’. The candidates from President down to the last Sangguniang Bayan Kagawad as nominated and endorsed by the LDP Secretary General Agapito ‘Butz’ Aquino are recognized as official candidates of LDP ‘Aquino Wing’.

“Consequently, each faction or ‘wing’ is entitled to a representative to any election committee to which it may be entitled as created by the Commission for the May 10, 2004 elections. For the copies of the election returns, the ‘Angara Wing’ will be entitled to the copies corresponding to odd number of precincts, that is Precinct Nos. 1, 3, 5, etc., and for the ‘Aquino Wing’ to the even number of precincts, that is, Precinct Nos. 2, 4, 6, etc. This is on the assumption that the LDP or as a party within a registered Political Coalition becomes a recognized and denominated as a Dormant Minority Party under the Election Laws. The two LDP ‘Wings’ are further entitled to and be accorded the rights and privileges with corresponding legal obligations under Election Laws.

“SO ORDERED.”

Claiming that the Resolution was issued with grave abuse of discretion, petitioner Angara filed the instant Petition for Certiorari.

The contending parties raise the issue as to who between the petitioner, as LDP Chairman, and the respondent, as LDP Secretary General, shall nominate its official candidates in the coming national elections.

Undoubtedly, this is to me a purely internal party concern, the determination of which rests solely within the party itself, in the absence of statutes giving the courts jurisdiction over the same. The party has its own machinery to govern such conflict. Consequently, this Court cannot step into such private turf and dictate on the LDP party members who should be their official candidate for president. In *Sinaca vs. Mula*,[13] this Court en banc, through

Chief Justice Hilario G. Davide, Jr., ruled:

“We also agree with the contention of EMMANUEL (Sinaca) that the decision as to which member a party shall nominate as its candidate is a party concern which is not cognizable by the courts.

“A political party has the right to identify the people who constitute the association and to select a standard bearer who best represents the party’s ideologies and preference (see 26 AM Jur 2d, Elections Sec. 255, 67). Political parties are generally free to conduct their internal affairs free from judicial supervision; this common-law principle of judicial restraint, rooted in the constitutionally protected right of free association, serves the public interest by allowing the political processes to operate without undue interference (Nielsen v. Kezer, 232 Conn 65, 652 A2d 1013). Thus, the rule is that the determination of disputes as to party nominations rests with the party, in the absence of statutes giving the courts jurisdiction (Hunt v. Superior Court, 64 Ariz 325, 170 P2d 293. See also O’niel v. O’Connell, 300 Ky 707, 189 Sw2d 965, 169 ALR 1271, holding that courts have no power in the absence of a statute conferring jurisdiction to interfere with operations of a political party).

”Quintessentially, where there us no controlling statute or clear legal right involved, the court will not assume jurisdiction to determine factional controversies within a political party, but will leave the matter for determination by the proper tribunals of the party itself or by the electors at the polls (25 Am Jur 2d, elections Sec. 205, 982). Similarly, in the absence of specific constitutional or legislative regulations defining how nominations are to be made, or prohibiting nominations from being made in certain ways, political parties may handle party affairs, including nominations, in such manner as party rules may establish (Tucker v. State Board of Alcoholic Control, 240 NC 177, 81 SE 2d 399; Brewster v. Massey [Tex Civ App] 232 SW2d 678).” (Underscoring ours)

In fine, we should not assume jurisdiction over the petition, the issue here being purely an internal party matter not cognizable by this Court.

ACCORDINGLY, I vote to DISMISS the instant petition.

[1] Annex “A” of respondent Aquino’s Answer (to petitioner Angara) filed with the COMELEC.

[2] Paragraph 3 of respondent Aquino’s Answer.

[3] Annex “B” of Petition.

[4] Annex “A” of Manifestation.

[5] Annex “B” of respondent Aquino’s Answer (to Petition of petitioner Angara) filed with the COMELEC.

[6] Annex “C,” id.

[7] Annex “D” of respondent Aquino’s Comment (on the present Petition).

[8] Annex “C” of Petition.

[9] Annex “G,” id.

[10] Annex “D,” id.

[11] Annex “H,” id.

[12] Annex “A,” id.

[13] G.R. No. 135691, September 27, 1999, 315 SCRA 266.

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