

AKLAT-ASOSASYON PARA SA KAUNLARAN NG LIPUNAN AT ADHIKAIN PARA SA TAO, INC., PETITIONER, VS. COMMISSION ON ELECTIONS (COMELEC), RESPONDENT.

G.R. No. 162203. April 14, 2004

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TINGA, J.:

For resolution is the Petition[1] for certiorari and mandamus filed by Aklat-Asosasyon Para Sa Kaunlaran Ng Lipunan At Adhikain Para Sa Tao, Inc. (Aklat) assailing the Commission on Elections (Comelec) Resolution[2] dated January 8, 2004, which dismissed its Petition[3] for re-qualification as a party-list organization, and the Resolution[4] dated February 13, 2004, which denied its Motion for Reconsideration.[5]

Briefly, the facts are as follows:

On November 20, 2003, Aklat filed a Petition for declaration of re-qualification as a party-list organization for purposes of the May 2004 elections. It alleged in its petition that it participated in the 2001 elections but was disqualified by the Comelec as it was found not to have complied with the guidelines set by the Court in the case of *Ang Bagong Bayani-OFW Labor Party v. Comelec (Bagong Bayani case)*[6] for party-list organizations to qualify and participate as such in the party-list elections. Accordingly, Aklat “re-organized itself in order that it will comply with the 8-point guidelines enunciated by the Supreme Court”[7] in the said case.

In its assailed Resolution dated January 8, 2004, the Comelec dismissed the petition stating that Aklat cannot be considered as an organization representing the marginalized and underrepresented groups as identified under Section 5 of Republic Act No. 7941 (R.A. 7941). According to the Comelec, Aklat’s statement that it has re-organized itself does not cure this defect as “there is nothing in the petition which will help us identify what particular marginalized and underrepresented group AKLAT is now representing.”[8] Further, the Comelec held that “AKLAT lumped all the sectoral groups imaginable under the classification of regular members just to convince us that it is now cured of its defect.”[9]

On January 15, 2004, Aklat filed a Motion for Reconsideration dated January 14, 2004, substantially averring that it has reorganized itself and taken the necessary steps to make it an organization of, by and for the marginalized and underrepresented groups of society, particularly the indigenous cultural communities and the youth. To this end, it has allegedly effected a fundamental change in its purposes as an organization, nature of its membership and focus of its programs.[10]

The Comelec denied the motion in its questioned Resolution dated February 13, 2004, on three grounds, namely: the petition was filed beyond the deadline set by the Comelec in Resolution No. 6320 for registration of party-list organizations; the petition was not one for re-qualification as Aklat was never a registered party-list organization having failed to meet the eight-point guidelines set by the Court in the *Bagong Bayani case*; and that its decision not to extend the deadline for registration of party-list organizations is valid, the Comelec being in the best position to make such a determination.[11]

In the instant Petition, Aklat asserts that under Section 5 of R.A. 7941, petitions for registration as a party-list organization may be filed not later than ninety (90) days before the elections. It therefore had until February 10, 2004, the ninetieth (90th) day before the elections on May 10, 2004, within which to file its petition. Hence, its petition, which was filed on November 20, 2003, was filed within the allowed period. Section 5 of Resolution No. 6320[12] which requires the filing of such petitions not later than September 30, 2003, is null and void as it amends R.A. 7941.

It further maintains that it has complied with the eight-point guidelines set in the Bagong Bayani case. Allegedly, Aklat has a total membership of over 4,000 persons who belong to the marginalized and underrepresented groups. It has established information and coordination centers throughout the country for the benefit and in representation of indigenous cultural communities, farm and factory workers including fisherfolk and the youth. Aklat also asserts that it is different from Asosasyon Para sa Kaunlaran ng Industria ng Aklat (A.K.L.A.T.) which was previously de-registered by the Comelec. Because of all these, Aklat contends that the Comelec gravely abused its discretion when it denied its petition for re-qualification.

The Office of the Solicitor General (OSG) filed a Comment dated March 26, 2004, stating that the Comelec did not commit grave abuse of discretion in issuing the assailed Resolutions. According to the OSG, Resolution No. 6320 is not in conflict with and is, in fact, germane to the purpose of R.A. 7941. It was within the scope of the authority granted to the Comelec that it issued Resolution No. 6320 setting the deadline for filing petitions for registration under the party-list system on September 30, 2003. In line with the purpose of R.A. 7941 to enable marginalized sectors to actively participate in legislation, the Comelec must be given sufficient time to evaluate all petitions for registration, at the same time allowing oppositions to be filed to the end that only those truly qualified may be accredited under the party-list system. Besides, Republic Act No. 8436[13] allows the Comelec to change the periods and dates prescribed by law for certain pre-election acts to ensure their accomplishment.

The OSG further maintains that the petition for re-qualification failed to comply with the provisions of Resolution No. 6320. According to the OSG, the petition was not properly verified there being no showing that Mr. Dominador Buhain, the signatory of the verification and certification of non-forum shopping, was duly authorized by Aklat to verify or cause the preparation and filing of the petition on its behalf. Moreover, Aklat was registered with the Securities and Exchange Commission only on October 20, 2003, a month before it filed its petition for re-qualification. Hence, it has not existed for a period of at least one (1) year prior to the filing of the petition as required by Section 6 of Resolution No. 6320. The OSG also points out that Aklat failed to support its petition with the documents required under Section 7 of Resolution No. 6320, namely: a list of its officers and members particularly showing that the majority of its membership belongs to the marginalized and underrepresented sectors it seeks to represent, and a track record or summary showing that it represents and seeks to uplift the marginalized and underrepresented sectors of society.

Moreover, the OSG notes that the incorporators and directors of Aklat are invariably known as pillars of the book publishing industry or authors. Hence, even as re-organized, Aklat remains to be an association of authors, book publishers, and publishing companies, rather than the organization of indigenous cultural communities, farm and factory workers, fisherfolk and youth it claims to be.

For its part, the Comelec filed a Comment dated March 29, 2004, stating that the period of ninety (90) days prescribed in R.A. 7941 refers to the prohibitive period beyond which petitions for registration may no longer be filed. Furthermore, the documents submitted by Aklat do not prove that its members belong to the marginalized and underrepresented sectors of society.

Aklat's contention that Resolution No. 6320 is null and void as it amends and amplifies R.A. 7941 deserves scant

consideration. R.A. 7941 provides:

Sec. 5. Registration.—Any organized group of persons may register as a party, organization or coalition for purposes of the party-list system by filing with the COMELEC not later than ninety (90) days before the election a petition verified by its president or secretary stating its desire to participate in the party-list system as a national, regional or sectoral party or organization or a coalition of such parties or organizations, attaching thereto its constitution, by-laws, platform or program of government, list of officers, coalition agreement and other relevant information as the COMELEC may require: Provided, That the sectors shall include labor, peasant, fisherfolk, urban poor, indigenous cultural communities, elderly, handicapped, women, youth, veterans, overseas workers, and professionals...[Italics supplied.]

By its wording, R.A. 7941 itself supports the Comelec's position that the period stated therein refers to the prohibitive period beyond which petitions for registration should no longer be filed nor entertained. Put otherwise, it is simply the minimum countback period which is not subject to reduction since it is prescribed by law, but it is susceptible of protraction on account of administrative necessities and other exigencies perceived by the poll body.

Verily, the Comelec has the power to promulgate the necessary rules and regulations to enforce and administer election laws. This power includes the determination, within the parameters fixed by law, of appropriate periods for the accomplishment of certain pre-election acts like filing petitions for registration under the party-list system. This is exactly what the Comelec did when it issued its Resolution No. 6320 declaring September 30, 2003, as the deadline for filing petitions for registration under the party-list system. Considering these, as well as the multifarious pre-election activities that the Comelec is mandated to undertake, the issuance of its Resolution No. 6320 cannot be considered tainted with grave abuse of discretion.

Neither is there grave abuse of discretion in the Comelec's denial of Aklat's petition on the ground that it failed to substantiate its claim that it represents the marginalized and underrepresented sectors of society. It should be noted that it was Aklat which asserted in its petition before the poll body that it has re-organized and is now applying for re-qualification after its de-registration for failure to comply with the guidelines set forth in the Bagong Bayani case. Thus, the Comelec cannot be faulted for relying on its earlier finding, absent any evidence in Aklat's petition to the contrary, that Aklat is not an organization representing the marginalized and underrepresented sectors, but is actually a business interest or economic lobby group which seeks the promotion and protection of the book publishing industry.

Significantly, Aklat and A.K.L.A.T. have substantially the same incorporators. In fact, four (4) of Aklat's six (6) incorporators[14] are also incorporators of A.K.L.A.T.[15] This substantial similarity is hard to ignore and bolsters the conclusion that the supposed re-organization undertaken by Aklat is plain window-dressing as it has not really changed its character as a business interest of persons in the book publishing industry.

The Court observes that Aklat's articles of incorporation and document entitled The Facts About Aklat which were attached to its petition for re-qualification contain general averments that it supposedly represents marginalized groups such as the youth, indigenous communities, urban poor and farmers/fisherfolk. These general statements do not measure up to the first guideline set by the Bagong Bayani case for screening party-list participants, i.e., that "the political party, sector, organization or coalition must represent the marginalized and underrepresented groups identified in Section 5 of R.A. 7941. In other words, it must show—through its constitution, articles of incorporation, bylaws, history, platform of government and track record—that it represents and seeks to uplift marginalized and underrepresented sectors. Verily, majority of its membership should belong to the marginalized and underrepresented. And it must demonstrate that in a conflict of interests, it has chosen or is likely to choose the interest of such sectors." [16]

In this regard, the Court notes with approval the OSG's contention that Aklat has no track record to speak of concerning its representation of marginalized and underrepresented constituencies considering that it has been in existence for only a month prior to the filing of its petition for re-qualification.

It should finally be emphasized that the findings of fact by the Comelec, or any other administrative agency exercising particular expertise in its field of endeavor, are binding on the Supreme Court.[17]

In view of the foregoing, the Comelec can, by no means, be held to have committed grave abuse of discretion to justify the setting aside of the assailed Resolutions.

ACCORDINGLY, the Petition is DISMISSED.

SO ORDERED.

Davide, Jr., C.J., Puno, Vitug, Panganiban, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Carpio-Morales, Callejo, Sr., and Azcuna, JJ., concur.

[1] Rollo, pp. 3-34.

[2] Id. at 38-41, Annex A of the Petition.

[3] Id. at 68-77, Annex D of the Petition.

[4] Id. at 42-48, Annex B of the Petition.

[5] Id. at 111-125, Annex E of the Petition.

[6] G.R. No. 147589, June 26, 2001, 359 SCRA 698.

[7] Supra, note 3 at 69-70.

The guidelines for screening party-list participants, as enunciated in the Bagong Bayani case, are as follows:

“First, the political party, sector, organization or coalition must represent the marginalized and underrepresented groups identified in Section 5 of RA 7941. In other words, it must show¾ through its constitution, articles of incorporation, bylaws, history, platform of government and track record¾ that it represents and seeks to uplift marginalized and underrepresented sectors. Verily, majority of its membership should belong to the marginalized and underrepresented. And it must demonstrate that in a conflict of interests, it has chosen or is likely to choose the interest of such sectors.

Second, while even major political parties are expressly allowed by RA 7941 and the Constitution to participate in the party-list system, they must comply with the declared statutory policy of enabling “Filipino citizens belonging to marginalized and underrepresented sectors x x x to be elected to the House of Representatives.” In other words, while they are not disqualified merely on the ground that they are political parties, they must show, however, that they represent the interests of the marginalized and underrepresented. . .

Third, the religious sector may not be represented in the party-list system. . .

Fourth, a party or an organization must not be disqualified under Section 6 of RA 7941. . .

Fifth, the party or organization must not be an adjunct of, or a project organized or an entity funded or assisted by, the government. . .

Sixth, the party must not only comply with the requirements of the law; its nominees must likewise do so. . .

Seventh, not only the candidate party or organization must represent marginalized and underrepresented sectors; so also must its nominees. To repeat, under Section 2 of RA 7941, the nominees must be Filipino citizens “who belong to marginalized and underrepresented sectors, organizations and parties.” . . .

Eight, as previously discussed, while lacking a well-defined political constituency, the nominee must likewise be able to contribute to the formulation and enactment of appropriate legislation that will benefit the nation as a whole. . . .”

Ang Bagong Bayani-OFW Labor Party v. COMELEC, supra, pp. 727-731.

[8] Supra, note 2 at 40.

[9] Id. at 41.

[10] Supra, note 5 at 115-116.

[11] Supra, note 4.

[12] “Sec. 5. When to file petition for registration and manifestation to participate.—a) Petitions for registration shall be filed not later than September 30, 2003; and b) Manifestations to participate in the party-list election shall be filed not later than January 11, 2004.” Comelec Resolution No. 6320.

[13] “Sec. 28. Designation of other Dates for Certain Pre-election Acts. If it shall no longer be reasonably possible to observe the periods and the dates prescribed by law for certain pre-election acts, the Commission shall fix other periods and dates in order to ensure accomplishment of the activities so voters shall not be deprived of their suffrage.” R.A. 8436.

[14] Supra, note 1 at 53, Articles of Incorporation of Aklat.

[15] Id. at 134, Articles of Incorporation of A.K.L.A.T.

[16] Supra, note 7.

[17] Dumayas v. Comelec, G.R. Nos. 141952-53, April 20, 2001, 357 SCRA 358, citing Cordero v. Comelec, 310 SCRA 118, citing Grego v. Comelec, 274 SCRA 481; Phil. Savings Bank v. NLRC, 261 SCRA 409; and Navarro v. Comelec, 228 SCRA 596.

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