BANTAY REPUBLIC ACT OR BA-RA 7941, REPRESENTED BY MR. AMEURFINO E. CINCO, CHAIRMAN, AND URBAN POOR FOR LEGAL REFORMS (UP-LR), REPRESENTED BY MRS. MYRNA P. PORCARE, SECRETARY-GEN...

G.R. No. 177271. May 04, 2007

Ponente: GARCIA, J.

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GARCIA, J.:

Before the Court are these two consolidated petitions for certiorari and mandamus to nullify and set aside certain issuances of the Commission on Elections (Comelec) respecting party-list groups which have manifested their intention to participate in the party-list elections on May 14, 2007.

In the first petition, docketed as G.R. No. 177271, petitioners Bantay Republic Act (BA-RA 7941, for short) and the Urban Poor for Legal Reforms (UP-LR, for short) assail the various Comelec resolutions accrediting private respondents Biyaheng Pinoy et al., to participate in the forthcoming party-list elections on May 14, 2007 without simultaneously determining whether or not their respective nominees possess the requisite qualifications defined in Republic Act (R.A.) No. 7941, or the "Party-List System Act" and belong to the marginalized and underrepresented sector each seeks to represent. In the second, docketed as G.R. No. 177314, petitioners Loreta Ann P. Rosales, Kilosbayan Foundation and Bantay Katarungan Foundation impugn Comelec Resolution 07-0724 dated April 3, 2007 effectively denying their request for the release or disclosure of the names of the nominees of the fourteen (14) accredited participating party-list groups mentioned in petitioner Rosales' previous letter-request.

While both petitions commonly seek to compel the Comelec to disclose or publish the names of the nominees of the various party-list groups named in the petitions,[1] the petitioners in G.R. No. 177271 have the following additional prayers: 1) that the 33 private respondents named therein be "declare[d] as unqualified to participate in the party-list elections as sectoral organizations, parties or coalition for failure to comply with the guidelines prescribed by the [Court] in [Ang Bagong Bayani v. Comelec[2]]" and, 2) correspondingly, that the Comelec be enjoined from allowing respondent groups from participating in the May 2007 elections.

In separate resolutions both dated April 24, 2007, the Court en banc required the public and private respondents to file their respective comments on the petitions within a non-extendible period of five (5) days from notice. Apart from respondent Comelec, seven (7) private respondents[3] in G.R. No. 177271 and one party-list group[4] mentioned in G.R. No. 177314 submitted their separate comments. In the main, the separate comments of the private respondents focused on the untenability and prematurity of the plea of petitioners BA-RA 7941 and UP-LR to nullify their accreditation as party-list groups and thus disqualify them and their respective nominees from participating in the May 14, 2007 party-list elections.

The facts:

On January 12, 2007, the Comelec issued Resolution No. 7804 prescribing rules and regulations to govern the

filing of manifestation of intent to participate and submission of names of nominees under the party-list system of representation in connection with the May 14, 2007 elections. Pursuant thereto, a number of organized groups filed the necessary manifestations. Among these - and ostensibly subsequently accredited by the Comelec to participate in the 2007 elections - are 14 party-list groups, namely: (1) BABAE KA; (2) ANG KASANGGA; (3) AKBAY PINOY; (4) AKSA; (5) KAKUSA; (6) AHON PINOY; (7) OFW PARTY; (8) BIYAHENG PINOY; (9) ANAD; (10) AANGAT ANG KABUHAYAN; (11) AGBIAG; (12) BANAT; (13) BANTAY LIPAD; (14) AGING PINOY. Petitioners BA-RA 7941 and UP-LR presented a longer, albeit an overlapping, list.

Subsequent events saw BA-RA 7941 and UP-LR filing with the Comelec an Urgent Petition to Disqualify, thereunder seeking to disqualify the nominees of certain party-list organizations. Both petitioners appear not to have the names of the nominees sought to be disqualified since they still asked for a copy of the list of nominees. Docketed in the Comelec as SPA Case No 07-026, this urgent petition has yet to be resolved.

Meanwhile, reacting to the emerging public perception that the individuals behind the aforementioned 14 party-list groups do not, as they should, actually represent the poor and marginalized sectors, petitioner Rosales, in G.R. No. 177314, addressed a letter[5] dated March 29, 2007 to Director Alioden Dalaig of the Comelecï¿½s Law Department requesting a list of that groupsï¿½ nominees. Another letter[6] of the same tenor dated March 31, 2007 followed, this time petitioner Rosales impressing upon Atty. Dalaig the particular urgency of the subject request.

Neither the Comelec Proper nor its Law Department officially responded to petitioner Rosalesï¿½ requests. The April 13, 2007 issue of the Manila Bulletin, however, carried the front-page banner headline "COMELEC WON'T BARE PARTY-LIST NOMINEES",[7] with the following sub-heading: "Abalos says party-list polls not personality oriented."

On April 16, 2007, Atty. Emilio Capulong, Jr. and ex-Senator Jovito R. Salonga, in their own behalves and as counsels of petitioner Rosales, forwarded a letter[8] to the Comelec formally requesting action and definitive decision on Rosalesï¿½ earlier plea for information regarding the names of several party-list nominees. Invoking their constitutionally-guaranteed right to information, Messrs. Capulong and Salonga at the same time drew attention to the banner headline adverted to earlier, with a request for the Comelec, "collectively or individually, to issue a formal clarification, either confirming or denying " the banner headline and the alleged statement of Chairman Benjamin Abalos, Sr. xxx" Evidently unbeknownst then to Ms. Rosales, et al., was the issuance of Comelec en banc Resolution 07-0724[9] under date April 3, 2007 virtually declaring the nominees' names confidential and in net effect denying petitioner Rosales' basic disclosure request. In its relevant part, Resolution 07-0724 reads as follows:

> RESOLVED, moreover, that the Commission will disclose/publicize the names of party-list nominees in connection with the May 14, 2007 Elections only after 3:00 p.m. on election day.
>
> Let the Law Department implement this resolution and reply to all letters addressed to the Commission inquiring on the party-list nominees. (Emphasis added.)

According to petitioner Rosales, she was able to obtain a copy of the April 3, 2007 Resolution only on April 21, 2007. She would later state the observation that the last part of the "Order empowering the Law Department to 'implement this resolution and reply to all letters ... inquiring on the party-list nominees' is apparently a fool-proof bureaucratic way to distort and mangle the truth and give the impression that the antedated Resolution of April 3, 2007 ... is the final answer to the two formal requests ... of Petitioners".[10]

The herein consolidated petitions are cast against the foregoing factual setting, albeit petitioners BA-RA 7941 and UP-LR appear not to be aware, when they filed their petition on April 18, 2007, of the April 3, 2007 Comelec

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Resolution 07-0724.

To start off, petitioners BA-RA 7941 and UP-LR would have the Court cancel the accreditation accorded by the Comelec to the respondent party-list groups named in their petition on the ground that these groups and their respective nominees do not appear to be qualified. In the words of petitioners BA-RA 7941 and UP-LR, Comelec -

> xxx committed grave abuse of discretion ... when it granted the assailed accreditations even without simultaneously determining whether the nominees of herein private respondents are qualified or not, or whether or not the nominees are likewise belonging to the marginalized and underrepresented sector they claim to represent in Congress, in accordance with No. 7 of the eight-point guidelines prescribed by the Honorable Supreme in the Ang Bagong Bayani[11] case which states that, "not only the candidate party or organization must represent marginalized and underrepresented sectors; so also must its nominees." In the case of private respondents, public respondent Comelec granted accreditations without the required simultaneous determination of the qualification of the nominees as part of the accreditation process of the party-list organization itself. (Words in bracket added; italization in the original)[12]

The Court is unable to grant the desired plea of petitioners BA-RA 7941 and UP-LR for cancellation of accreditation on the grounds thus advanced in their petition. For, such course of action would entail going over and evaluating the qualities of the sectoral groups or parties in question, particularly whether or not they indeed represent marginalized/underrepresented groups. The exercise would require the Court to make a factual determination, a matter which is outside the office of judicial review by way of special civil action for certiorari. In certiorari proceedings, the Court is not called upon to decide factual issues and the case must be decided on the undisputed facts on record.[13] The sole function of a writ of certiorari is to address issues of want of jurisdiction or grave abuse of discretion and does not include a review of the tribunal's evaluation of the evidence.[14]

Not lost on the Court of course is the pendency before the Comelec of SPA Case No. 07-026 in which petitioners BA-RA 7941 and UP-LR themselves seek to disqualify the nominees of the respondent party-list groups named in their petition.

Petitioners BA-RA 7941ï¿½s and UP-LR's posture that the Comelec committed grave abuse of discretion when it granted the assailed accreditations without simultaneously determining the qualifications of their nominees is without basis. Nowhere in R.A. No. 7941 is there a requirement that the qualification of a party-list nominee be determined simultaneously with the accreditation of an organization. And as aptly pointed out by private respondent Babae Para sa Kaunlaran (Babae Ka), Section 4 of R.A. No. 7941 requires a petition for registration of a party-list organization to be filed with the Comelec "not later than ninety (90) days before the election" whereas the succeeding Section 8 requires the submission "not later than forty-five (45) days before the election" of the list of names whence party-list representatives shall be chosen.

Now to the other but core issues of the case. The petition in G.R. No. 177314 formulates and captures the main issues tendered by the petitioners in these consolidated cases and they may be summarized as follows:

> - Whether respondent Comelec, by refusing to reveal the names of the nominees of the various party-list groups, has violated the right to information and free access to documents as guaranteed by the Constitution; and
>
> - Whether respondent Comelec is mandated by the Constitution to disclose to the public the names of said nominees.

While the Comelec did not explicitly say so, it based its refusal to disclose the names of the nominees of subject party-list groups on Section 7 of R.A. 7941. This provision, while commanding the publication and the posting in

polling places of a certified list of party-list system participating groups, nonetheless tells the Comelec not to show or include the names of the party-list nominees in said certified list. Thus:

> SEC. 7. Certified List of Registered Parties.-The COMELEC shall, not later than sixty (60) days before election, prepare a certified list of national, regional, or sectoral parties, organizations or coalitions which have applied or who have manifested their desire to participate under the party-list system and distribute copies thereof to all precincts for posting in the polling places on election day. The names of the party-list nominees shall not be shown on the certified list. (Emphasis added.)

And doubtless part of Comelec's reason for keeping the names of the party list nominees away from the public is deducible from the following excerpts of the news report appearing in the adverted April 13, 2007 issue of the Manila Bulletin:

> The Commission on Elections (COMELEC) firmed up yesterday its decision not to release the names of nominees of sectoral parties, organizations, or coalitions accredited to participate in the party-list election which will be held simultaneously with the May 14 mid-term polls.
>
> COMELEC Chairman Benjamin S. Abalos, Sr. ... said he and [the other five COMELEC] Commissioners --- believe that the party list elections must not be personality oriented.
>
> Abalos said under [R.A.] 7941 ..., the people are to vote for sectoral parties, organizations, or coalitions, not for their nominees.
>
> He said there is nothing in R.A. 7941 that requires the Comelec to disclose the names of nominees. xxx (Words in brackets and emphasis added)

Insofar as the disclosure issue is concerned, the petitions are impressed with merit.

Assayed against the non-disclosure stance of the Comelec and the given rationale therefor is the right to information enshrined in the self-executory[15] Section 7, Article III of the Constitution, viz:

> Sec.7. The right of the people to information on matters of public concern shall be recognized. Access to official records, and to documents, and papers pertaining to official acts, transactions, or decisions, as well to government research data used as basis for policy development, shall be afforded the citizen, subject to such limitations as may be provided by law.

Complementing and going hand in hand with the right to information is another constitutional provision enunciating the policy of full disclosure and transparency in Government. We refer to Section 28, Article II of the Constitution reading:

> Sec. 28. Subject to reasonable conditions prescribed by law, the State adopts and implements a policy of full public disclosure of all its transactions involving public interest.

The right to information is a public right where the real parties in interest are the public, or the citizens to be precise. And for every right of the people recognized as fundamental lies a corresponding duty on the part of those who govern to respect and protect that right. This is the essence of the Bill of Rights in a constitutional regime.[16] Without a government's acceptance of the limitations upon it by the Constitution in order to uphold individual liberties, without an acknowledgment on its part of those duties exacted by the rights pertaining to the citizens, the Bill of Rights becomes a sophistry.

By weight of jurisprudence, any citizen can challenge any attempt to obstruct the exercise of his right to information and may seek its enforcement by mandamus.[17] And since every citizen by the simple fact of his citizenship possesses the right to be informed, objections on ground of locus standi are ordinarily unavailing.[18]

Like all constitutional guarantees, however, the right to information and its companion right of access to official records are not absolute. As articulated in Legaspi, supra, the people's right to know is limited to "matters of public concern" and is further subject to such limitation as may be provided by law. Similarly, the policy of full disclosure is confined to transactions involving "public interest" and is subject to reasonable conditions prescribed by law. Too, there is also the need of preserving a measure of confidentiality on some matters, such as military, trade, banking and diplomatic secrets or those affecting national security.[19]

The terms "public concerns" and "public interest" have eluded precise definition. But both terms embrace, to borrow from Legaspi, a broad spectrum of subjects which the public may want to know, either because these directly affect their lives, or simply because such matters naturally whet the interest of an ordinary citizen. At the end of the day, it is for the courts to determine, on a case to case basis, whether or not at issue is of interest or importance to the public.

If, as in Legaspi, it was the legitimate concern of a citizen to know if certain persons employed as sanitarians of a health department of a city are civil service eligibles, surely the identity of candidates for a lofty elective public office should be a matter of highest public concern and interest.

As may be noted, no national security or like concerns is involved in the disclosure of the names of the nominees of the party-list groups in question. Doubtless, the Comelec committed grave abuse of discretion in refusing the legitimate demands of the petitioners for a list of the nominees of the party-list groups subject of their respective petitions. Mandamus, therefore, lies.

The last sentence of Section 7 of R.A. 7941 reading: "[T]he names of the party-list nominees shall not be shown on the certified list" is certainly not a justifying card for the Comelec to deny the requested disclosure. To us, the prohibition imposed on the Comelec under said Section 7 is limited in scope and duration, meaning, that it extends only to the certified list which the same provision requires to be posted in the polling places on election day. To stretch the coverage of the prohibition to the absolute is to read into the law something that is not intended. As it were, there is absolutely nothing in R.A. No. 7941 that prohibits the Comelec from disclosing or even publishing through mediums other than the "Certified List" the names of the party-list nominees. The Comelec obviously misread the limited non-disclosure aspect of the provision as an absolute bar to public disclosure before the May 2007 elections. The interpretation thus given by the Comelec virtually tacks an unconstitutional dimension on the last sentence of Section 7 of R.A. No. 7941.

The Comelecï¿½s reasoning that a party-list election is not an election of personalities is valid to a point. It cannot be taken, however, to justify its assailed non-disclosure stance which comes, as it were, with a weighty presumption of invalidity, impinging, as it does, on a fundamental right to information.[20] While the vote cast in a party-list elections is a vote for a party, such vote, in the end, would be a vote for its nominees, who, in appropriate cases, would eventually sit in the House of Representatives.

The Court is very much aware of newspaper reports detailing the purported reasons behind the Comelecï¿½s disinclination to release the names of party-list nominees. It is to be stressed, however, that the Court is in the business of dispensing justice on the basis of hard facts and applicable statutory and decisional laws. And lest it be overlooked, the Court always assumes, at the first instance, the presumptive validity and regularity of official acts of government officials and offices.

It has been repeatedly said in various contexts that the people have the right to elect their representatives on the basis of an informed judgment. Hence the need for voters to be informed about matters that have a bearing on their choice. The ideal cannot be achieved in a system of blind voting, as veritably advocated in the assailed resolution of the Comelec. The Court, since the 1914 case of Gardiner v. Romulo,[21] has consistently made it

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clear that it frowns upon any interpretation of the law or rules that would hinder in any way the free and intelligent casting of the votes in an election.[22] So it must be here for still other reasons articulated earlier.

In all, we agree with the petitioners that respondent Comelec has a constitutional duty to disclose and release the names of the nominees of the party-list groups named in the herein petitions.

WHEREFORE, the petition in G.R. No. 177271 is partly DENIED insofar as it seeks to nullify the accreditation of the respondents named therein. However, insofar as it seeks to compel the Comelec to disclose or publish the names of the nominees of party-list groups, sectors or organizations accredited to participate in the May 14, 2007 elections, the same petition and the petition in G.R. No. 177314 are GRANTED. Accordingly, the Comelec is hereby ORDERED to immediately disclose and release the names of the nominees of the party-list groups, sectors or organizations accredited to participate in the May 14, 2007 party-list elections. The Comelec is further DIRECTED to submit to the Court its compliance herewith within five (5) days from notice hereof.

This Decision is declared immediately executory upon its receipt by the Comelec.

No pronouncement as to cost.

SO ORDERED.

Puno, C.J., Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Azcuna, Tinga, Chico-Nazario, Velasco, Jr., and Nachura, JJ., concur.
Austria-Martinez, and Corona, JJ., on leave.
Carpio-Morales, J., I certify that J. Morales voted in favor of the Decision. -CJ RSPuno

[1] At least nine (9) party-list groups subject of the second petition are respondents in the first petition.

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

[3] ABS, Babae Ka, PEP, ANC, FPJPM, AAPS, AANGAT ka Pilipino and KALAHI.

[4] AKSA.

[5] Annex "E," of Petition in G.R. No. 177314.

[6] Annex "F," of Petition in G.R. No. 177314.

[7] Petition (G.R. 177314), p. 8.

[8] Annex "G," of Petition in G.R. No. 177314.

[9] Annex "B," of Petition in G.R. No. 177314.

[10] Petition in G.R. SP. No.177314, p. 3.

[11] Ang Bagong Bayani-OFW Labor Part v. Commission on Elections, Supra note 2.

[12] Page 5 of the petition in G. R. No. 177271.

[13] Pobre v. Gonong, G. R. No. L-60575, March 16, 1987, 148 SCRA 553.

[14] Sea Power Shipping Enterprises, Inc. v. CA, G.R. No. 138270, June 28, 2001, 360 SCRA 173; Oro v. Diaz, G.R. No. 140974, July 11, 2001, 361 SCRA 108.

[15] Gonzales v. Narvasa, G.R. No. 140835, August 14, 2000, 337 SCRA 733.

[16] Legaspi v. Civil Service Commission, G. R. No. L-72119, May 19, 1987, 150 SCRA 530, citing Cooley.

[17] Tanada v. Tuvera, G. R. No. L-63915, April 24, 1985, 136 SCRA 27.

[18] Bernas, The Constitution of the Philippines: A Commentary, 1996 ed., p. 334.

[19] Chavez v. PCGG, G.R. No. 130716, December 9, 1998, 299 SCRA 744.

[20] Ayer Productions Pty. Ltd. v. Capulong, G.R. No. L- 82380, April 29, 1988, 160 SCRA 861.

[21] G. R. No. L-8921, January 9, 1914, 26 Phil. 521.

[22] Rodriquez v. Commission on Elections, G. R. No. L-61545, December 27, 1982, 119 SCRA 465.

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