

MAGDALO PARA SA PAGBABAGO, PETITIONER, VS. COMMISSION ON ELECTIONS, RESPONDENT.

G.R. No. 190793. June 19, 2012

Ponente: SERENO, J.

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SERENO, J.:

Before this Court is a Petition for Certiorari pursuant to Rule 37, Section 1 of the Commission of Elections (COMELEC) Rules of Procedure,[1] in relation to Rules 64 and 65 of the Rules of Court, assailing the Resolutions dated 26 October 2009 and 4 January 2010 issued by the COMELEC in SPP Case No. 09-073 (PP).[2]

On 2 July 2009, Petitioner Magdalo sa Pagbabago (MAGDALO) filed its Petition for Registration with the COMELEC, seeking its registration and/or accreditation as a regional political party based in the National Capital Region (NCR) for participation in the 10 May 2010 National and Local Elections.[3] In the Petition, MAGDALO was represented by its Chairperson, Senator Antonio F. Trillanes IV, and its Secretary General, Francisco Ashley L. Acedillo (Acedillo).[4] The Petition was docketed as SPP No. 09-073 (PP) and raffled to the Second Division of the COMELEC (COMELEC–Second Division).[5]

In its Order dated 24 August 2009, the COMELEC–Second Division directed MAGDALO to cause the publication of the Petition for Registration and the said Order in three daily newspapers of general circulation, and set the hearing thereof on 3 September 2009.[6] In compliance therewith, MAGDALO caused the publication of both documents in HATAW! No. 1 sa Balita, Saksi sa Balita and BOMBA BALITA (Saksi sa Katotohanan).[7]

On 3 September 2009, a hearing was conducted in which MAGDALO (a) established its compliance with the jurisdictional requirements; (b) presented Acedillo as its witness; and (c) marked its documentary evidence in support of its Petition for Registration. The following day, MAGDALO filed its Formal Offer of Evidence.[8]

On 26 October 2009, the COMELEC–Second Division issued its Resolution denying the Petition for Registration filed by MAGDALO.[9] The relevant portions of the assailed Resolution read:

Magdalo Para sa Pagbabago should be refused registration in accordance with Art. IX-C, Section 2(5) of the Constitution. It is common knowledge that the party's organizer and Chairman, Senator Antonio F. Trillanes IV, and some members participated in the take-over of the Oakwood Premier Apartments in Ayala Center, Makati City on July 27, 2003, wherein several innocent civilian personnel were held hostage. This and the fact that they were in full battle gear at the time of the mutiny clearly show their purpose in employing violence and using unlawful means to achieve their goals in the process defying the laws of organized societies. x x x

x x x x x x x x

WHEREFORE, premises considered, this Petition is hereby DENIED.

SO ORDERED.[10] (Emphasis supplied.)

On 3 November 2009, MAGDALO filed a Motion for Reconsideration, which was elevated to the COMELEC En

Banc for resolution.[11]

Meanwhile, on 27 November 2009, MAGDALO filed a Manifestation of Intent to Participate in the Party-List System of Representation in the 10 May 2010 Elections (Manifestation of Intent), in which it stated that its membership includes “[f]ormer members of the Armed Forces of the Philippines (AFP), Anti-Corruption Advocates, Reform-minded citizens.”[12] Thereafter, on 30 November 2009, it filed its Amended Manifestation, which bore the following footnote: [13]

With all due respect to the Honorable Commission, the MAGDALO PARA SA PAGBABAGO (“MAGDALO”) manifests that the instant MANIFESTATION is being filed ex abutanti (sic) cautelam (out of the abundance of caution) only and subject to the outcome of the resolution of the Motion for Reconsideration filed by Magdalo in SPP No. 09-073 (PP) from the Resolution dated 26 October 2009 of the Second Division of the Honorable Commission denying its Petition for Registration/Accreditation as a Political Party based in the National Capital Region [NCR], which motion is still pending the (sic) Honorable Commission En Banc. It is not in any way intended to preempt the ruling of the Honorable Commission but merely to preserve the possibility of pursuing the Party’s participation in the Party-List System of Representation in the eventuality that their Petition is approved.

Thereafter, MAGDALO filed a Manifestation and Motion for Early Resolution dated 23 December 2009, in which it clarified its intention to participate in the 10 May 2010 National and Local Elections as a party-list group.[14]

In its assailed Resolution dated 4 January 2010, the COMELEC En Banc denied the Motion for Reconsideration filed by MAGDALO.[15]

In the instant Petition, MAGDALO argues that (a) the COMELEC Resolutions were not based on the record or evidence presented; (b) the Resolutions preempted the decision of the trial court in Criminal Case No. 03-2784, in which several members of the military are being tried for their involvement in the siege of the Oakwood Premier Apartments (Oakwood); and (c) it has expressly renounced the use of force, violence and other forms of unlawful means to achieve its goals. Thus, MAGDALO prays for this Court to: (a) reverse and set aside the 26 October 2009 and 4 January 2010 COMELEC Resolutions; (b) grant its Petition for Registration; and (c) direct the COMELEC to issue a Certificate of Registration.[16] The Petition likewise includes a prayer for the issuance of a Temporary Restraining Order (TRO), Writ of Preliminary Mandatory Injunction and/or Injunctive Relief to direct the COMELEC to allow MAGDALO to participate in the 10 May 2010 National and Local Elections.[17] However, this Court denied the issuance of a TRO in its Resolution dated 2 February 2010.[18]

To support the grant of reliefs prayed for, MAGDALO puts forward the following arguments:

The findings of the assailed resolutions on the basis of which the Petition was denied are based on pure speculation. The Resolutions speculated as to the alleged motives and/or intentions of the founders of petitioner Magdalo, which claims are not based on evidence but on mere conjecture and pure baseless presuppositions;

The assailed Resolutions effectively preempted the court trying the case. The subject Resolutions unfairly jumped to the conclusion that the founders of the Magdalo “committed mutiny”, “held innocent civilian personnel as hostage”, “employed violence” and “use[d] unlawful means” and “in the process defied the laws of organized society” purportedly during the Oakwood incident when even the court trying their case, [Regional Trial Court, National Capital Judicial Region, Makati City], Branch 148, has not yet decided the case against them;

– and –

The Resolution violates the constitutional presumption of innocence in favor of founders of the Magdalo and their basic right of to [sic] due process of law.[19]

On the other hand, the COMELEC asserts that it had the power to ascertain the eligibility of MAGDALO for registration and accreditation as a political party.[20] It contends that this determination, as well as that of assessing whether MAGDALO advocates the use of force, would entail the evaluation of evidence, which cannot be reviewed by this Court in a petition for certiorari.[21]

However, MAGDALO maintains that although it concedes that the COMELEC has the authority to assess whether parties applying for registration possess all the qualifications and none of the disqualifications under the applicable law, the latter nevertheless committed grave abuse of discretion in basing its determination on pure conjectures instead of on the evidence on record.[22]

Preliminary to the examination of the substantive issues, it must be discussed whether this case has been rendered moot and academic by the conduct of the 10 May 2010 National and Local Elections. Although the subject Petition for Registration filed by MAGDALO was intended for the elections on even date, it specifically asked for accreditation as a regional political party for purposes of subsequent elections.[23]

Moreover, even assuming that the registration was only for the 10 May 2010 National and Local Elections, this case nevertheless comes under the exceptions to the rules on mootness, as explained in *David v. Macapagal-Arroyo*: [24]

A moot and academic case is one that ceases to present a justiciable controversy by virtue of supervening events, so that a declaration thereon would be of no practical use or value. Generally, courts decline jurisdiction over such case or dismiss it on ground of mootness.

x x x x x x x x

The “moot and academic” principle is not a magical formula that can automatically dissuade the courts in resolving a case. Courts will decide cases, otherwise moot and academic, if: first, there is a grave violation of the Constitution; second, the exceptional character of the situation and the paramount public interest is involved; third, when [the] constitutional issue raised requires formulation of controlling principles to guide the bench, the bar, and the public; and fourth, the case is capable of repetition yet evading review.[25] (Emphasis supplied.)

The second and fourth exceptions are clearly present in the case at bar. The instant action brings to the fore matters of public concern, as it challenges the very notion of the use of violence or unlawful means as a ground for disqualification from party registration. Moreover, considering the expressed intention of MAGDALO to join subsequent elections, as well as the occurrence of supervening events pertinent to the case at bar, it remains prudent to examine the issues raised and resolve the arising legal questions once and for all.

Having established that this Court can exercise its power of judicial review, the issue for resolution is whether the COMELEC gravely abused its discretion when it denied the Petition for Registration filed by MAGDALO on the ground that the latter seeks to achieve its goals through violent or unlawful means. This Court rules in the negative, but without prejudice to MAGDALO’s filing anew of a Petition for Registration.

The COMELEC has a constitutional and statutory mandate to ascertain the eligibility of parties and organizations to participate in electoral contests. The relevant portions of the 1987 Constitution read:

ARTICLE VI – LEGISLATIVE DEPARTMENT

x x x x x x x x

Section 5. (1) The House of Representatives shall be composed of not more than two hundred and fifty

members, unless otherwise fixed by law, who shall be elected from legislative districts apportioned among the provinces, cities, and the Metropolitan Manila area in accordance with the number of their respective inhabitants, and on the basis of a uniform and progressive ratio, and those who, as provided by law, shall be elected through a party-list system of registered national, regional, and sectoral parties or organizations.

x x x x x x x x

ARTICLE IX – CONSTITUTIONAL COMMISSIONS

C. The Commission on Elections

x x x x x x x x

Section 2. The Commission on Elections shall exercise the following powers and functions:

x x x x x x x x

(5) Register, after sufficient publication, political parties, organizations, or coalitions which, in addition to other requirements, must present their platform or program of government; and accredit citizens' arms of the Commission on Elections. Religious denominations and sects shall not be registered. Those which seek to achieve their goals through violence or unlawful means, or refuse to uphold and adhere to this Constitution, or which are supported by any foreign government shall likewise be refused registration. x x x. (Emphasis supplied.)

Echoing these constitutional provisions, Batas Pambansa Bilang 881 (BP 881), otherwise known as the Omnibus Election Code, states:

Sec. 60. Political party. – “Political party” or “party,” when used in this Act, means an organized group of persons pursuing the same ideology, political ideals or platforms of government and includes its branches and divisions. To acquire juridical personality, qualify it for subsequent accreditation, and to entitle it to the rights and privileges herein granted to political parties, a political party shall first be duly registered with the Commission. Any registered political party that, singly or in coalition with others, fails to obtain at least ten percent of the votes cast in the constituency in which it nominated and supported a candidate or candidates in the election next following its registration shall, after notice and hearing, be deemed to have forfeited such status as a registered political party in such constituency.

Sec. 61. Registration. – Any organized group of persons seeking registration as a national or regional political party may file with the Commission a verified petition attaching thereto its constitution and by-laws, platforms or program of government and such other relevant information as may be required by the Commission. The Commission shall after due notice and hearing, resolve the petition within ten days from the date it is submitted for decision. No religious sect shall be registered as a political party and no political party which seeks to achieve its goal through violence shall be entitled to accreditation. (Emphasis supplied.)

On the other hand, Republic Act No. 7941, otherwise known as the Party-List System Act, reads in part:

Section 2. Declaration of policy. The State shall promote proportional representation in the election of representatives to the House of Representatives through a party-list system of registered national, regional and sectoral parties or organizations or coalitions thereof, which will enable Filipino citizens belonging to marginalized and under-represented sectors, organizations and parties, and who lack well-defined political constituencies but who could contribute to the formulation and enactment of appropriate legislation that will benefit the nation as a whole, to become members of the House of Representatives. Towards this end, the State shall develop and guarantee a full, free and open party system in order to attain the broadest possible representation of party, sectoral or group interests in the House of Representatives by enhancing their chances to compete for and win seats in the legislature, and shall provide the simplest scheme possible.

Section 3. Definition of Terms. (a) The party-list system is a mechanism of proportional representation in the

election of representatives to the House of Representatives from national, regional and sectoral parties or organizations or coalitions thereof registered with the Commission on Elections (COMELEC). Component parties or organizations of a coalition may participate independently provided the coalition of which they form part does not participate in the party-list system. (Emphasis supplied.)

Thus, to join electoral contests, a party or organization must undergo the two-step process of registration and accreditation, as this Court explained in *Liberal Party v. COMELEC*:^[26]

x x x Registration is the act that bestows juridical personality for purposes of our election laws; accreditation, on the other hand, relates to the privileged participation that our election laws grant to qualified registered parties.

x x x x x x x x

x x x Accreditation can only be granted to a registered political party, organization or coalition; stated otherwise, a registration must first take place before a request for accreditation can be made. Once registration has been carried out, accreditation is the next natural step to follow.^[27] (Emphasis supplied.)

Considering the constitutional and statutory authority of the COMELEC to ascertain the eligibility of parties or organizations seeking registration and accreditation, the pertinent question now is whether its exercise of this discretion was so capricious or whimsical as to amount to lack of jurisdiction. In view of the facts available to the COMELEC at the time it issued its assailed Resolutions, this Court rules that respondent did not commit grave abuse of discretion.

A. The COMELEC did not commit grave abuse of discretion in taking judicial notice of the Oakwood incident.

MAGDALO contends that it was grave abuse of discretion for the COMELEC to have denied the Petition for Registration not on the basis of facts or evidence on record, but on mere speculation and conjectures.^[28] This argument cannot be given any merit.

Under the Rules of Court, judicial notice may be taken of matters that are of “public knowledge, or are capable of unquestionable demonstration.”^[29] Further, Executive Order No. 292, otherwise known as the Revised Administrative Code, specifically empowers administrative agencies to admit and give probative value to evidence commonly acceptable by reasonably prudent men, and to take notice of judicially cognizable facts.^[30] Thus, in *Saludo v. American Express*,^[31] this Court explained as follows:

The concept of “facts of common knowledge” in the context of judicial notice has been explained as those facts that are “so commonly known in the community as to make it unprofitable to require proof, and so certainly known x x x as to make it indisputable among reasonable men.”^[32]

This Court has, in a string of cases, already taken judicial notice of the factual circumstances surrounding the Oakwood standoff. ^[33] The incident involved over 300 heavily armed military officers and enlisted men – led by the founding members of MAGDALO – who surreptitiously took over Oakwood in the wee hours of 27 July 2003. They disarmed the security guards and planted explosive devices around the building and within its vicinity. They aired their grievances against the administration of former President Gloria Macapagal-Arroyo (former President Arroyo), withdrew their support from the government, and called for her resignation, as well as that of her cabinet members and of the top officials of the Philippine National Police (PNP) and the Armed Forces of the Philippines (AFP). After the ensuing negotiations for these military agents to lay down their weapons, defuse the explosives and return to the barracks, the debacle came to a close at 11:00 p.m. on the same day.^[34] That the

Oakwood incident was widely known and extensively covered by the media made it a proper subject of judicial notice. Thus, the COMELEC did not commit grave abuse of discretion when it treated these facts as public knowledge,[35] and took cognizance thereof without requiring the introduction and reception of evidence thereon.

B. The COMELEC did not commit grave abuse of discretion in finding that MAGDALO uses violence or unlawful means to achieve its goals.

In the instant Petition, MAGDALO claims that it did not resort to violence when it took over Oakwood because (a) no one, either civilian or military, was held hostage; (b) its members immediately evacuated the guests and staff of the hotel; and (c) not a single shot was fired during the incident.[36] These arguments present a very narrow interpretation of the concepts of violence and unlawful means, and downplays the threat of violence displayed by the soldiers during the takeover.

Under Article IX-C, Section 2(5) of the 1987 Constitution, parties, organizations and coalitions that “seek to achieve their goals through violence or unlawful means” shall be denied registration. This disqualification is reiterated in Section 61 of B.P. 881, which provides that “no political party which seeks to achieve its goal through violence shall be entitled to accreditation.”

Violence is the unjust or unwarranted exercise of force, usually with the accompaniment of vehemence, outrage or fury.[37] It also denotes physical force unlawfully exercised; abuse of force; that force which is employed against common right, against the laws, and against public liberty.[38] On the other hand, an unlawful act is one that is contrary to law and need not be a crime, considering that the latter must still unite with evil intent for it to exist.[39]

In the present case, the Oakwood incident was one that was attended with violence. As publicly announced by the leaders of MAGDALO during the siege, their objectives were to express their dissatisfaction with the administration of former President Arroyo, and to divulge the alleged corruption in the military and the supposed sale of arms to enemies of the state.[40] Ultimately, they wanted the President, her cabinet members, and the top officials of the AFP and the PNP to resign.[41] To achieve these goals, MAGDALO opted to seize a hotel occupied by civilians, march in the premises in full battle gear with ammunitions, and plant explosives in the building. These brash methods by which MAGDALO opted to ventilate the grievances of its members and withdraw its support from the government constituted clear acts of violence.

The assertions of MAGDALO that no one was held hostage or that no shot was fired[42] do not mask its use of impelling force to take over and sustain the occupation of Oakwood. Neither does its express renunciation of the use of force, violence and other unlawful means in its Petition for Registration and Program of Government[43] obscure the actual circumstances surrounding the encounter. The deliberate brandishing of military power, which included the show of force, use of full battle gear, display of ammunitions, and use of explosive devices, engendered an alarming security risk to the public. At the very least, the totality of these brazen acts fomented a threat of violence that preyed on the vulnerability of civilians. The COMELEC did not, therefore, commit grave abuse of discretion when it treated the Oakwood standoff as a manifestation of the predilection of MAGDALO for resorting to violence or threats thereof in order to achieve its objectives.

C. The finding that MAGDALO seeks to achieve its goals through violence or unlawful means did not operate as a prejudgment of Criminal Case No. 03-2784.

MAGDALO contends that the finding of the COMELEC that the former pursues its goals through violence or unlawful means was tantamount to an unwarranted verdict of guilt for several crimes, which in effect, preempted the proceedings in Criminal Case No. 03-2784 and violated the right to presumption of innocence.[44] This argument cannot be sustained.

The power vested by Article IX-C, Section 2(5) of the Constitution and Section 61 of BP 881 in the COMELEC to register political parties and ascertain the eligibility of groups to participate in the elections is purely administrative in character.[45] In exercising this authority, the COMELEC only has to assess whether the party or organization seeking registration or accreditation pursues its goals by employing acts considered as violent or unlawful, and not necessarily criminal in nature. Although this process does not entail any determination of administrative liability, as it is only limited to the evaluation of qualifications for registration, the ruling of this Court in *Quarto v. Marcelo*[46] is nonetheless analogously applicable:

An administrative case is altogether different from a criminal case, such that the disposition in the former does not necessarily result in the same disposition for the latter, although both may arise from the same set of facts. The most that we can read from the finding of liability is that the respondents have been found to be administratively guilty by substantial evidence – the quantum of proof required in an administrative proceeding. The requirement of the Revised Rules of Criminal Procedure...that the proposed witness should not appear to be the “most guilty” is obviously in line with the character and purpose of a criminal proceeding, and the much stricter standards observed in these cases. They are standards entirely different from those applicable in administrative proceedings.[47] (Emphasis supplied.)

Further, there is a well-established distinction between the quantum of proof required for administrative proceedings and that for criminal actions, to wit:

As an administrative proceeding, the evidentiary bar against which the evidence at hand is measured is not the highest quantum of proof beyond reasonable doubt, requiring moral certainty to support affirmative findings. Instead, the lowest standard of substantial evidence, that is, such relevant evidence as a reasonable mind will accept as adequate to support a conclusion, applies.[48] (Emphasis omitted.)

In the case at bar, the challenged COMELEC Resolutions were issued pursuant to its administrative power to evaluate the eligibility of groups to join the elections as political parties, for which the evidentiary threshold of substantial evidence is applicable. In finding that MAGDALO resorts to violence or unlawful acts to fulfil its organizational objectives, the COMELEC did not render an assessment as to whether the members of petitioner committed crimes, as respondent was not required to make that determination in the first place. Its evaluation was limited only to examining whether MAGDALO possessed all the necessary qualifications and none of disqualifications for registration as a political party. In arriving at its assailed ruling, the COMELEC only had to assess whether there was substantial evidence adequate to support this conclusion.

On the other hand, Criminal Case No. 03-2784 is a criminal action charging members of MAGDALO with coup d'état following the events that took place during the Oakwood siege. As it is a criminal case, proof beyond reasonable doubt is necessary. Therefore, although the registration case before the COMELEC and the criminal case before the trial court may find bases in the same factual circumstances, they nevertheless involve entirely separate and distinct issues requiring different evidentiary thresholds. The COMELEC correctly ruled thus:

It is at once apparent that that [sic] the proceedings in and the consequent findings of the Commission (Second Division) in the subject resolution did not pre-empt the trial and decision of the court hearing the cases of the Magdalo members. These are two different processes. The proceedings in the Commission is [sic] a petition for registration of Magdalo as a political party and the Commission is empowered to ascertain facts and circumstances relative to this case. It is not criminal in nature unlike the court case of the Magdalo founders.

Thus, the Second Division did not violate the right of the Magdalo founders to be presumed innocent until proven guilty when it promulgated the questioned resolution. There is likewise no violation of due process. Accreditation as a political party is not a right but only a privilege given to groups who have qualified and met the requirements provided by law.[49]

It is unmistakable from the above reasons that the ruling of the COMELEC denying the Petition for Registration filed by MAGDALO has not, as respondent could not have, preempted Criminal Case No. 03-2784 or violated the right of petitioner's members to a presumption of innocence.

Subsequent Grant of Amnesty to the Military Personnel involved in the Oakwood standoff

It must be clarified that the foregoing discussion finding the absence of grave abuse of discretion on the part of the COMELEC is based on the facts available to it at the time it issued the assailed 26 October 2009 and 4 January 2010 Resolutions. It is crucial to make this qualification, as this Court recognizes the occurrence of supervening events that could have altered the COMELEC's evaluation of the Petition for Registration filed by MAGDALO. The assessment of the COMELEC could have changed, had these incidents taken place before the opportunity to deny the Petition arose. In the same manner that this Court takes cognizance of the facts surrounding the Oakwood incident, it also takes judicial notice of the grant of amnesty in favor of the soldiers who figured in this standoff.

This Court, in *People v. Patriarca*,^[50] explained the concept of amnesty, to wit:

Amnesty commonly denotes a general pardon to rebels for their treason or other high political offenses, or the forgiveness which one sovereign grants to the subjects of another, who have offended, by some breach, the law of nations. Amnesty looks backward, and abolishes and puts into oblivion, the offense itself; it so overlooks and obliterates the offense with which he is charged, that the person released by amnesty stands before the law precisely as though he had committed no offense.

x x x x x x x x

In the case of *People vs. Casido*, the difference between pardon and amnesty is given:

"Pardon is granted by the Chief Executive and as such it is a private act which must be pleaded and proved by the person pardoned, because the courts take no notice thereof; while amnesty by Proclamation of the Chief Executive with the concurrence of Congress, is a public act of which the courts should take judicial notice. x x x"[51] (Emphasis supplied.)

Pursuant to Article VII, Section 19 of the Constitution,^[52] President Benigno S. Aquino III issued on 24 November 2010 Proclamation No. 75,^[53] which reads in part:

GRANTING AMNESTY TO ACTIVE AND FORMER PERSONNEL OF THE ARMED FORCES OF THE PHILIPPINES, PHILIPPINE NATIONAL POLICE AND THEIR SUPPORTERS WHO MAY HAVE COMMITTED CRIMES PUNISHABLE UNDER THE REVISED PENAL CODE, THE ARTICLES OF WAR AND OTHER LAWS IN CONNECTION WITH THE OAKWOOD MUTINY, THE MARINES STAND-OFF AND THE PENINSULA MANILA HOTEL INCIDENT

WHEREAS, it is recognized that certain active and former personnel of the Armed Forces of the Philippines (AFP), the Philippine National Police (PNP) and their supporters have or may have committed crimes punishable under the Revised Penal Code, the Articles of War and other laws in connection with, in relation or incident to the July 27, 2003 Oakwood Mutiny, the February 2006 Marines Stand-Off and the November 29, 2007 Manila Pen Incident;

WHEREAS, there is a clamor from certain sectors of society urging the President to extend amnesty to said AFP personnel and their supporters;

WHEREAS, Section 19, Article VII of the Constitution expressly vests the President the power to grant amnesty;

WHEREAS, the grant of amnesty in favor of the said active and former personnel of the AFP and PNP and their supporters will promote an atmosphere conducive to the attainment of a just, comprehensive and enduring peace and is in line with the Government's peace and reconciliation initiatives;

NOW, THEREFORE, I, BENIGNO S. AQUINO III, President of the Philippines, by virtue of the powers vested in me by Section 19, Article VII of the Philippine Constitution, do hereby DECLARE and PROCLAIM:

SECTION 1. Grant of Amnesty. – Amnesty is hereby granted to all active and former personnel of the AFP and PNP as well as their supporters who have or may have committed crimes punishable under the Revised Penal Code, the Articles of War or other laws in connection with, in relation or incident to the July 27, 2003 Oakwood Mutiny, the February 2006 Marines Stand-Off and the November 29, 2007 Manila Peninsula Incident who shall apply therefor; Provided that amnesty shall not cover rape, acts of torture, crimes against chastity and other crimes committed for personal ends.

x x x x x x x x

SECTION 4. Effects. – (a) Amnesty pursuant to this proclamation shall extinguish any criminal liability for acts committed in connection, incident or related to the July 27, 2003 Oakwood Mutiny, the February 2006 Marines Stand-Off and the November 29, 2007 Peninsula Manila Hotel Incident without prejudice to the grantee's civil liability for injuries or damages caused to private persons.

(b) Except as provided below, the grant of amnesty shall effect the restoration of civil and political rights or entitlement of grantees that may have been suspended, lost or adversely affected by virtue of any executive, administrative or criminal action or proceedings against the grantee in connection with the subject incidents, including criminal conviction or (sic) any form, if any.

(c) All enlisted personnel of the Armed Forces of the Philippines with the rank of up to Technical Sergeant and personnel of the PNP with the rank of up to Senior Police Officer 3, whose applications for amnesty would be approved shall be entitled to reintegration or reinstatement, subject to existing laws and regulations. However, they shall not be entitled to back pay during the time they have been discharged or suspended from service or unable to perform their military or police duties.

(d) Commissioned and Non-commissioned officers of the AFP with the rank of Master Sergeant and personnel of the PNP with the rank of at least Senior Police Officer 4 whose application for amnesty will be approved shall not be entitled to remain in the service, reintegration or reinstatement into the service nor back pay.

(e) All AFP and PNP personnel granted amnesty who are not reintegrated or reinstated shall be entitled to retirement and separation benefits, if qualified under existing laws and regulation, as of the time [of] separation, unless they have forfeited such retirement benefits for reasons other than the acts covered by this Proclamation. Those reintegrated or reinstated shall be entitled to their retirement and separation benefit[s] upon their actual retirement. (Emphasis supplied.)

Thereafter, the House of Representatives and the Senate adopted Concurrent Resolution No. 4 on 13 and 14 December 2010, respectively.[54] Relevant portions of the Resolution partly read:

CONCURRENT RESOLUTION CONCURRING WITH PROCLAMATION NO. 75 OF THE PRESIDENT OF THE REPUBLIC OF THE PHILIPPINES DATED 24 NOVEMBER 2010 ENTITLED "GRANTING AMNESTY TO ACTIVE AND FORMER PERSONNEL OF THE ARMED FORCES OF THE

PHILIPPINES, PHILIPPINE NATIONAL POLICE AND THEIR SUPPORTERS WHO MAY HAVE COMMITTED CRIMES PUNISHABLE UNDER THE REVISED PENAL CODE, THE ARTICLES OF WAR AND OTHER LAWS IN CONNECTION WITH THE OAKWOOD MUTINY, THE MARINES STAND-OFF AND THE PENINSULA MANILA HOTEL INCIDENT

WHEREAS, Section 19, Article VII of the Constitution provides that the President shall have the power to grant amnesty with the concurrence of a majority of all the Members of Congress;

x x x x x x x x

WHEREAS, both Houses of Congress share the view of the President that in order to promote an atmosphere conducive to the attainment of a just, comprehensive and enduring peace and in line with the Government's peace and reconciliation initiatives, there is a need to declare amnesty in favor of the said active and former personnel of the AFP and PNP and their supporters;

WHEREAS, it is the sense of both House of Congress that it is imperative that an amnesty partaking the nature proclaimed by His Excellency, the President of the Philippines, is necessary for the general interest of the Philippines; xxx (Emphasis supplied.)

In light of the foregoing, to still sustain the finding, based on the participation of its members in the Oakwood incident, that MAGDALO employs violence or other harmful means would be inconsistent with the legal effects of amnesty. Likewise, it would not be in accord with the express intention of both the Executive and the Legislative branches, in granting the said amnesty, to promote an atmosphere conducive to attaining peace in line with the government's peace and reconciliation initiatives.

Nevertheless, this Court is not unmindful of the apprehensions of the COMELEC as regards the use of violence. Thus, should MAGDALO decide to file another Petition for Registration, its officers must individually execute affidavits renouncing the use of violence or other harmful means to achieve the objectives of their organization. Further, it must also be underscored that the membership of MAGDALO cannot include military officers and/or enlisted personnel in active service, as this act would run counter to the express provisions of the Constitution:

ARTICLE XVI – GENERAL PROVISIONS

Section 5. (1) All members of the armed forces shall take an oath or affirmation to uphold and defend this Constitution.

xxx xxx xxx

(3) Professionalism in the armed forces and adequate remuneration and benefits of its members shall be a prime concern of the State. The armed forces shall be insulated from partisan politics.

No member of the military shall engage directly or indirectly in any partisan political activity, except to vote.

(4) No member of the armed forces in the active service shall, at any time, be appointed or designated in any capacity to a civilian position in the Government including government-owned or controlled corporations or any of their subsidiaries. (Emphasis supplied.)

This Court finds that the COMELEC did not commit grave abuse of discretion in denying the Petition for Registration filed by MAGDALO. However, in view of the subsequent amnesty granted in favor of the members of MAGDALO, the events that transpired during the Oakwood incident can no longer be interpreted as acts of violence in the context of the disqualifications from party registration.

WHEREFORE, the instant Petition is DISMISSED. The 26 October 2009 and 4 January 2010 Resolutions of the Commission on Elections are hereby AFFIRMED, without prejudice to the filing anew of a Petition for

Registration by MAGDALO.

SO ORDERED.

Carpio, Leonardo-De Castro, Brion, Peralta, Bersamin, Del Castillo, Abad, Villarama, Jr., Perez, Reyes, and Perlas-Bernabe, JJ., concur.

Velasco, Jr., J., on official leave.

Mendoza, J., on leave.

[1] Section 1. Petition for Certiorari; and Time to File. – Unless otherwise provided by law, or by any specific provisions in these Rules, any decision, order or ruling of the Commission may be brought to the Supreme Court on certiorari by the aggrieved party within thirty (30) days from its promulgation.

[2] Rollo, pp. 31-44.

[3] Petition for Certiorari (“Petition”), rollo, p. 5; Petition for Registration, rollo, pp. 45-51.

[4] Petition for Registration, p.1; rollo, p. 45.

[5] Petition, rollo, p. 5.

[6] Id.

[7] Id. at 6.

[8] Id.

[9] Id.

[10] Resolution dated 26 October 2009 (“First Resolution”), rollo, pp. 33-36.

[11] Petition, rollo, p. 6.

[12] Annex “H” of the Petition, rollo, pp. 183-184.

[13] Annexes “H-1” and “H-2” of the Petition, rollo, pp. 185-187.

[14] Annex “I” of the Petition, rollo, pp. 188-189.

[15] Rollo, pp. 37-44.

[16] Petition, rollo, pp. 3-30.

[17] Id. at 23-27.

[18] Rollo, p. 190.

[19] Petition, rollo, p. 9.

[20] Comment dated 24 February 2010, rollo, pp. 199-211.

[21] Id.

[22] Reply to Comment dated 14 March 2010, rollo, pp. 213-234.

[23] Petition for Registration, rollo, p. 49.

[24] 522 Phil 705 (2006).

[25] *Id.* at 753-754.

[26] G.R. No. 191771, 6 May 2010, 620 SCRA 393.

[27] *Id.* at 424-425.

[28] Petition, rollo, pp. 11-13.

[29] Rule 129, Sec. 2.

[30] Section 12. Rules of Evidence. – In a contested case:

(1) The agency may admit and give probative value to evidence commonly accepted by reasonably prudent men in the conduct of their affairs.

(2) Documentary evidence may be received in the form of copies or excerpts, if the original is not readily available. Upon request, the parties shall be given opportunity to compare the copy with the original. If the original is in the official custody of a public officer, a certified copy thereof may be accepted.

(3) Every party shall have the right to cross-examine witnesses presented against him and to submit rebuttal evidence.

(4) The agency may take notice of judicially cognizable facts and of generally cognizable technical or scientific facts within its specialized knowledge. The parties shall be notified and afforded an opportunity to contest the facts so noticed.

[31] 521 Phil. 585 (2006).

[32] *Id.* at 604.

[33] See *Pimentel v. Romulo*, 466 Phil. 482 (2004); *Navales v. Abaya*, 484 Phil. 367 (2004); *Gonzales v. Abaya*, 530 Phil. 189 (2006).

[34] *Id.*

[35] Resolution dated 4 January 2010, p. 5; rollo, p. 41.

[36] Petition, rollo, p 19.

[37] *Black's Law Dictionary*, Sixth Ed., p. 1570.

[38] *Id.*

[39] *Id.* at 1536; *Bahilidad v. People*, G.R. No. 185195, 17 March 2010, 615 SCRA 597.

[40] *Supra* note at 33.

[41] *Id.*

[42] Petition, rollo, pp. 19-20.

[43] *Id.* at 15-18.

[44] *Id.* at 12-15.

[45] *Cipriano v. COMELEC*, 479 Phil. 677 (2004).

[46] G.R. No. 169042, 5 October 2011, 658 SCRA 580.

[47] Id. at 611-612.

[48] Miro v. Dosono, G.R. No. 170697, 30 April 2010, 619 SCRA 653, 660.

[49] Resolution dated 4 January 2010, pp. 4-5; rollo, pp. 40-41.

[50] 395 Phil.690 (2000), citing People v. Casido, 336 Phil. 344 (1997).

[51] Id. at 699.

[52] Except in cases of impeachment, or as otherwise provided in this Constitution, the President may grant reprieves, commutations, and pardons, and remit fines and forfeitures, after conviction by final judgment.

He shall also have the power to grant amnesty with the concurrence of a majority of all the Members of the Congress.

[53] 106 O.G. 7016 (Dec., 2010).

[54] 107 O.G. 95 (Jan., 2011).

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