

LIBERAL PARTY, REPRESENTED BY ITS PRESIDENT MANUEL A. ROXAS II AND SECRETARY GENERAL JOSEPH EMILIO A. ABAYA, PETITIONER, VS. COMMISSION ON ELECTIONS, NACIONALISTA PARTY, REPRES...

G.R. No. 191771. May 06, 2010

Ponente: BRION, J.

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BRION, J.:

This case poses to the Court, at this very late stage of our election period, issues involving the registration of political coalitions, the grant of accreditation to the dominant parties under the first time ever automated election system in the country, and validity of the COMELEC en banc's (en banc) authority to act on the registration of political coalitions.

The challenged ruling is a Per Curiam Resolution of the Commission on Elections (COMELEC)[1] dated April 12, 2010 in SPP-10-(DM) granting the application for registration of the Nacionalista Party-Nationalist People's Coalition (NP-NPC or coalition) and deferring the question of the coalition's dominant minority status to a future resolution. The challenge comes from the Liberal Party (LP)[2] through a petition for certiorari and prohibition[3] with a prayer for the issuance of a preliminary injunction or a status quo order. We issued a status quo order through our Resolution of April 20, 2010.

I. THE BACKGROUND FACTS

a. General Background

On July 14, 2009, the COMELEC promulgated Resolution No. 8646 setting August 17, 2009 as the last day for the filing of petitions for registration of political parties. On January 21, 2010, the COMELEC promulgated Resolution No. 8752, providing, among others, for the rules for the filing of petitions for accreditation for the determination of the dominant majority party, the dominant minority party, ten major national parties, and two major local parties for the May 10, 2010 elections. Resolution No. 8752 also set the deadline for filing of petitions for accreditation on February 12, 2010 and required that accreditation applicants be registered political parties, organizations or coalitions.

On February 12, 2010, the LP filed with the COMELEC its petition for accreditation as dominant minority party. On the same date, the Nacionalista Party (NP) and the Nationalist People's Coalition (NPC) filed a petition for registration as a coalition (NP-NPC) and asked that "it be recognized and accredited as the dominant minority party for purposes of the May 10, 2010 elections." [4] It was docketed as an SPP (DM) case, indicating - pursuant to COMELEC Resolution No. 8752 - that it was an accreditation case.

On February 23, 2010, the LP filed its Opposition[5] to the NP-NPC's petition on the following grounds:

- 1) The NP-NPC's petition should be denied since it was not a duly registered coalition of political parties at the

time of filing of their petition for accreditation as dominant minority party;

2) The COMELEC en banc has no jurisdiction to entertain the petition for registration as a coalition because the petition should have been first brought before the proper Division;

3) The petition for registration as a coalition was filed with the Clerk of the Commission instead of the Law Department in violation of the COMELEC Rules of Procedure;

4) The petition for registration as a coalition was filed beyond the August 17, 2009 deadline set by the COMELEC; and

5) The respective chapters, incumbents and candidates of the NP and the NPC separately cannot be taken into account for purposes of accreditation as dominant minority party because the NP-NPC as a coalition is an entirely different entity.

The COMELEC issued an Order dated February 16, 2010 and a Notice of Hearing on February 17, 2010 setting for hearing the petitions for accreditation for the purpose of determining the dominant majority party, dominant minority party, ten (10) major national parties and two (2) major local parties in connection with the May 10, 2010 elections. Among the petitions set for hearing were the LP's and the NP-NPC's petitions for accreditation as the dominant minority party.[6]

On March 9, 2010, the LP presented Rep. Lualhati Antonino (a member of the NPC's National Convention) as its witness.[7] Rep. Antonino testified, among others, that the NPC National Convention did not authorize its National Central Committee to enter into a coalition with the NP,[8] and that neither the National Convention nor the general membership was ever consulted about the merger with the NP.[9]

On March 10, 2010, the NP-NPC presented former Gov. Faustino Dy, Jr. as its witness to refute Rep. Antonino's testimony.[10] On March 15, 2010, the LP and the NP-NPC filed their respective Memoranda.[11]

b. The Assailed COMELEC Resolution

On April 12, 2010, the en banc granted the NP-NPC's petition for registration as a coalition through the Resolution assailed in the present case. In the same Resolution, the en banc deferred the resolution of the NP-NPC's application for accreditation as dominant minority party.

On the issue of jurisdiction, the en banc citing *Baytan v. Comelec*[12] held that the registration of coalitions involves the exercise of its administrative powers and not its quasi-judicial powers; hence, the en banc can directly act on it. It further held that there is no constitutional requirement that a petition for registration of a coalition should be decided first by a division. In *Baytan*, the Court held that the Constitution merely vests the COMELEC's administrative powers in the "Commission on Elections," while providing that the COMELEC "may sit en banc or in two divisions." Thus, the en banc can act directly on matters falling within its administrative powers.

The en banc ruled further that although the NP-NPC's failure to file the petition with the Law Department constituted a violation of the COMELEC Rules of Procedure (COMELEC Rules), the en banc has the discretion to suspend the application of the rules in the interest of justice and speedy disposition of cases;[13] in any case, the authority to approve or deny the Law Department's recommendation on the registration of the coalition rests with the en banc.

On the timeliness of the filing of the petition, the en banc held that no rule exists setting a deadline for the registration of coalitions. It opined that the registration of a coalition is simply a recognition by the COMELEC of a political reality. It held that if the NP-NPC is genuine, then the approval of its registration by the COMELEC is

a mere recognition of an "operative fact."

On the merits, the en banc found that both the NP and the NPC have validly agreed to join forces for political or election purposes. It held that the NP-NPC satisfactorily submitted all the documentary requirements to prove the merger's validity. It opined, too, that if the Constitution and By-Laws of either the NP or the NPC was violated by the merger, the representatives or members of either party possess the legal standing to question the coalition; the LP, a stranger to the internal dynamics of both parties, does not have this required standing.

The en banc noted that no representative from either the NP or the NPC ever filed any formal opposition to the NP-NPC petition for registration and accreditation. It thus concluded that hardly any controversy existed for it to resolve. At the same time, it disregarded Rep. Antonino's testimony, since she lost her NPC membership when she admitted support for the candidacy of Sen. Manuel A. Roxas II - the Liberal Party candidate for vice-president - a ground provided under the Constitution and By-Laws of the NPC.[14]

c. The Sarmiento Dissent

Commissioner Rene V. Sarmiento dissented on various grounds.[15] First, he ruled that the COMELEC sitting en banc had no jurisdiction over NP-NPC's petition for registration as a coalition and accreditation as dominant minority party.

Rule 32 of the COMELEC Rules governs the registration of coalitions. Rule 32 is found under Letter F of the Rules entitled "Special Proceedings." According to Section 3 of the COMELEC Rules, the Commission sitting in two (2) Divisions, shall have jurisdiction to hear and decide cases falling under special proceedings, with the exception of the accreditation of citizens' arms of the COMELEC. The dissent concluded that the present petition is within the jurisdiction of the COMELEC sitting in Division and not of the COMELEC sitting en banc, citing *Villarosa v. COMELEC*. [16]

Commissioner Sarmiento secondly took the position that the relaxation of the Rules is inappropriate in the present case.

In general, election laws may be divided into three parts for purposes of applying the rules of statutory construction. The first part refers to the provisions for the conduct of elections that election officials are required to follow; these provisions are merely directory. The second part covers those provisions that candidates for office are required to comply with and are necessarily mandatory. The last part embraces those procedural rules designed to ascertain, in case of dispute, the actual winner in the elections; this requires liberal construction. The NP-NPC's petition falls under the second part, so the applicable requirements of law are mandatory. The dissent argued that the relaxation of the rules is not applicable to the present case, because it does not involve the determination of the will of the electorate; thus, the rules governing the registration of coalitions should be construed strictly and not liberally.

Commissioner Sarmiento's third point is that no valid coalition was formed between the NP and the NPC.

He pointed out that the Constitutions and By-Laws of both parties require that the parties' respective National Conventions give their approval before their parties can enter into any coalition agreement with another political party. The dissent found that the records are bereft of any proof that the National Conventions of both the NP and the NPC authorized their officers to form the NP-NPC. The dissent held that the action of the Executive Committees of the NP and the NPC in issuing the Joint Resolution (declaring the NP-NPC merger) was a clear violation of the parties' Constitutions and By-Laws and was thus ultra vires and void.

The dissent also branded the NP-NPC as a sham whose sole purpose was to secure dominant minority party status. The Commissioner noted that members of the NP and NPC are pitted against each other and are vying for the same election positions - an absurd situation in a coalition, since no alliance for a common cause can exist if members of the component parties are competing against each other for the same positions.

Commissioner Sarmiento pointed out as his last point that the NP-NPC cannot seek accreditation as the dominant minority party without the requisite recognition by the COMELEC.

COMELEC Resolution No. 8752 requires that only political parties duly registered with the COMELEC may seek accreditation as a dominant party. At the time the NP-NPC filed its petition for accreditation on February 12, 2010, it was still seeking registration as a coalition of political parties. By filing the petition, both the NP and the NPC admitted that the COMELEC had not extended any recognition to their coalition; without the requisite recognition and registration, the NP-NPC could not seek accreditation as the dominant minority party for the May 10, 2010 elections.

The dissent also noted that the NP-NPC could no longer seek accreditation since the deadline for filing a petition for accreditation had lapsed. Finally, while the NP and NPC are both duly accredited political parties, their recognition cannot benefit the NP-NPC, since the latter seeks accreditation as an entity separate and distinct from both the NP and the NPC.

II. The Petition

The LP now assails the April 12, 2010 COMELEC Resolution for having been issued with grave abuse of discretion, as follows:

- 1) The COMELEC en banc has no jurisdiction at the first instance to entertain petitions for registration of political coalitions;
- 2) The COMELEC gravely abused its discretion when it allowed the registration of the purported NP-NPC coalition despite the lapse of the deadline for registration;
- 3) The COMELEC gravely abused its discretion when it allowed the registration of the purported NP-NPC coalition despite patent and manifest violations of the NPC Constitution and By-Laws; and
- 4) The purported NP-NPC coalition is a bogus, sham and paper coalition that makes a mockery of the electoral process.[17]

In support of its petition, the petitioner attached the Sworn Affidavits of two prominent members of the NPC, namely: Atty. Sixto S. Brillantes (the current NPC Legal Counsel) and Daniel Laogan (a member of the NPC's National Central Committee) to show that the NP-NPC was entered into without consultations; much less, the approval of the NPC's National Convention which was not even convened.[18]

a. Comments from the OSG and the COMELEC

On April 27, 2010, the Office of the Solicitor General (OSG) filed a "Manifestation and Motion In Lieu of Comment." The OSG manifested that the duty to appear and defend on their behalf and on behalf of the COMELEC falls on the respondents, since they are the real parties interested in upholding the assailed COMELEC Resolution. The COMELEC, as a mere nominal party, does not need to file a separate comment. We responded to the OSG's manifestation by requiring the COMELEC to file its own comment, which it did on May 4, 2010.

On the merits, the OSG argues that the present petition is premature. It notes that the petition's real thrust is to

foreclose the possibility that respondent NP-NPC would be declared the dominant minority party in the coming May 10, 2010 elections. The OSG emphasizes that the assailed COMELEC Resolution only affirmatively resolved the registration of the NP-NPC, not its accreditation. Thus, the petition's core issue is not yet ripe for adjudication. As expressly indicated in the assailed Resolution, the accreditation has yet to be the subject of a coming separate resolution.

The OSG also argues that no violation of due process attended the registration process, since the petitioner was given the opportunity to be heard. The OSG notes that the petitioner filed its Opposition to the NP-NPC's application for registration and accreditation before the COMELEC. In addition, hearings were scheduled and held where the COMELEC allowed the petitioner to submit its evidence, both testimonial and documentary.

The COMELEC's comment is practically a reiteration of the rulings in the assailed Resolution, heretofore summarized. For this reason, we shall no longer reflect on and repeat the COMELEC's positions in detail.

b. The NP-NPC Coalition's Comment

In their Comment, the respondents argue that the present petition should be dismissed outright since it is plagued with procedural infirmities.

First, the respondents contend that the petitioner violated Section 5(2) of Rule 64 of the Rules of Court which requires that the petition be accompanied by certified true copies of such material portions of the record the petition referred to. The respondents point out that the petitioner failed to attach the required certified true copies of the documents to its petition.

Second, the respondents argue that the petitioner unjustifiably failed to implead the NP-NPC as a party to the present case. The respondents contend that NP-NPC is a real party-in-interest, as well as an indispensable party without the participation of which no final determination of the case can be secured.

Third, the respondents argue that the present petition raises mere errors of judgment that are not within the Court's authority to act upon under its certiorari jurisdiction, since the present petition merely assails the en banc's appreciation of facts and evidence.

On the merits, the respondents aver that the en banc did not commit grave abuse of discretion in granting the registration of the NP-NPC.

First, the respondents argue that the en banc had jurisdiction to entertain their petition for registration of the NP-NPC. The respondents emphasize that the NP-NPC's registration falls within the ambit of the COMELEC's administrative powers; hence, the en banc properly assumed jurisdiction over their petition.

The respondents cite *Baytan v. COMELEC*[19] as authority for its position. The Court held in this cited case that the COMELEC's administrative powers include the registration of political parties and coalitions under Section 2 (5) of Article IX of the Constitution. The Court also ruled that since the Constitution merely vests the COMELEC's administrative powers in the "Commission on Elections" while providing that the COMELEC may sit en banc or in two Divisions, the en banc can act directly on matters falling within its administrative powers.

Second, the respondents also contend that their petition for registration as a coalition is not time-barred. They argue that the August 17, 2009 deadline applied only to "political parties"; and to "parties, organizations and coalitions under the party-list system." The respondents emphasize that there is no deadline for petitions for the registration of coalition of parties, since COMELEC Resolution No. 8646 has not specifically set a deadline. Thus, they conclude that the August 17, 2009 deadline applies only to the registration of new and unregistered political parties, and not to the registration of coalitions between previously registered political parties such as the

NP and the NPC.

Third, the respondents point out that the NP-NPC was validly formed, and that the requisite approvals were duly obtained. The respondents contend that the en banc's factual findings on the formation of the coalition and the submission and approval of the requisite documents are supported by substantial evidence, and thus are final and binding on this Court. The respondents emphasize that the 1993 Revised Rules of the NP does not require the approval of the National Convention for purposes of coalescing with another political party; neither do the Rules confer on the National Convention the power to approve a coalition with another political party. Similarly, the respondents point out that the NPC's Constitution and By-Laws is silent on and does not confer any power to approve a coalition with another political party. The respondents emphasize that they cannot violate a non-existent requirement; Rep. Antonino in fact affirmed that there is no specific provision in the NPC's Constitution and By-Laws relating to a coalition with another party.

The respondents argue that NPC Chairman Dy's testimony adequately showed that the NP-NPC was entered into after meetings and consultations with party members and the NPC national organization; in fact, 70%-75% of those consulted supported the coalition. The respondents also aver that it is a common party practice that the NPC National Convention decides through a series of small meetings of leaders and members, whether to arrive at a consensus.

The respondents point out that, to date, no member of the NP or NPC has ever expressed his or her objection to the NP-NPC. The respondents emphasize that the wisdom of entering into a coalition is strictly an internal matter; and no third party such as the LP, not even the courts, can interfere. The respondents cite *Sinaca v. Mula*[20] as authority that political parties are generally free to conduct their internal affairs free from judicial supervision.

Fourth, the respondents contend that Commissioner Sarmiento's thesis that the coalition is a sham since they are fielding contending candidates is baseless. As explained in the hearings, the NP and NPC agreed on an arbitration procedure to settle these conflicts, although no arbitration has taken place to date, since the registration of the NP-NPC has not attained finality.

Fifth, the respondents contend that the newspaper reports presented by the petitioner to show that there was no valid NP-NPC is inadmissible and carries no probative value for being hearsay. The respondents further argue that the affidavits of Atty. Sixto Brillantes and Daniel Laogan, attached to the present petition, are inadmissible as the Court cannot receive evidence or conduct a trial de novo under its certiorari jurisdiction. In addition, the respondents argue that the affidavits are hearsay evidence, since Atty. Brillantes and Daniel Laogan were never presented during the hearings before the en banc and were not subjected to cross-examination. Finally, the respondents point out that the subject matter of Atty. Brillantes' affidavit is covered by the attorney-client privilege; he was the NPC's general counsel who represented the NPC in all legal proceedings.

III. THE ISSUES

The parties' positions raise the following issues for resolution:

- Preliminary Issues:
- Should the petition be dismissed outright for procedural and technical infirmities?
- Is the present petition premature since its object is to foreclose a ruling on the unsettled NP-NPC issue?
- Is the NP-NPC petition before the COMELEC, viewed as a petition for registration, time-barred?
- Is the NP-NPC an "operative fact" that the COMELEC simply has to note and recognize without need of

registration?

- Does the en banc have jurisdiction at the first instance to entertain the petition?
- On the merits and assuming that the en banc has jurisdiction, did it gravely abuse its discretion when it allowed the registration of the NP-NPC?
- Was due process observed in granting the registration?
- Did the coalition take place as required by law:
 - in terms of compliance with internal rules of the NP and the NPC?
 - in terms of the consent to or support for, and the lack of objection to, the coalition?

IV. THE COURT'S RULING

We find the petition meritorious.

a. Preliminary Considerations¹. The technical and procedural questions

We have indicated many times in the past that a primary factor in considering technical and procedural objections is the nature of the issues involved. We have been strict when the issues are solely confined to the parties' private interests and carry no massive ripple effects directly affecting the public,[21] but have viewed with liberality the technical and procedural threshold issues raised when grave public interests are involved.[22] Our liberality has even gone beyond the purely technical and procedural where Court intervention has become imperative.[23] Thus, we have recognized exceptions to the threshold issues of ripeness[24] and mootness[25] of the petitions before us, as well as questions on locus standi.[26] We have also brushed aside procedural technicalities where the issues raised, because of the paramount public interest involved and their gravity, novelty or weight as precedents deserve the Court's attention and active intervention.[27]

We see every reason to be liberal in the present case in view of interests involved which are indisputably important to the coming electoral exercise now fast approaching. The registration of political parties, their accreditation as dominant parties, and the benefits these recognitions provide - particularly, the on-line real time electronic transmission of election results from the Board of Election Inspectors (BEI) through the Precinct Count Optical Scan (PCOS) machines; the immediate access to official election results; the per diems from the government that watchers of accredited parties enjoy; and the representation at the printing, storage and distribution of ballots that the dominant-party status brings - constitute distinct advantages to any party and its candidates, if only in terms of the ready information enabling them to react faster to developing situations.[28] The value of these advantages exponentially rises in an election under an automated system whose effectiveness and reliability, even at this late stage, are question marks to some. To the public, the proper registration and the accreditation of dominant parties are evidence of equitable party representation at the scene of electoral action, and translate in no small measure to transparency and to the election's credibility.

Thus, our focus is on the core issues that confront us and the parties, by-passing the technical and procedural questions raised that do not anyway affect the integrity of the petition before us or prejudice the parties involved, and concentrating as well on the issues that would resolve the case soonest so that the parties involved and the COMELEC can move on to their assigned time-sensitive roles and tasks in the coming elections.

We note that while the respondents placed in issue defects in the attachments to the petition, their objection is a formal one as they do not deny the existence and basic correctness of these attachments. We see no resulting harm or prejudice therefore if we overrule the objection raised, given the weight of the counterbalancing factors we

considered above.[29]

We do not likewise find the failure to formally implead the NP-NPC a sufficient reason to dismiss the petition outright. Without any finally confirmed registration in the coalition's favor, NP-NPC does not legally exist as a coalition with a personality separate and distinct from the component NP and NPC parties. We find it sufficient that the NP and the NPC have separately been impleaded; as of the moment, they are the real parties-in-interest as they are the parties truly interested in legally establishing the existence of their coalition. Again, we find no resulting harm or prejudice in the omission to implead NP-NPC, as the component parties have voiced out the concerns the coalition would have raised had it been impleaded as a separate and properly existing personality.

The respondents next argue that the petition's cited grounds are mere errors of law and do not constitute grave abuse of discretion amounting to lack or excess of jurisdiction. This objection can be read as a facial objection to the petition or as a substantive one that goes into the merits of the petition. We will discuss under the present topic the facial objection, as it is a threshold issue that determines whether we shall proceed to consider the case or simply dismiss the petition outright.

A facial objection is meritorious if, expressly and on the face of the petition, what is evident as cited grounds are erroneous applications of the law rather than grave abuse of discretion amounting to lack or excess of jurisdiction. After due consideration, we conclude that the petition passes the facial objection test.

In *Madrigal Transport, Inc. v. Lapanday Holdings Corporation*,^[30] the Court, through former Chief Justice Artemio V. Panganiban, gave a very succinct exposition of grave abuse of discretion amounting to lack or excess of jurisdiction in relation to errors of law. The Court then said:

A writ of certiorari may be issued only for the correction of errors of jurisdiction or grave abuse of discretion amounting to lack or excess of jurisdiction. The writ cannot be used for any other purpose, as its function is limited to keeping the inferior court within the bounds of its jurisdiction.

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"Without jurisdiction" means that the court acted with absolute lack of authority. There is "excess of jurisdiction" when the court transcends its power or acts without any statutory authority. "Grave abuse of discretion" implies such capricious and whimsical exercise of judgment as to be equivalent to lack or excess of jurisdiction; in other words, power is exercised in an arbitrary or despotic manner by reason of passion, prejudice, or personal hostility; and such exercise is so patent or so gross as to amount to an evasion of a positive duty or to a virtual refusal either to perform the duty enjoined or to act at all in contemplation of law.

Between an appeal and a petition for certiorari, there are substantial distinctions which shall be explained below.

As to the Purpose. Certiorari is a remedy designed for the correction of errors of jurisdiction, not errors of judgment. In *Pure Foods Corporation v. NLRC*, we explained the simple reason for the rule in this light:

"When a court exercises its jurisdiction, an error committed while so engaged does not deprive it of the jurisdiction being exercised when the error is committed. If it did, every error committed by a court would deprive it of its jurisdiction and every erroneous judgment would be a void judgment. This cannot be allowed. The administration of justice would not survive such a rule. Consequently, an error of judgment that the court may commit in the exercise of its jurisdiction is not correctable through the original civil action of certiorari."

The supervisory jurisdiction of a court over the issuance of a writ of certiorari cannot be exercised for the purpose of reviewing the intrinsic correctness of a judgment of the lower court — on the basis either of the law or the facts of the case, or of the wisdom or legal soundness of the decision. Even if the findings of the court are incorrect, as long as it has jurisdiction over the case, such correction is normally beyond the province of certiorari. Where the

error is not one of jurisdiction, but of an error of law or fact — a mistake of judgment — appeal is the remedy. [Emphasis supplied.]

The most obvious ground cited in the petition that, if properly established, would constitute grave abuse of discretion is the alleged unwarranted action of the en banc in acting on the registration of the NP-NPC when the COMELEC's own Rules of Procedure provides that registration is under the jurisdiction of the Division at the first instance. This alleged error is more than an error of law. If this cited ground is correct, then the en banc acted without legal authority and thereby committed a jurisdictional transgression;^[31] its action, being ultra vires, would be a nullity.

Another allegation of an ultra vires act is that the COMELEC, by appropriate resolution, ordered that August 17, 2009 be the cut-off date for the registration of parties, and yet approved the registration of NP-NPC long after this cut-off date had passed without any valid justification or reason for suspending the rule. For the en banc to so act was not a mere error of law. The grant of registration was an act outside mandatory legal parameters and was therefore done when the COMELEC no longer had the authority to act on it. In this sense, it is a proper allegation of grave abuse of discretion under Rule 64 of the Rules of Court.

In our view, these jurisdictional challenges to the en banc Resolution, if established, constitute ultra vires acts that would render the Resolution void. b. Prematurity Is the present petition premature, since its object is to foreclose a ruling on the unsettled NP-NPC accreditation issue?

This is another threshold issue, raised this time by the OSG, and we rule that the OSG's objection has no merit.

The root of the present petition is the NP-NPC petition before the COMELEC for registration as a coalition and accreditation as the dominant minority party. While the en banc claimed that it had jurisdiction over the registration of coalitions and in fact decreed the NP-NPC's registration, it strangely did not rule on the accreditation aspect of the petition.

The registration of a coalition and the accreditation of a dominant minority party are two separate matters that are substantively distinct from each other. Registration is the act that bestows juridical personality for purposes of our election laws;^[32] accreditation, on the other hand, relates to the privileged participation that our election laws grant to qualified registered parties.^[33]

Section 2(5), Article IX-C of the Constitution and Rule 32 of the COMELEC Rules regulate the registration of political parties, organizations or coalitions of political parties. Accreditation as a dominant party is governed by COMELEC Resolution No. 8752, Section 1 of which states that the petition for accreditation shall be filed with the Clerk of the Commission who shall docket it as an SPP (DM) case, in the manner that the NP-NPC petition before the COMELEC was docketed. While the registration of political parties is a special proceeding clearly assigned to a Division for handling under the COMELEC Rules,^[34] no similar clear-cut rule is available for a petition for accreditation as a dominant party. We thus make no statement on this point, as it is not a matter in issue.

Under the circumstances of the present case where the registration was handled at the en banc, action at the COMELEC ended upon the en banc's issuance of the assailed Resolution; under Rule 13, Section 1(d) of the COMELEC Rules, a motion for reconsideration of an en banc ruling is a prohibited pleading, except in election offense cases. Any request for accreditation that may be filed is conceptually a separate matter for the COMELEC to handle. Thus, after the en banc issued the assailed Resolution resolving the NP-NPC's application for registration as a coalition, the COMELEC's part in the registration process was brought to a close, rendering the Resolution ripe for review by this Court.

The present petition has openly stated its objective of forestalling the accreditation of the respondent NP-NPC; the petition expressly and frontally sought the issuance of a writ of prohibition and restraining order to prevent the COMELEC from accrediting a coalition that is not registered as a party. The combination of a petition for certiorari and for prohibition under the circumstances of the present case is fully justified, as the registration and the accreditation that the petition covers are linked with and in fact sequentially follow one another. 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.

Where the registration is flawed for having been attended by grave abuse of discretion, as alleged in the petition, the filing of a petition for prohibition with a prayer for a preliminary injunction can only be expected as a logical remedial move; otherwise, accreditation, unless restrained, will follow. Thus, from the point of view of prohibition, there is absolutely no prematurity as its avowed intent is in fact to forestall an event - the accreditation - that according to the assailed Resolution shall soon take place. From the point of view of the petition for certiorari questioning the registration made, no prematurity issue is involved as the nullification of a past and accomplished act is prayed for. From these perspectives, the OSG objection based on prematurity is shown to be completely groundless.

c. Timeliness Is the NP-NPC petition before the COMELEC, viewed as a petition for registration, time-barred?

This issue, raised by the petitioner, strikes at the heart of the petition that the assailed COMELEC Resolution passed upon, and that the divided en banc decided in the NP-NPC's favor.

Our short answer to the question posed is: yes, the NP-NPC's petition for registration as a coalition is time-barred. Thus, the en banc was wrong in ordering the out-of-time registration of the NP-NPC coalition.

Admittedly, Resolution No. 8646 simply states that August 17, 2009 is the "[L]ast day for filing petitions for registration of political parties," without mentioning "organizations and coalitions" in the way that the three entities are separately mentioned under Section 2(5), Article IX-C of the Constitution and Rule 32, Section 1 of the COMELEC Rules. Resolution No. 8646, however, is simply a listing of electoral activities and deadlines for the May 10, 2010 elections; it is not in any way a resolution aimed at establishing distinctions among "political parties, organizations, and coalitions." In the absence of any note, explanation or reason why the deadline only mentions political parties, the term "political parties" should be understood in its generic sense that covers political organizations and political coalitions as well.

To rule otherwise is to introduce, through a COMELEC deadline-setting resolution, a meaning or intent into Section 2(5), Article IX-C, which was not clearly intended by the Constitution or by the COMELEC Rules; Resolution No. 8646 would effectively differentiate between political parties, on the one hand, and political organizations and coalitions, on the other.

In fact, no substantial distinction exists among these entities germane to the act of registration that would justify creating distinctions among them in terms of deadlines. Such distinctions in the deadlines for the registration of political organizations and coalitions, if allowed, may even wreak havoc on the procedural orderliness of elections by allowing these registrations to introduce late and confusing signals to the electorate, not to mention their possible adverse effects on election systems and procedures. This, the en banc very well knows, and their lack of unanimity on the disputed point of timeliness shows how unusual the majority's reading has been.

The en banc's failure to follow its own rules on deadlines may, at first blush, be a negligible error that does not affect its jurisdiction (assuming for the sake of argument that the en banc has the authority to act at the first

instance). An examination of Resolution No. 8646, however, shows that the deadline for registration cannot but be a firm and mandatory deadline that the COMELEC has set.

We note in this regard that the registration of parties is the first in a list of election-related activities that peaks in the voting on May 10, 2010. This list takes into account the close step-by-step procedure the COMELEC has to undertake in implementing the automated election system (AES). We note, too, that a closely related activity is the holding of political conventions to select and nominate official party candidates for all election positions, scheduled on October 21, 2009,[35] and November 20, 2009 was the deadline for the filing of the certificates of candidacy for all elective positions - an undertaking that required the candidates' manifestation of their official party affiliation. There is also a host of election activities in which officially registered parties have to participate, principally: the examination and testing of equipment or devices for the AES and the opening of source codes for review;[36] the nomination of official watchers;[37] and the printing, storage and distribution of official ballots wherein accredited political parties may assign watchers.[38] Of course, registered political parties have very significant participation on election day, during the voting and thereafter; the COMELEC needs to receive advance information and make arrangements on which ones are the registered political parties, organizations and coalitions.

All these are related to show that the COMELEC deadline cannot but be mandatory; the whole electoral exercise may fail or at least suffer disruptions, if the deadlines are not observed. For this reason, the COMELEC has in the past in fact rejected applications for registration for having been filed out of time. A case in point is the application of the political party Philippine Guardians Brotherhood, Inc.,[39] where the COMELEC denied the plea for registration for having been filed out of time,[40] among other grounds. Philippine Guardians Brotherhood might not have been the only political party whose application for registration was denied at the COMELEC level for late filing. We are sure that all these other organizations would now cry foul - and rightly so - because of the denial of their applications on the ground of late filing, when the NP-NPC has been made an exception without rhyme or reason.

Given the mandatory nature of the deadline, subject only to a systemic change (as contrasted to an ad hoc change or a suspension of the deadline in favor of a party in the course of application), the en banc acted in excess of its jurisdiction when it granted the registration of NP-NPC as a coalition beyond the deadline the COMELEC itself had set; the authority to register political parties under mandatory terms is only up to the deadline. Effectively, the mandatory deadline is a jurisdictional matter that should have been satisfied and was not. Where conditions that authorize the exercise of a general power are wanting, fatal excess of jurisdiction results.[41]

Separately from the above consideration, we view the en banc's position that the deadline for registration is only for "political parties" and not for "organizations and coalitions" to be preposterous, given the importance of the participation of political parties in the election process and the rigid schedules that have to be observed in order to implement automated elections as efficiently and as harmoniously as possible. We note that the COMELEC has not even bothered to explain why it imposed a deadline applicable only to political parties, but not to political organizations and coalitions. In our view, this kind of ruling was patently unreasonable, made as it was without basis in law, in fact or in reason; and was a grave abuse of discretion that fatally afflicted the assailed COMELEC Resolution.[42]

1. The "Operative Fact" Issue

Other than the matter of timeliness which is an open-and-shut consideration under the clear deadline imposed, the more important issue is raised by the statement in the assailed Resolution that the coalition was an "operative fact" that the en banc could note and thereafter recognize, thereby implying that coalitions of political parties may not

need any separate registration if the component parties are already registered.

Whether one party would coalesce or work together in partnership, or in close collaboration with another party for purposes of an electoral exercise, is a matter that the law as a rule does not and cannot regulate. This is a part of the freedom of choice derived from the freedom of individuals constituting the political parties to choose their elected leaders,[43] as well as from the concepts of democracy and sovereignty enshrined in our Constitution.[44] This is a freedom, too, that cannot but be related to individuals' associational rights under the Bill of Rights.[45] We mention this freedom, as it was apparently the basis for the "operative fact" that the assailed COMELEC Resolution spoke of. In effect, the assailed Resolution implied that registered political parties are well within their right to coalesce; and that this coalition, once proven, should already bind the COMELEC, rendering registration a mere recognition of an operative fact, i.e., a mere ministerial formality.

We categorically reject this COMELEC position and its implication; the freedom to coalesce or to work together in an election to secure the vote for chosen candidates is different from the formal recognition the Constitution requires for a political party, organization or coalition to be entitled to full and meaningful participation in the elections and to the benefits that proceed from formal recognition. Registration and the formal recognition that accompanies it are required, as the words of the Constitution themselves show, because of the Constitution's concern about the character of the organizations officially participating in the elections. Thus, the Constitution specifies religious and ideological limitations, and in clear terms bars alien participation and influence in our elections. This constitutional concern, among others, serves as a reason why registration is not simply a checklist exercise, but one that requires the exercise of profound discretion and quasi-judicial adjudication by the COMELEC.[46] Registration must be undertaken, too, under the strict formalities of the law, including the time limits and deadlines set by the proper authorities.

Explained in these terms, it is easy to discern why the "operative fact" that the assailed Resolution speaks of cannot simply be equated with the formal requirement of registration, and why this process should be handled in all seriousness by the COMELEC. To carry this statement further, the Constitution itself has spoken on the matter of registration and the applicable processes and standards; there can be no dispute about the wisdom, propriety, reasonableness or advisability of the constitutional provision and the standards and processes it imposed. Only the people as a sovereign can dwell on these matters in their consideration of the Constitution in a properly called political exercise. In this sense, the question of whether a coalition of registered parties still needs to be registered is a non-issue for being beyond the power of this Court to resolve; this Court can only rule that the Constitution has set the norms and procedures for registration, and these have to be followed.

To sum up, political coalitions need to register in accordance with the established norms and procedures, if they are to be recognized as such and be given the benefits accorded by law to registered coalitions. Registered political parties carry a different legal personality from that of the coalition they may wish to establish with other similarly registered parties. If they want to coalesce with one another without the formal registration of their coalition, they can do so on their own in the exercise of their and their members' democratic freedom of choice, but they cannot receive official recognition for their coalition. Or they can choose to secure the registration of their coalition in order to be accorded the privileges accruing to registered coalitions, including the right to be accredited as a dominant majority or minority party. There are no ifs and buts about these constitutional terms.

2. The Jurisdictional and Other Questions Raised

Aside from the threshold and timeliness questions we have extensively discussed, this case raises other important questions as well that, without the time constraints the coming elections impose on us, would have been fertile areas for discussion in exploring the limits and parameters of COMELEC authority on the registration of

coalitions. These questions, however, are not for us to answer now, given our time constraints and the decisive impact on the present case of our ruling on timeliness. Thus, we reserve for another case and another time the answers to these no less important questions.

We solely rule for now that the en banc gravely abused its discretion when it disregarded its own deadline in ruling on the registration of the NP-NPC as a coalition. In so ruling, we emphasize that the matter of party registration raises critical election concerns that should be handled with discretion commensurate with the importance of elections to our democratic system. The COMELEC should be at its most strict in implementing and complying with the standards and procedures the Constitution and our laws impose.

In light of the time constraints facing the COMELEC and the parties as the election is no more than a week away, we find it compelling to declare this Decision immediately executory.

WHEREFORE, premises considered, we hereby GRANT the petition and, accordingly, NULLIFY and SET ASIDE the Resolution of the Commission on Elections dated April 12, 2010 in the application for registration of the Nacionalista Party-Nationalist People's Coalition as a political coalition, docketed as SPP-10-(DM). The Commission on Elections is DECLARED BARRED from granting accreditation to the proposed NP-NPC Coalition in the May 10, 2010 elections for lack of the requisite registration as a political coalition. This Decision is declared immediately executory. No costs.

SO ORDERED.

Puno, C.J., Nachura, Leonardo-de Castro, Peralta, Del Castillo, Abad, Villaram, Jr., Perez, and Mendoza, JJ., concur.

Carpio, and Carpio Morales, JJ., See Separate Concurring Opinion

Corona, J., reserves his right to write a separate opinion

Velasco, Jr., J., no part

Bersamin, J., no part to a piece being affiliated with a party.

[1] With Commissioners Ferrer, N.T., Tagle, L.N., Velasco, A.C., Yusoph, E.R., and Larrazabal, G.Y., concurring; Chairman Melo, J.A.R., and Sarmiento, R.V., dissenting.

[2] Represented by its President, Manuel A. Roxas II, and Secretary General, Joseph Emilio A. Abaya.

[3] Under Rule 64 and Rule 65 of the Rules of Court; with Urgent Application for Temporary Restraining Order Status Quo Ante and/or Writ of Preliminary Injunction.

[4] Annex "1," supra note 2.

[5] Annex "5," supra note 2.

[6] Petition, Annex "E," supra note 2.

[7] TSN, March 9, 2010, pp. 49-51.

[8] Id. at 72-73.

[9] Id. at 84-86.

[10] TSN, March 10, 2010, pp. 29-31.

[11] Petition, Annex "T" and Annex "U," supra note 2.

[12] G.R. No. 153945, February 4, 2003, 396 SCRA 703.

[13] COMELEC RULES, Rule 1, Section 4.

[14] Section 7 of the NPC's Constitution and By-Laws states:

Section 7. Loss of Membership. - Membership from the Party shall be lost by:

x x x x

b. Affiliation with or active support of another political party and/or opposing the Party's official candidates, unless otherwise authorized by the National Central Committee as provided in Section 2 of this Article.

[15] Petition, Annex "A," supra note 2.

[16] G.R. No. 133927, November 29, 1999, 319 SCRA 470.

[17] Petition, supra note 2.

[18] Id. at 43-46.

[19] Supra note 13.

[20] 373 Phil. 896 (1999).

[21] See, for example, our ruling in *Pates v. COMELEC*, G.R. No. 184915, June 30, 2009 where we refused to relax the strict application of procedural rules.

[22] See *David v. Macapagal-Arroyo*, G.R. Nos. 171396, 171409, 171485, 171483, 171400, 171489, 171424, May 3, 2006, 489 SCRA 160. "Strong reasons of public policy and the importance of these cases to the public demands that we settle the issues promptly and definitely, brushing aside, if we must technicalities of procedure." See also *J. Ynares-Santiago's Separate Concurring Opinion in Province of North Cotabato v. Government of the Republic of the Philippines Peace Panel on Ancestral Domain (GRP)*, G.R. Nos. 183591, 183752, 183893, 183951, 183962, October 14, 2008, 568 SCRA 402.

[23] See *Osmena v. Comelec*, G.R. Nos. 100318, 100308, 100417, 100420, July 30, 1991, 199 SCRA 750, where the Court held that where serious constitutional questions are involved, the "transcendental importance" to the public of the cases involved demands that they be settled promptly and definitely brushing aside technicalities of procedures.

[24] See *Province of North Cotabato v. Government of the Republic of the Philippines Peace Panel on Ancestral Domain (GRP)*, supra note 23, citing *Guingona, Jr. v. Court of Appeals*, 354 Phil. 415, 427-228 (1998) and *Francisco, Jr. v. House of Representatives*, 460 Phil. 830, 901-902 (2003).

[25] See *Santiago v. Court of Appeals*, G.R. No. 121908, January 26, 1998, 285 SCRA 16, 22; *Quizon v. COMELEC*, G.R. No. 177927, February 15, 2008, 545 SCRA 635.

[26] See *Francisco v. House of Representatives*, supra note 25. See *De Guia v. Comelec*, G.R. No. 104712, May 6, 1992, 208 SCRA 420, where the Court held that the importance of the issues involved concerning as it does the political exercise of qualified voters affected by the apportionment, necessitates the brushing aside of the procedural requirements of locus standi. See also *Aquino v. Comelec*, 84 Phil. 368 (1949) where the Court resolved to pass upon the issues raised due to the "far-reaching implications" of the petition notwithstanding its categorical statement that the petitioner therein had no personality to file the suit.

[27] See *Province of North Cotabato v. Government of the Republic of the Philippines Peace Panel on Ancestral*

Domain (GRP), *supra* note 23. See also *Integrated Bar of the Phils. v. Hon. Zamora*, 392 Phil. 618 (2000).

[28] The law accords special treatment to political parties. See *Laban ng Demokratikong Pilipino v. COMELEC*, G.R. No. 161265, February 24, 2004, 423 SCRA 665, 678. The dominant majority party and the dominant minority party as determined by the COMELEC are entitled to: (a) examination and testing of equipment or devise of the Automated Election System and opening of the source code for review (Section 14, Republic Act (RA) No. 8436 as amended); (b) assignment of official watchers (Section 26, RA 7166, as amended); (c) assignment of watchers in the printing, storage and distribution of official ballots (Section 15, RA 8436, as amended); (d) spend more per voter for election campaign together with the candidate than a candidate without a political party (Section 13, RA 7166); (e) affix the signatures and thumbmarks of their assigned watchers on the printed election returns (Section 22, RA 8436, as amended); (f) a copy of the printed election returns (Section 22, RA 8436, as amended); (g) affix the signatures and thumbmarks of their assigned watchers on the printed certificates of canvass (Section 26, RA 8436, as amended); and (h) a copy of the printed Certificate of Canvass (Section 26, RA 8436, as amended).

[29] See *Van Melle Phils. Inc. v. Endaya*, G.R. No. 143132, Sept. 23, 2003, 411 SCRA 528, ruling on the petitioner's failure to attach certified copies of material pleadings, held:

In a case of recent vintage, we held that while a petition for certiorari must be accompanied by a duplicate original or certified true copy of the judgment, order, resolution or ruling subject thereof, there is no requirement that all other relevant documents attached to the petition should be certified true copies as well. The CA nevertheless outrightly dismissed the petition on account of the petitioners' failure to append certified true copies of certain relevant documents referred to therein.

In any event, we agree with the petitioners that even assuming that the Rules require all attachments to a petition for certiorari to be certified true copies, the CA should have nevertheless taken cognizance of the petition. It has been the consistent holding of this Court that cases should be determined on the merits, after full opportunity to all parties for ventilation of their causes and defenses, rather than on technicality or some procedural imperfections. In so doing, the ends of justice would be better served. Rules of procedure are mere tools designed to expedite the decision or resolution of cases and other matters pending in court. A strict and rigid application of the rules that would result in technicalities that tend to frustrate rather than promote substantial justice must be avoided.

Thus, in dismissing the petition before it, the appellate court clearly put a premium on technicalities and simply brushed aside the issue posed by the petitioners — whether the labor arbiter committed a grave abuse of his discretion amounting to lack or excess of jurisdiction in denying the respondent's motion to dismiss on the ground that the SEC (now the RTC) had exclusive jurisdiction over the said complaint.

[30] G.R. No. 156067, August 11, 2004, 436 SCRA 123, 133-134.

[31] Petition, *supra* note 2, at 3-4.

[32] Joaquin G. Bernas, SJ, *The 1987 Constitution of the Republic of the Philippines* (2003).

[33] *Supra* note 1.

[34] Section 1, Rule 32 of the COMELEC Rules on Special Proceedings states:

Section 1. Petition for Registration. - Any political party, organization or coalition of political parties seeking registration pursuant to Section 2 (5), Subdivision C of Article IX of the Constitution shall file with the Law Department of the Commission a petition duly verified by its President and Secretary-General, or any official duly authorized to do so under its Constitution and By-Laws.

The above-cited rule should be read in relation to Section 3, Rule 3 of the COMELEC Rules which states:

Sec. 3. The Commission Sitting in Divisions. - The Commission shall sit in two (2) Divisions to hear and decide protests or petition in ordinary actions, special actions, special cases, provisional remedies, contempt, and special proceedings except in accreditation of citizen's arms of the Commission.

[35] Pursuant to Section 13, R.A. 9369.

[36] Sec. 13 of RA 8436, as amended by RA 9369.

[37] Section 26 of RA 7166, as amended by RA 9369.

[38] Section 15 of RA 8436, as amended by RA 9369.

[39] Whose case came to us as Philippine Guardians Brotherhood, Inc. v. Commission on Elections, G.R. No. 190529, May 1, 2010.

[40] COMELEC Resolution No. 8679 dated October 13, 2009, in relation to SPP No. 09-004 (MP).

[41] See Land Bank of the Philippines v. Court of Appeals, G.R. No. 129368, August 25, 2003, 409 SCRA 455, 480, citing *Connors v. City of Knoxville*, 189 S.W. 870 (1916). See also Jones and De Villars, *Principles of Administrative Law*, Carswell, 1985, pp. 109-110.

[42] See Information Technology Foundation of the Philippines v. Commission on Elections, G.R. No. 159939, January 13, 2004, 419 SCRA 141, 148, 168, where the Court held that COMELEC gravely abused its discretion in arbitrarily failing to observe its own rules, policies and guidelines in the bidding process, thereby negating a fair, honest and competitive bidding.

[43] CONSTITUTION, Article V, Section 1.

[44] *Id.*, Article II, Section 1.

[45] *Id.*, Article III, Section 8.

[46] See Bernas, *supra* note 32, explaining the concept of registration.

SEPARATE CONCURRING OPINION

CARPIO, J.:

I vote to grant the petition. First, the petition to register the political coalition of the Nacionalista Party (NP) and the Nationalist People's Coalition (NPC) was filed out of time. Second, the NP and NPC officers who signed the coalition agreement acted without authority in violation of their parties' respective Constitutions and By-Laws.

NP and NPC's Petition Filed Out of Time

The Commission on Elections (COMELEC) released the list of all deadlines relating to the 10 May 2010 elections on 14 July 2009 as embodied in Resolution No. 8646 (Resolution 8646), or more than nine months before the start of the election period.[1] First on the list of deadlines is the last day for filing petitions for "registration of political parties" which is 17 August 2009, or over three months before the deadline to file certificates of candidacy on 30 November 2009. The generous time-gap between party registration and filing of certificates of candidacy rests on two grounds: (1) to give the COMELEC ample time to comply with the constitutional mandate to "[r]egister, after sufficient publication, political parties, organizations, or coalitions which, in addition to other requirements, must

present their platform or program of government"[2] thus ensuring efficiency in the registration process (as publication and confirmatory hearings expectedly take time); and (2) to give political parties and coalitions ample time to hold post-registration conventions to nominate their candidates, a requirement for seeking office, thus eliminating inter-party or inter-coalition rivalries.

As major political parties, respondents NP and NPC are charged with knowing the deadline to register coalitions. Despite such knowledge, NP and NPC chose not to coalesce and seek registration before the 17 August 2009 deadline. Instead, NP and NPC fielded their own candidates for national and local positions for the 10 May 2010 elections, submitting separate nomination papers to the COMELEC. It was only on 12 February 2010, almost six months after the deadline under Resolution 8646 had lapsed, that NP and NPC sought to register their so-called coalition, coupled with a prayer for the coalition's accreditation as dominant minority party. What triggered the NP and NPC to coalesce deep into the election period, long past the COMELEC deadline to register their coalition? Petitioner Liberal Party sheds light:

[T]he alleged "NP-NPC Coalition" was supposedly entered into only on 28 January 2010 as indicated in their Joint Resolution, a day after the COMELEC promulgated the Resolution No. 8752 which, among others, provides for the rules and criteria for the accreditation [of] the dominant minority party. The NP and NPC, in a desperate afterthought, belatedly forged the alleged NP-NPC Coalition," after having known the criteria for the accreditation of [the] dominant minority party and the obvious fact that neither of them as individual political parties can even be at par with the Liberal Party position, as in fact it was also declared as the [d]ominant [m]inority [p]arty during the last May 2007 [e]lections.[3] (Emphasis supplied)

In its assailed resolution, the COMELEC entertained the NP and NPC's application for registration because "there is no resolution setting a deadline for the registration of coalitions." [4] Respondents NP and NPC agree, emphasizing that under Resolution 8646, the word "coalitions" is found only in the deadline for the registration of parties under the party-list system.[5]

A simple referral to its own procedural rules could have spared the COMELEC from committing an egregious error. Section 1, Rule 32 of the COMELEC Rules of Procedure on registration of political parties lumps together "political party, organization or coalition" for purposes of registration, thus:

Section 1. Petition for Registration - Any political party, organization or coalition of political parties seeking registration pursuant to Section 2(5), Subdivision C of Article IX of the Constitution shall file with the Law Department of the Commission a petition duly verified by its President and Secretary-General, or any official duly authorized to do so under its Constitution and By-laws. (Boldfacing and underscoring supplied)

The COMELEC issued Resolution 8646 to supplement Section 1, Rule 32 of its Rules of Procedure by providing the deadlines for registration for purposes of the 10 May 2010 elections. Thus, Resolution 8646's deadline for registration of "political parties" on 17 August 2009 logically covers "[a]ny political party, organization or coalition of political parties" for under Section 1, Rule 32 of the Rules of Procedure, the term "political party" includes "organization or coalition of political parties."

NP and NPC's submission that only coalitions under the party-list system are covered by Resolution 8646 defies common sense and logic. Parties under the party-list system represent sectors seeking membership only in the House of Representatives. In contrast, regular political parties or their coalitions field candidates in the executive and legislative branches and, for the legislature, in both lower and upper Houses.[6] Hence, for purposes of preventing "inter-coalition rivalries" and bogus coalitions, it is illogical and nonsensical for the COMELEC to schedule way ahead of elections the screening for registrants under the party-list system and leave open the door, up until the eve of elections, for registrants under the regular system.

By entertaining and granting relief to a very stale registration application, the COMELEC negated the purpose of the party nomination process. Thus, we are now treated with the spectacle of NP and NPC rival candidates, supposed "coalition-mates," campaigning against each other and attacking each other's program of governance who, as "coalition members," should ideally hew along the same principles and policies.[7]

Worse still, the COMELEC betrayed its *raison d'être* of ensuring "free, orderly, honest, peaceful, and credible elections"[8] by undermining the constitutional policy of fostering stable, party-based, program-driven electoral system.[9] The constitutional mandate that the COMELEC "[r]egister, after sufficient publication, political parties, organizations, or coalitions which, in addition to other requirements, must present their platform or program of government x x x" is meant to insure free, orderly, honest, peaceful and credible elections. The early screening of party or coalition registrants implements this policy. Because the COMELEC ignored its self-imposed deadline, a dubious, hastily patched coalition has now belatedly entered the electoral system, flouting a constitutionally rooted policy.

The NP and NPC Coalesced in Violation of their Constitutions and By-Laws

The NP-NPC coalition was created through Joint Resolution No. 01-2010, dated 28 January 2010 (Coalition Resolution), signed by two national officers of the NP and three national officers of the NPC.[10] Under the Coalition Resolution, the NP and NPC:

RESOLVED, by the Executive Committee of the Nacionalista Party and the Executive Committee of the Nationalist People's Coalition to unite and coalesce into a single opposition political group, to be known as the "NP-NPC Coalition[.]"[11] (Emphasis supplied)

However, there is no "Executive Committee" under the Constitutions and By-Laws of the NP and NPC. What the Constitutions and By-Laws of the NP and NPC provide are "National Central Committees." [12] Under each party's structural hierarchy, the National Central Committee is subordinate to the National Convention, the central decision-making body.[13]

The records are bereft of formal authorization from either the NP and NPC National Central Committees or their National Conventions for the Coalition Resolution signatories to sign Joint Resolution No. 01-2010. True, the NP's National Central Committee is granted the authority to "deliberate and decide upon all matters respecting x x x coalition [sic]," [14] but this presupposes a collegial action, not the unilateral moves of a few members (two to be exact) acting without the consent of, much less notice to, the National Central Committee members. The lack of authorization on the NPC's side was highlighted during the COMELEC hearings where NPC Chairman Faustino Dy, Jr. revealed that he merely talked to party members. When pressed, NPC Chairman Dy, Jr. admitted that he failed to confer with several members,[15] including a National Central Committee member, Darlene Antonino, not because she was unavailable but because her mother, a former member of the House of Representatives, is supporting the national candidates of another party.[16] Another NPC National Central Committee member, Daniel Laogan, confirmed that he first heard of the NP-NPC coalition in the newspapers.[17] More damning still is the disclosure of NPC's own General Counsel Atty. Sixto Brillantes, an NPC national officer and thus member of its National Central Committee, that there was no "meeting or assembly that discussed the issue of coalition." [18]

No amount of invocation of technical rules of evidence (such as the rules on admission of hearsay evidence and attorney-client communication which NP and NPC invoked in their Comment[19]) can stifle the truth of Laogan and Brillantes' disclosures. The COMELEC and certainly this Court enjoy ample leeway in admitting credible evidence to perform the task at hand. Indeed, it would defeat the purpose of this proceeding for the Court to close its eyes to undisputed, material proof only because their sources cannot verbally attest to their words. At any rate,

Atty. Brillantes' statement that there was no NPC "meeting or assembly that discussed the issue of coalition" involves no attorney-client "communication." [20] It is a statement of a negative fact made not so much in Atty. Brillantes' capacity as NPC's party counsel but as NPC national officer and member of its National Central Committee.

The lack of authority of the Coalition Resolution signatories would have been cured if the coalition's Constitution and By-Laws, no doubt drafted by Coalition Resolution signatories, were submitted to the parties' respective National Central Committees or general memberships for ratification. However, no such curative process took place because the heads [21] of NP and NPC took it upon themselves to "ratify" the coalition's Constitution and By-Laws they had written.

Thus, not only were the NP and NPC National Central Committees and general memberships denied participation in the coalition-building, they are now bound without their consent to a supra-Constitution placing the NP and NPC under the control of a "National Coalition Committee." Styled as "the supreme authority and administrative arm of the Coalition," [22] this supra-party body is vested under the coalition's Constitution and By-Laws with sweeping powers such as the authority to "act upon such matters and transact such business as it may deem necessary or appropriate" [23] and to "format the platform and ideology of the Party and amend the same when circumstances warrant." [24]

These powers are concentrated on the National Coalition Committee's six members, [25] elected by the NP and NPC's "Executive Committees," and who are also the coalition's national officers. To repeat, the NP and NPC's Constitutions and By-Laws do not provide for an "Executive Committee." There are no resolutions of the NP and NPC's respective general memberships authorizing the creation of either an "Executive Committee" within their respective parties or of a supra-party "National Coalition Committee" with the power to amend the platform and ideology of their respective parties. Clearly, the so-called "Executive Committees" of the NP and NPC have no authority to act for and bind their respective parties. Neither does the so-called "National Coalition Committee" have authority to bind both NP and NPC.

The COMELEC would have been left with no choice but to deny registration to the NP-NPC coalition had it passed upon the validity of the Coalition Resolution. Instead, it refused to reach the merits of this issue by finding petitioner Liberal Party without personality to raise the matter. [26] It could not have been lost on the COMELEC that the NP and NPC coalition's request for registration was merely a preliminary step to its ultimate goal of obtaining the coveted accreditation as dominant minority political party [27] entitling the coalition to the sixth copy of the election returns. [28] As the political party accorded this status in the 2007 elections, petitioner Liberal Party will certainly be prejudiced by the registration of the NP-NPC coalition as a preliminary step for the coalition's accreditation as the dominant minority party. Thus, petitioner is possessed with legal personality to question the registration of the NP-NPC coalition.

Orderly and Credible Elections

The NP and NPC's stale request for registration of their coalition is nothing but a strategic election move by some of their officers. Determined to secure accreditation as dominant minority party and thus enjoy an election privilege the law attaches to that status, these officers belatedly devised a coalition despite lack of authorization by their parties' governing bodies. A more assiduous devotion to its core function as sentinel of "free, orderly, honest, peaceful, and credible elections" would have steeled the COMELEC to withhold its blessing to this belated and unauthorized political union.

Clearly, in issuing the assailed resolution the COMELEC committed grave abuse of discretion for violating its own rules as well as its constitutional mandate of insuring orderly and credible elections. It does not matter

whether this case involves the administrative or quasi-judicial functions of the COMELEC. Under Section 1, Article VIII of the Constitution, this Court has the power to determine "whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government." The act assailed before this Court may be executive, quasi-judicial or legislative in nature. Moreover, Section 7, Article IX-A of the Constitution provides that "[u]nless otherwise provided by this Constitution or by law, any decision, order, or ruling of each Commission may be brought to the Supreme Court on certiorari by the aggrieved party within thirty days from receipt of a copy thereof." Such COMELEC decision, order, or ruling may arise from its administrative or quasi-judicial functions.

Accordingly, I vote to GRANT the petition, SET ASIDE the COMELEC Resolution dated 12 April 2010 in SPP No. 10-005 (DM), and DIRECT the COMELEC to desist from conducting further proceedings in SPP No. 10-005 (DM).

[1] This is consistent with the COMELEC's practice to release ahead of the election period the list of election related deadlines. Thus, for the 14 May 2007 elections, it released the list on 30 August 2006 (Resolution No. 7707) and for the 10 May 2004 elections, on 25 November 2003 (Resolution No. 6420) (Petition, pp. 31-32).

[2] Section 2(5), Article IX-C (emphasis supplied).

[3] Petition, p. 48.

[4] COMELEC Resolution in SPP No. 10-005 (DM), dated 12 April 2010, p. 7.

[5] NP-NPC Coalition Comment, pp. 22-24.

[6] Thus, the so-called coalition under review is fielding candidates for President, Vice-President, Senators, Representatives, Governors, Vice-Governors, Mayors, Vice-mayors and Councilors.

[7] Thus introducing to the lexicon of election law the oxymoron "hostile coalition."

[8] Sections 2(4) and 4, Article IX-C of the Constitution (emphasis supplied).

[9] As textualized in Section 6, Article IX-C of the Constitution which provides: "A free and open party system shall be allowed to evolve according to the free choice of the people, x x x."

[10] By Faustino S. Dy, Jr, Chairman, Frisco San Juan, President and Michael John R. Duavit, Secretary General for NPC and by Manuel B. Villar, President and Alan Peter S. Cayetano, Secretary General for NP.

[11] Records, p. 69.

[12] For the NP, the National Central Committee is composed of the national officers of the party, two senators, four members of the House of Representatives, two provincial governors, two mayors, three members of the advisory council, five members of sectoral group representatives and two members-at-large. The National Officers are the President, Executive Vice-President, Secretary General, thirteen National Vice-Presidents (regional chairmen), treasurer and Chief Legal Counsel (Section 24, Article IV, Revised Rules of the Nacionalista Party). For the NPC, its National Central Committee is composed of "such members as may be provided by the national convention" (Section 3, Article VI, NPC Constitution and By-Laws). Its current membership cannot be determined from the records.

[13] Section 14, Article IV of the 1993 Revised Rules of the Nacionalista Party provides: "Supreme Authority of the Party. The supreme authority of the Party shall reside in the National Convention. Decisions of the National

Convention may be revered, altered or modified only by the National Convention itself." Similarly, Section 1, Article VI of the NPC's Constitution and By-Laws provides: "The National Convention. The National Convention supreme authority of the Party which has the final decision on all matters, issues or conflicts involving the Party or its members."

[14] Section 25(d), Article V, 1993 Revised Rules of the Nacionalista Party. The NPC's Constitution and By-Laws carry no parallel provision although it vests on the National Central Committee "all the powers of the National Convention when the same is not in session x x x." (Section 2(i), Article VI, NPC Constitution and By-Laws).

[15] Such as Negros Oriental Governor Emilio Macias II, Southern Leyte Governor Marissa Lerias, Camiguin Governor Jurdin Romualdo, Congresswoman Rizalina Seachon-Lanete, Congressman Arnulfo Fuentesbella, Congressman Rodolfo Plaza, Congressman Jules Ledesma, Claude Bautista, Manny Piñol, Kimi Cojuangco, Enrique Cojuangco, Ramon Durano, and President Emeritus Ernesto Maceda.

[16] TSN (Faustino S. Dy, Jr.), 11 March 2010, pp. 17-41.

[17] Petition, Annex "EE."

[18] Petition, Annex "DD."

[19] NP-NPC Coalition Comment, pp. 36-39.

[20] E.g. verbal statements, documents or papers entrusted to the counsel or facts learned by counsel through the act or agency of his client. (Regalado, II Remedial Law Compendium 711 (10[th] ed.)

[21] Through Joint Resolution No. 02-2010, dated 6 February 2010, signed by NP President Manuel Villar and NPC Chairman Faustino S. Dy, Jr.

[22] Section 1, Article VI, NP-NPC Coalition Constitution and By-Laws.

[23] Section 3(b), Article V, NP-NPC Coalition Constitution and By-Laws.

[24] Section 3(e), Article V, NP-NPC Coalition Constitution and By-Laws. (Emphasis supplied)

[25] Manuel B. Villar, Faustino S. Dy, Jr., Luis R. Villafuerte, Frisco San Juan, Alan Peter Cayetano and Rimpay Bondoc.

[26] COMELEC Resolution in SPP No. 10-005 (DM), dated 12 April 2010, pp. 8-9.

[27] Thus, in their petition before the COMELEC, NP and NPC's second prayer was for the coalition's accreditation as the dominant minority party (on which the COMELEC deferred ruling). The NP and NPC also resolved in their Coalition Resolution to "obtain accreditation of the NP-NPC COALITION as the Dominant Minority Political Party." (Records, p. 69)

[28] Under Section 22, B(6) of Republic Act No. 9369. With the maiden, nationwide use of an automated system in the 10 May 2010 elections, which dispenses with all paper-trail except the canvassed-ballots and election return print-outs, the latter has become a prized document to protect votes, and perhaps, substantiate future legal actions.

DISSENTING OPINION

CORONA, J.:

The majority opinion is well-reasoned out. However, a careful study and circumspect reflection of the case lead me to the conclusion that the Commission on Elections (COMELEC) committed no grave abuse of discretion in this case that will justify the grant of the extraordinary writ of certiorari.

Thus, I dissent.

My opinion is primarily anchored on the ground that the power of the COMELEC to register political parties, organizations or coalitions is among the COMELEC's administrative powers that may be acted on directly by the COMELEC en banc.

Not all cases relating to election laws filed before the COMELEC are required to be heard at the first instance by a Division of the COMELEC.[1] Under the Constitution, the COMELEC exercises both administrative and quasi-judicial powers. The COMELEC en banc can act directly on matters falling within its administrative powers.[2] It is only when the exercise of quasi-judicial powers are involved that the COMELEC is mandated to decide cases first in division, and then, upon motion for reconsideration, en banc.[3]

This Court pronounced in *Baytan v. COMELEC*[4] (subsequently reiterated in *Bautista v. COMELEC*[5]) that the power of the COMELEC under Section 2(5), Article IX-C of the Constitution to register political parties, organizations or coalitions is administrative in nature. Thus, the COMELEC en banc acted properly when it took direct cognizance of the petition of the NP and the NPC.

Furthermore, the test for determining whether a particular power of the COMELEC is administrative (and may therefore be acted on directly by the COMELEC en banc) or quasi-judicial (and should therefore be brought first to a Division of the COMELEC) employed in the earlier case of *Villarosa v. COMELEC*[6] can be said to have been modified by the more recent case of *Baytan*. Indeed, *Villarosa* as circumscribed by *Baytan* may be implied from *Bautista*. While it referred to the *Villarosa* test, *Bautista* invoked and reiterated *Baytan*'s delineation of the administrative and quasi-judicial functions of the COMELEC.[7]

Since the COMELEC en banc has the authority to directly take cognizance of the petition for registration of the NP and the NPC as a coalition, as an independent constitutional body, it may also exercise its discretion to liberally construe its rules of procedure or even to suspend the said rules or any portion thereof in the interest of justice.

Grave abuse of discretion is not simply an error in judgment but it is such capricious and whimsical exercise of judgment which is tantamount to lack of jurisdiction.[8] Ordinary abuse of discretion is insufficient. The abuse of discretion must be grave, that is, the power is exercised in an arbitrary or despotic manner by reason of passion or personal hostility.[9] It must be so patent and gross as to amount to evasion of positive duty or to a virtual refusal to perform the duty enjoined by or to act at all in contemplation of the law. In other words, for a petition for certiorari to prosper, there must be a clear showing of caprice and arbitrariness in the exercise of discretion.[10] Taking all these into consideration, the COMELEC cannot and should not be faulted or, more so, ascribed with grave abuse of discretion, for simply observing or following this Court's ruling in *Baytan* and *Bautista*.

Even assuming for the sake of argument that the COMELEC en banc was wrong when it acted directly on the petition of the NP and the NPC, the COMELEC en banc committed a mere error of judgment as it based its decision on the Court's ruling in *Baytan* and *Bautista*. Such error of judgment is not correctible by the writ of certiorari.

Accordingly, I respectfully vote to dismiss the petition.

[1] *Municipal Board of Canvassers of Glan v. COMELEC*, 460 Phil. 426 (2003).

[2] *Id.*; *Baytan v. COMELEC*, 444 Phil. 812 (2003).

[3] *Id.*

[4] *Supra* note 2.

[5] 460 Phil. 459 (2003).

[6] G.R. No. 133927, 29 November 1999, 319 SCRA 470.

[7] In particular, the Court declared the following in *Bautista*:

In *Baytan v. COMELEC*, the Court expounded on the administrative and quasi-judicial powers of the COMELEC. The Court explained:

Under Section 2, Article IX-C of the 1987 Constitution, the COMELEC exercises both administrative and quasi-judicial powers. The COMELEC's administrative powers are found in Section 2 (1), (3), (4), (5), (6), (7), (8), and (9) of Article IX-C. The 1987 Constitution does not prescribe how the COMELEC should exercise its administrative powers, whether en banc or in division. The Constitution merely vests the COMELEC's administrative powers in the "Commission on Elections," while providing that the COMELEC "may sit en banc or in two divisions." Clearly, the COMELEC en banc can act directly on matters falling within its administrative powers. Indeed, this has been the practice of the COMELEC both under the 1973 and 1987 Constitutions.

On the other hand, the COMELEC's quasi-judicial powers are found in Section 2 (2) of Article IX-C, to wit:

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

xxx

(2) Exercise exclusive original jurisdiction over all contests relating to the elections, returns, and qualifications of all elective regional, provincial, and city officials, and appellate jurisdiction over all contests involving elective municipal officials decided by trial courts of general jurisdiction, or involving elective barangay officials decided by trial courts of limited jurisdiction.

Decisions, final orders, or rulings of the Commission on election contests involving elective municipal and barangay offices shall be final, executory, and not appealable."

[8] *Dueñas, Jr. v. House of Representatives Electoral Tribunal*, G.R. No. 185401, 21 July 2009, 593 SCRA 316, 344.

[9] *Id.*

[10] *Id.*, p. 345.

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