

LUIS K. LOKIN, JR., AS THE SECOND NOMINEE OF CITIZENS BATTLE AGAINST CORRUPTION (CIBAC), PETITIONER, VS. COMMISSION ON ELECTIONS AND THE HOUSE OF REPRESENTATIVES, RESPONDENTS.

G.R. Nos. 179431-32. June 22, 2010

Ponente: BERSAMIN, J.

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BERSAMIN, J.:

The principal question posed in these consolidated special civil actions for certiorari and mandamus is whether the Commission on Elections (COMELEC) can issue implementing rules and regulations (IRRs) that provide a ground for the substitution of a party-list nominee not written in Republic Act (R.A.) No. 7941,[1] otherwise known as the Party-List System Act, the law that the COMELEC thereby implements.

Common Antecedents

The Citizens' Battle Against Corruption (CIBAC) was one of the organized groups duly registered under the party-list system of representation that manifested their intent to participate in the May 14, 2007 synchronized national and local elections. Together with its manifestation of intent to participate,[2] CIBAC, through its president, Emmanuel Joel J. Villanueva, submitted a list of five nominees from which its representatives would be chosen should CIBAC obtain the required number of qualifying votes. The nominees, in the order that their names appeared in the certificate of nomination dated March 29, 2007,[3] were: (1) Emmanuel Joel J. Villanueva; (2) herein petitioner Luis K. Lokin, Jr.; (3) Cinchona C. Cruz-Gonzales; (4) Sherwin Tugna; and (5) Emil L. Galang. The nominees' certificates of acceptance were attached to the certificate of nomination filed by CIBAC. The list of nominees was later published in two newspapers of general circulation, The Philippine Star News[4] (sic) and The Philippine Daily Inquirer.[5]

Prior to the elections, however, CIBAC, still through Villanueva, filed a certificate of nomination, substitution and amendment of the list of nominees dated May 7, 2007,[6] whereby it withdrew the nominations of Lokin, Tugna and Galang and substituted Armi Jane R. Borje as one of the nominees. The amended list of nominees of CIBAC thus included: (1) Villanueva, (2) Cruz-Gonzales, and (3) Borje.

Following the close of the polls, or on June 20, 2007, Villanueva sent a letter to COMELEC Chairperson Benjamin Abalos,[7] transmitting therewith the signed petitions of more than 81% of the CIBAC members, in order to confirm the withdrawal of the nomination of Lokin, Tugna and Galang and the substitution of Borje. In their petitions, the members of CIBAC averred that Lokin and Tugna were not among the nominees presented and proclaimed by CIBAC in its proclamation rally held in May 2007; and that Galang had signified his desire to focus on his family life.

On June 26, 2007, CIBAC, supposedly through its counsel, filed with the COMELEC en banc sitting as the National Board of Canvassers a motion seeking the proclamation of Lokin as its second nominee.[8] The right of CIBAC to a second seat as well as the right of Lokin to be thus proclaimed were purportedly based on Party-List Canvass Report No. 26, which showed CIBAC to have garnered a grand total of 744,674 votes. Using all relevant

formulas, the motion asserted that CIBAC was clearly entitled to a second seat and Lokin to a proclamation.

The motion was opposed by Villanueva and Cruz-Gonzales.

Notwithstanding Villanueva's filing of the certificate of nomination, substitution and amendment of the list of nominees and the petitions of more than 81% of CIBAC members, the COMELEC failed to act on the matter, prompting Villanueva to file a petition to confirm the certificate of nomination, substitution and amendment of the list of nominees of CIBAC on June 28, 2007.[9]

On July 6, 2007, the COMELEC issued Resolution No. 8219,[10] whereby it resolved to set the matter pertaining to the validity of the withdrawal of the nominations of Lokin, Tugna and Galang and the substitution of Borje for proper disposition and hearing. The case was docketed as E.M. No. 07-054.

In the meantime, the COMELEC en banc, sitting as the National Board of Canvassers, issued National Board of Canvassers (NBC) Resolution No. 07-60 dated July 9, 2007[11] to partially proclaim the following parties, organizations and coalitions participating under the Party-List System as having won in the May 14, 2007 elections, namely: Buhay Hayaan Yumabong, Bayan Muna, CIBAC, Gabriela Women's Party, Association of Philippine Electric Cooperatives, Advocacy for Teacher Empowerment Through Action, Cooperation and Harmony Towards Educational Reforms, Inc., Akbayan! Citizen's Action Party, Alagad, Luzon Farmers Party, Cooperative-Natco Network Party, Anak Pawis, Alliance of Rural Concerns and Abono; and to defer the proclamation of the nominees of the parties, organizations and coalitions with pending disputes until final resolution of their respective cases.

The COMELEC en banc issued another resolution, NBC Resolution No. 07-72 dated July 18, 2007,[12] proclaiming Buhay Hayaan Yumabong as entitled to 2 additional seats and Bayan Muna, CIBAC, Gabriela Women's Party, and Association of Philippine Electric Cooperatives to an additional seat each; and holding in abeyance the proclamation of the nominees of said parties, organizations and coalitions with pending disputes until the final resolution of their respective cases.

With the formal declaration that CIBAC was entitled to an additional seat, Ricardo de los Santos, purportedly as secretary general of CIBAC, informed Roberto P. Nazareno, Secretary General of the House of Representatives, of the promulgation of NBC Resolution No. 07-72 and requested that Lokin be formally sworn in by Speaker Jose de Venecia, Jr. to enable him to assume office. Nazareno replied, however, that the request of Delos Santos could not be granted because COMELEC Law Director Alioden D. Dalaig had notified him of the pendency of E.M. 07-054.

On September 14, 2007, the COMELEC en banc resolved E.M. No. 07-054[13] thuswise:

WHEREFORE, considering the above discussion, the Commission hereby approves the withdrawal of the nomination of Atty. Luis K. Lokin, Sherwin N. Tugna and Emil Galang as second, third and fourth nominees respectively and the substitution thereby with Atty. Cinchona C. Cruz-Gonzales as second nominee and Atty. Armi Jane R. Borje as third nominee for the party list CIBAC. The new order of CIBAC's nominees therefore shall be:

- Emmanuel Joel J. Villanueva
- Cinchona C. Cruz-Gonzales
- Armi Jane R. Borje

SO ORDERED.

The COMELEC en banc explained that the actions of Villanueva in his capacity as the president of CIBAC were presumed to be within the scope of his authority as such; that the president was charged by Section 1 of Article IV of the CIBAC By-Laws to oversee and direct the corporate activities, which included the act of submitting the party's manifestation of intent to participate in the May 14, 2007 elections as well as its certificate of nominees; that from all indications, Villanueva as the president of CIBAC had always been provided the leeway to act as the party's representative and that his actions had always been considered as valid; that the act of withdrawal, although done without any written Board approval, was accomplished with the Board's acquiescence or at least understanding; and that the intent of the party should be given paramount consideration in the selection of the nominees.

As a result, the COMELEC en banc proclaimed Cruz-Gonzales as the official second nominee of CIBAC.[14] Cruz-Gonzales took her oath of office as a Party-List Representative of CIBAC on September 17, 2007.[15]

Precis of the Consolidated Cases

In G.R. No. 179431 and G.R. No. 179432, Lokin seeks through mandamus to compel respondent COMELEC to proclaim him as the official second nominee of CIBAC.

In G.R. No. 180443, Lokin assails Section 13 of Resolution No. 7804 promulgated on January 12, 2007;[16] and the resolution dated September 14, 2007 issued in E.M. No. 07-054 (approving CIBAC's withdrawal of the nominations of Lokin, Tugna and Galang as CIBAC's second, third and fourth nominees, respectively, and the substitution by Cruz-Gonzales and Borje in their stead, based on the right of CIBAC to change its nominees under Section 13 of Resolution No. 7804).[17] He alleges that Section 13 of Resolution No. 7804 expanded Section 8 of R.A. No. 7941.[18] the law that the COMELEC seeks to thereby implement.

In its comment, the COMELEC asserts that a petition for certiorari is an inappropriate recourse in law due to the proclamation of Cruz-Gonzales as Representative and her assumption of that office; that Lokin's proper recourse was an electoral protest filed in the House of Representatives Electoral Tribunal (HRET); and that, therefore, the Court has no jurisdiction over the matter being raised by Lokin.

For its part, CIBAC posits that Lokin is guilty of forum shopping for filing a petition for mandamus and a petition for certiorari, considering that both petitions ultimately seek to have him proclaimed as the second nominee of CIBAC.

Issues

The issues are the following:

- (a) Whether or not the Court has jurisdiction over the controversy;
- (b) Whether or not Lokin is guilty of forum shopping;
- (c) Whether or not Section 13 of Resolution No. 7804 is unconstitutional and violates the Party-List System Act; and
- (d) Whether or not the COMELEC committed grave abuse of discretion amounting to lack or excess of jurisdiction in approving the withdrawal of the nominees of CIBAC and allowing the amendment of the list of nominees of CIBAC without any basis in fact or law and after the close of the polls, and in ruling on matters that were intra-corporate in nature.

Ruling

The petitions are granted.

A

The Court has jurisdiction over the case

The COMELEC posits that once the proclamation of the winning party-list organization has been done and its nominee has assumed office, any question relating to the election, returns and qualifications of the candidates to the House of Representatives falls under the jurisdiction of the HRET pursuant to Section 17, Article VI of the 1987 Constitution. Thus, Lokin should raise the question he poses herein either in an election protest or in a special civil action for quo warranto in the HRET, not in a special civil action for certiorari in this Court.

We do not agree.

An election protest proposes to oust the winning candidate from office. It is strictly a contest between the defeated and the winning candidates, based on the grounds of electoral frauds and irregularities, to determine who between them has actually obtained the majority of the legal votes cast and is entitled to hold the office. It can only be filed by a candidate who has duly filed a certificate of candidacy and has been voted for in the preceding elections.

A special civil action for quo warranto refers to questions of disloyalty to the State, or of ineligibility of the winning candidate. The objective of the action is to unseat the ineligible person from the office, but not to install the petitioner in his place. Any voter may initiate the action, which is, strictly speaking, not a contest where the parties strive for supremacy because the petitioner will not be seated even if the respondent may be unseated.

The controversy involving Lokin is neither an election protest nor an action for quo warranto, for it concerns a very peculiar situation in which Lokin is seeking to be seated as the second nominee of CIBAC. Although an election protest may properly be available to one party-list organization seeking to unseat another party-list organization to determine which between the defeated and the winning party-list organizations actually obtained the majority of the legal votes, Lokin's case is not one in which a nominee of a particular party-list organization thereby wants to unseat another nominee of the same party-list organization. Neither does an action for quo warranto lie, considering that the case does not involve the ineligibility and disloyalty of Cruz-Gonzales to the Republic of the Philippines, or some other cause of disqualification for her.

Lokin has correctly brought this special civil action for certiorari against the COMELEC to seek the review of the September 14, 2007 resolution of the COMELEC in accordance with Section 7 of Article IX-A of the 1987 Constitution, notwithstanding the oath and assumption of office by Cruz-Gonzales. The constitutional mandate is now implemented by Rule 64 of the 1997 Rules of Civil Procedure, which provides for the review of the judgments, final orders or resolutions of the COMELEC and the Commission on Audit. As Rule 64 states, the mode of review is by a petition for certiorari in accordance with Rule 65 to be filed in the Supreme Court within a limited period of 30 days. Undoubtedly, the Court has original and exclusive jurisdiction over Lokin's petitions for certiorari and for mandamus against the COMELEC.

B

Petitioner is not guilty of forum shopping

Forum shopping consists of the filing of multiple suits involving the same parties for the same cause of action, either simultaneously or successively, for the purpose of obtaining a favorable judgment. Thus, forum shopping may arise: (a) whenever as a result of an adverse decision in one forum, a party seeks a favorable decision (other than by appeal or certiorari) in another; or (b) if, after having filed a petition in the Supreme Court, a party files another petition in the Court of Appeals, because he thereby deliberately splits appeals "in the hope that even as one case in which a particular remedy is sought is dismissed, another case (offering a similar remedy) would still be open"; or (c) where a party attempts to obtain a writ of preliminary injunction from a court after failing to

obtain the writ from another court.[19]

What is truly important to consider in determining whether forum shopping exists or not is the vexation caused to the courts and the litigants by a party who accesses different courts and administrative agencies to rule on the same or related causes or to grant the same or substantially the same reliefs, in the process creating the possibility of conflicting decisions being rendered by the different fora upon the same issue.[20]

The filing of identical petitions in different courts is prohibited, because such act constitutes forum shopping, a malpractice that is proscribed and condemned as trifling with the courts and as abusing their processes. Forum shopping is an improper conduct that degrades the administration of justice.[21]

Nonetheless, the mere filing of several cases based on the same incident does not necessarily constitute forum shopping. The test is whether the several actions filed involve the same transactions and the same essential facts and circumstances.[22] The actions must also raise identical causes of action, subject matter, and issues.[23] Elsewise stated, forum shopping exists where the elements of *litis pendentia* are present, or where a final judgment in one case will amount to *res judicata* in the other.[24]

Lokin has filed the petition for mandamus to compel the COMELEC to proclaim him as the second nominee of CIBAC upon the issuance of NBC Resolution No. 07-72 (announcing CIBAC's entitlement to an additional seat in the House of Representatives), and to strike down the provision in NBC Resolution No. 07-60 and NBC Resolution No. 07-72 holding in abeyance "all proclamation of the nominees of concerned parties, organizations and coalitions with pending disputes shall likewise be held in abeyance until final resolution of their respective cases." He has insisted that the COMELEC had the ministerial duty to proclaim him due to his being CIBAC's second nominee; and that the COMELEC had no authority to exercise discretion and to suspend or defer the proclamation of winning party-list organizations with pending disputes.

On the other hand, Lokin has resorted to the petition for certiorari to assail the September 14, 2007 resolution of the COMELEC (approving the withdrawal of the nomination of Lokin, Tugna and Galang and the substitution by Cruz-Gonzales as the second nominee and Borje as the third nominee); and to challenge the validity of Section 13 of Resolution No. 7804, the COMELEC's basis for allowing CIBAC's withdrawal of Lokin's nomination.

Applying the test for forum shopping, the consecutive filing of the action for certiorari and the action for mandamus did not violate the rule against forum shopping even if the actions involved the same parties, because they were based on different causes of action and the reliefs they sought were different.

C

Invalidity of Section 13 of Resolution No. 7804

The legislative power of the Government is vested exclusively in the Legislature in accordance with the doctrine of separation of powers. As a general rule, the Legislature cannot surrender or abdicate its legislative power, for doing so will be unconstitutional. Although the power to make laws cannot be delegated by the Legislature to any other authority, a power that is not legislative in character may be delegated.[25]

Under certain circumstances, the Legislature can delegate to executive officers and administrative boards the authority to adopt and promulgate IRRs. To render such delegation lawful, the Legislature must declare the policy of the law and fix the legal principles that are to control in given cases. The Legislature should set a definite or primary standard to guide those empowered to execute the law. For as long as the policy is laid down and a proper standard is established by statute, there can be no unconstitutional delegation of legislative power when the Legislature leaves to selected instrumentalities the duty of making subordinate rules within the prescribed limits, although there is conferred upon the executive officer or administrative board a large measure of discretion. There

is a distinction between the delegation of power to make a law and the conferment of an authority or a discretion to be exercised under and in pursuance of the law, for the power to make laws necessarily involves a discretion as to what it shall be.[26]

The authority to make IRRs in order to carry out an express legislative purpose, or to effect the operation and enforcement of a law is not a power exclusively legislative in character, but is rather administrative in nature. The rules and regulations adopted and promulgated must not, however, subvert or be contrary to existing statutes. The function of promulgating IRRs may be legitimately exercised only for the purpose of carrying out the provisions of a law. The power of administrative agencies is confined to implementing the law or putting it into effect. Corollary to this is that administrative regulation cannot extend the law and amend a legislative enactment. It is axiomatic that the clear letter of the law is controlling and cannot be amended by a mere administrative rule issued for its implementation. Indeed, administrative or executive acts shall be valid only when they are not contrary to the laws or the Constitution.[27]

To be valid, therefore, the administrative IRRs must comply with the following requisites to be valid:[28]

- Its promulgation must be authorized by the Legislature;
- It must be within the scope of the authority given by the Legislature;
- It must be promulgated in accordance with the prescribed procedure; and
- It must be reasonable.

The COMELEC is constitutionally mandated to enforce and administer all laws and regulations relative to the conduct of an election, a plebiscite, an initiative, a referendum, and a recall.[29] In addition to the powers and functions conferred upon it by the Constitution, the COMELEC is also charged to promulgate IRRs implementing the provisions of the Omnibus Election Code or other laws that the COMELEC enforces and administers.[30]

The COMELEC issued Resolution No. 7804 pursuant to its powers under the Constitution, Batas Pambansa Blg. 881, and the Party-List System Act.[31] Hence, the COMELEC met the first requisite.

The COMELEC also met the third requisite. There is no question that Resolution No. 7804 underwent the procedural necessities of publication and dissemination in accordance with the procedure prescribed in the resolution itself.

Whether Section 13 of Resolution No. 7804 was valid or not is thus to be tested on the basis of whether the second and fourth requisites were met. It is in this respect that the challenge of Lokin against Section 13 succeeds.

As earlier said, the delegated authority must be properly exercised. This simply means that the resulting IRRs must not be ultra vires as to be issued beyond the limits of the authority conferred. It is basic that an administrative agency cannot amend an act of Congress,[32] for administrative IRRs are solely intended to carry out, not to supplant or to modify, the law. The administrative agency issuing the IRRs may not enlarge, alter, or restrict the provisions of the law it administers and enforces, and cannot engraft additional non-contradictory requirements not contemplated by the Legislature.[33]

Section 8 of R.A. No. 7941 reads:

Section 8. Nomination of Party-List Representatives.-Each registered party, organization or coalition shall submit to the COMELEC not later than forty-five (45) days before the election a list of names, not less than five (5), from which party-list representatives shall be chosen in case it obtains the required number of votes.

A person may be nominated in one (1) list only. Only persons who have given their consent in writing may be

named in the list. The list shall not include any candidate of any elective office or a person who has lost his bid for an elective office in the immediately preceding election. No change of names or alteration of the order of nominees shall be allowed after the same shall have been submitted to the COMELEC except in cases where the nominee dies, or withdraws in writing his nomination, becomes incapacitated in which case the name of the substitute nominee shall be placed last in the list. Incumbent sectoral representatives in the House of Representatives who are nominated in the party-list system shall not be considered resigned.

The provision is daylight clear. The Legislature thereby deprived the party-list organization of the right to change its nominees or to alter the order of nominees once the list is submitted to the COMELEC, except when: (a) the nominee dies; (b) the nominee withdraws in writing his nomination; or (c) the nominee becomes incapacitated. The provision must be read literally because its language is plain and free from ambiguity, and expresses a single, definite, and sensible meaning. Such meaning is conclusively presumed to be the meaning that the Legislature has intended to convey. Even where the courts should be convinced that the Legislature really intended some other meaning, and even where the literal interpretation should defeat the very purposes of the enactment, the explicit declaration of the Legislature is still the law, from which the courts must not depart.[34] When the law speaks in clear and categorical language, there is no reason for interpretation or construction, but only for application.[35] Accordingly, an administrative agency tasked to implement a statute may not construe it by expanding its meaning where its provisions are clear and unambiguous.[36]

The legislative intent to deprive the party-list organization of the right to change the nominees or to alter the order of the nominees was also expressed during the deliberations of the Congress, viz:

MR. LAGMAN:

And again on Section 5, on the nomination of party list representatives, I do not see any provision here which prohibits or for that matter allows the nominating party to change the nominees or to alter the order of prioritization of names of nominees. Is the implication correct that at any time after submission the names could still be changed or the listing altered?

MR. ABUEG:

Mr. Speaker, that is a good issue brought out by the distinguished Gentleman from Albay and perhaps a perfecting amendment may be introduced therein. The sponsoring committee will gladly consider the same.

MR. LAGMAN:

In other words, what I would like to see is that after the list is submitted to the COMELEC officially, no more changes should be made in the names or in the order of listing.

MR. ABUEG:

Mr. Speaker, there may be a situation wherein the name of a particular nominee has been submitted to the Commission on Elections but before election day the nominee changed his political party affiliation. The nominee is therefore no longer qualified to be included in the party list and the political party has a perfect right to change the name of that nominee who changed his political party affiliation.

MR. LAGMAN:

Yes of course. In that particular case, the change can be effected but will be the exception rather than the rule. Another exception most probably is the nominee dies, then there has to be a change but any change for that matter should always be at the last part of the list so that the prioritization made by the party will not be adversely affected.[37]

The usage of "No" in Section 8 - "No change of names or alteration of the order of nominees shall be allowed

after the same shall have been submitted to the COMELEC except in cases where the nominee dies, or withdraws in writing his nomination, or becomes incapacitated, in which case the name of the substitute nominee shall be placed last in the list" - renders Section 8 a negative law, and is indicative of the legislative intent to make the statute mandatory. Prohibitive or negative words can rarely, if ever, be directory, for there is but one way to obey the command "thou shall not," and that is to completely refrain from doing the forbidden act,[38] subject to certain exceptions stated in the law itself, like in this case.

Section 8 does not unduly deprive the party-list organization of its right to choose its nominees, but merely divests it of the right to change its nominees or to alter the order in the list of its nominees' names after submission of the list to the COMELEC.

The prohibition is not arbitrary or capricious; neither is it without reason on the part of lawmakers. The COMELEC can rightly presume from the submission of the list that the list reflects the true will of the party-list organization. The COMELEC will not concern itself with whether or not the list contains the real intended nominees of the party-list organization, but will only determine whether the nominees pass all the requirements prescribed by the law and whether or not the nominees possess all the qualifications and none of the disqualifications. Thereafter, the names of the nominees will be published in newspapers of general circulation. Although the people vote for the party-list organization itself in a party-list system of election, not for the individual nominees, they still have the right to know who the nominees of any particular party-list organization are. The publication of the list of the party-list nominees in newspapers of general circulation serves that right of the people, enabling the voters to make intelligent and informed choices. In contrast, allowing the party-list organization to change its nominees through withdrawal of their nominations, or to alter the order of the nominations after the submission of the list of nominees circumvents the voters' demand for transparency. The lawmakers' exclusion of such arbitrary withdrawal has eliminated the possibility of such circumvention.

D

Exceptions in Section 8 of R.A. 7941 are exclusive

Section 8 of R.A. No. 7941 enumerates only three instances in which the party-list organization can substitute another person in place of the nominee whose name has been submitted to the COMELEC, namely: (a) when the nominee dies; (b) when the nominee withdraws in writing his nomination; and (c) when the nominee becomes incapacitated.

The enumeration is exclusive, for, necessarily, the general rule applies to all cases not falling under any of the three exceptions.

When the statute itself enumerates the exceptions to the application of the general rule, the exceptions are strictly but reasonably construed. The exceptions extend only as far as their language fairly warrants, and all doubts should be resolved in favor of the general provision rather than the exceptions. Where the general rule is established by a statute with exceptions, none but the enacting authority can curtail the former. Not even the courts may add to the latter by implication, and it is a rule that an express exception excludes all others, although it is always proper in determining the applicability of the rule to inquire whether, in a particular case, it accords with reason and justice.[39]

The appropriate and natural office of the exception is to exempt something from the scope of the general words of a statute, which is otherwise within the scope and meaning of such general words. Consequently, the existence of an exception in a statute clarifies the intent that the statute shall apply to all cases not excepted. Exceptions are subject to the rule of strict construction; hence, any doubt will be resolved in favor of the general provision and against the exception. Indeed, the liberal construction of a statute will seem to require in many circumstances that

the exception, by which the operation of the statute is limited or abridged, should receive a restricted construction.

E

Section 13 of Resolution No. 7804 expanded
the exceptions under Section 8 of R.A. No. 7941

Section 13 of Resolution No. 7804 states:

Section 13. Substitution of nominees. - A party-list nominee may be substituted only when he dies, or his nomination is withdrawn by the party, or he becomes incapacitated to continue as such, or he withdraws his acceptance to a nomination. In any of these cases, the name of the substitute nominee shall be placed last in the list of nominees.

No substitution shall be allowed by reason of withdrawal after the polls.

Unlike Section 8 of R.A. No. 7941, the foregoing regulation provides four instances, the fourth being when the "nomination is withdrawn by the party."

Lokin insists that the COMELEC gravely abused its discretion in expanding to four the three statutory grounds for substituting a nominee.

We agree with Lokin.

The COMELEC, despite its role as the implementing arm of the Government in the enforcement and administration of all laws and regulations relative to the conduct of an election,[40] has neither the authority nor the license to expand, extend, or add anything to the law it seeks to implement thereby. The IRRs the COMELEC issues for that purpose should always accord with the law to be implemented, and should not override, supplant, or modify the law. It is basic that the IRRs should remain consistent with the law they intend to carry out.[41]

Indeed, administrative IRRs adopted by a particular department of the Government under legislative authority must be in harmony with the provisions of the law, and should be for the sole purpose of carrying the law's general provisions into effect. The law itself cannot be expanded by such IRRs, because an administrative agency cannot amend an act of Congress.[42]

The COMELEC explains that Section 13 of Resolution No. 7804 has added nothing to Section 8 of R.A. No. 7941,[43] because it has merely reworded and rephrased the statutory provision's phraseology.

The explanation does not persuade.

To reword means to alter the wording of or to restate in other words; to rephrase is to phrase anew or in a new form.[44] Both terms signify that the meaning of the original word or phrase is not altered.

However, the COMELEC did not merely reword or rephrase the text of Section 8 of R.A. No. 7941, because it established an entirely new ground not found in the text of the provision. The new ground granted to the party-list organization the unilateral right to withdraw its nomination already submitted to the COMELEC, which Section 8 of R.A. No. 7941 did not allow to be done. Neither was the grant of the unilateral right contemplated by the drafters of the law, who precisely denied the right to withdraw the nomination (as the quoted record of the deliberations of the House of Representatives has indicated). The grant thus conflicted with the statutory intent to save the nominee from falling under the whim of the party-list organization once his name has been submitted to the COMELEC, and to spare the electorate from the capriciousness of the party-list organizations.

We further note that the new ground would not secure the object of R.A. No. 7941 of developing and guaranteeing a full, free and open party-list electoral system. The success of the system could only be ensured by

avoiding any arbitrariness on the part of the party-list organizations, by seeing to the transparency of the system, and by guaranteeing that the electorate would be afforded the chance of making intelligent and informed choices of their party-list representatives.

The insertion of the new ground was invalid. An axiom in administrative law postulates that administrative authorities should not act arbitrarily and capriciously in the issuance of their IRRs, but must ensure that their IRRs are reasonable and fairly adapted to secure the end in view. If the IRRs are shown to bear no reasonable relation to the purposes for which they were authorized to be issued, they must be held to be invalid and should be struck down.[45]

F

Effect of partial nullity of Section 13 of Resolution No. 7804

An IRR adopted pursuant to the law is itself law.[46] In case of conflict between the law and the IRR, the law prevails. There can be no question that an IRR or any of its parts not adopted pursuant to the law is no law at all and has neither the force nor the effect of law.[47] The invalid rule, regulation, or part thereof cannot be a valid source of any right, obligation, or power.

Considering that Section 13 of Resolution No. 7804 - to the extent that it allows the party-list organization to withdraw its nomination already submitted to the COMELEC - was invalid, CIBAC's withdrawal of its nomination of Lokin and the others and its substitution of them with new nominees were also invalid and ineffectual. It is clear enough that any substitution of Lokin and the others could only be for any of the grounds expressly stated in Section 8 of R.A. No. 7941. Resultantly, the COMELEC's approval of CIBAC's petition of withdrawal of the nominations and its recognition of CIBAC's substitution, both through its assailed September 14, 2007 resolution, should be struck down for lack of legal basis. Thereby, the COMELEC acted without jurisdiction, having relied on the invalidly issued Section 13 of Resolution No. 7804 to support its action.

WHEREFORE, we grant the petitions for certiorari and mandamus.

We declare Section 13 of Resolution No. 7804 invalid and of no effect to the extent that it authorizes a party-list organization to withdraw its nomination of a nominee once it has submitted the nomination to the Commission on Elections.

Accordingly, we annul and set aside:

(a) The resolution dated September 14, 2007 issued in E. M. No. 07-054 approving Citizens' Battle Against Corruption's withdrawal of the nominations of Luis K. Lokin, Jr., Sherwin N. Tugna, and Emil Galang as its second, third, and fourth nominees, respectively, and ordering their substitution by Cinchona C. Cruz-Gonzales as second nominee and Armi Jane R. Borje as third nominee; and

(b) The proclamation by the Commission on Elections of Cinchona C. Cruz-Gonzales as a Party-List Representative representing Citizens' Battle Against Corruption in the House of Representatives.

We order the Commission on Elections to forthwith proclaim petitioner Luis K. Lokin, Jr. as a Party-List Representative representing Citizens' Battle Against Corruption in the House of Representatives.

We make no pronouncements on costs of suit.

SO ORDERED.

Corona, C.J., Carpio, Carpio Morales, Velasco, Jr., Nachura, Leonardo-De Castro, Brion, Del Castillo, Abad, Villarama, Jr., and Perez, JJ., concur.

Peralta, J., no part.

Mendoza, J., on leave

[1] Entitled An Act Providing for the Election of Party-List Representatives through the Party-List System, and Appropriating Funds Therefor.

[2] Rollo, G.R. No. 179431 and No. 179432, pp. 74-75.

[3] Id., p. 76.

[4] Id., p. 90.

[5] Id., p. 89.

[6] Id., pp. 91-92.

[7] Id., pp. 93-196.

[8] Id., pp. 51-55.

[9] Id., pp. 197-200.

[10] Id., pp. 68-71.

[11] Id., pp. 37-42.

[12] Id., pp. 43-47.

[13] Id., pp. 243-260.

[14] Id., p. 324.

[15] Id., p. 325.

[16] Entitled Rules and Regulations Governing the Filing of Manifestation of Intent to Participate, and Submission of Names of Nominees Under the Party-List System of Representation, in Connection with the 14 May 2007 Synchronized National and Local Elections.

[17] Rollo, G.R. No. 180443, pp. 65-82.

[18] Entitled An Act Providing for the Election of Party-List Representatives through the Party-List System, and Appropriating Funds Therefor.

[19] Executive Secretary v. Gordon, G.R. No. 134171, November 18, 1998, 298 SCRA 736.

[20] First Philippine International Bank v. Court of Appeals, G.R. No. 115849, January 24, 1996, 252 SCRA 259.

[21] Bugnay Construction and Development Corporation v. Laron, G.R. No. 79983, August 10, 1989, 176 SCRA 240.

[22] Paredes, Jr. v. Sandiganbayan, Second Division, G.R. No. 108251, January 31, 1996, 252 SCRA 641.

[23] International Container Terminal Services, Inc. v. Court of Appeals, G.R. No. 116910, October 18, 1995, 249

SCRA 389.

[24] Buan v. Lopez, Jr., G.R. No. L-75349, October 13, 1986, 145 SCRA 34.

[25] Crawford, Earl. T., The Construction of Statutes, Thomas Law Book Company, St. Louis, Missouri, pp. 24-25 (1940).

[26] Id., pp. 29-30.

[27] Metropolitan Bank and Trust Company, Inc. v. National Wages and Productivity Commission, G.R. No. 144322, February 6, 2007, 514 SCRA 346, 349-350.

[28] Cruz, Philippine Administrative Law, pp. 50-51 (2007).

[29] 1987 Constitution, Article IX-C, Section 2(1).

[30] Batas Pambansa Bilang 881, Article VII, Section 52(c).

[31] The Party-List System Act (R.A. No. 7941) provides:

Section 18. Rules and Regulations.- The COMELEC shall promulgate the necessary rules and regulations as may be necessary to carry out the purposes of this act.

[32] Boie-Takeda Chemicals, Inc. v. De la Serna, G.R. Nos. 92174 and 102552, December 10, 1993, 228 SCRA 329.

[33] Pilipinas Kao, Inc. v. Court of Appeals, G.R. No. 105014, December 18, 2001, 372 SCRA 548, 551-552; Commissioner of Internal Revenue v. Central Luzon Drug Corporation, G.R. No. 159647, April 15, 2005, 456 SCRA 414, 441.

[34] Black, Construction and Interpretation of Laws, 2[nd] Edition, p. 45.

[35] Land Bank of the Philippines v. Court of Appeals, G.R. Nos. 118712 and 118745, July 5, 1996, 258 SCRA 404.

[36] Agpalo, Statutory Construction, p. 65 (5[th] ed., 2003).

[37] Record of the Deliberations of the House of Representatives, 3rd Regular Session (1994-1995), Volume III, November 22, 1994, p. 336.

[38] McGee v. Republic, 94 Phil. 820 (1954).

[39] Salaysay v. Castro, 98 Phil. 364 (1956).

[40] Section 2(1) of Article IX-C of the 1987 Constitution.

[41] Romulo, Mabanta, Buenaventura, Sayoc and De los Angeles v. Home Development Mutual Fund, G.R. No. 131082, June 19, 2000, 333 SCRA 777.

[42] Cebu Oxygen & Acetylene Co., Inc. v. Drilon, G.R. No. 82849, August 2, 1989, 176 SCRA 24, 29.

[43] Rollo, p. 509.

[44] Webster's Third New International Dictionary.

[45] Lupangco v. Court of Appeals, No. L-77372, April 29, 1988, 160 SCRA 848, 858-859.

[46] Banco Filipino Savings and Mortgage Bank v. Navarro, No. L-46591, July 28, 1987, 152 SCRA 346.

[47] Commissioner of Internal Revenue v. Central Luzon Drug Corporation, *supra*, note 33.

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