

EN BANC

G.R. No. 262975 – MAGKAKASAMA SA SAKAHAN, KAUNLARAN (MAGSASAKA) PARTY-LIST, represented by its Secretary-General, ATTY. GENERAL D. DU, Petitioners, v. COMMISSION ON ELECTIONS and SOLIMAN VILLAMIN, JR., Respondents.

Promulgated:

May 21, 2024

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CONCURRING AND DISSENTING OPINION

LEONEN, J.:

This is a landmark case that tackles the demarcation of the power of the Commission on Elections (COMELEC) to decide on intra-party disputes, particularly on whether the expulsion of a member or officer by a party-list organization is in accordance with the organization's constitution and by-laws, as well as with basic democratic principles.

The principal issue that confronts this Court in this case is whether the COMELEC gravely abused its discretion when it decided on which faction in a party-list properly provided a list of nominees. Intrinsic to this issue is a constitutional determination of the parameters of the power of a party-list organization to expel a member from a leadership position and nominate a replacement member-nominee.

Essentially, the *ponencia* finds that the COMELEC in this case has acted with grave abuse of discretion when it gave due course to the Manifestation of Intent to Participate in the Party-List System of Representation in the May 2022 elections filed by Soliman Villamin, Jr. (Villamin) on behalf of Magkakasama sa Sakahan, Kaunlaran (MAGSASAKA) because:

- (a) it focused on procedural infirmities of the expulsion proceedings and thereby disregarded the substantive grounds for Villamin's removal as MAGSASAKA's Chairperson;¹ and
- (b) it refused to acknowledge that MAGSASAKA had the prerogative to treat the attendance by official representatives of members as constituting quorum.²

¹ See *ponencia*, p. 19.

² See *id.* at 18–19.

The *ponencia* states that the “COMELEC cannot expect, much less demand from MAGSASAKA that it adheres to the same strict tenets of due process required from the government.”³ The *ponencia* additionally asserts that the requirements of due process do not apply to internal affairs of political parties and that an intra-party dispute must be resolved according to what a party-list organization’s charter provides.⁴ Here, since MAGSASAKA’s *Saligang Batas* does not require any notice to Villamin prior to his expulsion,⁵ “the COMELEC gravely abused its discretion in finding that the lack of prior notice to Villamin rendered his removal as National Chairman ineffectual.”⁶

I concur with the *ponencia* in that the COMELEC gravely abused its discretion and in granting the Petition. I likewise agree with the *ponencia* that the COMELEC validly took cognizance of the intra-party leadership dispute between Villamin and Nazal.⁷ I write this Concurring and Dissenting Opinion to expound on my position.

In merely giving due course to Villamin’s Manifestation of Intent to Participate without conducting a thorough review of the existence and operation of MAGSASAKA vis-à-vis democratic principles and the integrity of electoral process, I submit that the COMELEC failed to fulfill its constitutional mandate. By being remiss in its duty, it acted with grave abuse of discretion.

Furthermore, I take exception in the *ponencia*’s assertion that procedural deviations in the removal of a party officer should not affect the validity of the removal itself, even if the removal is based on substantial grounds.⁸ I also find the lack of scrutiny proposed in the *ponencia* regarding the conduct of the *General Assembly* and the Council of Leaders’ meeting alarming.⁹

From my perspective, this case presents an opportunity for this Court to articulate specific or more nuanced due process guidelines for the handling of disciplinary and expulsion proceedings by party-list organizations.

I

³ *Id.* at 17.

⁴ *Id.* at 15.

⁵ *Id.* at 17.

⁶ *Id.* at 16.

⁷ *Id.* at 14.

⁸ *See ponencia*, p. 21.

⁹ *Ponencia*, pp. 16 – 18.

Judicial power is the measure of allowable scope of judicial action.¹⁰ Article VIII, Section 1 of the 1987 Constitution vests judicial power upon the Supreme Court and defined it as follows:

SECTION 1. The judicial power shall be vested in one Supreme Court and in such lower courts as may be established by law.

Judicial power includes the duty of the courts of justice to settle actual controversies involving rights which are legally demandable and enforceable, and 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.¹¹

Notably, the second paragraph of Article VIII, Section 1 of the Constitution expanded the traditional notion of judicial power to include 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.” Thus, jurisprudence has distinguished judicial power into two: traditional and expanded powers of judicial review.

Traditional judicial power pertains to a court’s “authority to review and settle actual controversies or conflicting rights between dueling parties and enforce legally demandable rights.”¹² Meanwhile, expanded judicial power includes the power to review “[q]uestions involving the allocation of power among the different branches of government, those pertaining to the constitutional framework of the Philippine economy, and those relating to the amendment and revision of the Constitution[.]”¹³

Under the concept of expanded judicial power, the exercise of judicial review contemplates the power “to review political discretion that clearly breaches fundamental values and principles congealed in provisions of the Constitution,”¹⁴ as well as the correction of acts done by any governmental branch or instrumentality with grave abuses of discretion.¹⁵ This Court has allowed petitions filed under Rule 65, which is generally applied to judicial and quasi-judicial acts, as a procedural vehicle to invoke this Court’s expanded jurisdiction to determine the existence of any grave abuse of

¹⁰ CONST., art. VIII, sec. 1. See *GSIS Family Bank Employees Union v. Villanueva*, 846 Phil. 30, 46 (2019) [Per J. Leonen, *En Banc*], citing *Lopez v. Roxas*, 124 Phil. 168, 173 (1966) [Per C.J. Concepcion, *En Banc*].

¹¹ CONST., art. VIII, sec. 1.

¹² *GSIS Family Bank Employees Union v. Villanueva*, 846 Phil. 30, 46–47 (2019) [Per J. Leonen, *En Banc*], citing *Rep. of the Phils. V Moldex Realty, Inc.*, 780 Phil. 553, 560 (2016) [Per J. Leonen, Second Division].

¹³ *Universal Robina Corp. v. Department of Trade and Industry*, G.R. No. 203353, February 14, 2023 [Per J. Leonen, *En Banc*].

¹⁴ J. Leonen, Concurring Opinion in *Rappler, Inc. v. Bautista*, 783 Phil. 902, 917 (2016) [Per J. Carpio, *En Banc*].

¹⁵ *Id.* See also J. Leonen, Concurring Opinion in *Belgica v. Ochoa*, 721 Phil. 416 (2013) [Per J. Perlas-Bernabe, *En Banc*].

discretion.¹⁶ As in this case, this Court is stepping in to make sure that the COMELEC does not act in excess of its jurisdiction while simultaneously maximizing the exercise of its powers within the limits granted by the Constitution.

It is worth noting that the existing political structure of the Philippine government effectively restrains this Court to speak, typically through its decisions, resolutions, and rules of procedure.¹⁷ Nonetheless, this Court is granted under the Constitution a certain fluidity in the choice of modalities of constitutional interpretation and approaches to a constitutional problem, such as reinterpreting the requisites for judicial review. This must be so, considering that the Supreme Court, as the protector of fundamental liberties, has the duty to balance the allocation of government powers with the exercise of all these fundamental rights and to render social justice considering the country's dynamic political, economic, and social milieu.¹⁸ Otherwise stated, the judiciary assures the enforceability of constitutional values in the context of a reality where a democratic deficit exists in other organs.

II

Grave abuse of discretion is exercise of power “in an arbitrary or despotic manner by reason of passion or personal hostility and must be so patent and gross as to amount to an evasion of positive duty or to a virtual refusal to perform the duty enjoined by or to act at all in contemplation of law.”¹⁹ Simply stated, for grave abuse of discretion to arise, the lower court or tribunal “must have violated or contravened the Constitution, the law, or existing jurisprudence.”²⁰

The COMELEC's jurisdiction to rule on leadership disputes within a political party is settled. In *Lokin Jr. v. COMELEC*,²¹ this Court explained that (a) the COMELEC's power to rule on intra-party leadership disputes is an incident of its enforcement powers; and (b) COMELEC's power to register political parties necessarily involves the ascertainment of the identity of the political party and its legitimate officers who must act on its behalf. Thus:

This singular power to rule upon questions of party identity and leadership is exercised by the COMELEC as an incident to its enforcement powers.

¹⁶ See RULES OF COURT, Rule 65, sec. 1.

¹⁷ See CONST., art. VIII, sec. 1.

¹⁸ See *Universal Robina Corp. v. Department of Trade and Industry*, G.R. No. 203353, February 14, 2023 [Per J. Leonen, *En Banc*].

¹⁹ *United Coconut Planters Bank v. Looyuko*, 560 Phil. 581, 591–592 (2007) [Per J. Austria-Martinez, Third Division].

²⁰ *Salazar v. Commission on Elections*, 550 Phil. 395, 398 (2007) [Per J. Azcuna, *En Banc*].

²¹ *Lokin, Jr. v. Commission on Elections*, 689 Phil. 200 (2012) [Per J. Sereno, *En Banc*].

In *Laban ng Demokratikong Pilipino v. Commission on Elections*, the Court held:

[...] Corollary to the right of a political party “to identify the people who constitute the association and to select a standard bearer who best represents the party’s ideologies and preference” is the right to exclude persons in its association and to not lend its name and prestige to those which it deems undeserving to represent its ideals. A certificate of candidacy makes known to the COMELEC that the person therein mentioned has been nominated by a duly authorized political group empowered to act and that it reflects accurately the sentiment of the nominating body. A candidate’s political party affiliation is also printed followed by his or her name in the certified list of candidates. A candidate misrepresenting himself or herself to be a party’s candidate, therefore, not only misappropriates the party’s name and prestige but foists a deception upon the electorate, who may unwittingly cast its ballot for him or her on the mistaken belief that he or she stands for the party’s principles. To prevent this occurrence, the COMELEC has the power and the duty to step in and enforce the law not only to protect the party but, more importantly, the electorate, in line with the Commission’s broad constitutional mandate to ensure orderly elections.

....

In the 2010 case *Atienza v. Commission on Elections*, it was expressly settled that the COMELEC possessed the authority to resolve intra-party disputes as a necessary tributary of its constitutionally mandated power to enforce election laws and register political parties. The Court therein cited *Kalaw v. Commission on Elections* and *Palmares v. Commission on Elections*, which uniformly upheld the COMELEC’s jurisdiction over intra-party disputes:

The COMELEC’s jurisdiction over intra-party leadership disputes has already been settled by the Court. The Court ruled in *Kalaw v. Commission on Elections* that the COMELEC’s powers and functions under Section 2, Article IX-C of the Constitution, “include the ascertainment of the identity of the political party and its legitimate officers responsible for its acts.” The Court also declared in another case that the COMELEC’s power to register political parties necessarily involved the determination of the persons who must act on its behalf. Thus, the COMELEC may resolve an intra-party leadership dispute, in a proper case brought before it, as an incident of its power to register political parties.²² (Citations omitted)

²² *Id.* at 211–212.

The *ponencia* concedes on this matter by acknowledging that the COMELEC validly took cognizance of the intra-party leadership dispute between Villamin and Nazal.²³

Furthermore, pursuant to Article IX-C, Section 2(1) of the Constitution, the COMELEC has the power to enforce and administer all laws and regulations relative to the conduct of an election, which necessarily includes “the initial determination of who are qualified under existing laws to run for public office in an election.”²⁴

Article IX-C, Section 2(3) of the Constitution further echoes this by expressly empowering the COMELEC to “decide, except those involving the right to vote, all questions affecting elections.” This power to decide “all questions affecting elections ‘necessarily includes the power to decide whether a candidate possesses the qualifications required by law for election to public office.’”²⁵

In this regard, the COMELEC’s power to determine the individual qualifications of nominee-representatives of party-list organizations under Sections 8 and 9 of the Party-List System Law include settling the question on whether said nominee is “a bona fide member of the party or organization which he seeks to represent for at least ninety (90) days preceding the day of the election.”²⁶ Sections 8 and 9 of the Party-List System Law respectively read:

Sec. 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 for 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

²³ *Id.* at 14.

²⁴ J. Carpio, Dissenting Opinion in *Tacson v. Commission on Elections*, 468 Phil. 421, 625–626 (2004) [Per J. Vitug, *En Banc*].

²⁵ *Id.* at 626.

²⁶ *See* Party-List System Law, Section 9.

Representatives who are nominated in the party-list system shall not be considered resigned.

Sec. 9. *Qualifications of Party-List Nominees.* — No person shall be nominated as party-list representative unless he is a natural-born citizen of the Philippines, a registered voter, a resident of the Philippines for a period of not less than one (1) year immediately preceding the day of the election, able to read and write, a *bona fide* member of the party or organization which he seeks to represent for at least ninety (90) days preceding the day of the election, and is at least twenty-five (25) years of age on the day of the election.²⁷

Consistent with the above Constitutional mandates, the COMELEC undoubtedly exercises exclusive original jurisdiction to initially determine who are qualified to file certificates of candidacies with it; and, therefore, the qualifications of electoral candidates,²⁸ including those running in party-list elections. It must be noted, too, that this Court has upheld the COMELEC's previous rulings on questions concerning the qualifications of a candidate, even if other tribunals have been created to be the "sole judge" of the qualifications of the holders of the public offices involved.²⁹

This case is no different, as the cases below—the two petitions seeking to deny due course to a Manifestation of Intent to Participate in the Party-List System of Representation in the May 9, 2022 Elections—are properly characterized as pre-election remedies made available pursuant to Section 74 of the Omnibus Election Code.³⁰ To recall, the petitions³¹ arose from two separate Petitions filed by Atty. General D. Du (Du) and Alfon et. al., seeking to Deny Due Course to a Manifestation of Intent to Participate in the Party-List System of Representation in the May 2022 elections filed by Soliman Villamin, Jr. on behalf of MAGSASAKA. The Manifestation of

²⁷ *Lokin, Jr. v. Commission on Elections*, 689 Phil. 200, 213–214 (2012) [Per J. Sereno, *En Banc*].

²⁸ See J. Carpio Dissenting Opinion in *Tecson v. Commission on Elections*, 468 Phil. 421, 625–627 (2004) [Per J. Vitug, *En Banc*].

²⁹ See *id.* at 627

³⁰ OMNIBUS ELECTION CODE, sec. 74, in relation to sec. 78 reads:

Sec. 78. Petition to deny due course to or cancel a certificate of candidacy. — A verified petition seeking to deny due course to or cancel a certificate of candidacy may be filed by the person exclusively on the ground that any material representation contained therein as required under Section 74 hereof is false. The petition may be filed at any time not later than twenty-five days from the time of the filing of the certificate of candidacy and shall be decided, after due notice and hearing, not later than fifteen days before the election.

Sec. 74. Contents of certificate of candidacy. — The certificate of candidacy shall state that the person filing it is announcing his candidacy for the office stated therein and that he is eligible for said office; if for Member of the *Batasang Pambansa*, the province, including its component cities, highly urbanized city or district or sector which he seeks to represent; the political party to which he belongs; civil status; his date of birth; residence; his post office address for all election purposes; his profession or occupation; that he will support and defend the Constitution of the Philippines and will maintain true faith and allegiance thereto; that he will obey the laws, legal orders, and decrees promulgated by the duly constituted authorities; that he is not a permanent resident or immigrant to a foreign country; that the obligation imposed by his oath is assumed voluntarily, without mental reservation or purpose of evasion; and that the facts stated in the certificate of candidacy are true to the best of his knowledge

...

³¹ Filed under RULES OF COURT, rule 64, in relation to rule 65.

Intent to Participate filed by Villamin indicated a set of MAGSASAKA nominees, including Roberto Gerard L. Nazal Jr. (Nazal).

Nonetheless, here, in exercise of its expanded power of judicial review, this Court is reviewing the political discretion vested upon the Commission on Elections to determine whether, in carrying out its mandate, its acts clearly breach fundamental values and principles under the Constitution and therefore constitute acts done with grave abuse of discretion.

To recall, through its *November 25, 2021 Resolution*,³² the COMELEC in *Division* ruled in favor of Villamin and upheld his Manifestation of Intent to Participate because his removal from the Party was not done according to the procedures set forth in the Party's Constitution as Villamin was not given prior notice nor an opportunity to be heard.³³ It noted that Du himself admitted that notices were not sent to Villamin "so as not to pre-empt any investigation that would ensue."³⁴ Thus, Villamin remains to be the Party's National Chairman at the time of the filing of his Manifestation of Intent to Participate and therefore is not guilty of misrepresentation nor of putting the election process in mockery or disrepute. In any case, it stated that because MAGSASAKA will be the one to participate in the 2022 Party-List elections and not Villamin, the filing of the Manifestation of Intent to Participate by Villamin will not put the election process in mockery or disrepute.³⁵

Acting on petitioners' respective motions for reconsideration,³⁶ the COMELEC *En Banc*, through its *September 13, 2022 Resolution*,³⁷ affirmed the validity of the Manifestation of Intent to Participate filed by Villamin. According to the COMELEC *En Banc*, its constitutional power to register political parties includes the power to ascertain the identity of legitimate officers of a political party who must act on its behalf; therefore, it may resolve an intra-party leadership dispute in a case brought before it.³⁸ It also affirmed its *Division's* findings that, based on the records, Villamin was not given prior notice nor any opportunity to be heard. There was likewise no proof that quorum was met during the December 21, 2019 General Assembly; therefore, Villamin's removal and the conduct of special elections are null and void.³⁹

³² November 25, 2021 COMELEC Resolution, pp. 1–16. The Resolution was penned by Presiding Commissioner Ma. Rowena Amelia V. Guanzon and concurred in by Commissioner Marlon S. Casquejo. Commissioner Aimee P. Ferolino dissented.

³³ *Id.* at 8–12.

³⁴ *Id.* at 12.

³⁵ *Id.* at 14.

³⁶ *Id.* at 1–16.

³⁷ September 13, 2022 COMELEC Resolution, pp. 1–15. The Resolution was penned by then Chariman George Erwin M. Garcia and concurred in by Commissioners Socorro B. Inting, Marlon S. Casquejo, Aimee P. Ferolino, and Rey E. Bulay.

³⁸ *Id.* at 5–6.

³⁹ *Id.* at 7–10.

III

The function of a party-list organization is much more than to provide genuine representation and voice to the marginalized sectors of our society⁴⁰ that may not otherwise have a significant presence in traditional political structures. As mentioned in my separate opinion in *Atong Paglaum*:

The party list system is an attempt to introduce a new system of politics in our country, one where voters choose platforms and principles primarily and candidate-nominees secondarily. As provided in the Constitution, the party list system's intentions are broader than simply to 'ensure that those who are marginalized and represented become lawmakers themselves'.

Historically, our electoral exercises privileged the popular and, perhaps, pedigreed individual candidate over platforms and political programs. Political parties were convenient amalgamation of electoral candidates from the national to the local level that gravitated towards a few of its leaders who could marshal the resources to supplement the electoral campaigns of their members. Most elections were choices between competing personalities often with very little discernible differences in their interpretation and solutions for contemporary issues. The electorate chose on the bases of personality and popularity; only after the candidates were elected to public offices will they later find out the concrete political programs that the candidate will execute. Our history is replete with instances where the programs that were executed lacked cohesion on the basis of principle. In a sense, our electoral politics alienated and marginalized large parts of our population.

The party list system was introduced to challenge the *status quo*. It could not have been intended to enhance and further entrench the same system. It is the party or the organization that is elected. It is the party list group that authorizes, hopefully through a democratic process, a priority list of its nominees. It is also the party list group that can delist or remove their nominees, and hence replace him or her, should he or she act inconsistently with the avowed principles and platforms of governance of their organization. In short, the party list system assists genuine political parties to evolve. Genuine political parties enable true representation, and hence, provide the potential for us to realize a 'democratic and republican state.'⁴¹ (Citations omitted)

In *Ang Bagong Bayani-OFW v. Commission on Elections*,⁴² this Court acknowledged and elaborated on how a party-list system serves as a tool for achieving social justice:

The party-list system is a social justice tool designed not only to give more law to the great masses of our people who have less in life, but

⁴⁰ See Republic Act No. 7491, sec. 2.

⁴¹ J. Leonen, Concurring and Dissenting Opinion in *Atong Paglaum, Inc. v. Commission on Elections*, 707 Phil. 454, 740–741 (2013) [Per J. Carpio, *En Banc*].

⁴² 412 Phil. 308 (2001) [Per J. Panganiban, *En Banc*].

also to enable them to become veritable lawmakers themselves, empowered to participate directly in the enactment of laws designed to benefit them. It intends to make the marginalized and the underrepresented not merely passive recipients of the State's benevolence, but active participants in the mainstream of representative democracy. Thus, allowing all individuals and groups, including those which now dominate district elections, to have the same opportunity to participate in party-list elections would desecrate this lofty objective and mongrelize the social justice mechanism into an atrocious veneer for traditional politics.⁴³

Upon being elected as a party-list representative, an individual assumes the role of a member of the House of Representatives,⁴⁴ becoming a public officer entrusted with the responsibility of representing their constituency.

In *Abayon v. House of Representatives Electoral Tribunal*,⁴⁵ this Court explained that while a vote cast in a party-list election is a vote for a party, such vote would ultimately be a vote for its nominees, who will occupy public office as members of the House of Representatives. Thus:

[T]he Constitution's point of view, it is the party-list representatives who are "elected" into office, not their parties or organizations. These representatives are elected, however, through that peculiar party-list system that the Constitution authorized and that Congress by law established where the voters cast their votes for the organizations or parties to which such party-list representatives belong.

....

It may not be amiss to point out that the Party-List System Act itself recognizes party-list nominees as "members of the House of Representatives," thus:

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

⁴³ *Id.* at 322.

⁴⁴ See *ABC (Alliance for Barangay Concerns) Party List v. Commission on Elections*, 661 Phil. 452, 462 (2011) [Per J. Peralta, *En Banc*].

⁴⁵ 626 Phil. 346 (2010) [Per J. Abad, *En Banc*].

enhancing their chances to compete for and win seats in the legislature, and shall provide the simplest scheme possible.

As this Court also held in *Bantay Republic Act or BA-RA 7941 v. Commission on Elections*, a party-list representative is in every sense “an elected member of the House of Representatives.” Although the vote cast in a party-list election is a vote for a party, such vote, in the end, would be a vote for its nominees, who, in appropriate cases, would eventually sit in the House of Representatives.⁴⁶ (Citations omitted)

As a public officer who wields sovereign power and an embodiment of democracy, it is imperative that their actions and affiliations uphold democratic principles, such as transparency, rule of law, and respect for individual rights. In the same vein, the process of removing a party-list representative from his or her organization should adhere to basic democratic principles, ensuring transparency, providing due process, and upholding the right to a fair hearing.

If a party-list organization were to expel a member without due process or in violation of its own internal procedures, it could deprive said expelled individual of his or her democratic rights. Just as the representative is accountable to their constituents in the House of Representatives, they should also be subject to the democratic processes within their party-list organization.

Allowing a party-list organization to expel members arbitrarily or without proper review of its disciplinary and expulsion procedures opens the door to abuse and manipulation of the electoral process. It could enable party-list leaders to exclude dissenting individuals who pose a challenge to their authority, undermining the integrity and ultimate goal of the party-list system, which, as mentioned above, is genuine representation of marginalized voices.

Pursuant to its mandate under Article IX-C, Section 2 of the Constitution, the COMELEC has a duty to protect these rights by ensuring, through the conduct of a thorough review, that a party-list organization adhere to democratic principles in their operations. In line with this duty, the COMELEC must also exercise oversight to prevent abuses of so-called “prerogatives” and uphold the integrity of the electoral process. It goes without saying, too, that the COMELEC must ensure that those sanctioned to participate in the party-list system are those that remain faithful to constitutional principles.

In merely giving due course to Villamin’s Manifestation of Intent to Participate without conducting a thorough review of whether the existence and operation of MAGSASAKA as a party-list organization is in accordance

⁴⁶ *Id.* at 353–354.

with democratic principles and whether said organization upholds the integrity of electoral process, I submit that the COMELEC failed to fulfill its constitutional mandate. By being remiss in its duty, it acted with grave abuse of discretion.

IV

In my view, this Court should not be blind to present realities⁴⁷ in that many party-list organizations may not be as democratic as originally envisioned by the Constitution. In my opinion, for a party in the party-list system to challenge the status quo, enable true representation, and realize a democratic and republican state,⁴⁸ a party-list organization must exist and operate within the framework of democratic principles. This entails ensuring that all its dealings adhere strictly to the tenets of democracy and republicanism. Thus, the Court must actively undertake judicial review in situations where there may have been a deficit in democratic participation, as in this case, and particularly where questions and concerns may be difficult to raise because of the existing political structure of Philippine society.

As a democratic institution, a party-list organization must adhere to democratic principles in all its dealings and proceedings, both internally and externally, for several reasons—all of which are deeply rooted in its purpose and essence as a democratic mechanism.

First. Legitimacy and accountability: democratic principles provide the foundation for the legitimacy of the party-list organization and its leaders. When leaders adhere to democratic norms such as fair elections, transparency, and accountability, they gain the trust and support of members and the broader public.⁴⁹

Second. Representation: party-list organizations are meant to represent the interests and values of specific sectors or constituencies within society. Upholding democratic principles ensures that the voices and concerns of members are heard and considered in decision-making processes.⁵⁰

Third. Inclusivity and respect for human rights: democratic principles are closely linked to the respect for human rights and fundamental freedoms and promote inclusivity and participation.⁵¹ Leaders who uphold these

⁴⁷ J. Leonen, Concurring Opinion in *Gios-Samar, Inc. v. Department of Transportation and Communications*, 849 Phil. 120, 196 (2019).

⁴⁸ CONST. art. II, sec. 1.

⁴⁹ CONST., art. XI, sec. 1 which reads:

SECTION 1. Public office is a public trust. Public officers and employees must, at all times, be accountable to the people, serve them with utmost responsibility, integrity, loyalty, and efficiency; act with patriotism and justice, and lead modest lives.

⁵⁰ See CONST., art. VI, secs. 5(1) and 5(2)

⁵¹ See CONST., art XIII, secs. 1 and 2 which read:

principles create an environment where diverse perspectives are valued and respected and demonstrate a commitment to protecting the rights and dignity of all members and constituents.

That being said, it is imperative that any decision to remove an officer from a leadership position be conducted in accordance with basic democratic principles, such as the right to due process. This includes providing the accused member or officer with prior notification and affording them a reasonable opportunity to be heard before any action is taken, especially where this will result in termination of membership or removal from a position. This, notwithstanding lack of provisions in the party-list organization's charter explicitly requiring (a) prior notice and hearing; and (b) quorum.

Absent any law to the contrary, parties in the party-list system must continue to possess the features that are derived from, and embedded in, a fully democratic and republican system. The Court, in its exercise of judicial review and its duty to enforce the basic tenets of our democratic system, cannot allow a party-list system to be appropriated only by the monied and the powerful.

Otherwise, instead of functioning as a mechanism for fair and accountable governance, a party-list organization may become a breeding ground for chaos and anarchy. Moreover, the institution loses the trust of its constituents and devolves into a state where arbitrary actions and abuses of power prevail, undermining not only the very purpose and essence of democracy itself, but also the very nature and foundational principles of the Philippine political system.⁵²

In such circumstances, the ideals of democracy are rendered inutile, and a descent into anarchy ensues. Any deviation from democratic principles in the removal of a party-list representative would not only undermine the integrity and legitimacy of the organization but also erode public trust in the democratic process. Therefore, it is essential that such proceedings are conducted in a manner that respects democratic norms and safeguards the rights of all parties involved.

As such, I take exception in the *ponencia's* assertion that procedural deviations in the removal of a party officer should not affect the validity of

SECTION 1. The Congress shall give highest priority to the enactment of measures that protect and enhance the right of all the people to human dignity, reduce social, economic, and political inequalities, and remove cultural inequities by equitably diffusing wealth and political power for the common good.

To this end, the State shall regulate the acquisition, ownership, use, and disposition of property and its increments.

SECTION 2. The promotion of social justice shall include the commitment to create economic opportunities based on freedom of initiative and self-reliance.

⁵² See CONST., art. II, sec. 1.

the removal itself, provided that the removal is based on substantial grounds.⁵³ Furthermore, while strict tenets of due process have not yet been applied to expulsion proceedings by political parties and organizations because they do not entail proceedings and hearings similar to those held in courts of justice, I believe that expulsion proceedings by political parties and organizations are similar to disciplinary cases in schools, whereby (a) said proceedings may be summary in nature; and (b) presence of counsel and cross examination may not be an essential part thereof.⁵⁴

V

A fundamental aspect of due process is fairness. Fairness in due process includes the principle that the body making judgments—including this Court—should not assume the facts but should instead base their decisions on the evidence presented during the legal proceedings. While there allegedly had been an investigation previously conducted by MAGSASAKA regarding Villamin's alleged criminal violations (i.e., Villamin's alleged business activities akin to *ponzi* or pyramiding schemes), the records are bereft of any proof of notice to Villamin during said investigation.

Thus, I find the lack of scrutiny proposed in the *ponencia* regarding the conduct of the *General Assembly* and the Council of Leaders' meeting—that is, that this Court should not be concerned with the fact that not all members have attended or participated the meetings convened by the Council of Leaders, alarming.⁵⁵ To recall, the *ponencia* stated that the party's interpretation of quorum in this case is established party practice that calls for a constitution of more than a majority of the official representatives of the members, as opposed to the entire membership of the party.⁵⁶

In democratic processes, quorum requirements are often in place to ensure that decisions are made with the input of a representative portion of the governing body.⁵⁷ The absence of quorum may undermine the accountability of the decision-making process, as decisions made without sufficient participation may not truly reflect the will or interests of the constituency.

Regardless of what a party-list organizations' constitution and by-laws require—or, in this case, do not,⁵⁸ this Court must not assume Villamin's non-attendance to an investigation unilaterally conducted by MAGSASAKA

⁵³ See *ponencia*, p. 21.

⁵⁴ See *Guzman v. National University*, 226 Phil. 586, 603–604 (1986) [Per J. Narvasa, *En Banc*].

⁵⁵ *Ponencia*, pp. 16 – 18.

⁵⁶ See *ponencia*, p. 18.

⁵⁷ See Institute for Local Government, *Enough Decision-Makers: "Quorum"* available at <https://www.ca-ilg.org/post/enough-decision-makers-quorum> (last accessed on July 14, 2024).

⁵⁸ See *ponencia*, p. 17 wherein the *ponencia* states that "MAGSASAKA's *Saligang Batas* has no provisions on how notice in expulsion proceedings should be given[.]"

and attribute said non-attendance on external factors which are not substantiated by the records.⁵⁹ Otherwise, this Court allows irregularities to happen, as in this case where petitioner MAGSASAKA's evidence themselves clearly show that the investigation was *not* done in accordance with its own *Saligang Batas*. Especially as in this case where MAGSASAKA's own secretary-general himself admitted to not sending notice to Villamin, allegedly "so as not to pre-empt any investigation that would ensue."⁶⁰

It bears emphasizing that, by constitutional fiat, this Court is mandated to express clearly and distinctly the facts and the law on which our decisions are based.⁶¹ This Court must be wary where it agrees with petitioners' unsubstantiated assertions; otherwise, it would be sorely remiss in this duty.

It also bears noting that this Court rebuked Villamin, saying that he should have been aware of the expulsion proceedings and speculated that Villamin "refused to communicate without reason" and therefore, "MAGSASAKA could not be completely at fault for acting expeditiously to conduct the proceedings[.]"⁶² In my view, not only are these statements speculative as being unsupported by the records, it also runs contradictory to the *ponencia's* statement that MAGSASAKA was highly resolved in keeping Villamin out of its affairs and it was within MAGSASAKA's prerogative to exclude its party Chairperson in this case.⁶³

Assuming without conceding that MAGSASAKA had the prerogative to exclude Villamin from the investigation, because MAGSASAKA has taken an adversarial position taken against Villamin and deliberately opted not to notify Villamin,⁶⁴ it would be unreasonable to expect Villamin to be aware of such proceedings, much less to attend said proceedings and cast a vote.

VI

⁵⁹ *Ponencia*, pp. 17–18, which stated that: (a) it is contrary to common sense to conclude that the National Chairperson did not know of the proceedings seeking his expulsion considering the notoriety that such an action would have made; (b) Villamin refused to communicate, albeit being given several chances to be heard; (c) Villamin was not interested in attending the meetings; (d) Villamin consistently refused to attend meetings of the Council of Leaders and would send a representative to attend.

On a related note, there is no showing that Cortez is indeed authorized by Villamin to represent him in any meeting; I submit that this authority must be supported by a written power of attorney pursuant to Article 1900 of the Civil Code, which provides:

ARTICLE 1900. So far as third persons are concerned, an act is deemed to have been performed within the scope of the agent's authority, if such act is within the terms of the power of attorney, as written, even if the agent has in fact exceeded the limits of his authority according to an understanding between the principal and the agent.

⁶⁰ *See Rollo*, p. 223. November 25, 2021 COMELEC Resolution, p. 12.

⁶¹ CONST. art. VIII, sec. 14.

⁶² *Ponencia* pp. 17–18.

⁶³ *See id.* at 20.

⁶⁴ *See* November 25, 2021 COMELEC Resolution, p. 12.

In future cases, I urge that this Court reflect carefully on the foregoing, if we were to avoid institutionalizing the reality that many party-list organizations may not be as democratic as originally envisioned by the Constitution.

In an election case which involves public interest, this Court has an imperative duty “to ascertain by all means within its command who is the real candidate elected by the electorate.”⁶⁵

In line with this duty and in the exercise of its expanded judicial power, and considering that Republic Act No. 7941 did not provide a workable definition of ‘marginalized,’ ‘underrepresented,’ and ‘sector,’⁶⁶ and therefore no consistent judicially discernible standard for the COMELEC to apply,⁶⁷ I believe that this Court should have directed the COMELEC to scrutinize party-list organizations using the following fifteen benchmarks I had previously formulated in *Atong Paglaum, Inc. v. Commission on Elections*:⁶⁸

First, the party list system includes national, regional and sectoral parties and organizations;

Second, there is no need to show that they represent the “marginalized and underrepresented”. However, they will have to clearly show how their plans will impact on the “marginalized and underrepresented”. Should the party list group prefer to represent a sector, then our rulings in *Ang Bagong Bayani* and *BANAT* will apply to them;

Third, the parties or organizations that participate in the party list system must not also be a participant in the election of representatives for the legislative districts. In other words, political parties that field candidates for legislative districts cannot also participate in the party list system;

Fourth, the parties or organizations must have political platforms guided by a vision of society, an understanding of history, a statement of their philosophies and how this translates into realistic political platforms;

Fifth, the parties or organizations—not only the nominees—must have concrete and verifiable track record of political participation showing their translation of their political platforms into action;

Sixth, the parties or organizations that apply for registration must be organized solely for the purpose of participating in electoral exercises;

⁶⁵ See *Alejandro v. Commission on Elections*, 516 Phil. 767, 778 (2006) [Per J. Callejo Sr., *En Banc*]; citing *Dela llana v. Commission on Elections*, 462 Phil. 355 (2004) [Per J. Sandoval-Gutierrez, *En Banc*].

⁶⁶ J. Leonen, Concurring and Dissenting Opinion in *Atong Paglaum, Inc. v. Commission on Elections*, 707 Phil. 454, 749 (2013) [Per J. Carpio, *En Banc*].

⁶⁷ *Id.* at 747.

⁶⁸ 707 Phil. 454 (2013) [Per J. Carpio, *En Banc*].

Seventh, they must have existed for a considerable period, such as three (3) years, prior to their registration. Within that period they should be able to show concrete activities that are in line with their political platforms;

Eighth, they must have such numbers in their actual active membership roster so as to be able to mount a credible campaign for purpose of enticing their audience (national, regional or sectoral) for their election;

Ninth, a substantial number of these members must have participated in the political activities of the organization;

Tenth, the party list group must have a governing structure that is not only democratically elected but also one which is not dominated by the nominees themselves;

Eleventh, the nominees of the political party must be selected through a transparent and democratic process;

Twelfth, the source of the funding and other resources used by the party or organization must be clear and should not point to a few dominant contributors specifically of individuals with families that are or have participated in the elections for representatives of legislative districts;

Thirteenth, the political party or party list organization must be able to win within the two elections subsequent to their registration;

Fourteenth, they must not espouse violence; and

Fifteenth, the party list group is not a religious organization.⁶⁹
(Citation omitted)

It must also be emphasized that the judiciary must actively review laws to ensure that they remain consistent with constitutional precepts, especially where, as in this case, there exists not only a gap in Republic Act No. 7941, but also a requirement that is not founded on the Constitution.

Article VI, Section 5(1) and (2) of the Constitution states:

SECTION 5. (1) The House of Representatives shall be composed of not more than two hundred and fifty members, unless otherwise fixed by law, who shall be elected from legislative districts apportioned among the provinces, cities, and the Metropolitan Manila area in accordance with the number of their respective inhabitants, and on the basis of a uniform and progressive ratio, *and those who, as provided by law, shall be elected through a party-list system of registered national, regional, and sectoral parties or organizations.*

(2) The party-list representatives shall constitute twenty per centum of the total number of representatives including those under the party list. For three consecutive terms after the ratification of this Constitution, *one-half*

⁶⁹ See *id.* at 751–753.

*of the seats allocated to party-list representatives shall be filled, as provided by law, by selection or election from the labor, peasant, urban poor, indigenous cultural communities, women, youth, and such other sectors as may be provided by law, except the religious sector.*⁷⁰

As I have stated in my separate opinion in *Atong Paglaum*,⁷¹ a reading of the text of the foregoing Constitutional provisions (i.e., Article VI, Section 5(1) and (2) of the Constitution) reveals that “the qualification as to reserved seats is applicable only for the ‘three consecutive terms after the ratification’ of the Constitution. Only one-half of the seats within that period is reserved to the ‘sectors’ that were enumerated, clearly implying that there are other kinds of party list groups other than those who are sectoral.”⁷² “The phrases ‘in accordance with law’ and ‘as may be provided by law’ is not an invitation to the members of Congress to continue the work of the constituent assembly that crafted the Constitution.”⁷³

Otherwise stated, national political parties or regional organizations do not need to be organized on sectoral lines.⁷⁴ Moreover, the State policy stated in Section 2 of Republic Act No. 7941 is not in accord with the spirit of the foregoing Constitutional provisions. It reads as follows:

[promoting] proportional representation in the election of representatives to the House of Representatives...which will enable Filipino citizens belonging to marginalized and under-represented sectors, organizations and parties, and who lack well-defined political constituencies but who could contribute to the formulation and enactment of appropriate legislation that will benefit the nation as a whole, to become members of the House of Representatives[.]⁷⁵

Thus, I reiterate that a law cannot be passed by Congress, such that even national and regional parties or organizations should likewise be sectoral because Congress cannot pass a law requiring “the one-half that was not reserved for sectoral representatives even during the first three consecutive terms after the ratification of the Constitution should now only be composed of sectoral representatives.”⁷⁶

To the extent that it enabled organizations that do not demonstrate fealty to democratic principles to participate in our party-list system, I submit that the COMELEC had acted with grave abuse of discretion when it ministerially and perfunctorily acted on the controversies relating to Villamin and Nazal’s nominations. I agree that, in the exercise of its power

⁷⁰ CONST., art. VII, sec. 5.

⁷¹ 707 Phil. 454 (2013) [Per J. Carpio, *En Banc*].

⁷² J. Leonen, Concurring and Dissenting Opinion in *Atong Paglaum, Inc. v. Commission on Elections*, 707 Phil. 454, 744 (2013) [Per J. Carpio, *En Banc*].

⁷³ *Id.* at 754.

⁷⁴ *Id.* at 746.

⁷⁵ Republic Act No. 7941, sec. 2.

⁷⁶ J. Leonen, Concurring and Dissenting Opinion in *Atong Paglaum, Inc. v. Commission on Elections*, 707 Phil. 454, 746 (2013) [Per J. Carpio, *En Banc*]

of judicial review, this Court correctly granted the Petition and reversed and set aside the assailed COMELEC's November 25, 2021⁷⁷ and September 9, 2022 Resolutions.⁷⁸ However, instead of giving due course to the nominations of MAGSASAKA and issue a Certificate of Proclamation, I submit that the case should have been remanded to the COMELEC to accord it the opportunity to review whether MAGSASAKA's procedures for expulsion of nominees from the party-list and for the consequent replacement of said expelled nominees are in accordance with the foregoing benchmarks.

ACCORDINGLY, I vote to **GRANT** the Petition.



MARVIC M.V.F. LEONEN
Senior Associate Justice

⁷⁷ *Rollo*, pp. 210–225. Issued by the COMELEC First Division composed of Presiding Commissioner Ma. Rowena Amelia V. Guanzon, Commissioners Marlon S. Casquejo and Aimee P. Ferolino. Commissioner Ferolino issued a dissenting opinion, *id.* at 226-228.

⁷⁸ *Id.* at 263–277. The COMELEC *En Banc* is composed of Chairman George Erwin M. Garcia and Commissioners Socorro B. Inting, Marlon S. Casquejo, Aimee P. Ferolino and Rey E. Bulay.