

**EN BANC**

**[ G.R. No. 177271, May 04, 2007 ]**

**BANTAY REPUBLIC ACT OR BA-RA 7941, REPRESENTED BY MR. AMEURFINO E. CINCO, CHAIRMAN, AND URBAN POOR FOR LEGAL REFORMS (UP-LR), REPRESENTED BY MRS. MYRNA P. PORCARE, SECRETARY-GENERAL, PETITIONERS, VS. COMMISSION ON ELECTIONS, BIYAHENG PINOY, KAPATIRAN NG MGA NAKAKULONG NA WALANG SALA (KAKUSA), BARANGAY ASSOCIATION FOR NATIONAL ADVANCEMENT AND TRANSPARENCY (BANAT), AHON PINOY, AGRICULTURAL SECTOR ALLIANCE OF THE PHILIPPINES, INC. (AGAP), PUWERSA NG BAYANING ATLETA (PBA), ALYANSA NG MGA GRUPONG HALIGI NG AGHAM AT TEKNOLOHIYA PARA SA MAMAMAYAN, INC. (AGHAM), BABAE PARA SA KAUNLARAN (BABAE KA), AKSYON SAMBAYANAN (AKSA), ALAY SA BAYAN NG MALAYANG PROPESYUNAL AT REPORMANG KALAKAL (ABAY-PARAK), AGBIAG TIMPUYOG ILOCANO, INC. (AGBIAG!), ABANTE ILONGGO, INC. (ABA ILONGGO), AANGAT TAYO (AT), AANGAT ANG KABUHAYAN (ANAK), BAGO NATIONAL CULTURAL SOCIETY OF THE PHILIPPINES (BAGO), ANGAT ANTAS-KABUHAYAN PILIPINO MOVEMENT (AANGAT KA PILIPINO), ARTS BUSINESS AND SCIENCE PROFESSIONAL (ABS), ASSOSASYON NG MGA MALILIIT NA NEGOSYANTENG GUMAGANAP INC. (AMANG), SULONG BARANGAY MOVEMENT, KASOSYO PRODUCERS CONSUMER EXCHANGE ASSOCIATION, INC. (KASOSYO), UNITED MOVEMENT AGAINST DRUGS (UNI-MAD), PARENTS ENABLING PARENTS (PEP), ALLIANCE OF NEO-CONSERVATIVES (ANC), FILIPINOS FOR PEACE, JUSTICE AND PROGRESS MOVEMENT (FPJPM), BIGKIS PINOY MOVEMENT (BIGKIS), 1-UNITED TRANSPORT KOALISYON (1-UNTAK), ALLIANCE FOR BARANGAY CONCERNS (ABC), BIYAYANG BUKID, INC., ALLIANCE FOR NATIONALISM AND DEMOCRACY (ANAD), AKBAY PINOY OFW-NATIONAL INC., (APOI), ALLIANCE TRANSPORT SECTOR (ATS), KALAHI SECTORAL PARTY (ADVOCATES FOR OVERSEAS FILIPINO) AND ASSOCIATION OF ADMINISTRATORS, PROFESSIONALS AND SENIORS (AAPS), RESPONDENTS.**

**[G.R. NO. 177314]**

**REP. LORETTA ANN P. ROSALES, KILOSBIYAN FOUNDATION, BANTAY KATARUNGAN FOUNDATION, PETITIONERS, VS. THE COMMISSION ON ELECTIONS, RESPONDENT.**

**D E C I S I O N**

**GARCIA, J.:**

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

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

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

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

The facts:

On January 12, 2007, the Comelec issued Resolution No. 7804 prescribing rules and regulations to govern the filing of manifestation of intent to participate and submission of names of nominees under the party-list system of representation in connection with the May 14, 2007 elections. Pursuant thereto, a number of organized groups filed the necessary manifestations. Among these - and ostensibly subsequently accredited by the Comelec to participate in the 2007 elections - are 14 party-list groups, namely: (1) *BABAE KA*; (2) *ANG KASANGGA*; (3) *AKBAY PINOY*; (4) *AKSA*; (5) *KAKUSA*; (6) *AHON PINOY*; (7) *OFW PARTY*; (8) *BIYAHENG PINOY*; (9) *ANAD*; (10) *AANGAT ANG KABUHAYAN*; (11) *AGBIAG*; (12) *BANAT*; (13) *BANTAY LIPAD*; (14) *AGING PINOY*. Petitioners BA-RA 7941 and UP-LR presented a longer, albeit an overlapping, list.

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

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

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

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

RESOLVED, moreover, that the Commission will **disclose/publicize** the names of party-list nominees in connection with the May 14, 2007 Elections **only after 3:00 p.m. on election day.**

Let the Law Department implement this resolution and reply to all letters addressed to the Commission inquiring on the party-list nominees.  
(Emphasis added.)

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

to the two formal requests ... of Petitioners".<sup>[10]</sup>

The herein consolidated petitions are cast against the foregoing factual setting, albeit petitioners BA-RA 7941 and UP-LR appear not to be aware, when they filed their petition on April 18, 2007, of the April 3, 2007 Comelec Resolution 07-0724.

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

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

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

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

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