

## EN BANC

[ G.R. No. 203646, April 16, 2013 ]

**SAMSON S. ALCANTARA, ROMEO R. ROBISO, PEDRO T. DABU, JR., LOPE E. FEBLE, NOEL T. TIAMPONG AND JOSE FLORO CRISOLOGO, PETITIONERS, VS. COMMISSION ON ELECTIONS, JONATHAN DE LA CRUZ, ED VINCENT ALBANO AND BENEDICT KATO, RESPONDENTS.**

### DECISION

**BRION, J.:**

Before the Court is a petition for *certiorari* under Rule 64 in relation with Rule 65 assailing the May 4, 2010<sup>[1]</sup> and September 5, 2012 resolutions of the Commission on Elections (COMELEC). The assailed rulings (i) dismissed the petition filed by Samson S. Alcantara, Romeo R. Robiso, Pedro T. Dabu, Jr., Lope E. Feble, Noel T. Tiampong and Jose Floro Crisologo (collectively, *petitioners*) for the declaration of nullity of the *Supreme Assembly* held on February 6, 2010 and (ii) denied the motion for reconsideration the petitioners subsequently filed.

The petitioners are officials and members of *Abakada* Guro Partylist (ABAKADA): Attys. Alcantara, Tiampong and Dabu (*Alcantara et. al*) are the founding President, Vice President for the Visayas and Secretary, respectively, of *Abakada*; while Robiso, Feble and Crisologo have been members of the party since 2007.<sup>[2]</sup>

### ANTECEDENT FACTS

Sometime between January and April **2003**, Alcantara, et al., along with their fellow law teachers, organized a party named *Advocates and Adherents of Social Justice for School Teachers and Allied Workers*. The party has a constitution and by-laws (CBL) and a principal office at the same location as Atty. Alcantara's law office.<sup>[3]</sup>

On May 14, 2004, the party name was amended and changed to *Abakada Guro Party list*. The change was duly approved by the COMELEC. In the May 2007 elections, where ABAKADA participated and won a seat, Jonathan de la Cruz (*De la Cruz*), its first nominee, became the party's sole representative in Congress.<sup>[4]</sup>

In a May 5, 2009 letter separately addressed to the COMELEC and the Speaker of the House of Representatives, De la Cruz tendered his "irrevocable" resignation effective December 31, 2009.<sup>[5]</sup> Despite the supposed effectivity of his resignation however, De la Cruz refused to vacate his seat, prompting Alcantara *et. al* to file a petition for *quo warranto* with the Supreme Court. This petition was subsequently dismissed for being moot and academic.<sup>[6]</sup>

In several occasions between October and December 2009, De la Cruz requested

Alcantara in writing to convene the Supreme Assembly. He informed Alcantara, too, of the nationwide party caucuses being held and of the common sentiment among members that a party meeting should be called. Under ABAKADA's CBL, a Supreme Assembly meeting should be held at least once every three years; since 2004, no Supreme Assembly had been called and held.

In his letter-response, Alcantara explained that the Supreme Assembly cannot be held as requested because many of the members reside in the provinces; the party lacked the funds to cover the necessary expenses. Instead, Alcantara replied that it would be more "feasible to hold the [Supreme Assembly] early next year, as may be determined by the [National Executive Board]." [7] Alcantara added:

1. Approval of applications for membership in Abakada is a party matter, and genuine devotion to the advancement of the welfare of the teachers and other school personnel is a basic qualification for membership as prescribed in our [CBL].
2. Membership identification cards have to be signed by the Secretary... and the President of ABAKADA.

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Incidentally, we have filed with the Comelec our Manifestation to Participate on November 24, 2009. [8]

On December 15, 2009, an All Leaders Assembly was convened. While Alcantara failed to attend the meeting, he sent Noel Tiampong in his stead. The convening of a Supreme Assembly was proposed at the meeting, with the agenda of amending the ABAKADA CBL, the election of new officers, and the discussion of other election related matters. The proposal was to hold the meeting sometime in February 2010.

Accordingly, in a letter dated January 23, 2010, Ed Vincent Albano (*Albano*), acting as the party's Secretary, notified the party's chapters and members that the party would hold its first *Supreme Assembly* on February 6, 2010 "pursuant to the resolution adopted by the party during its First All Leaders Assembly held last December 15, 2009." [9] As scheduled, the respondents proceeded to hold a *Supreme Assembly* that resulted in the approval and ratification of the revised ABAKADA CBL; the ouster of Alcantara *et. al* from their positions; the expulsion of the petitioners from the party; and the election of De la Cruz and Albano as new President and Secretary-General, respectively.

This prompted the petitioners to file a petition with the COMELEC to (i) declare the meeting held on February 6, 2010 void and (ii) restrain the respondents from falsely representing themselves as the duly elected officers of ABAKADA.

In their petition, the petitioners alleged that the sending of notices and the holding of a Supreme Assembly were contrary to the party's CBL for not having been authorized by the President and by the party's National Executive Board. They alleged that Albano has no authority to sign and send notices, much less call a Supreme Assembly, since he is not the party's Secretary. Likewise, the membership

status of several meeting participants have neither been approved nor accepted in accordance with the party's CBL.

The respondents defended the validity of the meeting in their comment to the petition. They narrated that between September 2009 and February 2010, De la Cruz made several communications to Alcantara to urge him to call a general membership meeting and to inform him of the consultation meetings and party caucuses being conducted at the respondents' instance in preparation for the May 2010 elections. The respondents added that since Alcantara's letter-response merely sought the deferment of the Supreme Assembly to "early next year"<sup>[10]</sup> i.e., 2010, an All Leaders Assembly was convened on December 15, 2009, with prior notice to Alcantara, leading to the Supreme Assembly on February 6, 2010.

### **COMELEC Rulings**

**The COMELEC Second Division dismissed the petition.** It ruled that the holding of an assembly for purposes of electing party officers and the amendment of the party's CBL have long been overdue. Under the party's CBL, a Supreme Assembly must be convened every three years to elect officers and to amend or revise the party's CBL. Under Alcantara's leadership, no Supreme Assembly was convened since ABAKADA's accreditation in 2004.

As members in good standing, therefore, the respondents had every right to ask Alcantara to make a call for a Supreme Assembly; the respondents even notified him of earlier meetings and caucuses being held by the party. Because of the petitioners' (particularly, Alcantara's) failure, if not outright refusal, to heed the respondents' requests pursuant to the party's CBL, the respondents had "good cause" to initiate the holding of the meeting.

The petitioners moved for reconsideration of the ruling, mainly questioning the COMELEC Second Division's failure to address the issue of validity of the Supreme Assembly based on the non-membership status of several meeting participants. The COMELEC *En Banc* denied the petitioners' motion under the following terms:

We find this argument unavailing. While we agree with petitioners' supposition that only legitimate members of a party may move to determine its destiny, we believe that petitioners have failed to prove their allegation that the Supreme Assembly delegates are non-members of the party. [Petitioners] offer nothing to corroborate such assertion except the words of Mr. Alcantara himself, which, to our mind, is self-serving, at best. Moreover, we cannot accept their claim that only those one hundred eight (108) individuals listed by them should be considered as legitimate members of ABAKADA Guro. The "Member's Personal Data Cards" that have been submitted by petitioners to confirm the membership of these persons are dated either 2002 or 2003, or during the inception of the party as AASJS, which is at least seven (7) years before the Supreme Assembly of 06 February 2010. At best, what these documents only evince is that the people listed by petitioner are members of AASJS or ABAKADA Guro as of 2003. They do not prove that the attendees in the assailed Supreme Assembly are not legitimate members of the party, for it is quite possible and highly probable that

several more individuals have become members of the party since 2002 and 2003. A party like ABAKADA Guro, which was able to gain a seat in Congress following the 2007 elections, could not have remained stagnant as petitioners would have us believe (sic).<sup>[11]</sup>

With their recourses at the COMELEC exhausted, the petitioners now come before this Court on the present petition for *certiorari* under Rules 64 and 65 of the Rules of Court.

### **THE PETITION**

The petition alleged that the COMELEC gravely abused its discretion when it did not consider Alcantara's affidavit, the submitted list of party members, and the attached individual applications for membership. Since the attendance sheets of the participants in the Supreme Assembly were submitted to the COMELEC, it could have simply compared the submitted lists to determine whether the Supreme Assembly participants are legitimate party members.

Assuming *arguendo* that the participants in the Supreme Assembly were all party members, the petition further alleged that the meeting was not convened in accordance with the party's CBL; thus, the COMELEC should have granted their petition to declare the Supreme Assembly meeting void.

### **THE RESPONDENTS' COMMENT**

The respondents pray for the dismissal of the petition, submitting that the general membership is empowered to take the initiative and call for a Supreme Assembly when the duly elected officials unjustifiably refused to do so. This was what the respondents simply did. Only after sending several letters to petitioner Alcantara and only after a consensus was reached in the All Leaders Assembly in December 15, 2009 (that the Supreme Assembly be convened), all with prior notices to petitioner Alcantara, did respondent Albano, acting as Secretary General, sign and send notices to the chapter leaders who are the official representatives of the general membership.

The respondents further posit that the petitioners cannot invoke ABAKADA's CBL in assailing the validity of the Supreme Assembly because their own refusal to abide by the democratic provisions of the CBL (among others, on electing new officers every three years) is the very violation that prompted the conduct of the party proceeding now being assailed.

The respondents add that during the hearing on the registered party- list groups' continuing compliance with Republic Act No. 7941 and the 1987 Constitution, only respondent De la Cruz and the present ABAKADA composition participated and submitted the necessary documentary and testimonial evidence proving the party's continuing existence and accomplishments for the purpose of party-list accreditation.

### **OUR RULING**

**We dismiss the petition.**

At the outset, the respondents informed the Court (and the Court takes judicial notice) of the fact that Atty. Alcantara is now running for a seat in the Senate under the group Social Justice Society. The respondents claim that by filing his certificate of candidacy for the Senate under a different party, Alcantara effectively abandoned any claim to the ABAKADA presidency - the position he seeks to recover by asking for the nullity of the Supreme Assembly. They argue that petitioner Alcantara's claim to the presidency of ABAKADA, a marginalized and underrepresented party-list group, is inconsistent with his act of waging an expensive national campaign for the Philippine Senate.

We need not dwell at length on this development as this is not a matter that the parties presented and argued before the COMELEC and which that tribunal resolved; there is no ruling on the matter that is now before us for review. Additionally, what the petitioners question is petitioner Alcantara's expulsion as a party president and as a member of the party when he questioned the legality of the holding of the Supreme Assembly. This was the matter directly litigated before the COMELEC and an issue that the tribunal directly ruled upon. We can resolve this issue without need of considering the effect of petitioner Alcantara's Senate candidacy.

We additionally observe that the respondents merely informed us of the fact of petitioner Alcantara's Senate candidacy but did not at all attempt to show that by running under another group, the Social Justice Society, Alcantara effectively acted prejudicially or to the detriment of the interests that ABAKADA seeks to advance. We have not been likewise directed to any provision in the ABAKADA's CBL that would support the respondents' claim of inconsistency between ABAKADA leadership and filing of a certificate of candidacy in the Senate.

Hence, petitioner Alcantara's Senate candidacy is a non-issue in the present case.

***Valid reasons exist to oust  
petitioner Alcantara from ABAKADA***

Under the Constitution, the COMELEC is empowered to register political parties.<sup>[12]</sup> More specifically, as part of its power to enforce and administer laws relative to the conduct of an election, the COMELEC possesses the power to register national, regional, and sectoral parties or organizations or coalitions for purposes of the party-list system of elections.<sup>[13]</sup> It is the party-list group's registration under the party-list system that confers juridical personality on the party-list group for election related purposes.<sup>[14]</sup>

As a juridical entity, a party-list group can only validly act through its duly authorized representative/s. In the exercise of its power to register parties, the COMELEC necessarily possesses the power to pass upon the question of who, among the legitimate officers of the party-list group, are entitled to exercise the rights and privileges granted to a party-list group under the law. The COMELEC's jurisdiction on this point is well settled and is not here disputed.

With clear jurisdictional authority to resolve the issue of party leadership and party identity, this Court will only be justified in interfering with the COMELEC's action under Rules 64 and 65 of the Rules of Court if the petitioners can establish that the