

EN BANC

[G.R. No. 192803, December 10, 2013]

**ALLIANCE FOR RURAL AND AGRARIAN RECONSTRUCTION, INC., ALSO
KNOWN AS ARARO PARTY-LIST, PETITIONER, VS. COMMISSION ON
ELECTIONS, RESPONDENT.**

DECISION**LEONEN, J.:**

It is beyond human expectations that we charge voters with knowledge as to which among the many party-list groups listed in the ballot they are presented with during election day is disqualified. To do so will amount to their disenfranchisement and the failure to comply with the proportionality for party-list representatives required by the Constitution and by law.

We are asked to decide the Petition for Review on *Certiorari* filed by a party-list group that ran for the 2010 national elections. The petitioner questions the validity of the formula used by the Commission on Elections in determining and proclaiming the winning party-list groups.^[1]

We rule that the Petition is moot and academic. However, we provide guidance for the bench and the bar with respect to the formula used in determining the winning party-list groups. We refine the divisor in the formula used in getting the percentage of votes garnered by a party-list.

The facts as established on record are as follows:

Petitioner, Alliance for Rural and Agrarian Reconstruction, Inc., (ARARO) was a duly accredited party-list under Republic Act No. 7941.^[2] It garnered a total of one hundred forty-seven thousand two hundred four (147,204) votes in the May 10, 2010 elections and ranked fiftieth (50th).^[3] The Commission on Elections *En Banc* sitting as the National Board of Canvassers initially proclaimed twenty-eight (28) party-list organizations as winners involving a total of thirty-five (35) seats guaranteed and additional seats.^[4] The result was based on the Commission on Elections' count of one hundred twenty-one (121) Certificates of Canvass or a total of twenty-nine million seven hundred fifty thousand and forty-one (29,750,041) votes for the Party-List System.^[5]

The winning party-list groups were the following:^[6]

	PARTY	NUMBER OF SEATS
1	COALITION OF ASSOCIATIONS OF SENIOR CITIZENS OF THE PHILIPPINES, INC.	2
2	AKBAYAN! CITIZEN'S ACTION PARTY	2
3	GABRIELA WOMEN'S PARTY	2
4	COOPERATIVE NATCCO NETWORK PARTY	2
5	ABONO	2
6	BAYAN MUNA	2
7	AN WARAY	2
8	AGRICULTURAL SECTOR ALLIANCE SECTOR OF THE PHILIPPINES, INC.	1
9	ALLIANCE FOR BARANGAY CONCERNS PARTY	1
10	ANAKPAWIS	1

11	KABATAAN PARTYLIST	1
12	ABANTE MINDANAO, INC.	1
13	ACT TEACHERS	1
14	YOU AGAINST CORRUPTION AND POVERTY	1
15	KASANGGA SA KAUNLARAN, INC.	1
16	BAGONG HENERASYON	1
17	ANG GALING PINOY	1
18	AGBIAG! TIMPUYOG ILOCANO, INC.	1
19	PUWERSA NG BAYANing ATLETA	1
20	ARTS BUSINESS AND SCIENCE PROFESSIONALS	1
21	TRADE UNION CONGRESS PARTY	1
22	ALYANSA NG MGA GRUPONG HALIGI NG AGHAM AT TEKNOLOHIYA PARA SA MAMAMAYAN, INC.	1
23	DEMOCRATIC INDEPENDENT WORKERS' ASSOCIATION, INC.	1
24	KAPATIRAN NG MGA NAKULONG NA WALANG SALA	1
25	KALINGA-ADVOCACY FOR SOCIAL EMPOWERMENT AND NATION BUILDING THROUGH EASING POVERTY, INC.	1
26	ALAGAD PARTY-LIST	1
27	UNA ANG PAMILYA FORMERLY ALLIANCE OF NEO-CONSERVATIVES	1
28	ALLIANCE OF VOLUNTEER EDUCATORS	1
	TOTAL SEATS	35

Petitioner then filed an election protest before the House of Representatives Electoral Tribunal questioning the Resolution of the Commission on Elections that proclaimed the 28 party-list groups listed above.^[7]

Without waiting for the resolution of the House of Representatives Electoral Tribunal, the petitioner filed the present Petition for Review on *Certiorari* with Prayer for Preliminary Injunction and Temporary Restraining Order.^[8] The petitioner asks that this Court:

1. modify the Commission on Elections' interpretation of the formula stated in *BANAT v. COMELEC*^[9] by making the divisor for the computation of the percentage votes, from total number of votes cast minus the votes for the disqualified party-list candidates, to the total number of votes cast regardless whether party-list groups are disqualified;
2. enjoin the public respondent Commission on Elections from proclaiming the remaining winning party-list candidates until it modifies the interpretation of the formula used in *BANAT v. COMELEC* to the formula proposed by the petitioner; and
3. issue a Temporary Restraining Order against the public respondent until it modifies the present formula for computing the number of seats for the winning party-list candidates to the formula proposed by the petitioner.^[10]

This Court did not issue any Temporary Restraining Order.^[11]

By Resolution, the National Board of Canvassers proclaimed the winning party-list groups with the following computation:^[12]

WHEREAS, as of May 17, 2010, the projected/maximum total party-list votes cannot go any higher than **thirty million two hundred sixty[-]four thousand five hundred seventy[-] nine (30,264,579)** given the following statistical data:

DESCRIPTION	REGISTERED VOTERS
Total party-list votes already canvassed/tabulated	29,750,041

Less: Votes garnered by the eight (8) disqualified parties	308,335
Total party-list votes already canvassed/tabulated after deducting votes of the eight (8) disqualified parties	29,441,706
Add: Party-list votes still uncanvassed	
Lanao del Sur	515,488
Local Absentee Voting	19,071
Overseas Absentee Voting	9,299
Due to lowering of threshold	92,740
Precincts reporting Final Testing and Sealing results	186,275
Maximum Total Party-List Votes	30,264,579

WHEREAS, since there are two hundred twenty-nine (229) legislative districts, the total number of party-list seats available for the May 10, 2010 automated national and local elections is fifty-seven (57) based on the following formula: number of legislative districts/0.80 x 0.20;

WHEREAS, the provision of Section 11 of Republic Act No. 7941 provides, in part, that:

“(b) The parties, organizations, and coalitions receiving at least two percent (2%) of the total votes cast for the party-list system shall be entitled to one seat each: Provided, That those garnering more than two [sic] (2%) of the votes shall be entitled to additional seats in proportion to their total number of votes: Provided, finally, That each party, organization or coalitions shall be entitled to not more than three (3) seats.”

WHEREAS, applying the formula in the case of *Barangay Association for National Advancement and Transparency (BANAT) v. Commission on Elections*, and [sic] *Bayan Muna, Advocacy for Teacher Empowerment, Cooperation and Harmony Towards Educational Reforms, Inc., and Abono [v.] Commission on Elections*, the ranking of the participating parties, organizations and coalitions from highest to lowest based on the number of votes garnered as of May 17, 2010, and the seats that may be obtained by each party to complete the allocation of the available 57 party-list seats, are shown below:^[13]

RANK	PARTY	VOTES GARNERED	VOTES GARNERED OVER TOTAL VOTES FOR PARTY LIST, in %	GUARANTEED SEAT	ADDITIONAL SEATS	(B) plus (C), in whole integers
			(A)	First Round (B)	Second Round (C)	(D)
1	AKO BICOL POLITICAL PARTY	1,522,986	5.0322%	1	2.26	3
2	COALITION OF ASSOCIATIONS OF SENIOR CITIZENS OF THE PHILIPPINES, INC.	1,292,182	4.2696%	1	1.92	2
3	BUHAY HAYAAN YUMABONG	1,249,555	4.1288%	1	1.85	2
4	AKBAYAN! CITIZEN'S ACTION PARTY	1,058,691	3.4981%	1	1.57	2
5	GABRIELA WOMEN'S	1,001,421	3.3089%	1	1.48	2

	PARTY					
6	COOPERATIVE NATCCO NETWORK PARTY	943,529	3.1176%	1	1.40	2
7	1ST CONSUMERS ALLIANCE FOR RURAL ENERGY	768,829	2.5404%	1	1.14	2
8	ABONO	766,615	2.5330%	1	1.13	2
9	BAYAN MUNA	746,019	2.4650%	1	1.10	2
10	AN WARAY	711,631	2.3514%	1	1.05	2
11	CITIZEN'S BATTLE AGAINST CORRUPTION	647,483	2.1394%	1	0.96	1
12	ADVOCACY FOR TEACHER EMPOWERMENT THROUGH ACTION COOPERATION AND HARMONY TOWARDS EDUCATIONAL REFORMS	614,725	2.0312%	1	0.91	1
13	AGRICULTURAL SECTOR ALLIANCE SECTOR OF THE PHILIPPINES, INC.	515,501	1.7033%	0	1	1
14	BUTIL FARMERS PARTY	506,703	1.6742%	0	1	1
15	ALLIANCE FOR BARANGAY CONCERNS PARTY	469,093	1.5500%	0	1	1
16	ANAKPAWIS	445,628	1.4724%	0	1	1
17	KABATAAN PARTYLIST	417,923	1.3809%	0	1	1
18	LPG MARKETERS ASSOCIATION, INC.	417,600	1.3798%	0	1	1
19	ABANTE MINDANAO, INC.	376,011	1.2424%	0	1	1
20	ACT TEACHERS	369,564	1.2211%	0	1	1
21	ANG ASOSASYON SANG MANGUNGUMA NGA BISAYA-OWA MANGUNGUMA, INC.	357,009	1.1796%	0	1	1
22	YOU AGAINST CORRUPTION AND POVERTY	335,635	1.1090%	0	1	1
23	ASSOCIATION OF PHILIPPINE ELECTRIC COOPERATIVES	313,359	1.0354%	0	1	1
24	KASANGGA SA KAUNLARAN, INC.	296,368	0.9793%	0	1	1
25	BAGONG HENERASYON	292,875	0.9677%	0	1	1
26	ALLIANCE FOR NATIONALISM AND DEMOCRACY	292,057	0.9650%	0	1	1
27	ANG GALING PINOY	269,009	0.8889%	0	1	1
28	AGBIAG! TIMBUYOG ILOCANO, INC.	262,298	0.8667%	0	1	1

29	PUWERSA NG BAYANING ATLETA	258,498	0.8541%	0	1	1
30	ARTS BUSINESS AND SCIENCE PROFESSIONALS	257,301	0.8502%	0	1	1
31	TRADE UNION CONGRESS PARTY	244,623	0.8083%	0	1	1
32	ALYANSA NG MGA GRUPONG HALIGI NG AGHAM AT TEKNOLOHIYA PARA SA MAMAMAYAN, INC.	241,898	0.7993%	0	1	1
33	DEMOCRATIC INDEPENDENT WORKERS' ASSOCIATION, INC.	238,675	0.7886%	0	1	1
34	KAPATIRAN NG MGA NAKULONG NA WALANG SALA	234,717	0.7756%	0	1	1
35	KALINGA-ADVOCACY FOR SOCIAL EMPOWERMENT AND NATION BUILDING THROUGH EASING POVERTY, INC.	229,198	0.7573%	0	1	1
36	ALAGAD PARTY-LIST	227,116	0.7504%	0	1	1
37	1-UNITED TRANSPORT KOALISYON	220,002	0.7269%	0	1	1
38	UNA ANG PAMILYA FORMERLY ALLIANCE OF NEO-CONSERVATIVES	217,032	0.7171%	0	1	1
39	ALLIANCE OF VOLUNTEER EDUCATORS	214,760	0.7096%	0	1	1
40	AANGAT TAYO	176,074	0.5818%	0	1	1
41	ADHIKAING TINATAGUYOD NG KOOPERATIBA	173,711	0.5740%	0	1	1
42	ANG LABAN NG INDIGONG FILIPINO	170,304	0.5627%	0	1	1
43	ASSOCIATION OF LABORERS AND EMPLOYEES	167,654	0.5540%	0	1	1
44	KASOSYO PRODUCER-CONSUMER EXCHANGE ASSOCIATION, INC.	166,432	0.5499%	0	1	1
45	ALAY BUHAY COMMUNITY DEVELOPMENT FOUNDATION, INC.	163,164	0.5391%	0	1	1
46	AKSYON MAGSASAKA PARTIDO TINIG NG MASA	161,674	0.5342%	0	1	1
47	KATIPUNAN NG MGA	160,745	0.5311%	0	0	0