

## EN BANC

[ G.R. No. 193808, June 26, 2012 ]

**LUIS K. LOKIN, JR. AND TERESITA F. PLANAS, PETITIONERS, VS. COMMISSION ON ELECTIONS (COMELEC), CITIZENS' BATTLE AGAINST CORRUPTION PARTY LIST REPRESENTED BY VIRGINIA S. JOSE, SHERWIN N. TUGNA, AND CINCHONA CRUZ GONZALES, RESPONDENTS.**

### D E C I S I O N

**SERENO, J.:**

The present petition having been filed beyond the reglementary period, Rule 64 of the Rules of Court compels a dismissal on this basis alone. Despite petitioner's inexplicable disregard of basic concepts, this Court deems it appropriate to reiterate the specific procedure for the review of judgments made by the Commission on Elections (COMELEC) as laid down in Rule 64, and how it is differentiated from the more general remedy afforded by Rule 65.

On 5 July 2010, the COMELEC First Division issued a Resolution<sup>[1]</sup> expunging the Certificate of Nomination which included herein petitioners as representatives of the party-list group known as Citizens' Battle Against Corruption (CIBAC). The COMELEC *en banc* affirmed the said Resolution, prompting Luis Lokin, Jr. and Teresita F. Planas to file the present Petition for Certiorari. Petitioners allege grave abuse of discretion on the part of the COMELEC in issuing both Resolutions, praying that they be recognized as the legitimate nominees of CIBAC party-list, and that petitioner Lokin, Jr. be proclaimed as the CIBAC party-list representative to the House of Representatives.

Respondent CIBAC party-list is a multi-sectoral party registered<sup>[2]</sup> under Republic Act No. (R.A.) 7941, otherwise known as the Party- List System Act. As stated in its constitution and bylaws, the platform of CIBAC is to fight graft and corruption and to promote ethical conduct in the country's public service.<sup>[3]</sup> Under the leadership of the National Council, its highest policy making and governing body, the party participated in the 2001, 2004, and 2007 elections.<sup>[4]</sup> On 20 November 2009, two different entities, both purporting to represent CIBAC, submitted to the COMELEC a "Manifestation of Intent to Participate in the Party-List System of Representation in the May 10, 2010 Elections." The first Manifestation<sup>[5]</sup> was signed by a certain Pia B. Derla, who claimed to be the party's acting secretary-general. At 1:30 p.m. of the same day, another Manifestation<sup>[6]</sup> was submitted by herein respondents Cinchona Cruz-Gonzales and Virginia Jose as the party's vice-president and secretary-general, respectively.

On 15 January 2010, the COMELEC issued Resolution No. 8744<sup>[7]</sup> giving due course to CIBAC's Manifestation, "**WITHOUT PREJUDICE ...TO the determination**

**which of the two factions of the registered party-list/coalitions/sectoral organizations which filed two (2) manifestations of intent to participate is the official representative of said party-list/coalitions/sectoral organizations xxx."**<sup>[8]</sup>

On 19 January 2010, respondents, led by President and Chairperson Emmanuel Joel J. Villanueva, submitted the Certificate of Nomination<sup>[9]</sup> of CIBAC to the COMELEC Law Department. The nomination was certified by Villanueva and Virginia S. Jose. On 26 March 2010, Pia Derla submitted a second Certificate of Nomination,<sup>[10]</sup> which included petitioners Luis Lokin, Jr. and Teresita Planas as party-list nominees. Derla affixed to the certification her signature as "acting secretary-general" of CIBAC.

Claiming that the nomination of petitioners Lokin, Jr. and Planas was unauthorized, respondents filed with the COMELEC a "Petition to Expunge From The Records And/Or For Disqualification," seeking to nullify the Certificate filed by Derla. Respondents contended that Derla had misrepresented herself as "acting secretary-general," when she was not even a member of CIBAC; that the Certificate of Nomination and other documents she submitted were unauthorized by the party and therefore invalid; and that it was Villanueva who was duly authorized to file the Certificate of Nomination on its behalf.<sup>[11]</sup>

In the Resolution dated 5 July 2010, the COMELEC First Division granted the Petition, ordered the Certificate filed by Derla to be expunged from the records, and declared respondents' faction as the true nominees of CIBAC.<sup>[12]</sup> Upon Motion for Reconsideration separately filed by the adverse parties, the COMELEC *en banc* affirmed the Division's findings. In a *per curiam* Resolution dated 31 August 2010,<sup>[13]</sup> the Commission reiterated that Pia Derla was unable to prove her authority to file the said Certificate, whereas respondents presented overwhelming evidence that Villanueva deputized CIBAC Secretary General Virginia Jose to submit the Certificate of Nomination pursuant to CIBAC's Constitution and bylaws.

Petitioners now seek recourse with this Court in accordance with Rules 64 and 65 of the Rules of Court, raising these issues: I) Whether the authority of Secretary General Virginia Jose to file the party's Certificate of Nomination is an intra-corporate matter, exclusively cognizable by special commercial courts, and over which the COMELEC has no jurisdiction; and II) Whether the COMELEC erred in granting the Petition for Disqualification and recognizing respondents as the properly authorized nominees of CIBAC party-list.

As earlier stated, **this Court denies the petition for being filed outside the requisite period.** The review by this Court of judgments and final orders of the COMELEC is governed specifically by Rule 64 of the Rules of Court, which states:

Sec. 1. Scope. This rule shall govern the review of judgments and final orders or resolutions of the Commission on Elections and the Commission on Audit.

Sec. 2. Mode of review. A judgment or final order or resolution of the Commission on Elections and the Commission on Audit may be brought

by the aggrieved party to the Supreme Court on certiorari under Rule 65, except as hereinafter provided.

The exception referred to in Section 2 of this Rule refers precisely to the immediately succeeding provision, Section 3 thereof,<sup>[14]</sup> which provides for the allowable period within which to file petitions for certiorari from judgments of both the COMBLBC and the Commission on Audit. Thus, while Rule 64 refers to the same remedy of certiorari as the general rule in Rule 65, they cannot be equated, as they provide for different reglementary periods.<sup>[15]</sup> Rule 65 provides for a period of 60 days from notice of judgment sought to be assailed in the Supreme Court, while Section 3 expressly provides for only 30 days, viz:

SEC. 3. *Time to file petition.*—The petition shall be tiled within thirty (30) days from notice of the judgment or final order or resolution sought to be reviewed. **The filing of a motion for new trial or reconsideration of said judgment or final order or resolution, if allowed under the procedural rules of the Commission concerned, shall interrupt the period herein fixed. It' the motion is denied, the aggrieved party may file the petition within the remaining period,** but which shall not be less than five (5) days in any event, reckoned from notice of denial.

Petitioner received a copy of the first assailed Resolution on 12 July 2010. Upon the Motion for Reconsideration tiled by petitioners on 15 July 2010, the COMELEC *en banc* issued the second assailed Resolution on 31 August 2010. This *per curiam* Resolution was received by petitioners on 1 September 2010.<sup>[16]</sup> Thus, pursuant to Section 3 above, deducting the three days it took petitioners to file the Motion for Reconsideration, they had a remaining period of 27 days or until 28 September 2010 within which to file the Petition for Certiorari with this Court.

However, petitioners filed the present Petition only on 1 October 2010, clearly outside the required period. In *Pates v. Commission on Elections and Domingo v. Commission on Elections*<sup>[17]</sup>, we have established that the fresh-period rule used in Rule 65 does not similarly apply to the timeliness of petitions under Rule 64. In *Pates*, this Court dismissed the Petition for Certiorari on the sole ground that it was belatedly filed, reasoning thus:

xxx. While it is true that a litigation is not a game of technicalities, it is equally true that every case must be prosecuted in accordance with (he prescribed procedure to ensure an orderly and speedy administration of justice. There have been some instances wherein this Court allowed a relaxation in the application of the rules, but this flexibility was "never intended to forge a bastion for erring litigants to violate the rules with impunity."

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**Under this unique nature of the exceptions, a party asking for the**

**suspension of the Rules of Court comes to us with the heavy burden of proving that he deserves to be accorded exceptional treatment- Every plea for a liberal construction of (lie Rules must at least he accompanied by an explanation of why the party-litigant failed to comply with the rules and by a justification for the requested liberal construction.**

xxx xxx xxx

xxx. Section 3, Article 1X-C of the Constitution expressly requires that the COMELEC's rules of procedure should expedite the disposition of election cases. This Court labors under the same command, as our proceedings arc in fact the constitutional extension of cases that start with the COMELEC.

Based on these considerations, we do not find convenience and uniformity to be reasons sufficiently compelling to modify the required period for the filing of petitions for *certiorari* under Rule 64. **While the petitioner is correct in his historical data about the Court's treatment of the periods for the filing of the different modes of review, he misses out on the reason why the period under Section 3, Rule 64 has been retained. The reason, as made clear above, is constitutionally-based and is no less than the importance our Constitution accords to the prompt determination of election results.**<sup>[18]</sup> x x x. (Emphasis supplied, footnotes omitted.)

In this case, petitioners do not even attempt to explain why the Petition was filed out of time. Clearly, they are aware of the applicable period for filing, as they themselves invoke the remedy under Rule 64 in conjunction with Rule 65. Hence, there is no acceptable reason for their failure to comply with the proper procedure. But even if this Court were to apply liberality and take cognizance of the late Petition, the arguments therein are flawed. ***The COMELEC has jurisdiction over cases pertaining to party leadership and the nomination of party-list representatives.***

Petitioners contend that the COMELEC never should have taken cognizance of respondents' Petition to Expunge and/or for Disqualification. They have reached this conclusion by characterizing the present matter as an intra-corporate dispute and, thus, cognizable only by special commercial courts, particularly the designated commercial court in this case, the Regional Trial Court in Pasig City.<sup>[19]</sup> Pia Derla purportedly filed the Certificate of Nomination pursuant to the authority granted by the Board of Trustees of the "CIBAC Foundation, Inc." the non-stock entity that is registered with the Securities and Exchange Commission (SEC).<sup>[20]</sup>

Thus, petitioners insist that the group that participated in the party-list system in the 2004 and 2007 elections was the SEC-registered entity, and not the National Council, which had allegedly become defunct since 2003. That was the year when CIBAC Foundation, Inc. was established and registered with the SEC.<sup>[21]</sup> On the other hand, respondents counter that the foundation was established solely for the purpose of acting as CIBAC's legal and financial arm, as provided by the party's

Constitution and bylaws. It was never intended to substitute for, or oust CIBAC, the party-list itself.<sup>[22]</sup>

Even as petitioners insisted on the purely intra-corporate nature of the conflict between "CIBAC Foundation" and the CIBAC Sectoral Party, they submitted their Certificate of Nomination and Manifestation of Intent to participate in the party-list elections. Precisely, petitioners were seeking the COMEXEC's approval of their eligibility to participate in the upcoming party-list elections. In effect, they invoke its authority under the Party-List System Act.<sup>[23]</sup> Contrary to their stance that the present dispute stemmed from an intra-corporate matter, their submissions even recognize the COMELEC's constitutional power to enforce and administer all laws relative to the conduct of an election, plebiscite, initiative, referendum, and recall.<sup>24</sup> More specifically, as one of its constitutional functions, the COMELEC is also tasked to "register, alter sufficient publication, political parties, organizations, or coalitions which, in addition to other requirements, must present their platform or program of government."<sup>[25]</sup>

In any case, the COMELEC's jurisdiction to settle the struggle for leadership within the party is well established. This singular power to rule upon questions of party identity and leadership is exercised by the COMELEC as an incident to its enforcement powers. In *Laban ng Demokratikong Filipino v. Commission on Elections*,<sup>[26]</sup> the Court held:

xxx. 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 (he 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.**<sup>[27]</sup> (Emphasis supplied.)

Similar to the present case, *Laban* delved into the issue of leadership for the purpose of determining which officer or member was the duly authorized representative tasked with filing the Certificate of Nomination, pursuant to its Constitution and bylaws, to wit: