

## EN BANC

[ G.R. No. 179271, April 21, 2009 ]

**ARANGAY ASSOCIATION FOR NATIONAL ADVANCEMENT AND  
TRANSPARENCY (BANAT), PETITIONER, VS. COMMISSION ON ELECTIONS  
(SITTING AS THE NATIONAL BOARD OF CANVASSERS), RESPONDENT.**

**ARTS BUSINESS AND SCIENCE PROFESSIONALS, INTERVENOR.**

**AANGAT TAYO, INTERVENOR.**

**COALITION OF ASSOCIATIONS OF SENIOR CITIZENS IN THE PHILIPPINES,  
INC. (SENIOR CITIZENS), INTERVENOR.**

[G.R. NO. 179295]

**BAYAN MUNA, ADVOCACY FOR TEACHER EMPOWERMENT THROUGH  
ACTION, COOPERATION AND HARMONY TOWARDS EDUCATIONAL  
REFORMS, INC., AND ABONO, PETITIONERS, VS. COMMISSION ON  
ELECTIONS, RESPONDENT.**

## DECISION

**CARPIO, J.:**

### The Case

Petitioner in G.R. No. 179271 — Barangay Association for National Advancement and Transparency (BANAT) — in a petition for certiorari and mandamus,<sup>[1]</sup> assails the Resolution<sup>[2]</sup> promulgated on 3 August 2007 by the Commission on Elections (COMELEC) in NBC No. 07-041 (PL). The COMELEC's resolution in NBC No. 07-041 (PL) approved the recommendation of Atty. Alioden D. Dalaig, Head of the National Board of Canvassers (NBC) Legal Group, to deny the petition of BANAT for being moot. BANAT filed before the COMELEC En Banc, acting as NBC, a *Petition to Proclaim the Full Number of Party-List Representatives Provided by the Constitution*.

The following are intervenors in G.R. No. 179271: Arts Business and Science Professionals (ABS), Aangat Tayo (AT), and Coalition of Associations of Senior Citizens in the Philippines, Inc. (Senior Citizens).

Petitioners in G.R. No. 179295 — Bayan Muna, Abono, and Advocacy for Teacher Empowerment Through Action, Cooperation and Harmony Towards Educational Reforms (A Teacher) — in a petition for certiorari with mandamus and prohibition,<sup>[3]</sup> assails NBC Resolution No. 07-60<sup>[4]</sup> promulgated on 9 July 2007. NBC No. 07-60 made a partial proclamation of parties, organizations and coalitions that obtained at least two percent of the total votes cast under the Party-List System. The COMELEC announced that, upon completion of the canvass of the party-list results, it would determine the total number of seats of each winning party, organization, or coalition in accordance with *Veterans Federation Party v. COMELEC*<sup>[5]</sup> (*Veterans*).

Estrella DL Santos, in her capacity as President and First Nominee of the Veterans Freedom Party, filed a motion to intervene in both G.R. Nos. 179271 and 179295.

### The Facts

The 14 May 2007 elections included the elections for the party-list representatives. The COMELEC

counted 15,950,900 votes cast for 93 parties under the Party-List System.<sup>[6]</sup>

On 27 June 2002, BANAT filed a *Petition to Proclaim the Full Number of Party-List Representatives Provided by the Constitution*, docketed as NBC No. 07-041 (PL) before the NBC. BANAT filed its petition because "[t]he Chairman and the Members of the [COMELEC] have recently been quoted in the national papers that the [COMELEC] is duty bound to and shall implement the *Veterans* ruling, that is, would apply the Panganiban formula in allocating party-list seats."<sup>[7]</sup> There were no intervenors in BANAT's petition before the NBC. BANAT filed a memorandum on 19 July 2007.

On 9 July 2007, the COMELEC, sitting as the NBC, promulgated NBC Resolution No. 07-60. NBC Resolution No. 07-60 proclaimed thirteen (13) parties as winners in the party-list elections, namely: Buhay Hayaan Yumabong (BUHAY), Bayan Muna, Citizens' Battle Against Corruption (CIBAC), Gabriela's Women Party (Gabriela), Association of Philippine Electric Cooperatives (APEC), A Teacher, Akbayan! Citizen's Action Party (AKBAYAN), Alagad, Luzon Farmers Party (BUTIL), Cooperative-Natco Network Party (COOP-NATCCO), Anak Pawis, Alliance of Rural Concerns (ARC), and Abono. We quote NBC Resolution No. 07-60 in its entirety below:

WHEREAS, the Commission on Elections sitting *en banc* as National Board of Canvassers, thru its Sub-Committee for Party-List, as of 03 July 2007, had officially canvassed, in open and public proceedings, a total of **fifteen million two hundred eighty three thousand six hundred fifty-nine (15,283,659)** votes under the Party-List System of Representation, in connection with the National and Local Elections conducted last 14 May 2007;

WHEREAS, the study conducted by the Legal and Tabulation Groups of the National Board of Canvassers reveals that the projected/maximum total party-list votes cannot go any higher than **sixteen million seven hundred twenty three thousand one hundred twenty-one (16,723,121)** votes given the following statistical data:

**Projected/Maximum Party-List Votes for May 2007 Elections**

i. Total party-list votes already canvassed/tabulated	15,283,659
ii. Total party-list votes remaining uncanvassed/ untabulated (i.e. canvass deferred)	1,337,032
iii. Maximum party-list votes (based on 100% outcome) from areas not yet submitted for canvass (Bogo, Cebu; Bais City; Pantar, Lanao del Norte; and Pagalungan, Maguindanao)	102,430
Maximum Total Party-List Votes	16,723,121

WHEREAS, Section 11 of Republic Act No. 7941 (Party-List System Act) provides in part:

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 percent (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 coalition shall be entitled to not more than three (3) seats.

WHEREAS, for the 2007 Elections, based on the above projected total of party-list votes, the presumptive two percent (2%) threshold can be pegged at **three hundred thirty four thousand four hundred sixty-two (334,462)** votes;

WHEREAS, the Supreme Court, in *Citizen's Battle Against Corruption (CIBAC) versus COMELEC*, reiterated its ruling in *Veterans Federation Party versus COMELEC* adopting a formula for the additional seats of each party, organization or coalition receiving more than the required two percent (2%) votes, stating that the same shall be determined only after all party-list ballots have been completely canvassed;

WHEREAS, the parties, organizations, and coalitions that have thus far garnered at least **three hundred thirty four thousand four hundred sixty-two (334,462)** votes are as follows:

<b>RANK</b>	<b>PARTY/ORGANIZATION/ COALITION</b>	<b>VOTES RECEIVED</b>
1	BUHAY	1,163,218
2	BAYAN MUNA	972,730
3	CIBAC	760,260
4	GABRIELA	610,451
5	APEC	538,971
6	A TEACHER	476,036
7	AKBAYAN	470,872
8	ALAGAD	423,076
9	BUTIL	405,052
10	COOP-NATCO	390,029
11	BATAS	386,361
12	ANAK PAWIS	376,036
13	ARC	338,194
14	ABONO	337,046

WHEREAS, except for Bagong Alyansang Tagapagtaguyod ng Adhikaing Sambayanan (BATAS), against which an *URGENT PETITION FOR CANCELLATION/REMOVAL OF REGISTRATION AND DISQUALIFICATION OF PARTY-LIST NOMINEE (With Prayer for the Issuance of Restraining Order)* has been filed before the Commission, docketed as SPC No. 07-250, all the parties, organizations and coalitions included in the aforementioned list are therefore entitled to at least one seat under the party-list system of representation in the meantime.

NOW, THEREFORE, by virtue of the powers vested in it by the Constitution, the Omnibus Election Code, Executive Order No. 144, Republic Act Nos. 6646, 7166, 7941, and other election laws, the Commission on Elections, sitting *en banc* as the National Board of Canvassers, hereby RESOLVES to PARTIALLY PROCLAIM, subject to certain conditions set forth below, the following parties, organizations and coalitions participating under the Party-List System:

1	Buhay Hayaan Yumabong	BUHAY
2	Bayan Muna	BAYAN MUNA
3	Citizens Battle Against Corruption	CIBAC
4	Gabriela Women's Party	GABRIELA
5	Association of Philippine Electric Cooperatives	APEC

6	Advocacy for Teacher Empowerment Through Action, Cooperation and Harmony Towards Educational Reforms, Inc.	A TEACHER
7	Akbayan! Citizen's Action Party	AKBAYAN
8	Alagad	ALAGAD
9	Luzon Farmers Party	BUTIL
10	Cooperative-Natco Network Party	COOP-NATCCO
11	Anak Pawis	ANAKPAWIS
12	Alliance of Rural Concerns	ARC
13	Abono	ABONO

This is without prejudice to the proclamation of other parties, organizations, or coalitions which may later on be established to have obtained at least two percent (2%) of the total actual votes cast under the Party-List System.

The total number of seats of each winning party, organization or coalition shall be determined pursuant to *Veterans Federation Party versus COMELEC* formula upon completion of the canvass of the party-list results.

The proclamation of Bagong Alyansang Tagapagtaguyod ng Adhikaing Sambayanan (BATAS) is hereby deferred until final resolution of SPC No. 07-250, in order not to render the proceedings therein moot and academic.

Finally, all proclamation of the nominees of concerned parties, organizations and coalitions with pending disputes shall likewise be held in abeyance until final resolution of their respective cases.

Let the Clerk of the Commission implement this Resolution, furnishing a copy thereof to the Speaker of the House of Representatives of the Philippines.

SO ORDERED.<sup>[8]</sup> (Emphasis in the original)

Pursuant to NBC Resolution No. 07-60, the COMELEC, acting as NBC, promulgated NBC Resolution No. 07-72, which declared the additional seats allocated to the appropriate parties. We quote from the COMELEC's interpretation of the *Veterans* formula as found in NBC Resolution No. 07-72:

WHEREAS, on July 9, 2007, the Commission on Elections sitting *en banc* as the National Board of Canvassers proclaimed thirteen (13) qualified parties, organization[s] and coalitions based on the presumptive two percent (2%) threshold of 334,462 votes from the projected maximum total number of party-list votes of 16,723,121, and were thus given one (1) guaranteed party-list seat each;

WHEREAS, per Report of the Tabulation Group and Supervisory Committee of the National Board of Canvassers, the projected maximum total party-list votes, as of July 11, 2007, based on the votes actually canvassed, votes canvassed but not included in Report No. 29, votes received but uncanvassed, and maximum votes expected for Pantar, Lanao del Norte, is 16,261,369; and that the projected maximum total votes for the thirteen (13) qualified parties, organizations and coalition[s] are as follows:

	Party-List	Projected total
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		number of votes
1	BUHAY	1,178,747
2	BAYAN MUNA	977,476
3	CIBAC	755,964
4	GABRIELA	621,718
5	APEC	622,489
6	A TEACHER	492,369
7	AKBAYAN	462,674
8	ALAGAD	423,190
9	BUTIL	409,298
10	COOP-NATCO	412,920
11	ANAKPAWIS	370,165
12	ARC	375,846
13	ABONO	340,151

WHEREAS, based on the above Report, *Buhay Hayaan Yumabong* (Buhay) obtained the highest number of votes among the thirteen (13) qualified parties, organizations and coalitions, making it the "first party" in accordance with *Veterans Federation Party versus COMELEC*, reiterated in *Citizen's Battle Against Corruption (CIBAC) versus COMELEC*;

WHEREAS, qualified parties, organizations and coalitions participating under the party-list system of representation that have obtained one guaranteed (1) seat may be entitled to an additional seat or seats based on the formula prescribed by the Supreme Court in *Veterans*;

WHEREAS, in determining the additional seats for the "first party", the correct formula as expressed in *Veterans*, is:

Number of votes of Proportion of votes  
first party of first  
----- = party relative to  
----- total votes for  
Total votes for party-list system

wherein the proportion of votes received by the first party (without rounding off) shall entitle it to additional seats:

Proportion of votes received by the first party	Additional seats
Equal to or at least 6%	Two (2) additional seats
Equal to or greater than 4% but less than 6%	One (1) additional seat
Less than 4%	No additional seat

WHEREAS, applying the above formula, Buhay obtained the following percentage:

1,178,747  
----- =  
- 0.07248