G.R. No. 262975 – MAGKAKASAMA SA SAKAHAN KAUNLARAN (MAGSASAKA) PARTY-LIST, represented by its Secretary-General, ATTY. GENERAL D. DU, Petitioner, **v. COMMISSION ON ELECTIONS** and **SOLIMAN A. VILLAMIN, JR.,** Respondents.

Promulgated: May 21, 2024

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SEPARATE CONCURRING OPINION

GAERLAN, *J.*:

While I concur with the *ponencia's* reasoning and result, I must offer for the record my humble opinion regarding the present and lamentable state of law and jurisprudence relative to the Philippine party-list system, especially in the context of the limited jurisdiction of public respondent over intra-party disputes.

In fine, the present controversy is rooted in the fact that there were two competing manifestations of intent to participate in the May 9, 2022 National and Local Elections filed on behalf of petitioner. The facts indicate that private respondent, petitioner's former national chairman, had already been expelled as a member of petitioner, and Atty. General D. Du, petitioner's secretary-general, now effectively claims the mantle of leadership, especially with regard to petitioner's nomination for its sitting representative in the House of Representatives.

The *ponencia's* exhaustive discussion of the case's factual and procedural antecedents outlines and narrates a sad state of affairs: a party-list organization purporting to represent the interests of Filipino farmers that is now sadly reduced to internal disagreement between two factions, in which public respondent's unhurried involvement has only made things more Byzantine and cumbersome. With public respondent stepping into such an unnecessarily contested intra-party dispute—which admittedly, as the *ponencia* discusses, all boils down to the minute factual issue of whether or not the former national chairman was validly notified of the proceedings that removed him from power—the Court itself is now dragged away from its constitutionally apolitical rostrum in order to settle and decide an issue that should be best left to Petitioner's members themselves to decide democratically.

Verily, with dozens of similar cases reaching the Court each electoral cycle, the judicial department stands to be in constant danger of unwittingly wading into the forbidden and tempestuous waters of political questions, which are quite literally the issues in intra-party disputes such as this. It is thus a regrettable notion that this Court, and not the party members

themselves, is the entity that gets to ultimately decide who shall stand at the helm of representative political power.

To begin the substantive part of my discussion, the reasoning of the Court in *Sinaca v. Mula*[1] is quoted below for easy and undoubted reference:

> A political party has the right to identify the people who constitute the association and to select a standard bearer who best represents the party's ideologies and preference. Political parties are generally free to conduct their internal affairs free from judicial supervision; this common law principle of judicial restraint, rooted in the constitutionally protected right of free associations, serves the public interest by allowing the political processes to operate without undue interference. Thus, the rule is that the determination of disputes as to party nominations rests with the party, in the absence of statutes giving the courts jurisdiction.
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> Quintessentially, where there is no controlling statute or clear legal right involved, the court will not assume jurisdiction to determine factional controversies within a political party, but will leave the matter for determination by the proper tribunals of the party itself or by the electors at the polls. Similarly, in the absence of specific constitutional or legislative regulations defining how nominations are to be made, or prohibiting nominations from being made in certain ways, political parties may handle party affairs, including nominations, in such manner as party rules may establish.[2]

I must now then point out that nowhere in the constitutionally defined jurisdiction and functions of public respondent in Article IX(C), Section 2 of the 1987 Constitution does it state that public respondent functions as the ultimate adjudicatory body for deciding the rightful leadership of a political party or party-list organization. This is only the ultimate result of jurisprudence. For easy and undoubted reference, the constitutional provisions relative to the power of public respondent over political parties and party-list organizations are all encompassed in Article IX(C), Section 2, paragraph 5 of the 1987 Constitution, which empowers Public Respondent to:

> (5) Register, after sufficient publication, political parties, organizations, or coalitions which, in addition to other requirements, must present their platform or program of government; and accredit citizens' arms of the Commission on Elections. Religious denominations and sects shall not be registered. Those which seek to achieve their goals through violence or unlawful means, or refuse to uphold and adhere to this Constitution, or which are supported by any foreign government shall likewise be refused registration.
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> Financial contributions from foreign governments and their agencies to political parties, organizations, coalitions, or candidates related to elections constitute interference in national affairs, and, when accepted,

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1 373 Phil. 896 (1999) [Per C.J. Davide, Jr., *En Banc*].
2 *Id.* at 912.

> shall be an additional ground for the cancellation of their registration with the Commission, in addition to other penalties that may be prescribed by law.

Again, nowhere in the foregoing does it explicitly state that public respondent is mandated to decide upon questions of intra-party leadership and disputes. Public respondent is merely empowered to oversee and regulate political parties' registration and compliance with campaign finance prohibitions, which can also easily be surmised from the relevant provisions in Batas Pambansa Blg. 881, otherwise known as the Omnibus Election Code.

The landmark case of *Laban ng Demokratikong Pilipino v. Commission on Elections*[3] looms large over the present controversy, albeit only a small portion of its discussion is directly relevant. There, the Court categorically ruled and "clarified [that] the jurisdiction of Commission on Elections to rule upon questions of party identity and leadership [w]as an incident to its enforcement powers."[4] There, this Court noted that public respondent could determine, by simply referring to the party constitution of the Laban ng Demokratikong Pilipino, which faction or group had the right to nominate the party's candidates in the 2004 National and Local Elections.

The Court had occasion to again rule on another political party's internal leadership struggles in *Atienza, Jr., et al. v. Commission on Elections, et al.*[5] There, the Court elucidated on public respondent's limited power to delve into intra-party disputes, viz.:

> The COMELEC's jurisdiction over intra-party disputes is limited. It does not have blanket authority to resolve any and all controversies involving political parties. Political parties are generally free to conduct their activities without interference from the state. The COMELEC may intervene in disputes internal to a party only when necessary to the discharge of its constitutional functions.
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> The COMELEC's jurisdiction over intra-party leadership disputes has already been settled by the Court. The Court ruled in *Kalaw v. Commission on Elections* that the COMELEC's powers and functions under Section 2, Article IX-C of the Constitution, "include the ascertainment of the identity of the political party and its legitimate officers responsible for its acts." The Court also declared in another case that the COMELEC's power to register political parties necessarily involved the determination of the persons who must act on its behalf. Thus, the COMELEC may resolve an intra-party leadership dispute, in a proper case brought before it, as an incident of its power to register political parties.[6] (Citations omitted)

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3 468 Phil. 70 (2004) [Per J. Tinga, *En Banc*].
4 *Id.* at 84.
5 626 Phil. 654 (2010) [Per J. Abad, *En Banc*].
6 *Id.* at 670-671.

In *Lokin, Jr. v. Commission on Elections, et al.*,[7] the Court recognized that there was indeed a problem with its limited jurisdiction on intra-party disputes when the issue of party-list organizations—especially party-list organizations that were first registered into existence as corporate entities. Here, the Citizens' Battle Against Corruption (CIBAC) Foundation, Inc., which was an entity registered with the Securities & Exchange Commission (SEC), claimed to have sole authority to nominate candidates of the CIBAC Party-List over the CIBAC National Council. And while the Court ruled that the persons representing the CIBAC Foundation had effectively invoked the limited jurisdiction of public respondent—which clothed public respondent with the power to decide that it was the CIBAC National Council that had the sole authority to nominate the party-list's nominees—the Court seems to have avoided any explicit ruling as to which entity between public respondent and the SEC could validly decide on leadership contests of party-lists that are in fact SEC-registered. This, to me, is a persistent legal *lacuna* that needs to be definitively settled not by jurisprudence, but by concrete legislative action.

Finally in *Lico, et al. v. Commission on Elections, et al.*,[8] the Court had to deal with yet another contentious leadership struggle within the membership of the Ating Koop Party-List, which resulted in the Court finding that public respondent had committed grave abuse of discretion in recognizing invalid leadership elections where one faction won, and in simply deciding that with no faction being able to establish itself as the legitimate leadership echelon of the party-list, then the party-list's interim central committee was to be the legitimate leadership in a holdover capacity.

The present *ponencia* now becomes the Court's latest pronouncement on intra-party leadership disputes, but where the Court now recognizes that public respondent, in its own interpretation of a party-list organization's constitution and by-laws, cannot impose someone whom the general membership has clearly rejected as their leader. But this simply goes to show how once again, on the pretext of deciding a technical question of law, the political leadership of an entity ordained and conceptualized to be constitutionally independent is being decided in an obviously non-political manner. To me, it is a distasteful and disheartening scenario to behold when political matters rightfully pertaining to political actors find their way to our highest temple of justice, where politics and factionalism must halt at the Court's gates. The Court has done a fairly admirable balancing act over the years relative to issues such as the present controversy—as it is constitutionally bound to do so—but the judiciary as a whole should never be put so constantly to the test at the risk of upsetting the delicate equilibrium of our constitutional firmament.

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7 689 Phil. 200, 212–213 (2012) [Per C.J. Sereno, *En Banc*].
8 770 Phil. 445, 460–461 (2015) [Per C.J. Sereno, *En Banc*].

Clearly, to avert such constitutional dangers, I see here a need for better and updated legislative enactments relative to the leadership of party-list organizations, and clearly, Republic Act No. 7941, otherwise known as the Party-List System Act, is insufficient for present and even future purposes.

There is a multitude of issues that new legislation must address, such as the identification of specific officers as the sole and rightful agents of a party-list organization, whose signatures must appear on a party-list organization's list of nominees, the effect of a party-list organization's registration with the SEC, the effect of any leadership contest of such SEC-registered party-list organization that is instituted independent of any reference to any upcoming national election, the validity and binding nature of a party-list organization's constitution and by-laws, and even the validity and binding nature of established party practice not found in such constitutions and by-laws, among other lingering issues that will only crop up again at the next election cycle for the Court's disposition anew.

Such legislation should be sufficient to explicitly empower public respondent to function as the sole and proper arbiter of such leadership disputes with clear standards on how to decide the same, or such legislation could actually take said power away from public respondent altogether, especially in light of a party-list organization's SEC registration, with any dispute decided by specially designated courts binding upon public respondent. But in any case, legislative action for these numerous reasons is urgently needed. My hope is that Congress, in all its wisdom, takes legislative notice of the Court's perennial tackling of such sensitive and inherently political disputes, and finally enacts measures to avoid such contested and counter-productive litigation in the future.

To reiterate in summation, the *ponencia* is correct in its discussion and disposition of the instant controversy, but the case itself did not have to reach this stage. Had there been legislative measures in place that would have squared away public respondent's limited jurisdiction over intra-party disputes, especially with regard to party-list organizations, or to reform and completely overhaul the Philippine party-list system itself, this Court would not be burdened with a new and unnecessary occasion for it to wade once more into the forbidden and tempestuous waters of political questions, and be forced to decide once more on the questioned leadership of a democratically constituted and independently run political organization.

SAMUEL H. GAERLAN
Associate Justice