

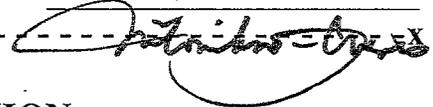
EN BANC

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 VILLAMIN, JR., Respondents.

Promulgated:

May 21, 2024

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CONCURRING OPINION

CAGUIOA, J.:

The *ponencia* resolves to grant the Petition for *Certiorari* (With Application for Issuance of Writ of Preliminary Injunction, *Status Quo Ante* and/or Temporary Restraining Order)¹ filed by petitioner Magkakasama sa Sakahan Kaunlaran (MAGSASAKA) Party-list, as represented by Atty. General D. Du (petitioner), assailing the Resolution² dated November 25, 2021 of public respondent Commission on Elections (COMELEC) First Division and Resolution³ dated September 9, 2022 of the COMELEC *En Banc* which denied its petition to deny due course to the Manifestation of Intent to Participate in the Party-List Elections (MIP) of private respondent Soliman Villamin, Jr. (Villamin).

In granting the Petition, the *ponencia* rules that: 1) the COMELEC committed grave abuse of discretion when it admitted the Answer and Judicial Affidavits of Villamin despite his belated submission and when it did not declare him in default; 2) Villamin was validly removed as National Chairperson because the *Saligang Batas at Alituntunin ng Magkakasama sa Sakahan, Kaunlaran (Magsasaka) Party-List*⁴ (*Saligang Batas*) does not require prior notice for the removal of its officers and the proceedings were done in accordance with its provisions; 3) even if notice was not required, the attendant circumstances show that Villamin was still sufficiently apprised of the proceedings against him; 4) petitioner was able to establish that there was quorum when Villamin was removed as National Chairperson; and 5) the COMELEC committed grave abuse of discretion when it focused on the procedural due process aspect without considering the substantive grounds for Villamin's removal.

¹ *Rollo*, pp. 3–46.

² *Id.* at 210–225. In the consolidated cases of SPP No. 21-002 (MIP) and SPP No. 21-003 (MIP), issued by Presiding Commissioner Ma. Rowena Amelia V. Guanzon and Commissioner Marlon S. Casquejo, concurring while Commissioner Aimee P. Ferolino with Dissenting Opinion.

³ *Id.* at 263–277. Issued by Chairman George Erwin M. Garcia and Commissioners Socorro B. Inting, Marlon S. Casquejo, Aimee P. Ferolino, and Rey E. Bulay.

⁴ *Id.* at 424–430.



I discuss each issue *vis-à-vis* the positions expressed by my esteemed colleagues, Chief Justice Alexander G. Gesmundo (CJ Gesmundo), Senior Associate Justice Marvic M.V.F. Leonen (SAJ Leonen), Associate Justice Amy C. Lazaro-Javier (Justice Javier), and Associate Justice Ricardo R. Rosario (Justice Rosario).

COMELEC committed grave abuse of discretion when it liberally construed its procedural rules without a justifiable cause.

I agree with the *ponencia* that the COMELEC committed grave abuse of discretion in not declaring Villamin in default in view of the belated submission of his Answer **without advancing any explanation or justifiable cause**. The COMELEC Rules of Procedure (Rules) allows the liberal construction of the procedural rules to “promote the effective and efficient implementation of the objectives of ensuring the holding of free, orderly, honest, peaceful and credible elections and to achieve just, expeditious and inexpensive determination and disposition of every action and proceeding.”⁵ The Rules even allows the COMELEC to suspend its application “[i]n the interest of justice and in order to obtain speedy disposition of all matters.”⁶ These provisions make it imperative that the construction of the rules is towards the just and speedy resolution of the cases. These provisions do not give the COMELEC unbridled discretion to choose when to apply or suspend its rules. To be sure, existing controlling jurisprudence holds that the COMELEC’s discretion in the liberal construction or suspension of the application of its procedural rules shall be done **only “in proper cases and under justifiable causes and circumstances.”**⁷ This is to ensure that no prejudice or partiality is committed in the construction of the Rules.

In this case, it is not disputed that Villamin was required by the COMELEC to submit his Answer and Judicial Affidavit three days before the scheduled hearing or before September 13, 2021.⁸ However, Villamin filed the same only on the day of the hearing itself, **with petitioner receiving a copy of the pleadings only minutes prior to the hearing**. There was no explanation or justification provided by Villamin for the belated submission. The failure of Villamin to explain his tardiness and his seeming tactic to put one over petitioner renders COMELEC’s act of allowing it a grave abuse of its discretion. COMELEC allowed the noncompliance to its own procedural rules **to favor one party** and, by the same token, deprive the other of its right to due process.

In his dissent, Justice Rosario posits that the COMELEC has the discretion to decide whether to declare a party in default or not and that

⁵ Rule 1, sec. 3.

⁶ Rule 1, sec. 4.

⁷ See *Pates v. COMELEC*, 609 Phil. 260, 266 (2009) [Per J. Brion, *En Banc*], citing *Hon. Fortich v. Hon. Corona*, 359 Phil. 210, 220 (1998) [Per J. Martinez, Second Division]. (Emphasis in the original)

⁸ *Ponencia*, pp. 11–12.



Villamin's Answer and Judicial Affidavit were admitted prior to a declaration of default. Further, he argues that the COMELEC has the discretion to liberally interpret its own rules.⁹ But Justice Rosario fails to consider the rationale for the liberal construction of the rules — and that is, to achieve not only a speedy resolution of cases but also of a just and equitable disposition of the issues. In this case, it was unfair for the COMELEC to have allowed the noncompliance to its own Order and procedural rules without any justifiable cause advanced for such transgression. It must be noted that Villamin did not even file a motion for extension of time to file his pleading. He did not also offer any explanation or reason for his belated submission. These acts do not only portray a blatant disregard of the procedural rules, but rather a malicious intent to deprive petitioner of its due process of law.

The Saligang Batas of MAGSASAKA Party-list is the law applicable with respect to the members' and leaders' rights and obligations.

Further, I concur with the *ponencia*'s ruling that the COMELEC acted with grave abuse of discretion in finding that Villamin's removal as National Chairperson was invalid due to the lack of notice and hearing which allegedly violates his right to due process of law.

Justice Javier contends that the ruling in *Atienza, Jr. v. COMELEC*¹⁰ (*Atienza*) is not applicable because it involves the expulsion of a member of the party while this case involves the ouster of a leader of a party-list organization. She posits that the remedy of an illegally ousted party-list leader is before the COMELEC who has jurisdiction of the same as a necessary incident of its power to resolve all registration issues affecting the party-list.¹¹ Since the party-list system is a creation of the Constitution and the State has an undeniable stake in the affairs of the party-list organizations, the right to due process cannot be dispensed with in intra-party leadership disputes; otherwise, it negates the worth accorded by the Constitution to the party-list organizations which are imbued with public interest.

I respectfully disagree. The distinction sought to be made is more apparent than real.

The liberties guaranteed by the Constitution are generally limitations on the state's powers in relation to the rights of the citizens. The right to due process is meant to protect ordinary citizens against arbitrary government action, **but not from acts committed by private individuals or entities.**¹² In private dealings and transactions, the specific statutes that provide reliefs from such private acts must apply.

⁹ J. Rosario, Dissenting Opinion, p. 3.

¹⁰ 626 Phil. 654 (2010) [Per J. Abad, *En Banc*].

¹¹ J. Lazaro-Javier, Dissenting Opinion, p. 6.

¹² *Atienza, Jr. v. COMELEC*, *supra* note 10, at 672–673.



In this case, Villamin invokes his right to due process against petitioner in an intra-party dispute. While political parties play an important role in our democratic set-up as an intermediary between the states and its citizens, it is still considered a private organization and not a state instrument. The Constitutional right to due process cannot be invoked against acts committed by private individuals or entities. The internal affairs of a political party, particularly its removal of officers and discipline of members, do not involve the right to life, liberty, or property within the meaning of the due process clause in the Constitution. An individual has no vested right, as against a political party, to be accepted or to prevent his removal by such political party. The only rights, if any, that party members may have, in relation to other party members, correspond to those that may have been freely agreed upon among themselves through their charter, a contract among the party members,¹³ which in this case is the party's *Saligang Batas*.

The distinction pointed out by Justice Javier between this case and *Atienza* may be relevant with respect to the determination of COMELEC's exercise of jurisdiction. But this distinction is irrelevant with respect to the acts of private individuals or entities. The Court has long established that the Bill of Rights embodied in the Constitution cannot be invoked against acts of private individuals.¹⁴ The Bill of Rights, including the right to due process of law, is designed to protect the citizens from the police power of the State. This finds basis in the deliberations of the Constitutional Commission, particularly in the sponsorship speech of Commissioner Joaquin Bernas on the Bill of Rights, to wit:

First, the general reflections: The protection of fundamental liberties in the essence of constitutional democracy. Protection against whom? *Protection against the state. The Bill of Rights governs the relationship between the individual and the state. Its concern is not the relation between individuals, between a private individual and other individuals. What the Bill of Rights does is to declare some forbidden zones in the private sphere inaccessible to any power holder.*¹⁵ (Emphasis supplied)

As abovementioned, political parties are generally free to conduct their internal affairs free from judicial supervision. This is rooted in the protected right of free association which serves the public interest by allowing the political processes to proceed without undue interference.¹⁶ This freedom includes the party's right to establish its own rules in the conduct of its affairs. The election of its officers, as well as the removal of the same, shall be governed by the rules established by the party.

Villamin was validly removed in accordance with the provisions of the Saligang Batas.

¹³ *Id.* at 673.

¹⁴ See *People v. Marti*, 271 Phil. 51, 61 (1991) [Per J. Bidin, Third Division]; see also *Serrano v. NLRC*, 380 Phil. 416, 445 (2000) [Per J. Mendoza, *En Banc*].

¹⁵ I Record, Constitutional Commission 674 (July 17, 1986).

¹⁶ *Sinaca v. Mula*, 373 Phil. 896, 912 (1999) [Per J. Davide, Jr., *En Banc*].



Under the party's *Saligang Batas*, the MAGSASAKA Party-list shall be composed of the following:

ARTIKULO V

ANG ISTRUKTURA NG MAGSASAKA

Seksyon 1. *Ang KONGRESO*: Ito ang pinakamataas ng (sic) organo sa pamumuno sa MAGSASAKA na binubuo ng lahat ng mga kaanib na samahan ng magsasaka sa pamamagitan ng kanilang mga opisyal na kinatawan o delegado.

1.1 Tungkulin at kapangyarihan ng Kongreso:

....

- Magnomina at maghahalal ng Council of Leaders at EXECOM sa pamamahitan ng *secret balloting*;

....

Seksyon 2. *Ang COUNCIL OF LEADERS*

Ang bawat isa sa labing-isang (11) miyembro ng Council ay ihahalal ng kasapian ng Kongreso. *Ito ang tatayong pinakamakapangyarihang organo sa panahong walang Kongreso.*

....

2.4 Ang simpleng korum (50%+1) ang siyang mamamayani sa organong ito.

2.5 Sa panahong may bakanteng posisyon sa EXECOM, [ang] Council ay may karapatang pumili at magpalit ng nabakanteng posisyon hanggang sa madaos ang Kongreso.

Seksyon 3. *Ang Komiteng Tagapagpaganap (Executive Committee o EXECOM)*

Ito ang pangunahing mangangasiwa, magmomonitor at magpapatupad ng pang-araw araw na gawain ng samahan.

3.1 Komposisyon: Ang EXECOM ay bubuuin ng Tagapangulo (Chairman), Pangalawang Tagapangulo (Vice Chairman), Pangkalahatang Kalihim (General Secretary), Pangkalahatang Ingat-Yaman (Treasurer) at Pangkalahatang Tagasuri (Auditor).

Sila ay ihahalal at pagpipilian ng Council sa pamamagitan ng *secret balloting*. Sila ay manunungkulan sa loob ng tatlong (3) taon o hanggang ang kanilang kahalili ay maihalal. Sila ay magpupulong tuwing ikalawang lingo ng bawat buwan o batay sa nararamdaman nilang pangangailangan.¹⁷ (Emphasis supplied)

¹⁷ Rollo, pp. 426-427.



Meanwhile, the procedure for the removal of the officers is provided under Article 8, which states:

ARTIKULO VIII

PAGBAWI SA POSISYON NG MGA HALAL NA OPISYALES

Seksyon 1. Ang sino man na opisyal na napatunayan nagpabaya sa tungkulin at gawaing iniatas sa kanya at gayun din na nakagawa ng mga aktibidad na makakasira sa imahe ng organisasyon at makakasama sa mamamayan ay maaaring mapatalsik sa kanyang posisyon.

Seksyon 2. Isang *Liham-Petisyon* mula sa lehitimong kasaping indibiduwal o organisasyon na maaaring pagbatayan ng *pagsusuri at imbestigasyon* ang magiging daan para sa pagpapatalsik sa sinumang opisyal ng organisasyon.

Seksyon 3: Ang Liham-Petisyon para sa pagbawi ng posisyon ay *pagpapasyahan ng pamunuan kung saan siya nabibilang na organo*, sa *pamamagitan ng 2/3 na boto*. Sa isang banda kung makakaapekto sa pamunuan duminig ng usapin, ito ay ihaharap sa mas mataas na pamunuan.

Seksyon 4: Ang opisyal na hahalili sa nabakanteng posisyon ay dapat na ihalal ng mga kasapi ng pamunuan kung saan nabibilang na organo.

Seksyon 5: Kung ang *buong pamunuan o malaking bahagi ng pamunuan ay babawian ng posisyon at magresulta sa krisis sa liderato*, ang *Kongreso na naghahalal sa kanila ay kagyat na pupulungin para sa pagdaraos ng ispesyal na halalan*.¹⁸ (Emphasis supplied)

From the foregoing, the *Kongreso*, composed of the representatives of the organizations or chapters belonging to the party, nominates and elects the Council of Leaders (Council) and Executive Committee (ExeCom). The Council acts in behalf of the *Kongreso* with respect to the conduct of the activities of the party. Meanwhile, the ExeCom, composed of the officers, oversees the day-to-day operations of the party. In the event of vacancy in the ExeCom, the Council may fill up the vacancy until the *Kongreso* convenes.

On the other hand, the following requisites are necessary before an officer of an organization-member or of the party itself may be removed from his or her position, to wit:

1. A Letter-Petition from a legitimate member or an attached organization of the Party;
2. An investigation studying the allegations raised in the Letter-Petition; and
3. A two-thirds vote of the leaders to which organization he or she belongs to or in case of conflict or removal of majority of the officers, the voting shall be raised to the highest ruling body, the *Kongreso*.

¹⁸ *Id.* at 430.



A review of the records shows that **Villamin was removed as National Chairperson of the council following the procedure laid out in the *Saligang Batas*.**

The Minutes of the Council's Meeting¹⁹ dated June 28, 2019 attest to a special meeting having been called to discuss the letter-petitions received by the Council from two provincial coordinators of the party, which petitions raised the issue of alleged irregularities in the business dealings of DV Boer Inc. owned by Villamin. It was mentioned during the meeting that no notice was given to the members involved so as not to pre-empt any investigation that would ensue. Thereafter, the Council agreed and resolved to conduct an investigation on the matter. Of the 13 members, 7 were present during the meeting and all voted to hold an investigation.

The Minutes of the Council's Meeting²⁰ dated November 3, 2019 show that the results of the investigation were reported to the Council. The report mentioned that the Securities and Exchange Commission (SEC) Advisory, which warned the public not to invest in the *paiwi* program of DV Boer Inc., was genuine and the SEC has an ongoing investigation against DV Boer Inc. Further, the investigator had a chance to talk to sub-farm owners who invested in the program and learned that their payouts were delayed. There were also members and supporters of the party who were asking if DV Boer Inc. and MAGSASAKA Party-list were the same. The investigation report concluded that there is *prima facie* basis and probable cause that DV Boer Inc. violated the law and that the party is being dragged to the issue due to Villamin's connection with DV Boer Inc. It was then recommended that an advisory be issued by the party informing the public that DV Boer Inc. and MAGSASAKA Party-list are two separate and distinct entities, and that the party is not involved with the activities of DV Boer Inc. It was also suggested that the officers involved be suspended to remove any doubt from the public.

The Council then unanimously resolved to suspend Villamin, Marianne Co, Joselyn Villamin, Soliman Villamin Sr., Crisanto "King" Cortez (Cortez) and Joseph Masacupan (Villamin, et al.) and barred them from participating in any decision-making or to represent the party in public. The said officers were informed of their suspension, and the Council decided that a General Assembly would be called to explain to the membership its decision.

On December 21, 2019, a General Assembly was called and this was attended by the *Kongreso* consisting of 37 representatives from the local chapters of the party. The Minutes of the Meeting²¹ reflect that the controversy involving Villamin and DV Boer Inc. was again raised and discussed. It was proposed that the current set of the Council and officers be vacated, and a new set be elected. Cortez posed his objection thereto. However, the coordinators manifested that the *Kongreso* is the highest policy-making body of the party with the power to decide on the vacancy and election of new Board Members

¹⁹ *Id.* at 77-80.

²⁰ *Id.* at 85-89.

²¹ *Id.* at 92-97.



and since it had the requisite quorum, it could proceed with the order of business.²²

Consequently, the *Kongreso* nominated and elected the new members of the Council with 36 voting in the affirmative and 1 in the negative.

On January 31, 2020, petitioner filed a Manifestation²³ before COMELEC informing the latter that a new set of the Council had been elected and requesting that the same be entered into the COMELEC's records.

All these actions of the Council and the *Kongreso* comply with the procedures laid out in the *Saligang Batas*. Thus, Villamin was validly removed as a member of the Council and as National Chairperson. Since Villamin was legitimately removed, it is clear that he had no authority to file a MIP on behalf of petitioner. Accordingly, it was grave abuse of discretion on the part of COMELEC to issue its First Division Resolution dated November 25, 2021 and *En Banc* Resolution dated September 9, 2022, which denied the Petition to Deny Due Course to the MIP of Villamin filed by Du, on behalf of the MAGSASAKA Party-list.

On the issue of the sufficiency of the Minutes of the Meeting to establish quorum, Justice Javier and Justice Rosario argue that the same does not constitute substantial evidence to prove that there was quorum that day. They argue that there was no way to determine that a quorum was established in the absence of the attendance sheet showing the names of members who attended and participated in the voting.

Substantial evidence is such amount of relevant evidence which a reasonable mind might accept as adequate to support a conclusion. The Minutes of the Meeting dated December 21, 2019 is substantial evidence to prove that there was a quorum when the *Kongreso* voted to elect the new Council. *First*, there was no evidence presented by Villamin to assail the due execution of the said document. *Second*, Cortez, Villamin's ally, participated in the deliberations and did not raise any issue on lack of quorum during the said meeting which he could have easily done similar to the objection he raised on the lack of notice to Villamin, et al. *Third*, the party's conduct of its own affairs must enjoy a presumption of regularity, which may be controverted only by clear and convincing evidence. Stated differently, the allegation of petitioner that Villamin was removed as National Chairperson is duly supported by substantial evidence.

Whether Villamin had knowledge of the proceedings or evaded the same is a non-issue.

²² *Id.* at 94.

²³ *Id.* at 90-91.

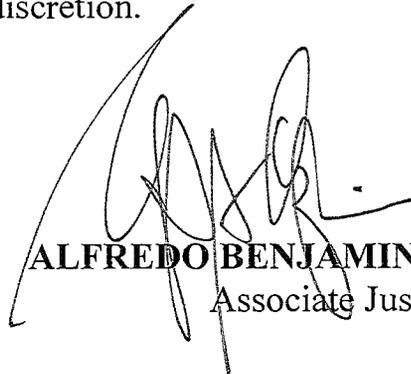


The question of whether Villamin was sufficiently apprised of the developments and proceedings against him, as raised by SAJ Leonen, Justice Javier, and Justice Rosario is a non-issue because it is *not* a requirement under the party's charter to remove an erring Council Member.

COMELEC committed grave abuse of discretion when it failed to consider the substantive ground for Villamin's removal.

As aptly pointed out by CJ Gesmundo during the deliberations, in denying the petition to deny due course to the MIP of Villamin filed by petitioner, the COMELEC focused mainly on the alleged failure of petitioner to comply with procedural due process without considering the substantive due process aspect.²⁴ The *Saligang Batas* states that an officer of the party may be removed after it has been proven that he or she has been remiss in his or her duties and that such officer has committed acts that tarnish or taint the reputation and image of the party and its members. The investigation conducted to ascertain the validity of the reports surrounding the DV Boer Inc. and Villamin's involvement therein established that there is *prima facie* basis and probable cause that DV Boer Inc. violated the law and that the party is being dragged to the issue due to Villamin's connection with the company. This constitutes a substantial ground as required under the *Saligang Batas* to remove Villamin as National Chairperson. This highlights the *ponencia's* correct ruling that the COMELEC committed grave abuse of discretion in failing to consider the substantive ground and in focusing merely on the procedural aspect.

To conclude, I join the *ponencia* and vote to grant the Petition, and to accordingly reverse the assailed Resolutions of the COMELEC for having been issued with grave abuse of discretion.


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

²⁴ C.J. Gesmundo, Concurring Opinion, p. 15.