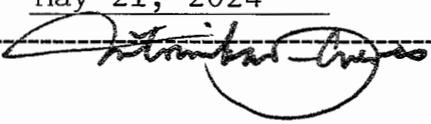


EN BANC

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

X----------X

CONCURRING OPINION

GESMUNDO, C.J.:

I concur in the *ponencia* circulated by the esteemed Associate Justice Jose Midas P. Marquez in the above-captioned case. I write this Concurring Opinion to share my perspective on the grave abuse of discretion amounting to excess or lack of jurisdiction committed by the Commission on Elections (COMELEC) in the instant case.

Summary of the case and the ponencia's ruling

This is a Petition for *Certiorari* (with Application for Issuance of Preliminary Injunction, *Status Quo Ante*, and/or Temporary Restraining Order) filed by Magkakasama sa Sakahan, Kaunlaran (MAGSASAKA), represented by its Secretary General, Atty. General D. Du (Atty. Du), assailing the November 25, 2021 Resolution of the COMELEC First Division and the September 9, 2022 Resolution of the COMELEC *En Banc* in the consolidated cases of SPP No. 21-002 (MIP) and SPP No. 21-003 (MIP).¹

On February 8, 2021, Atty. Du filed a Manifestation of Intent to Participate (MIP) in the May 9, 2022 National and Local Elections (2022 NLE) under the name of MAGSASAKA. This was docketed as SPP No. 21-002 (MIP). Later, on March 29, 2021, Soliman Villamin, Jr. (Villamin), claiming to be the MAGSASAKA National Chairperson, also filed a MIP under the name of MAGSASAKA for the 2022 NLE.²

¹ *Ponencia*, p. 2.

² *Id.*



Atty. Du filed a petition to deny due course the Villamin MIP. Trish Fajilagot Alfon (Alfon) et al. likewise filed their petition praying that the Villamin MIP be denied due course.³

In his petition, Atty. Du claimed that Villamin is no longer the National Chairperson of MAGSASAKA as of December 21, 2019 and had been expelled from the party due to anomalous activities akin to *ponzi* or pyramiding scheme involving DV Boer, Inc., Villamin's family corporation. He asserted that on December 21, 2019, MAGSASAKA held a general assembly where the attending members were informed of the suspension of concerned officers from the Council of Leaders, and this was immediately followed by an election of a new set of Council of Leaders. Atty. Du claimed that Villamin and the concerned officers were notified of the meeting, but Villamin countered that only King Cortez (Cortez) was notified.⁴

On June 26, 2021, the MAGSASAKA faction of Atty. Du held another general assembly where they elected a new set of Council Leaders, and expelled Villamin, Soliman Villamin, Sr., Jocelyn Villamin, King Cortez, Marianne Co, and Joseph Masacupan from the party due to their involvement in the DV Boer scam, and the issuance of a warrant of arrest against them for syndicated estafa.⁵

Meanwhile, Alfon et al. averred that they had instituted complaints against Villamin for estafa, syndicated estafa, and violations of the Securities Regulation Code.⁶

On November 25, 2021, the COMELEC First Division issued a Resolution in favor of Villamin. It found that his removal from MAGSASAKA was in violation of its own *Saligang Batas at Alituntunin* since he was not notified of the meetings and, hence, was not given a chance to refute the allegations against him. Thus, Villamin remained to be the National Chairperson of MAGSASAKA when he filed his MIP.⁷ In its September 9, 2022 Resolution, the COMELEC *En Banc* affirmed the conclusions reached by the COMELEC First Division Resolution. To begin with, the COMELEC *En Banc* declared that the case falls within the limited jurisdiction of COMELEC over intra-party leadership disputes. It found that

³ *Id.*

⁴ *Id.* at 2-3.

⁵ *Id.* at 3.

⁶ *Id.*

⁷ *Id.* at 3-5.

Villamin's right to due process was violated due to lack of sufficient notice of the general assembly and absence of quorum during the said assembly.⁸

In the interim, MAGSASAKA won a seat during the 2022 NLE. On August 12, 2022, MAGSASAKA filed a motion for proclamation but the COMELEC did not issue a certificate of proclamation. Thus, MAGSASAKA filed the present Petition ascribing grave abuse of discretion to the COMELEC when it: (1) did not declare Villamin in default; (2) did not allow MAGSASAKA/Atty. Du to cross-examine Villamin's witnesses; (3) interfered in intra-party disputes; (4) ruled that MAGSASAKA violated Villamin's right to due process; and (5) did not deny Villamin's MIP.⁹

On September 14, 2022, the COMELEC held an Executive Session to determine who will sit as MAGSASAKA's representative in the House of Representatives. It gave due course to the nominations from Villamin's group, while merely noting the withdrawals and nominations of the group of Atty. Du. Further, the COMELEC resolved to issue a certificate of proclamation to Roberto Gerard L. Nazal, Jr. (Nazal) as the MAGSASAKA party-list representative in the 19th Congress.¹⁰

On October 10, 2022, the COMELEC *En Banc* issued a certificate of finality, declaring its Resolution dated September 9, 2022 which denied MAGSASAKA's motion for reconsideration as final and executory, and an entry of judgment. On the same date, the COMELEC *En Banc*, acting as the National Board of Canvassers (NBOC), issued a certificate of proclamation to Magsasaka Party-List and named Nazal as the qualified nominee to sit as the party's representative to the House of Representatives. Nazal took his oath of office on the same day.¹¹

On October 18, 2022, this Court, upon Motion of MAGSASAKA, issued a *status quo ante* order to maintain the *status quo* prevailing prior to the confirmation of Nazal's proclamation as MAGSASAKA's representative.¹²

The *ponencia* finds that the COMELEC gravely abused its discretion when it failed to declare Villamin in default due to the belated filing of his Answer and Joint Affidavit. The COMELEC required the parties to file their Answer and Judicial Affidavits three days before the hearing on September

⁸ *Id.* at 5–6.

⁹ *Id.* at 6–8.

¹⁰ *Id.* at 8.

¹¹ *Id.* at 9.

¹² *Id.*

13, 2021, or on September 10, 2021. Villamin filed his Answer and Judicial Affidavit on the day of the hearing, September 13, 2021 and a mere 23 minutes before the scheduled time. He also failed to proffer any justifiable reason for the said delay. The *ponencia* rules that by admitting Villamin's Answer and Judicial Affidavit without any justifiable reason, the COMELEC not only allowed Villamin to disregard its Order and Rules of Procedure, it also deprived MAGSASAKA of its right to cross-examine Villamin and his witnesses, thereby violating MAGSASAKA's right to due process. According to the *ponencia*, the belated filing of the foregoing pleadings deprived the COMELEC of the opportunity to exercise its discretion to allow cross-examination. As a result of such liberal application, one party is favored and the other is deprived of its right to due process. In doing so, the COMELEC gravely abused its discretion.¹³

The *ponencia* also declares that Villamin was validly removed from his position as National Chairperson of MAGSASAKA. It finds that Villamin was sufficiently apprised of the developments and given ample opportunity to be heard. It observes that even prior to the leadership controversy, Villamin had consistently refused to attend the meetings of the Council of Leaders and had been a no-show, citing reasons as being out of the country, and would only send his people to attend the same, particularly Cortez. Villamin never debunked this statement. The *ponencia* further emphasizes that under MAGSASAKA's own rules, officials can be expelled from their positions when it has been duly proven that they neglected their duties or committed acts that may tarnish the image of the organization and are detrimental to its members. It points out that the investigation and adjudication of Villamin's expulsion took place over a period of two years. For the *ponencia*, it is contrary to common sense to conclude that the National Chairperson did not know of the proceedings seeking his expulsion, considering the notoriety that such action would have made within the inner circle of the organization, and especially since a majority of the Council of Leaders were present during the expulsion proceedings and that a General Assembly was convened twice for such purpose.¹⁴

The *ponencia* underscores that the MAGSASAKA *Saligang Batas at Alituntunin* provides that the quorum for purposes of the General Assembly is constituted by the official representatives of the members, not literally the entire membership of the party. It observes that Villamin was elected under the same scheme.¹⁵ The *ponencia* rules that the COMELEC, and this Court, cannot, on account of perceived procedural deviations from MAGSASAKA's own *Saligang Batas at Alituntunin*, force the party to retain Villamin as its

¹³ *Id.* at 11–14.

¹⁴ *Id.* at 14–17.

¹⁵ *Id.* at 18–19.

National Chairperson when the party itself had found him unfit, both as its leader and as a member. Doing so would allow MAGSASAKA to be represented by Nazal, whose membership in MAGSASAKA had been denied, and who is alleged to have founded, campaigned for, and been nominated in the same 2022 NLE for PASAHERO Party-List, a party-list that lost in the elections.¹⁶

In conclusion, the *ponencia* declares that the COMELEC acted in excess of its authority by giving due course to the Villamin MIP. Since Villamin was no longer the National Chairperson of MAGSASAKA, his nominee, Nazal, could not be validly proclaimed as MAGSASAKA's party-list representative in the House of Representatives.¹⁷

I concur in the *ponencia*.

Preliminarily, it must be stated that “[t]he scope of this Court’s jurisdiction in a petition for *certiorari* under Rule 64, in relation to Rule 65 of the Rules of Court, is limited; the petition must show that the COMELEC *En Banc* acted without or in excess of its jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction.”¹⁸

On this score, the definition of grave abuse of discretion is well-established:

Grave abuse of discretion has been defined as a whimsical, arbitrary, or capricious exercise of power that amounts to an evasion or refusal to perform a positive duty enjoined by law or to act at all in contemplation of law. In the process of determining the existence of grave abuse of discretion, this Court looks into: (1) whether the act involved was done contrary to the Constitution, the law[,] or jurisprudence; or (2) whether it was executed whimsically, capriciously[,] or arbitrarily out of malice, ill will[,] or personal bias. Additionally, mere abuse of discretion is not enough; it must be grave. Unless it is firmly established that the COMELEC *En Banc* committed grave abuse of discretion, this Court would not interfere with its decision.¹⁹ (Citations omitted)

Having set forth said preliminary considerations, I will now proceed to apply these considerations in the instant case.

¹⁶ *Id.* at 21–22.

¹⁷ *Id.* at 23.

¹⁸ *Agravante v. Commission on Elections*, G.R. No. 264029, August 8, 2023 [Per C.J. Gesmundo, *En Banc*] at 6–7. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

¹⁹ *Id.* at 7.

Without a doubt, the resolution of this present case will shape how our courts and tribunals, particularly, the COMELEC, should regulate party-lists. The COMELEC must ensure that the principles governing the resolution of intra-party disputes are not exploited or violated, leading to the unjust presence of an individual in the House of Representatives who neither genuinely represents nor was legitimately nominated by a party-list.

I espouse that in resolving intra-party disputes involving political parties, the COMELEC should consider the totality of evidence presented, both on the substantive and the procedural issues, in settling the dispute, and not merely single out a sole procedural matter. I will expound further.

The COMELEC committed grave abuse of discretion amounting to lack or excess of jurisdiction in finding that MAGSASAKA did not validly remove Villamin as National Chairperson

In *Atong Paglaum, Inc. v. Commission on Elections*,²⁰ the Court discussed the party-list system and its constitutional basis, viz.:

The 1987 Constitution provides the basis for the party-list system of representation. Simply put, the party-list system is intended to democratize political power by giving political parties that cannot win in legislative district elections a chance to win seats in the House of Representatives. The voter elects two representatives in the House of Representatives: one for his or her legislative district, and another for his or her party-list group or organization of choice. The 1987 Constitution provides:

Section 5, Article VI

(1) The House of Representatives shall be composed of not more than two hundred and fifty members, unless otherwise fixed by law, who shall be elected from legislative districts apportioned among the provinces, cities, and the Metropolitan Manila area in accordance with the number of their respective inhabitants, and on the basis of a uniform and progressive ratio, and those who, as provided by law, shall be elected through a party-list system of registered national, regional, and sectoral parties or organizations.

(2) The party-list representatives shall constitute twenty per centum of the total number of representatives including those under the party list. For three consecutive terms after the ratification of this Constitution, one-

²⁰ 707 Phil. 454 (2013) [Per J. Carpio, *En Banc*].

half of the seats allocated to party-list representatives shall be filled, as provided by law, by selection or election from the labor, peasant, urban poor, indigenous cultural communities, women, youth, and such other sectors as may be provided by law, except the religious sector.

Sections 7 and 8, Article IX-C

Sec. 7. No votes cast in favor of a political party, organization, or coalition shall be valid, except for those registered under the party-list system as provided in this Constitution.

Sec. 8. Political parties, or organizations or coalitions registered under the party-list system, shall not be represented in the voters' registration boards, boards of election inspectors, boards of canvassers, or other similar bodies. However, they shall be entitled to appoint poll watchers in accordance with law.²¹

Meanwhile, in the 2010 case of *Atienza v. Commission on Elections*,²² the Court elucidated on the COMELEC's jurisdiction over intra-party disputes. The same is limited to, among others, the ascertainment of the identity of the political party and its legitimate officers responsible for its acts, thus:

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.

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.²³ (Citations omitted)

There is no question in the instant case that the COMELEC exercises jurisdiction over the issue of whether Villamin should remain the National

²¹ *Id.* at 528–529.

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

²³ *Id.* at 670–671.

Chairperson of MAGSASAKA, and hence, duly authorized to act on its behalf and to nominate Nazal as the MAGSASAKA party-list representative.

It is respectfully submitted, however, that the COMELEC exercised such jurisdiction with grave abuse of discretion amounting to lack or excess of jurisdiction when it ignored the fact that, based on the totality of evidence presented, Villamin was validly removed as the National Chairperson of MAGSASAKA.

In *Atienza*, the Court has previously held that the requirements of administrative due process do not apply to the internal affairs of political parties, viz.:

[T]he requirements of administrative due process do not apply to the internal affairs of political parties. The due process standards set in *Ang Tibay* cover only administrative bodies created by the state and through which certain governmental acts or functions are performed. . . .

The constitutional limitations on the exercise of the state's powers are found in Article III of the Constitution or the Bill of Rights. The Bill of Rights, which guarantees against the taking of life, property, or liberty without due process under Section 1 is generally a limitation on the state's powers in relation to the rights of its 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. In the latter case, the specific statutes that provide reliefs from such private acts apply. The right to due process guards against unwarranted encroachment by the state into the fundamental rights of its citizens and cannot be invoked in private controversies involving private parties.

Although political parties play an important role in our democratic set-up as an intermediary between the state and its citizens, it is still a private organization, not a state instrument. The discipline of members by a political party does not involve the right to life, liberty[,] or property within the meaning of the due process clause. An individual has no vested right, as against the state, to be accepted or to prevent his removal by a 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, which is a contract among the party members. Members whose rights under their charter may have been violated have recourse to courts of law for the enforcement of those rights, but not as a due process issue against the government or any of its agencies.

But even when recourse to courts of law may be made, courts will ordinarily not interfere in membership and disciplinary matters within a political party. A political party is free to conduct its internal affairs, pursuant to its constitutionally-protected right to free association. In *Sinaca v. Mula*, the Court said that judicial restraint in internal party matters serves

the public interest by allowing the political processes to operate without undue interference. It is also consistent with the state policy of allowing a free and open party system to evolve, according to the free choice of the people.²⁴ (Emphasis supplied, citations omitted)

Verily, pursuant to *Atienza*, political parties, which are crafted by individuals in their private capacities, are considered private organizations, not state instruments. Hence, the rights of the party members are based on their organization's charter, which is a contract among the party members. If the members of the party seek redress, their recourse to the courts or tribunals shall be based on the enforcement of their rights under their organization's charter. This is not to be mistaken as a due process issue raised against the government or any of its agencies.

Notably, the Court stated in *Sinaca v. Mula*²⁵ that 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 association, serves the public interest by allowing the political processes to operate without undue interference. Thus, the rule is that the resolution of disputes as to party nominations rests with the party, in the absence of a statute granting jurisdiction to the courts.²⁶

Accordingly, the dispute between Villamin and MAGSASAKA should be resolved simply within the bounds of the party-list's own charter, and not on any other consideration.

Notably, the COMELEC declared that Villamin was still the National Chairperson of MAGSASAKA and, hence, was still entitled to submit the party-list's nominees to the COMELEC, because his purported right to due process was violated. The COMELEC espoused the view that there was no sufficient notice of the December 21, 2019 general assembly, or sufficient proof that Villamin was duly informed of said general assembly.²⁷

However, in view of jurisprudence declaring that the requirements of administrative due process do not apply to the internal affairs of political parties, the COMELEC committed grave abuse of discretion in concluding

²⁴ *Id.* at 672–673.

²⁵ 373 Phil. 896 (1999) [Per C.J. Davide, Jr., *En Banc*].

²⁶ *Id.* at 912.

²⁷ *Ponencia*, p. 6.

that Villamin validly invoked said right against his removal as National Chairperson by MAGSASAKA.

The COMELEC committed grave abuse of discretion amounting to lack or excess of jurisdiction in finding that Villamin's right to due process was violated

Assuming for the sake of argument that Villamin may invoke the right to due process in the instant case, I agree with the position of Associate Justice Alfredo Benjamin S. Caguioa, in his Letter dated January 20, 2024, that Villamin's removal was accomplished in accordance with the procedure laid down in the *Saligang Batas at Alituntunin* of MAGSASAKA.

The *Saligang Batas at Alituntunin* merely provides that the following must be observed before an officer of an organization-member or of the party itself may be removed from his or her position, to wit:

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 iharap 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 ito 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

naghalal sa kanila ay kagyat na pupulungin para sa pagdaraos ng ispesyal na halalan.²⁸

Notably absent from this procedure is the requirement of a prior notice. The *Saligang Batas at Alituntunin* simply provides that when there is a letter-petition seeking for the removal of a party official of the organization, only a 2/3 vote of the council in favor of the said removal is required. Evidently, the *Saligang Batas at Alituntunin* does not require that the party official subject of the letter-petition for removal must first be informed of his or her removal and/or that a full-blown hearing must be conducted for this purpose. Instead, MAGSASAKA's charter provides that it is adequate that the letter-petition be voted upon by 2/3 of the council of the organization.

It is a well-established rule that the absence of "prior notice" does not necessarily result in a violation of due process, such as when Villamin was removed from MAGSASAKA due to a letter-petition validly voted upon by 2/3 of its council. In the recent case of *The Board of Commissioners of the Bureau of Immigration v. Wenle*,²⁹ the Court explained that prior notice is not absolutely indispensable when it involves an administrative process:

In this regard, the Court emphasizes that there is no controlling and precise definition of due process. The very nature of due process negates any concept of inflexible procedures universally applicable to every imaginable situation. Due process of law guarantees "no particular form of procedure; it protects substantial rights." Consideration of what procedures due process may require under any given set of circumstances must begin with a determination of the precise nature of the government function involved, as well as of the private interest that has been affected by governmental action. Its flexibility is in its scope — once it has been determined that some process is due — is a recognition that not all situations calling for procedural safeguards also call for the same kind of procedure. Thus, in extraordinary situations, where some valid governmental interest is at stake, it justifies postponing the hearing until after deprivation.

The immediately preceding discussions justify a summary but temporary deprivation of liberty or property rights as long as due process guarantees are in place to allow the deprived to justify a recovery of such rights. In the earlier example which demonstrated the necessity of the "close now, hear later" doctrine, financially distressed banks may be summarily closed or liquidated to protect the national economy itself because such closure or liquidation is subject to judicial inquiry and could be set aside if it is either capricious, discriminatory, whimsical, arbitrary, unjust, or amounting to a denial of the due process and equal protection clauses under the Constitution. In such case, due process does not necessarily require a prior hearing; a hearing or an opportunity to be heard may be subsequent to

²⁸ Rollo, p. 430, *Saligang Batas at Alituntunin ng Magkakasama sa Sakahan, Kaunlaran (MAGSASAKA) Party-List*.

²⁹ G.R. No. 242957, February 28, 2023 [Per C.J. Gesmundo, *En Banc*].

the closure. This ratiocination is consistent with the essence of administrative due process which was articulately explained in *Cornejo v. Gabriel*, which reads:

The fact should not be lost sight of that we are dealing with an administrative proceeding and not with a judicial proceeding. As Judge Cooley, the leading American writer on Constitutional Law, has well said, due process of law is not necessarily judicial process; much of the process by means of which the Government is carried on, and the order of society maintained, is purely executive or administrative, which is as much due process of law, as is judicial process. While a day in court is a matter of right in judicial proceedings, in administrative proceedings it is otherwise since they rest upon different principles. [. . .] In certain proceedings, therefore, of an administrative character, it may be stated, without fear of contradictions that the right to a notice and hearing are not essential to due process of law. Examples of [special] or summary proceedings affecting the life, liberty[,] or property of the individual without any hearing can easily be recalled. Among these are the arrest of an offender pending the filing of charges; the restraint of property in tax cases; the granting of preliminary injunctions [ex parte]; and the suspension of officers or employees by the Governor General or a Chief of a Bureau pending an investigation.³⁰ (Citations omitted)

Indeed, unless otherwise specifically provided by law or some governing rule, prior notice in an administrative process is not mandatory. There is no violation of the right to due process when such prior notice is absent, including the removal of officers in a party-list. As held in *Wenle*, in certain processes of administrative character, it may be stated, without fear of contradictions, that the right to a notice and hearing are not essential to due process of law. While *Wenle* evidently pertains to administrative processes before a governmental body, the same rationale applies more so to the processes of a private organization, such as MAGSASAKA.

There are so many examples of processes which affect the rights of persons, especially those involving merely private rights in organizations, where the prior notice requirement is not mandatory. As stated in *Wenle*, in the “close now, hear later” doctrine, financially distressed banks may be summarily closed or liquidated without prior notice to protect the national economy itself. The lack of prior notice does not invalidate the closure of a bank. Even in certain labor termination cases, prior notice is not indispensable. In *D.M. Consunji, Inc. v. Gorres*,³¹ it was explained that prior or advance

³⁰ *Id.* at 27–28. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

³¹ 641 Phil. 267 (2010) [Per J. Peralta, Second Division].

notice of termination is not part of procedural due process if the termination is brought about by the completion of the contract or phase thereof for which the employee was engaged.³²

Evidently, in this case, prior notice is not a demandable right in favor of Villamin because it is not mandated by MAGSASAKA's charter. Nevertheless, I am of the view that Villamin was given an opportunity to contest his removal from the party-list when he was given the chance to present countervailing evidence before COMELEC to assail his removal from MAGSASAKA considering that COMELEC has the jurisdiction to resolve inter-party disputes. Nevertheless, the totality of evidence presented by both parties leads to the inescapable conclusion that there was sufficient basis for MAGSASAKA to remove Villamin as National Chairperson.

Thus, it is grave abuse of discretion on the part of the COMELEC when it required prior notice to Villamin when MAGSASAKA's own *Saligang Batas at Alituntunin* makes no such requirement. This *Saligang Batas at Alituntunin*, after all, is the contract between the members of MAGSASAKA. Besides, considering that the removal process took place over a period of two years, it is well-nigh impossible for Villamin not to have been informed of the charges against him.

The COMELEC committed grave abuse of discretion amounting to lack or excess of jurisdiction by substituting its own wisdom on the propriety of maintaining Villamin as National Chairperson of MAGSASAKA with that of MAGSASAKA's members

At this juncture, it must be recalled that, based on the *ponencia*, MAGSASAKA cited Villamin's participation in the DV Boer scam as basis for his removal from the position of National Chairperson. The same ground, together with Villamin's prosecution for estafa, were the grounds invoked by MAGSASAKA for Villamin's expulsion from the party itself.

It is observed that the COMELEC, in recognizing Villamin as the National Chairperson of MAGSASAKA and thus, authorized to act on its behalf, essentially brushed aside the substantive grounds cited by

³² *Id.* at 279-280.

MAGSASAKA in favor of procedural concerns. The assailed COMELEC Resolutions are notably bereft of any discussion on the substantive grounds relied upon by MAGSASAKA for the removal of Villamin as National Chairperson and expelling him from the party.

To my mind, the COMELEC committed grave abuse of discretion amounting to lack or excess of jurisdiction when it blatantly ignored the substantive grounds raised by MAGSASAKA for Villamin's removal.

Indeed, the COMELEC should not have solely relied on the "prior notice" argument of Villamin. Considering that the resolution of this case would ultimately determine who shall represent the electorate in the sector represented by MAGSASAKA, the COMELEC should have been more circumspect in resolving the case based on the substantive grounds pertaining to the removal of Villamin as National Chairperson.

I humbly believe that in resolving intra-party disputes, the COMELEC should reflect on the totality of evidence presented by both parties pertinent to all the issues in the dispute.

In *Coalition of Associations of Senior Citizens in the Phils., Inc. v. COMELEC*,³³ a case which involves a dispute within a party-list, the Court emphasized that in affording the parties complete due process in a proceeding before the COMELEC, said body must consider the totality of the evidence presented:

The appropriate due process standards that apply to the COMELEC, as an administrative or quasi-judicial tribunal, are those outlined in the seminal case of *Ang Tibay v. Court of Industrial Relations*, quoted below:

- (1) The first of these rights is the right to a hearing, which includes the right of the party interested or affected to present his own case and submit evidence in support thereof[.]
- (2) Not only must the party be given an opportunity to present his case and to adduce evidence tending to establish the rights which he asserts but the tribunal must consider the evidence presented.
- (3) While the duty to deliberate does not impose the obligation to decide right, it does imply a necessity which cannot be disregarded, namely, that of having something to

³³ 714 Phil. 606 (2013) [Per J. Leonardo-De Castro, *En Banc*], citing *Mendoza v. COMELEC*, 618 Phil. 706 (2009) [Per J. Brion, *En Banc*].

support its decision. A decision with absolutely nothing to support it is a nullity, a place when directly attached.

(4) Not only must there be some evidence to support a finding or conclusion, but the evidence must be "substantial." "Substantial evidence is more than a mere scintilla. It means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion."

(5) The decision must be rendered on the evidence presented at the hearing, or at least contained in the record and disclosed to the parties affected.

(6) The Court of Industrial Relations or any of its judges, therefore, must act on its or his own independent consideration of the law and facts of the controversy, and not simply accept the views of a subordinate in arriving at a decision.

(7) The Court of Industrial Relations should, in all controversial questions, render its decision in such a manner that the parties to the proceeding can know the various issues involved, and the reasons for the decisions rendered. The performance of this duty is inseparable from the authority conferred upon it.

These are now commonly referred to as cardinal primary rights in administrative proceedings.

The first of the enumerated rights pertain to the substantive rights of a party at hearing stage of the proceedings. The essence of this aspect of due process, we have consistently held, is simply the opportunity to be heard, or as applied to administrative proceedings, an opportunity to explain one's side or an opportunity to seek a reconsideration of the action or ruling complained of. A formal or trial-type hearing is not at all times and in all instances essential; in the case of COMELEC, Rule 17 of its Rules of Procedure defines the requirements for a hearing and these serve as the standards in the determination of the presence or denial of due process.

The second, third, fourth, fifth, and sixth aspects of the *Ang Tibay* requirements are reinforcements of the right to a hearing and are the inviolable rights applicable at the deliberative stage, as the decision-maker decides on the evidence presented during the hearing. These standards set forth the guiding considerations in deliberating on the case and are the material and substantial components of decision-making. *Briefly, the tribunal must consider the totality of the evidence presented which must all be found in the records of the case (i.e., those presented or submitted by the parties); the conclusion, reached by the decision-maker himself and not by a subordinate, must be based on substantial evidence.*

Finally, the last requirement, relating to the form and substance of the decision of a quasi-judicial body, further complements the hearing and decision-making due process rights and is similar in substance to the

constitutional requirement that a decision of a court must state distinctly the facts and the law upon which it is based. As a component of the rule of fairness that underlies due process, this is the “duty to give reason” to enable the affected person to understand how the rule of fairness has been administered in his case, to expose the reason to public scrutiny and criticism, and to ensure that the decision will be thought through by the decision-maker.³⁴ (Emphasis supplied)

Notably, in administrative proceedings, such as those before the COMELEC, even procedural issues may be disregarded to give way to substantive matters. In *Besaga v. Acosta*,³⁵ it was underscored by the Court that strict compliance with the rules of procedure in administrative cases is not required by law.³⁶

Indeed, the totality of evidence presented by the parties must be considered by COMELEC in resolving an intra-party dispute. It must consider the evidence adduced to support both the procedural and substantive arguments raised by the parties. Procedural matters may also be set aside so that the COMELEC may resolve the substantive aspect of the present controversy.

In this case, the procedure for the removal of an official is provided in Article VIII of MAGSASAKA’s *Saligang Batas at Alituntunin*. For easy reference, said provisions are again reproduced herein:

ARTIKULO VIII.
PAGBAWI SA POSISYON NG MGA HALAL NA OPISYALES

Sekyson 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 ito nabibilang na organo.

³⁴ *Coalition of Associations of Senior Citizens in the Phils., Inc. v. COMELEC*, *id.* at 632–634.

³⁵ 758 Phil. 339 (2015) [Per J. Brion, Second Division].

³⁶ *Id.* at 350.

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.³⁷

An analysis of Article VIII of MAGSASAKA's *Saligang Batas at Alituntunin* reveals that it may be divided into two categories: (1) substantive due process and (2) procedural due process. To be clear, these terms are not used in their constitutional sense since the right to due process is not applicable to the internal processes of political parties but to merely serve as a way to categorize the sections under Article VIII.

Article VIII, Section 1 of MAGSASAKA's *Saligang Batas at Alituntunin* contains the substantive due process which the members of MAGSASAKA have agreed to accord its officers prior to removal. In short, the substantive grounds for removal are found in Article VIII, Section 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 imaheng ng organisasyon at makakasama sa mamamayan ay maaaring mapataksik sa kanyang posisyon.*"

Meanwhile, Article VIII, Sections 2 to 5 of MAGSASAKA's *Saligang Batas at Alituntunin* provide for the procedural due process which its members have agreed to afford its officers prior to their removal. In simple terms, it contains the procedure for removal.

Glaringly, the COMELEC confined itself to ascertaining MAGSASAKA's compliance with procedural due process in the removal of Villamin as National Chairperson. It failed, however, to afford even an iota of consideration to the matter of compliance with substantive due process. It ignored the impetus behind MAGSASAKA's resolve to remove Villamin as National Chairperson – that Villamin has engaged in activities (the DV Boer scam) which had cast aspersions on the image of MAGSASAKA as a whole.

This resolve appears to be whole and determined. The *ponencia* states that MAGSASAKA held another general assembly on June 26, 2021 where they elected a new set of Council Leaders and expelled Villamin, Soliman Villamin, Sr., Jocelyn Villamin, King Cortez, Marianne Co, and Joseph

³⁷ Rollo, p. 430, *Saligang Batas at Alituntunin ng Magkakasama sa Sakahan, Kaunlaran (MAGSASAKA) Party-List*.

Masacupan from the party due to their involvement in the DV Boer scam, and the issuance of a warrant of arrest against them for syndicated estafa.³⁸

Said June 26, 2021 general assembly clearly served as proof of the firm resolve of MAGSASAKA to remove Villamin from the party. Considering that this June 26, 2021 general assembly preceded all the assailed COMELEC issuances, the first of which is the COMELEC First Division Resolution dated November 25, 2021, the COMELEC should have, at the very least, considered the foregoing grounds in resolving the petition to deny due course the Villamin MIP. It should have exercised restraint and refrained from substituting its wisdom, as to the propriety of maintaining Villamin as National Chairperson, with that of MAGSASAKA's members.

Anent the finding of the COMELEC *En Banc* in its September 9, 2022 Resolution that the subsequent June 26, 2021 general assembly did not cure the irregularities of the prior general assembly since it purportedly suffers from the same defects – absence of substantial evidence that it was properly convened³⁹ – suffice it to say that the same does not remove credence from MAGSASAKA's resolve to remove Villamin from the position of National Chairperson and as a member of the party itself as early as the December 21, 2019 general assembly. Notably, the COMELEC *En Banc* merely relied on the photographs of the June 26, 2021 general assembly to contradict the claim of MAGSASAKA that there was a quorum during the said assembly. Such reliance by merely counting the people in attendance through photographs cannot outweigh the consistent actions of MAGSASAKA to remove Villamin as its National Chairperson as early as the December 21, 2019 general assembly.

In truth, it is evident from the proceedings before the Court and the totality of evidence presented that MAGSASAKA is highly resolved in keeping Villamin out of its affairs. Thus, by focusing on mere procedural concerns, the COMELEC brushed aside MAGSASAKA's substantive grounds for removing Villamin from his position, which do not appear to have been sufficiently countered. In doing so, the COMELEC failed to serve the public interest because it unduly interfered with the political processes.⁴⁰

On this score, the COMELEC once again committed grave abuse of discretion. It is respectfully submitted that in instances such as in this case,

³⁸ *Ponencia*, p. 3.

³⁹ *Rollo*, p. 275, COMELEC *En Banc* Resolution dated September 9, 2022.

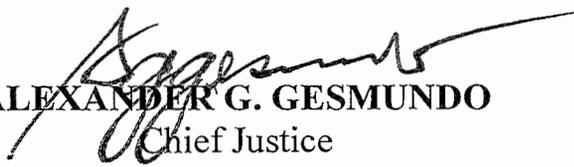
⁴⁰ In *Atienza v. Commission on Elections*, 626 Phil. 654, 673 (2010) [Per J. Abad, *En Banc*], citing *Sinaca v. Mula*, 373 Phil. 896 (1999) [Per C.J. Davide, Jr., *En Banc*], the Court said that judicial restraint in internal party matters serves the public interest by allowing the political processes to operate without undue interference.

the COMELEC must not limit itself to the procedural matters but also determine and consider the substantive grounds for removal cited by the political party to ensure that our party-list system will not make a mockery of our election process. This is especially true in circumstances like this, where the COMELEC's actuations has resulted in a situation where it has effectively substituted its own wisdom on the propriety of maintaining Villamin as National Chairperson of MAGSASAKA with the wisdom of the members of MAGSASAKA.

To this end, I respectfully propose that to properly resolve intra-party disputes and to guarantee that the party-list system shall not be manipulated by reprehensible interests, which corrupts the will of the electorate, the COMELEC should settle such disputes by considering the totality of evidence, affecting both procedural and substantive matters.

Applying this to the present case, any procedural deviations in the removal of a party officer should not affect the validity of the removal itself so long as said removal is based on proper substantive grounds. This is especially true for the internal affairs of political parties, where due process rights under the Constitution may not be invoked but only insomuch as is granted by the political party's constitution or by-laws.

ACCORDINGLY, I vote to **GRANT** the Petition.


ALEXANDER G. GESMUNDO
Chief Justice