

EN BANC

G.R. No. 206952 ABANG LINGKOD PARTY LIST (ABANG LINGKOD), Petitioner, v. COMMISSION ON ELECTIONS, Respondent.

Promulgated:

OCTOBER 22, 2013

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DISSENTING OPINION

LEONEN, J.:

I dissent. This Petition should be denied.

The Commission on Elections did not gravely abuse its discretion so as to give due course to this Petition. Reversing the Commission on Elections in this case makes us party to the mockery of the electoral process done by the petitioner.

*Atong Paglaum v. Commission on Elections*<sup>1</sup> did not remove the legal requirement that party-list groups must have proof of their existence and genuineness as provided by law. It did not remove the Commission on Elections' discretion to determine whether the party-list group that intends to be sectoral — as opposed to national or regional — **is genuine, has bona fide existence, and truly represents its sector.**

The petitioner submitted **clearly falsified evidence** to support its Manifestation before the Commission on Elections. This is a statutory ground for the cancellation of a party-list group's registration with the Commission on Elections. Allowing a party-list organization that willfully presents false credentials betrays the public trust, and We should not be party to its countenance.

**The Procedural Antecedents**

In this Petition for *Certiorari*,<sup>2</sup> Abang Lingkod Party List (ABANG LINGKOD) challenged the May 10, 2013 Resolution issued by the Commission on Elections *En Banc* in SPP No. 12-238 (PLM). The

<sup>1</sup> G.R. No. 203766, April 2, 2013, 694 SCRA 477.

<sup>2</sup> This Petition is under Rule 64 in relation to Rule 65 of the Revised Rules of Civil Procedure.

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Resolution affirmed the cancellation of the party-list's registration with the Commission on Elections.

Petitioner ABANG LINGKOD filed its Petition for Registration and Accreditation as a sectoral party on December 19, 2000.<sup>3</sup> The Commission on Elections granted the Petition on December 22, 2009.<sup>4</sup> The petitioner participated in the 2010 party-list elections but failed to obtain the required 2% of the votes cast, and it was not able to get a seat in the House of Representatives.<sup>5</sup>

On May 31, 2012, ABANG LINGKOD filed its Manifestation of Intent to Participate in the Party-list System of Representation in the May 2013 elections.<sup>6</sup>

In a Resolution dated August 9, 2012, the Commission on Elections set the summary evidentiary hearing for all registered party-list groups. It required them to submit relevant documents to prove continuing compliance with the provisions of Republic Act No. 7941 or the Party-List System Act, including the names of the witnesses it would present to testify to their continuing compliance, and the judicial affidavits of these witnesses.

According to the respondent, it set three (3) hearing dates (August 17, August 31, and September 3, 2012) for petitioner to present its witness and prove continuing compliance with the requirements under Republic Act No. 7941. Petitioner failed to present its witness on these hearing dates.<sup>7</sup>

On November 7, 2012, respondent promulgated a Resolution cancelling petitioner's Certificate of Registration/Accreditation for the then upcoming May 13, 2013 elections. The respondent stated in its Resolution that:

**x x x it is not enough that the party-list organization claim representation of the marginalized and underrepresented because representation is easy to claim and feign.** A careful perusal of the records of the case would show that ABANG LINGKOD failed to establish its track record. The track record is very important to prove that the party-list organization continuously represents the marginalized and underrepresented. x x x.

x x x x

ABANG LINGKOD merely offered pictures of some alleged activities they conducted after the elections in 2010. However, there is

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<sup>3</sup> This was docketed as SPP No. 08-16 (PL). *See Rollo*, p. 9.

<sup>4</sup> *Rollo*, p. 9.

<sup>5</sup> *Id.*

<sup>6</sup> Temporary *Rollo*, p. 2. The case was docketed as SP No. 12-238 (PLM).

<sup>7</sup> Temporary *Rollo*, p. 2.

nothing in the said records that would show that the party-list organization is indeed composed of organizations of farmers, fisherfolk and peasants or that they really conducted activities in line with its platform of government.

x x x x

The importance of this examination of existing party-list organizations as to their continuing compliance with the requirements of the law must be greatly emphasized. It is the duty of the Commission to ensure that only those legitimate party-list organizations will have a chance to vie for a seat in the Congress. Even those party-list organizations which are previously accredited must pass the scrutiny of the Commission. Hence, the party-list organizations must provide pieces of evidence showing that it is indeed working for the upliftment of the lives of the x x x sector it represents even after the elections in 2010. x x x.<sup>8</sup>

On November 22, 2012, the petitioner and more than fifty (50) other party-list groups filed a Petition for *Certiorari* with Prayer for Immediate Issuance of a Writ of Preliminary Injunction and Temporary Restraining Order and/or Status *Quo Ante* Order assailing the November 7, 2012 Resolution of the Commission on Elections *En Banc*.

In *Atong Paglaum v. Commission on Elections*<sup>9</sup> promulgated on April 2, 2013, this Court resolved the Petitions of the party-list groups affected by the November 7, 2012 Resolution of the Commission on Elections. This Court also remanded the Petitions to determine if these party-list groups were qualified for registration under the parameters laid down in the Decision.

On May 10, 2013, the Commission on Elections issued the assailed Resolution, affirming the cancellation of ABANG LINGKOD's registration under the party-list system. The Commission on Elections issued the Resolution without any summary evidentiary hearing and explained its Decision, to wit:

ABANG LINGKOD's registration was cancelled as it failed to establish a track record of continuously representing the peasant [and] farmers sector, and that its nominees are not marginalized and underrepresented, without any participation in its programs and advocacies.

The Commission maintains its petition in the previous *en banc* ruling cancelling the registration of ABANG LINGKOD. To reiterate, it is not enough that the party-list organization claim representation of the marginalized and underrepresented because representation is easy to claim

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<sup>8</sup> Id. at 39-41.

<sup>9</sup> *Atong Paglaum v. Commission on Elections*, supra.

and to feign. It is but reasonable to require from groups and organizations consistent participation and advocacy in the sector it seeks to represent, and not just seasonal and “sporadic” programs which are unrelated to its sector.

ABANG LINGKOD submitted pictures showing a seminar held on 10 July 2010, Medical Mission on 11 November 2010, Disaster Management Training on 21 October 2011, Book-giving on 28 June 2011, and Medical Mission on 1 December 2011.

And as if to insult the Commission, the photographs submitted appear to have been edited to show in the banners that ABANG LINGKOD participated in the activities. ABANG LINGKOD’s name and logo was superimposed on some banners to feign participation in the activities (Joint Medical-Dental Mission, Book-giving).

Under The Party-List System Act, a group’s registration may be cancelled for declaring unlawful statements in its petition. Photoshopping images to establish a fact that did not occur is tantamount to declaring unlawful statements. It is on this ground that the Commission cancels ABANG LINGKOD’s registration.<sup>10</sup>

On May 12, 2013, petitioner ABANG LINGKOD filed an Extremely Urgent Motion for Reconsideration before the Commission on Elections *En Banc*. However, because of the exigencies of the case, the petitioner filed on May 15, 2013 a Manifestation with Motion to Withdraw its Extremely Urgent Motion for Reconsideration since the results of the May 13, 2013 elections were then being canvassed, and the public respondent Commission on Elections may not have the time to pass upon the merits of the case.

The petitioner then filed the current Petition for *Certiorari* (With Prayer for Immediate Issuance of a Writ of Preliminary Injunction and Temporary Restraining Order and/or Status *Quo Ante* Order).

The material issues in this case are the following:

- I. Whether national, regional, and sectoral parties and organizations are required under the law to show their genuineness and *bona fide* existence in determining if they are eligible for registration with the Commission on Elections; and
- II. Whether the Commission on Elections gravely abused its discretion in cancelling ABANG LINGKOD’s registration under the party-list system.

The petitioner submitted that the Commission on Elections *En Banc* committed grave abuse of discretion amounting to lack or excess of

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<sup>10</sup> *Rollo*, p. 34.

jurisdiction in affirming the cancellation of ABANG LINGKOD's Certificate of Registration/Accreditation under the party-list system of representation. It claimed that ABANG LINGKOD was not given the opportunity to show that it meets the six-point parameters set by this Honorable Court in *Atong Paglaum v. Commission on Elections*.<sup>11</sup> It also claimed that, since it had previously been registered with the Commission on Elections, it is, therefore, qualified to participate in the May 13, 2013 elections. Thus, it concluded that the Commission on Elections violated ABANG LINGKOD's constitutional right to due process.

The petitioner also submitted that the Commission on Elections *En Banc* committed grave abuse of discretion amounting to lack or excess of jurisdiction in affirming the cancellation of ABANG LINGKOD's Certificate of Registration/Accreditation on the sole basis that it supposedly "photoshopped" or digitally manipulated images through Adobe Photoshop — an act tantamount to declaring unlawful statements. It claimed that the fact sought to be proven by these pieces of evidence is not part of the six-point criteria set by this Honorable Court in the *Atong Paglaum* case and that it was not given its day in court to refute these findings.

Respondent, on the other hand, asserted that proof of track record and the proscription against declaring untruthful statements in a party-list organization's Petition are requirements of the law reiterated in the cases of *Ang Bagong Bayani* and *Atong Paglaum*.

It added that the petitioner does not have a vested right in its registration and accreditation as a party-list organization.

Finally, the respondent Commission on Elections reiterated that its findings of facts are supported by substantial evidence. Hence, the Commission on Elections' determination that the pieces of evidence submitted by the petitioner were falsified is now final and non-reviewable.

We should deny the Petition for the reason that the Commission on Elections did not commit grave abuse of discretion in denying the registration of petitioner ABANG LINGKOD.

*Certiorari exercised only when grave abuse of discretion is sufficiently shown*

The jurisdiction of this Court in cases involving *certiorari* and the decisions, orders or rulings of the Commission on Elections must be discussed first.

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<sup>11</sup> *Atong Paglaum v. Commission on Elections*, supra note 1.

Section 7 of Article IX-A of the 1987 Constitution provides that:

Section 7. Each Commission shall decide by a majority vote of all its Members, any case or matter brought before it within sixty days from the date of its submission for decision or resolution. A case or matter is deemed submitted for decision or resolution upon the filing of the last pleading, brief, or memorandum required by the rules of the Commission or by the Commission itself. **Unless otherwise provided by this Constitution or by law, any decision, order, or ruling of each Commission may be brought to the Supreme Court on *certiorari* by the aggrieved party within thirty days from receipt of a copy thereof.** (Emphasis provided)

This constitutional provision serves as the basis for this Court's review of the Commission on Elections' rulings under the standards of Rule 65 through Rule 64 of the Rules of Court.<sup>12</sup> Such power of review of this Court must be exercised under the standard of **grave abuse of discretion**. In *Ocate v. Commission on Elections*,<sup>13</sup> this Court laid down the rule in resolving petitions for *certiorari* under Rule 64, to wit:

The purpose of a petition for *certiorari* is to determine whether the challenged tribunal **has acted without or in excess of its jurisdiction or with grave abuse of discretion amounting to lack or excess of jurisdiction**. Thus, any resort to a petition for *certiorari* under Rule 64 in relation to Rule 65 of the 1997 Rules of Civil Procedure is **limited to the resolution of jurisdictional issues**.<sup>14</sup> (Emphasis provided)

Thus, in *Typoco v. Commission on Elections*,<sup>15</sup> We said that:

In a special civil action for *certiorari*, the burden rests on petitioner to prove not merely reversible error, but **grave abuse of discretion amounting to lack or excess of jurisdiction on the part of public respondent issuing the impugned order, decision or resolution**. "Grave abuse of discretion" is such capricious and whimsical exercise of judgment equivalent to lack of jurisdiction or excess thereof. It must be patent and gross as to amount to an evasion of positive duty or a virtual refusal to perform a duty enjoined by law, or to act at all in contemplation of law as where the power is exercised in an arbitrary and despotic manner by reason of passion and hostility. "Grave abuse of discretion" arises when a court or tribunal violates the Constitution, the law or existing jurisprudence.<sup>16</sup> (Emphasis provided)

<sup>12</sup> *Mitra v. Commission on Elections*, G.R. No. 191938, October 19, 2010, 633 SCRA 580, 590 citing *Aratuc v. Commission on Elections*, G.R. Nos. L-49705-09 and L-49717-21, February 8, 1979, 88 SCRA 251 and *Dario v. Mison*, G.R. No. 81954, August 8, 1989, 176 SCRA 84.

<sup>13</sup> G.R. No. 170522, November 20, 2006, 507 SCRA 426.

<sup>14</sup> *Id.* at 437.

<sup>15</sup> G.R. No. 186359, March 5, 2010, 614 SCRA 391.

<sup>16</sup> *Id.* at 400 citing *Suliguin v. Commission on Elections*, G.R. No. 166046, March 23, 2006, 485 SCRA 219, 233; *Guerrero v. Commission on Elections*, 391 Phil. 344, 352 (2000); *Sen. Defensor Santiago v.*

The rule on limited jurisdiction on *certiorari* should be applied in this case. It is only when the petitioner has sufficiently shown that the Commission on Elections may have committed grave abuse of discretion amounting to lack or excess of jurisdiction that this Court should take cognizance of the Petition filed under Rule 64.

*Requirement of genuineness and bona fide existence*

Proof that national, regional, and sectoral parties and organizations exist and are genuine is required by the law to determine whether a party-list group is eligible for registration with the Commission on Elections and may participate in the national elections. The kind of record that is required by law is not the same as that which was formerly required in *Ang Bagong Bayani*. This requirement is evident from an analysis of the provisions of Republic Act No. 7941 and the interpretations of this Court.

The Declaration of Principles or Section 2 of Republic Act No. 7941 provides that:

x x x the State shall develop and guarantee a full, free and open party system in order to attain the broadest possible representation of party, sectoral or group interests in the House of Representatives by enhancing their chances to compete for and win seats in the legislature, and shall provide the simplest scheme possible.

A party, by law, is either “a political party or a sectoral party or a coalition of parties.”<sup>17</sup> A political party is defined as:

x x x an organized group of citizens **advocating an ideology or platform, principles and policies for the general conduct of government** and which, as the most immediate means of securing their adoption, regularly nominates and supports certain of its leaders and members as candidates for public office.<sup>18</sup> (Emphasis provided)

A party is a national party “when its **constituency** is spread over the geographical territory of at least a majority of the regions. It is a regional party when its **constituency** is spread over the geographical territory of at least a majority of the cities and provinces comprising the region.”<sup>19</sup>

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*Sen. Guingona, Jr.*, 359 Phil. 276, 304 (1998); *Cabrera v. Commission on Elections*, G.R. No. 182084, October 6, 2008, 567 SCRA 686, 691.

<sup>17</sup> Republic Act No. 7941 (1995), Sec. 3 (b).

<sup>18</sup> Republic Act No. 7941 (1995), Sec. 3 (c) par. 1.

<sup>19</sup> Republic Act No. 7941 (1995), Sec. 3 (c) par. 2.

On the other hand, a sectoral party:

x x x refers to an organized group of citizens belonging to any of the sectors enumerated in Section 5 hereof whose **principal advocacy pertains to the special interest and concerns of their sector[.]**<sup>20</sup> (Emphasis provided)

The use of ideology, platform, principles, policies, advocacy of special interests and concerns of the sector, and the existence of constituencies in defining parties **all pertain to evidence of a duly existing and genuine party-list group**. All these are what the law, Republic Act No. 7941, requires from parties that aspire to participate in the party-list elections.

With regard to this Court's interpretation of the provisions of the law, We recently redefined party-list groups and set new parameters in determining who may participate in the party-list elections, to wit:

1. Three different groups may participate in the party-list system: (1) national parties or organizations, (2) regional parties or organizations, and (3) sectoral parties or organizations.
2. National parties or organizations and regional parties or organizations do not need to organize along sectoral lines and do not need to represent any "marginalized and underrepresented" sector.
3. Political parties can participate in party-list elections provided they register under the party-list system and do not field candidates in legislative district elections. A political party, whether major or not, that fields candidates in legislative district elections can participate in party list elections only through its sectoral wing that can separately register under the party-list system. The sectoral wing is by itself an independent sectoral party, and is linked to a political party through a coalition.
4. Sectoral parties or organizations may either be "marginalized and underrepresented" or lacking in "well-defined political constituencies." It is enough that their principal advocacy pertains to the special interest and concerns of their sector. The sectors that are "marginalized and underrepresented" include labor, peasant, fisherfolk, urban poor, indigenous cultural communities, handicapped, veterans, and overseas workers. The sectors that lack "well-defined political constituencies" include professionals, the elderly, women, and the youth.
5. A majority of the members of sectoral parties or organizations that represent the "marginalized and underrepresented" must belong to the "marginalized and underrepresented" sector they

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<sup>20</sup> Republic Act No. 7941 (1995), Sec. 3 (d).



represent. Similarly, a majority of the members of sectoral parties or organizations that lack “well-defined political constituencies” must belong to the sector they represent. The nominees of sectoral parties or organizations that represent the “marginalized and underrepresented,” or that represent those who lack “well-defined political constituencies,” either must belong to their respective sectors, or must have a track record of advocacy for their respective sectors. The nominees of national and regional parties or organizations must be *bona fide* members of such parties or organizations.

6. National, regional, and sectoral parties or organizations shall not be disqualified if some of their nominees are disqualified, provided that they have at least one nominee who remains qualified.<sup>21</sup>

This redefinition was based on a plain reading of Article VI, Section 5(1) of the 1987 Constitution. In *Atong Paglaum*, We said that:

Section 5(1), Article VI of the Constitution is crystal-clear that there shall be “**a party-list system of registered national, regional, and sectoral parties or organizations.**” The commas after the words “national[,]” and “regional[,]” separate national and regional parties from sectoral parties. Had the framers of the 1987 Constitution intended national and regional parties to be at the same time sectoral, they would have stated “national and regional sectoral parties.” They did not, precisely because it was never their intention to make the party-list system exclusively sectoral.

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Moreover, Section 5(2), Article VI of the 1987 Constitution mandates that, during the first three consecutive terms of Congress after the ratification of the 1987 Constitution, “one-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.” This provision clearly shows again that the party-list system is not exclusively for sectoral parties for two obvious reasons.

*First*, the other one-half of the seats allocated to party-list representatives would naturally be open to non-sectoral party-list representatives, clearly negating the idea that the party-list system is exclusively for sectoral parties representing the “marginalized and underrepresented.” *Second*, the reservation of one-half of the party-list seats to sectoral parties applies only for the first “three consecutive terms after the ratification of this Constitution,” clearly making the party-list system fully open after the end of the first three congressional terms. This means that, after this period, there will be no seats reserved for any class or type of party that qualifies under the three groups constituting the party-list system.

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<sup>21</sup> *Atong Paglaum v. Commission on Elections*, supra note 1, at 571-572.

**Hence, the clear intent, express wording, and party-list structure ordained in Section 5(1) and (2), Article VI of the 1987 Constitution cannot be disputed: the party-list system is not for sectoral parties only, but also for non-sectoral parties.**

X X X X

Section 3(a) of R.A. No. 7941 defines a “party” as “**either a political party or a sectoral party** or a coalition of parties.” Clearly, a political party is different from a sectoral party. Section 3(c) of R.A. No. 7941 further provides that a “**political party** refers to an organized **group of citizens advocating an ideology or platform, principles and policies for the general conduct of government.**” On the other hand, Section 3(d) of R.A. No. 7941 provides that a “**sectoral party** refers to an organized group of citizens belonging to any of the sectors enumerated in Section 5 hereof **whose principal advocacy pertains to the special interest and concerns of their sector.**” R.A. No. 7941 provides different definitions for a political and a sectoral party. Obviously, they are separate and distinct from each other.

**R.A. No. 7941 does not require national and regional parties or organizations to represent the “marginalized and underrepresented” sectors.** To require all national and regional parties under the party-list system to represent the “marginalized and underrepresented” is to deprive and exclude, by judicial fiat, ideology-based and cause-oriented parties from the party-list system. x x x.<sup>22</sup>

To reiterate and as I have explained in my Concurring and Dissenting Opinion<sup>23</sup> in *Atong Paglaum*, the Constitution acknowledges that **there are different kinds of party-list groups aside from sectoral groups.** “To require that all the seats for party-list representatives continue to be sectoral is clearly and patently unconstitutional.”<sup>24</sup> “Article VI, [S]ection[s] 5 (1) and (2) already imply a complete Constitutional framework for the party-list system.”<sup>25</sup> Congress should not legislate if it adds requirements laid down in the Constitution such that even national and regional parties or organizations may be considered sectoral.<sup>26</sup>

The *ponencia* in this case supposes that when the majority in *Atong Paglaum* declared as part of the fifth (5<sup>th</sup>) parameter that the “nominees of the sectoral party either must belong to the sector, or must have a track record of advocacy for the sector represented,” it meant that the track record requirement **will only apply to the sectoral groups.** I take a contrary view, especially since this Court in several cases already deemed track record as one of the factors considered in allowing groups to participate in party-list elections, although discussed in the previous definition or framework of

<sup>22</sup> Id. at 557-560.

<sup>23</sup> Justice Marvic M.V.F. Leonen, Concurring and Dissenting Opinion, *Atong Paglaum v. COMELEC*, supra note 1, at 774.

<sup>24</sup> Id. at 784.

<sup>25</sup> Id. at 785.

<sup>26</sup> Id.

party-list groups.<sup>27</sup>

The redefinition of the parameters for party-list registration to include national and regional parties or organizations **did not** remove the requirement of showing that these groups existed prior to the elections they wish to participate in and that they indeed operate as genuine organizations. **I maintain that the record of a party or an organization's genuineness and *bona fide* existence is necessary for all parties and organizations, whether national, regional or sectoral. This will show whether the party-list group is genuine and not an expediently created formation that does not have any advocacy.** This is evident from the law, particularly from Section 5 of Republic Act No. 7941, to wit:

**Section 5. Registration.** Any organized group of persons may register as a party, organization or coalition for purposes of the party-list system by filing with the COMELEC not later than ninety (90) days before the election a petition verified by its president or secretary stating its desire to participate in the party-list system as a national, regional or sectoral party or organization or a coalition of such parties or organizations, **attaching thereto its constitution, by-laws, platform or program of government, list of officers, coalition agreement and other relevant information as the COMELEC may require**: Provided, That the sectors shall include labor, peasant, fisherfolk, urban poor, indigenous cultural communities, elderly, handicapped, women, youth, veterans, overseas workers, and professionals. (Emphasis provided)

*Atong Paglaum* declared that there may be national or regional parties or organizations apart from sectoral groups. Thus, the requirements for each of these groups have been modified. All national, regional or sectoral parties or organizations should show that they have been existing as *bona fide* organizations. Sectoral organizations should, therefore, prove links with the sector that they represent. Reading the text of Republic Act No. 7941 and previous rulings of this Court, this record may be established by presenting an organization's constitution, by-laws, platform or program of government, list of officers, coalition agreement, and other relevant information as may be required by the Commission on Elections.

It is important for the groups to show that they are capable of participating in the elections and that they will not make a mockery of the electoral system, specifically the party-list system.

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<sup>27</sup> See *Ang Bagong Bayani-OFW Labor Party v. Commission on Elections*, G.R. No. 147589, June 26, 2001, 359 SCRA 698; *Aklat-Asosasyon Para sa Kaunlaran ng Lipunan at Adhikain Para sa Tao, Inc. v. Commission on Elections*, G.R. No. 162203, April 14, 2004, 427 SCRA 712; *Dayao v. Commission on Elections*, G.R. No. 193643, January 29, 2013, 689 SCRA 412.

It is the parties or organizations, and not only the nominees, that must have a concrete and verifiable record of political participation that shows how their political platforms have been translated into action. It must be noted that when the Commission on Elections cancelled ABANG LINGKOD's registration, it reasoned that:

**ABANG LINGKOD merely offered pictures of some alleged activities they conducted after the elections in 2010.** However, there is nothing in the said records that would show that the party-list organization is indeed composed of organizations of farmers, fisherfolk and peasants or that they really conducted activities in line with its platform of government.<sup>28</sup> (Emphasis provided)

When the Commission on Elections made this statement, it was clearly reviewing the qualifications of the party and not just its nominees.

*Atong Paglaum* did not in any way remove the genuineness and *bona fide* existence requirements for registration with the Commission on Elections, contrary to the stand taken by the *ponencia*. It only qualified that the **nominees** of sectoral parties or organizations need not prove both membership in their sector and record of advocacy for their respective sectors. *Atong Paglaum* did not categorically state that **party-list groups** are not required to show records of its genuineness and *bona fide* existence.

Petitioner is a sectoral party-list group that purports to represent the peasant farmers.<sup>29</sup> However, it did not even comply with the bare requirement that sectoral party-list groups representing a sector should show that their principal advocacy pertains to the special interest and concerns of their sector.<sup>30</sup> As correctly argued by the public respondent,<sup>31</sup> petitioner will not, therefore, qualify even under the new parameters set forth in *Atong Paglaum*.

### *Untruthful statements*

The Commission on Elections did not commit grave abuse of discretion in cancelling ABANG LINGKOD's registration under the party-list system when the party-list group made an "untruthful statement" in its Petition, thereby violating Section 6 of Republic Act No. 7941. Section 6 provides:

**Section 6. Refusal and/or Cancellation of Registration.** The COMELEC may, *motu proprio* or upon verified complaint of any

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<sup>28</sup> *Rollo*, p. 40.

<sup>29</sup> *Id.* at 8-9.

<sup>30</sup> See fourth parameter set in *Atong Paglaum*.

<sup>31</sup> Temporary *Rollo*, p. 12.

interested party, refuse or cancel, after due notice and hearing, the registration of any national, regional or sectoral party, organization or coalition on any of the following grounds:

X X X X

(4) It is receiving support from any foreign government, foreign political party, foundation, organization, whether directly or through any of its officers or members or indirectly through third parties for partisan election purposes;

(5) It violates or fails to comply with laws, rules or regulations relating to elections;

**(6) It declares untruthful statements in its petition;**

(7) It has ceased to exist for at least one (1) year; or

(8) It fails to participate in the last two (2) preceding elections or fails to obtain at least two *per centum* (2%) of the votes cast under the party- list system in the two (2) preceding elections for the constituency in which it has registered. (Emphasis provided)

In the Commission on Elections Resolution No. 9366,<sup>32</sup> the Commission laid down the rules applicable to party-list groups expecting to participate in the May 13, 2013 national elections:

## RULE 1 FILING OF PETITIONS FOR REGISTRATION

**Section 7. Documents to support petition for registration.** The following documents shall support petitions for registration:

- a. Constitution and by-laws as an organization seeking registration under the party-list system of representation;
- b. Platform or program of government;

X X X X

**f. Track record summary showing that it represents and seeks to uplift the marginalized and underrepresented sector/s it seeks to represent;**

- g. Coalition agreement, if any, and the detailed list of affiliates comprising the coalition, including the signed coalition agreement;

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<sup>32</sup> Entitled "Rules and Regulations Governing the: 1) Filing of Petitions for Registration; 2) Filing of Manifestation of Intent to Participate; 3) Submission of Names of Nominees; and 4) Filing of Disqualification Cases against Nominees of Party-list Groups or Organizations participating under the Party-list system of representation in Connection with the May 13, 2013 National and Local Elections, and Subsequent Elections Thereafter," promulgated on February 1, 2012.

- h. Sworn proof/s of existence in the areas where the organization is claiming representation; and
- i. Other information required by the Commission.

x x x x

## RULE 2 OPPOSITION TO A PETITION FOR REGISTRATION

### Section 2. Grounds for opposition to a petition for registration.

The Commission may deny due course to the petition *motu proprio* or upon verified opposition of any interested party, after due notice and hearing, on any of the following grounds:

x x x x

- f. It violates or fails to comply with laws, rules or regulations relating to elections;
- g. It has made untruthful statements in its Petition;**
- h. It has ceased to exist for a period of at least one (1) year;
- i. It fails to participate in the last two (2) preceding elections or fails to obtain at least two *per centum* (2%) of the votes cast under the party-list system in the two (2) preceding elections for the constituency in which it has registered; or
- j. The petition has been filed to put the election process in mockery or disrepute, or to cause confusion among the voters by the similarity of names or registered parties, or by other circumstances or acts which clearly demonstrate that the petitioner has no *bona fide* intention to represent the sector for which the petition has been filed and thus prevent a faithful determination of the true will of the electorate.

**Section 3. Removal and/or cancellation of registration; Grounds. The Commission may *motu proprio* or upon a verified complaint of any interested party, remove or cancel, after due notice and hearing, the registration of any party-list group organization or coalition on any of the grounds mentioned in Section 2 of this Rule.** Any party whose registration has been removed or cancelled shall not be allowed to participate in the party-list system, or from being proclaimed if the evidence is strong. (Emphasis provided)

All these clearly state that the declaration of untruthful statements is a ground for cancelling the registration of a party-list group. However, the *ponencia* states that:

x x x a declaration of an untruthful statement in a petition for registration under Section 6(6) of R.A. No. 7941, in order to be a ground for the refusal and/or cancellation of registration under the party-list

system, must pertain to the qualification of the party, organization or coalition under the party-list system. x x x

The digitally altered photographs of activities submitted by ABANG LINGKOD to prove its continuing qualification under R.A. No. 7941 only pertains to its track record, which, as already discussed, is no longer a requirement under the new parameters laid down in *Atong Paglaum*. Simply put, it does not affect the qualification of ABANG LINGKOD as a party-list group and, hence, could not be used as a ground to cancel its registration under the party-list system.<sup>33</sup>

I do not question the point that the disqualification of one or some of the nominees of party-list groups will not automatically result to disqualification. I agree that a party-list group must be treated separately and distinctly from its nominees, such that the qualifications of the nominees are not considered part and parcel of the qualifications of the party-list itself. However, in this case, when the digitally manipulated pictures were submitted by ABANG LINGKOD, it was done to prove the continuous **qualifications of the party-list group** for registration with the Commission on Elections.<sup>34</sup> The “photoshopped” or altered pictures indicating the name of the party-list group were intended to deceive people into thinking that the group was engaging in joint medical and dental mission and book-giving activities.

The reliance of the *ponencia* on *Lluz v. Commission on Elections*<sup>35</sup> in relating the act of declaring an untruthful statement to the concept of material misrepresentation is not precise. The circumstances and provisions of law involved in *Lluz* do not square with the present case. In *Lluz*, this Court determined whether the respondent committed material misrepresentation when he declared his profession as “Certified Public Accountant” in his Certificate of Candidacy. As We said in that case, “Profession or occupation not being a qualification for elective office, misrepresentation of such does not constitute a material misrepresentation.”<sup>36</sup> **In the present case, what is at issue is the genuineness and existence of the party-list group. This includes the question as to whether they truly represent the sector.** The claim of representation can be supported by proof of their activities in relation to their sector. As established above, this record of genuineness and existence is a continuing requirement of the law and goes into the qualifications of the party-list.

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<sup>33</sup> *Abang Lingkod v. COMELEC*, Main Opinion Revised as of September 17, 2013, G.R. No. 206952, p. 12.

<sup>34</sup> “Factual findings of the Commission on Elections are binding on this Court.” See *Japzon v. Commission on Elections*, G.R. No. 180088, January 19, 2009, 576 SCRA 331; *Dagloc v. COMELEC*, 463 Phil. 263, 288 (2003); *Pasandalan v. Commission on Elections*, G.R. No. 150312, July 18, 2002, 384 SCRA 695, 703; *Mastura v. COMELEC*, 349 Phil. 423, 429 (1998).

<sup>35</sup> G.R. No. 172840, June 7, 2007, 523 SCRA 456.

<sup>36</sup> *Id.* at 458.

The brazen use of falsified documents of ABANG LINGKOD in its compliance for registration is deplorable and appalling because of the obvious intent to deceive the Commission on Elections and the electorate. It cannot be tolerated. It denigrates the right to suffrage. Submitting falsified documents is tantamount to making declarations of untruthful statements. It is a ground for cancellation of the registration/accreditation of the party-list group under Section 6 of Republic Act No. 7941.

In *V.C. Cadangen v. Commission on Elections*,<sup>37</sup> this Court denied the Alliance of Civil Servants, Inc.'s (or Civil Servants') Petition for failing to comply with the law and **for declaring an untruthful statement** in its Memorandum, as found by the Commission on Elections. As proof of a nationwide constituency, Civil Servants presented a picture of its website where members allegedly discussed different issues confronting government employees and where it was asserted that its membership was divided into different working committees to address several issues of its sectors. Upon verification, the Commission on Elections' election officers reported that Civil Servants existed only in Parañaque City's First and Second Districts and in Quezon City's Fourth District. This finding was contrary to the petitioner's claim of national constituency in its Memorandum. In holding that the Commission on Elections **did not commit grave abuse of discretion in issuing the assailed Resolutions**,<sup>38</sup> this Court said:

The COMELEC, after evaluating the documents submitted by petitioner, denied the latter's plea for registration as a sectoral party, not on the basis of its failure to prove its nationwide presence, but for its failure to show that it represents and seeks to uplift marginalized and underrepresented sectors. Further, **the COMELEC found that petitioner made an untruthful statement in the pleadings and documents it submitted.**

x x x The findings of fact made by the COMELEC, or by any other administrative agency exercising expertise in its particular field of competence, are binding on the Court."<sup>39</sup>

The actions of the group amounted to declaring untruthful statements, which the Commission on Elections correctly considered as a ground for the cancellation of the petitioner's Certificate of Registration under Section 6 of Republic Act No. 7941. Again, to constitute grave abuse of discretion, the abuse of discretion must be such "capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction, or in other words, where the power is exercised in an arbitrary or despotic manner by reason of passion or personal hostility."<sup>40</sup> It "must be so patent and gross to amount to an evasion

<sup>37</sup> G.R. No. 177179, June 5, 2009, 588 SCRA 738.

<sup>38</sup> Id. at 743.


<sup>39</sup> Id. at 745.

<sup>40</sup> *Torres v. Abundo*, G.R. No. 174263, January 24, 2007, 512 SCRA 556, 564 citing *Olanolan v. Commission on Elections*, G.R. No. 165491, March 31, 2005, 454 SCRA 807, 814.



of positive duty or to a virtual refusal to perform the duty enjoined or to act in contemplation of law.”<sup>41</sup> The Commission on Elections, therefore, did not commit grave abuse of discretion in promulgating the assailed Resolution.

**WHEREFORE**, I vote to DENY the Petition. The Resolution dated May 10, 2013 issued by the Commission on Elections in SPP Case No. 12-238 (PLM) should be AFFIRMED.

  
**MARVIC MARIO VICTOR F. LEONEN**  
Associate Justice

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<sup>41</sup> *Benito v. Commission on Elections*, G.R. No. 134913, January 19, 2001, 349 SCRA 705, 713-714 citing *Cuison v. Court of Appeals*, G.R. No. 128540, April 15, 1998, 289 SCRA 159, 171; *Tañada v. Angara*, G.R. No. 118295, May 2, 1997, 272 SCRA 18, 79; *Alafriz v. Nable*, 72 Phil. 278, 280 (1941); *Abad Santos v. Prov. of Tarlac*, 67 Phil. 480 (1939).