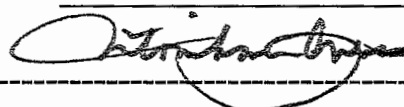


EN BANC

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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DISSENTING OPINION

ROSARIO, J.:

I dissent from the majority's Decision finding the Commission on Elections (COMELEC) to have acted in excess of its authority in promulgating the assailed Resolutions.

This is a Petition for *Certiorari* under Rule 64 of the Rules of Court filed by Magkakasama sa Sakahan Kaunlaran Party-list (Magsasaka), claiming that the COMELEC committed grave abuse of discretion in issuing First Division Resolution dated November 25, 2021 and *En Banc* Resolution dated September 9, 2022 (assailed Resolutions).

The primordial issue in this case is whether or not Soliman Villamin, Jr. (Villamin) had the authority to file a Manifestation of Intention to Participate (MIP) on behalf of Magsasaka for the 2022 National and Local Elections. This controversy stemmed from two separate MIPs filed on behalf of Magsasaka, the first one was filed on February 8, 2021 by Atty. General D. Du (Atty. Du) as Magsasaka's Secretary General, and the second one on March 29, 2021 by Villamin. On June 21, 2021, Atty. Du and Trish Fajilagot Alfon, et al. filed petitions to deny due course the Villamin MIP.¹ They claimed, among others, that Villamin was ousted as the party's National Chairperson and thus no longer had the authority to file the MIP on behalf of Magsasaka.

The COMELEC denied the petitions to deny due course and found that Villamin had the authority to file the MIP. The Decision reverses and sets aside the assailed Resolutions, ruling that Villamin had no authority to file the

¹ In Re: Petition to Deny Due Course to the Manifestation of Intent to Participate in the Party-List System of Representation in the 09 May 2022 Elections filed by Soliman Villamin, Jr., docketed as SPP No. 21-002 (MIP). *Rollo*, pp. 326-339.

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MIP as he was validly suspended and removed from his position as National Chairperson of Magsasaka.

I recognize that it is our duty to correct findings of the COMELEC when they are promulgated with grave abuse of discretion or in excess or lack of jurisdiction. However, absent any grave abuse of discretion, as in the instant case, we shall respect the findings of the COMELEC and refrain from substituting our own findings with that of the COMELEC.² Grave abuse of discretion means 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, and it must be so patent and gross as to amount to an evasion of positive duty or to a virtual refusal to perform the duty enjoined or to act at all in contemplation of law.³ It is not sufficient that a tribunal, in the exercise of its power, abused its discretion; such abuse must be grave.⁴ Errors of procedure or judgment are not correctible by *certiorari*.⁵ Thus, where there is no proof of grave abuse of discretion, arbitrariness, fraud or error of law, this Court may not review the factual findings of the COMELEC, nor substitute its own findings on the sufficiency of evidence.⁶

Contrary to the findings in the Decision, the allegations in the Petition and the supporting voluminous documents fail to support a finding of grave abuse of discretion on the part of the COMELEC. The Court should not rely on the bare allegations contained in the Petition as they are clearly not supported by the evidence on record.

I.

Magsasaka was not deprived of its reasonable opportunity to be heard

The Decision declares that “the COMELEC was quick to brush aside MAGSASAKA’s claim that Villamin should have been declared in default when he belatedly filed his Answer and Joint Affidavit, conveniently invoking its authority to liberally construe, or even suspend its own rules.”⁷ Ultimately, the *ponencia* seeks to protect Magsasaka from the injustice brought about by the “liberality” extended to Villamin.⁸

I respectfully disagree.

² See *Domingo, Jr. v. Commission on Elections*, 372 Phil. 188, 202 (1999) [Per J. Gonzaga-Reyes, *En Banc*].

³ *Benito v. Commission on Elections*, 402 Phil. 764, 773 (2001) [Per J. De Leon, Jr., *En Banc*]. See *Tugade v. Commission on Elections*, 546 Phil. 159, 164–165 (2007) [Per J. Sandoval-Gutierrez, *En Banc*]; and *Suliguin v. Commission on Elections*, 520 Phil. 92, 102 (2006) [Per J. Callejo, Sr., *En Banc*].

⁴ *Benito v. Commission on Elections*, *id.*

⁵ *Peñaflorida v. Commission on Elections*, 283 Phil. 706, 714 (1992) [Per J. Melencio-Herrera, *En Banc*].

⁶ *Malinias v. Commission on Elections*, 439 Phil. 319, 339 (2002) [Per J. Carpio, *En Banc*].

⁷ Decision, p. 11.

⁸ *Id.* at 13.

The COMELEC has the discretion to decide whether a party should be declared in default.

The COMELEC is empowered to promulgate its rules of procedure in order to expedite disposition of election cases, including pre-proclamation controversies.⁹ Jurisprudence also recognizes and respects the discretion of the COMELEC to liberally construe its rules and suspend the same or any portion thereof in the interest of justice and in order to obtain disposition of all matters pending before it.¹⁰ This obviously includes the power to decide whether a party should be declared in default.

The Court has emphasized that orders of default are frowned upon and not looked upon with favor for they may amount to a positive and considerable injustice to the defendant.¹¹ The policy of the law is to have every litigant's case tried on the merits as much as possible.¹² In this connection, the Court has enjoined magistrates to act with circumspection and not to precipitately declare parties in default.¹³ The rule is that the answer should be admitted when it is filed before a declaration of default provided there is no showing that defendant intends to delay the proceedings and no prejudice is caused to the plaintiff.¹⁴

The reason for this is the inevitable delay in the proceedings considering that the party who has been declared in default is not enjoined to appeal the declaration. The declaration in default has no practical purpose¹⁵ and will only result in clogged court dockets and the undue deprivation of the respondent's opportunity to be heard in a case.

In the instant case, the Answer and Judicial Affidavit were already admitted by the COMELEC prior to any declaration of default. Thus, we cannot conclude that it was grave abuse of discretion on the part of the COMELEC when it failed to declare Villamin in default. The COMELEC merely applied the parameters set by the rules and jurisprudence. At any rate, similar to lower courts, it was within the discretion of the COMELEC to accept and admit Villamin's Answer and Judicial Affidavit. This Court shall not easily construe this as bias or leniency. There is no allegation and proof offered by Magsasaka to show that Villamin's failure to file his answer days before the scheduled hearing was intended to delay the case¹⁶ or that the COMELEC's acceptance of his Answer and Judicial Affidavit was impelled by bad faith or malice.

⁹ CONST., Article IX C, sec. 3.

¹⁰ COMELEC RULES OF PROCEDURE, Rule 1, sec. 4. *See Caballero v. COMELEC*, 770 Phil. 94, 109 (2015) [Per J. Peralta, *En Banc*].

¹¹ *See Spouses Diaz v. Diaz*, 387 Phil. 314, 336 (2000) [Per J. De Leon, Jr., Second Division].

¹² *See Spouses Lumanas v. Sablas*, 553 Phil. 271, 277 (2007) [Per J. Corona, First Division].

¹³ *See Gerian v. Boncaros*, 182 Phil. 373, 378 (1979) [Per J. Teehankee, First Division].

¹⁴ *Vitarich Corp. v. Dagmil*, 880 Phil. 18, 22 (2020) [Per J. Lopez, First Division], *citing Spouses Lumanas v. Sablas*, 553 Phil. 276, 277 (2007) [Per J. Corona, First Division].

¹⁵ *Vitarich Corp. v. Dagmil*, *id.* at 24.

¹⁶ *Spouses Lumanas v. Sablas*, 553 Phil. 271, 277 (2007) [Per J. Corona, First Division].

The Decision's reference to *Kho v. COMELEC*¹⁷ in ascribing grave abuse of discretion on the part of the COMELEC is also misplaced. In *Kho*, the Court ruled that the counterprotest must be filed within the period provided by law, otherwise, the court acquires no jurisdiction to entertain it.¹⁸ In this case, however, the Answer and Judicial Affidavit filed by Villamin are not akin to a counterprotest. Therefore, the strict application of the rules and the purported lack of jurisdiction on the part of the COMELEC, as in the case of *Kho*, is not applicable in the present case.

Verily, this Court cannot whimsically overturn the COMELEC's construction of its own rules. To rule otherwise would set a dangerous precedent and give impression that at any time, the Court can substitute the interpretation of constitutional commissions of their own rules of procedure.

On this score, I find that Magsasaka's right to due process was not violated by the admission of Villamin's Answer and Judicial Affidavit.

A party is not deprived of due process when it is given every reasonable opportunity to ventilate its claims and objections.¹⁹ In *Domingo, Jr. v. COMELEC*,²⁰ the Court emphasized that the essence of due process is simply an opportunity to be heard, i.e., a party may also be heard through his pleadings. Thus, where opportunity to be heard is accorded, either through oral arguments or pleadings, there is no denial of procedural due process. Among other cases, this was reiterated by the Court in *Trinidad v. COMELEC*,²¹ *Alauya v. COMELEC*,²² *Fetalino v. COMELEC*,²³ *Bautista v. COMELEC*,²⁴ and *Immam v. COMELEC*.²⁵ In *Domingo*, the Court declared that a party who has filed a motion for reconsideration cannot invoke deprivation of due process.

In this case, Magsasaka was not deprived of its right to due process as it was afforded every opportunity to present and air its side as evidenced by the various pleadings it filed before the COMELEC.

In the following instances, the Court declared that the COMELEC is guilty of grave abuse of discretion in violation of a party's right to due process: (i) when it *motu proprio* suspended the proclamation of a candidate who garnered the highest number of votes;²⁶ (ii) when the COMELEC approved the Law Department's report and recommendation without notice and

¹⁷ 344 Phil. 878 (1997) [Per J. Torres, Jr., *En Banc*].

¹⁸ *Id.* at 885–886. See *Lim v. Commission on Elections*, 346 Phil. 733, 741 (1997) [Per J. Mendoza, *En Banc*].

¹⁹ See *Land Bank of the Philippines v. Manzano*, 824 Phil. 339, 365 (2018) [Per J. Leonen, Third Division].

²⁰ 372 Phil. 188 (1999) [Per J. Gonzaga-Reyes, *En Banc*].

²¹ 373 Phil. 802 (1999) [Per J. Ynares-Santiago, *En Banc*].

²² 443 Phil. 893 (2003) [Per J. Carpio, *En Banc*].

²³ 700 Phil. 129 (2012) [Per J. Brion, *En Banc*].

²⁴ 460 Phil. 459 (2003) [Per J. Carpio, *En Banc*].

²⁵ 379 Phil. 953 (2000) [Per J. Ynares-Santiago, *En Banc*].

²⁶ See *Uy, Jr. v. Commission on Elections*, G.R. Nos. 260650 & 260952, August 8, 2023 [Per J. M. Lopez, *En Banc*] at 16–17. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

hearing;²⁷ or (iii) when a party was not notified of the clarificatory hearings and was thus deprived of the opportunity to appear in said hearings and to ask questions against the opposing party.²⁸ None of these circumstances are present in this case.

The Decision states that the right of a party to confront and cross-examine opposing witnesses in a judicial litigation, be it criminal or civil in nature, or in proceedings before administrative tribunals with quasi-judicial powers, is a fundamental right which is part of our due process.²⁹ However, the right to cross-examine is not an absolute right which a party can demand at all times.³⁰ This right is a personal one which may be waived.³¹ In addition, the right has always been understood as requiring not necessarily an actual cross-examination but merely an opportunity to exercise the right to cross-examine if desired. What is proscribed by statutory norm and jurisprudential precept is the absence of the opportunity to cross-examine.³²

In the present case, I find that Magsasaka was not “meaningfully”³³ deprived of its right to cross-examine Villamin. Nothing in the records show that Magsasaka was prevented from asking for a continuance, resetting, or recess of the hearing to be able to conduct a *meaningful* cross-examination of Villamin. Magsasaka had every opportunity to cross-examine Villamin and shall not be permitted to pass on its failure to avail of remedies available as deprivation of due process or an act of liberality extended to Villamin³⁴ or be construed as malicious intent.³⁵

Finally, the portion of the Decision stating that “Villamin’s belated filing [of his Answer and Judicial Affidavit] deprived even the COMELEC itself of the opportunity to exercise its discretion to allow the conduct of cross-examination”³⁶ does not find support from the evidence on record. There is no basis for Us to say that the COMELEC failed to justly and equitably dispose of the issues in the case due to the belated filing.

Nevertheless, even if we are to strike out the Judicial Affidavit and Answer filed by Villamin, the evidence presented by Magsasaka failed to show that Villamin had no authority to file the MIP on behalf of the party.

²⁷ See *Bautista v. Commission on Elections*, 460 Phil. 459, 481 (2003) [Per J. Carpio, *En Banc*].

²⁸ *Saunar v. Executive Secretary*, 822 Phil. 536, 555 (2017) [Per J. Martires, Third Division].

²⁹ Decision, p. 13, citing *Anciro v. People of the Philippines*, 298-A Phil. 624, 637 (1993) [Per J. Davide, Jr., First Division], citing further *Savory Luncheonette v. Lakas ng Manggagawang Pilipino*, 159 Phil. 310 (1975) [Per J. Muñoz Palma, First Division].

³⁰ *De la Paz, Jr. v. Intermediate Appellate Court*, 238 Phil. 65, 72 (1987) [Per J. Gutierrez, Jr., Third Division].

³¹ *Dy Teban Trading, Inc. v. Peter C. Dy, et al.*, 814 Phil. 564, 579 (2017) [Per J. Jardeleza, Third Division]. See also *Ayala Land Inc. v. Tagle*, 504 Phil. 94, 105 (2005) [Per J. Chico-Nazario, Second Division].

³² *Equitable PCI Banking Corp. v. RCBC Capital Corp.*, 595 Phil. 537, 579 (2008) [Per J. Velasco, Jr., Second Division].

³³ See Decision, p. 13.

³⁴ *Id.* at 12-13.

³⁵ Concurring Opinion, Associate Justice Alfredo Benjamin S. Caguioa, p. 3.

³⁶ See Decision, p. 13.

II.

Villamin was not validly ousted as the party's National Chairperson and as a member of the party

The Court has no basis to overturn the COMELEC's findings and to declare that he was validly ousted as the party's National Chairperson.

The COMELEC is a constitutional commission tasked to enforce and administer all laws and regulations relative to the conduct of an election and authorized to exercise exclusive original jurisdiction over all contests relating to the elections, returns, and qualifications of all elective regional, provincial, and city officials.³⁷ The breadth of powers granted to the COMELEC encompasses the authority to determine the sufficiency of allegations contained in every petition filed before it and to decide based on such allegations.³⁸ The burden of proving factual claims rests on the party raising them.³⁹ In this case, this burden lies with Magsasaka.⁴⁰

Here, the records of the case clearly show that Magsasaka failed to establish that Villamin was validly ousted as its National Chairperson.

According to Magsasaka's own *Saligang Batas*, members of the Council of Leaders and other officials may be expelled from their positions.⁴¹ However, the removal or ouster must be in accordance with the party's rules and regulations. Thus, it was incumbent upon Atty. Du, as the petitioner before the COMELEC and this Court, to prove that Villamin was validly ousted as the party's National Chairperson; and thus, no longer had the authority to represent Magsasaka and to file the MIP. Failing in which, Villamin, as the party's National Chairperson at that time, clearly had the authority to file the MIP.⁴²

Relevant facts

Before the controversy in Magsasaka's leadership surfaced, Soliman Villamin, Jr. was the Chairperson and Atty. Du was the General Secretary of the party. Soliman Villamin, Jr., Soliman Villamin, Sr., Joselyn Villamin,

³⁷ CONST., Article IX-C, secs. 2(1) and (2).

³⁸ See *Cagas v. Commission on Elections*, 679 Phil. 640, 654 (2012) [Per J. Bersamin, *En Banc*].

³⁹ See *Domingo, Jr. v. Commission on Elections*, 372 Phil. 188, 201 (1999) [Per J. Gonzaga-Reyes, *En Banc*].

⁴⁰ See *Lico v. Commission on Elections*, 770 Phil. 444, 462 (2015) [Per C.J. Sereno, *En Banc*].

⁴¹ See Decision, p. 14. See *rollo*, p. 430, *Saligang Batas and Alituntunin*, Article VIII, Section 2.

⁴² COMELEC Resolution No. 9366 (s. 2012), Rule 3, Section 2, provides that any party-list group previously registered under the party-list system of representation, which intends to participate in the next regular national and local elections, shall file with the Commission an MIP in the party-list election. Such manifestation shall be signed by the President/Chairman, or in his absence, the Secretary General of the party or group.

Crisanto Cortez, Marianne Co, and Joseph Masacupan (Villamin et al.) were also members of Magsasaka's Council of Leaders.⁴³

Atty. Du claimed that Magsasaka received reports of unusual business activities of a certain DV Boer Inc. akin to *ponzi* or pyramiding schemes. Provincial coordinators of Magsasaka also lodged letter-complaints against six out of 11 members of the Council of Leaders, Villamin, et al., for their participation and connection with DV Boer.⁴⁴

Acting on this, Atty. Du organized two (2) Council of Leaders meetings and one (1) General Assembly (GA) from June 28, 2019 until December 21, 2019, where Villamin et al. were investigated, suspended and eventually ousted as members of the Council of Leaders.⁴⁵ Atty. Du anchored his objection to Villamin's MIP, claiming that by virtue of these meetings, Villamin ceased to be the National Chairperson of the party.⁴⁶ The details of these meetings are narrated as follows:

- (i) Atty. Du called a Council of Leaders meeting on June 28, 2019 to discuss the DV Boer controversy.⁴⁷ Admittedly, Atty. Du did not notify Villamin et al. of the meeting, reasoning that their presence may preempt any investigation that would ensue.⁴⁸ Atty. Du furthered that MAGSASAKA's Articles of Incorporation authorizes the majority of the Council of Leaders to call for a special meeting.⁴⁹ In the June 28, 2019 meeting, those who were present resolved to investigate Villamin et al., and their relationship with D.V. Boer, Inc. They also scheduled another Council meeting on November 3, 2019.
- (ii) On November 3, 2019, the Council resolved to suspend Villamin et al. from MAGSASAKA's Council of Leaders due to suspected illegal business activities.⁵⁰
- (iii) Subsequently, Atty. Du organized a General Assembly (GA) on December 21, 2019 to report to the *Kongreso* the relationship between Villamin et al. and DV Boer. Atty. Du allegedly notified Villamin et al. of the General Assembly but only Crisanto Cortez attended.⁵¹ In the GA, a new Council of Leaders was elected.⁵²
- (iv) Subsequently, on June 26, 2021, in another Magsasaka General Assembly (GA) organized by Atty. Du, Villamin et al. were expelled from the party.⁵³

⁴³ See *rollo*, pp. 74–75, MAGSASAKA's Resolution No. 002-2019 dated June 28, 2019.

⁴⁴ See *id.* at 81–84, MAGSASAKA Council of Leaders Resolution No. 003-2019 dated November 3, 2019.

⁴⁵ See *id.* at 332–333, Atty. Du's Petition to Deny Due Course.

⁴⁶ *Id.*

⁴⁷ See *rollo*, pp. 74–75, MAGSASAKA's Resolution No. 002-2019 dated June 28, 2019.

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ See *id.* at 81–83, MAGSASAKA Council of Leaders Resolution No. 003-2019 dated November 3, 2019.

⁵¹ See *id.* at 92–97, Minutes of the Meeting dated December 21, 2019.

⁵² See *id.* at 358–359, Manifestation dated January 13, 2020.

⁵³ *Id.* at 121, Assembly Resolution No. 02-2021.

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MAGSASAKA's Constitution and By-laws

MAGSASAKA's *Saligang Batas at Alituntunin*,⁵⁴ the party's Constitution and by-laws, details the party's relevant organizational structure as follows:

- i. all the members of MAGSASAKA are referred to as the *Kongreso*. Every three (3) years, the *Kongreso* shall meet in a GA to nominate and elect the Council of Leaders and the Executive Committee (EXECOM) through secret balloting, among other agenda.⁵⁵
- ii. The *Council of Leaders* is composed of eleven (11) members of the party and in the absence of the *Kongreso*, is regarded as Magsasaka's most powerful arm.⁵⁶
- iii. The EXECOM which is composed of the Chairperson, Vice Chairperson, Secretary General, Treasurer, and Auditor shall oversee, monitor, and implement the day-to-day operations of the party. The Chairperson shall be the official representative of Magsasaka in all its legal and financial transactions.⁵⁷ In his or her absence, the Secretary-General shall be Magsasaka's representative in these transactions.⁵⁸ In addition, the Secretary-General shall be responsible to send notices and prepare agenda for meetings of the *Kongreso*, the Council of Leaders and the EXECOM.⁵⁹

The removal or ouster of any member of the Council of Leaders or EXECOM shall be instituted by a member of the party through a letter-petition.⁶⁰ The removal or ouster shall be approved by 2/3 vote.⁶¹ If the entire leadership or a substantial portion of the Council or EXECOM shall be removed or ousted, the *Kongreso* shall elect their replacement in a special meeting called for their election.⁶² Any vacancy or vacancies in the EXECOM may be filled by the Council until a special meeting of the *Kongreso* to elect the replacement is called.⁶³

In its assailed Resolutions, the COMELEC found that the suspension and removal of Villamin et al. from the party's leadership were not in accordance with Magsasaka's Constitution and by-laws. The COMELEC further found that the procedure pursued by Atty. Du and his faction denied

⁵⁴ *Id.* at 424-430.

⁵⁵ *See id.* at 426, *Saligang Batas and Alituntunin*, Article V, Section 1.

⁵⁶ *Id.*

⁵⁷ *See id.*, *Saligang Batas and Alituntunin*, Article V, Section 3 A (2).

⁵⁸ *See id.*, *Saligang Batas and Alituntunin*, Article V, Section 3 C (4).

⁵⁹ *See id.*, *Saligang Batas and Alituntunin*, Article V, Section 3 C (5).

⁶⁰ *See id.* at 430, *Saligang Batas and Alituntunin*, Article VIII, Section 2.

⁶¹ *See id.*, *Saligang Batas and Alituntunin*, Article VIII, Section 3.

⁶² *See id.*, *Saligang Batas and Alituntunin*, Article VIII, Section 5.

⁶³ *See id.* at 426, *Saligang Batas and Alituntunin*, Article V, Section 2.

Villamin et al. an opportunity to defend themselves. I agree with the ruling of the COMELEC.

The Decision, however, reverses and sets aside the COMELEC's findings on the basis of the following:

First, by the allegations of Atty. Du in his petition and motion for reconsideration before the COMELEC, viz.:

Villamin had consistently refused to attend meetings of the Council of Leaders and been a no-show, citing reasons as being out of the country, and would only send his people to attend, particularly Cortez. Villamin not only refused MAGSASAKA's attempts to communicate, he was also remiss in his duty to be present as National Chairman and perform his official functions, including facing his partymates to explain his involvement in the DV Boer scam. Curiously, Villamin never debunked this statement.⁶⁴

Second, the Decision finds that Villamin was sufficiently apprised of the subject proceedings concerning his ouster as the party's National Chairperson. It points out that 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 at the expulsion proceedings and that a General Assembly was convened twice for such purpose.⁶⁵ To support this conclusion, the Decision explains that with the cases being filed against Villamin and DV Boer, it is also not farfetched that Villamin opted to lie low and bide his time, prioritizing the said cases over his responsibilities to the party.⁶⁶ Thus, "MAGSASAKA could not be completely at fault for acting expeditiously to conduct the proceedings."⁶⁷

Third, the Decision further explains that Magsasaka's failure to submit the attendance sheet during the December 21, 2019 GA is not fatal in proving that there was a quorum, since quorum for purposes of the GA is constituted by the official representatives of the members and not literally of the entire membership of the party,⁶⁸ viz.:

The attendance of all the members is not required, but only that of its leaders, acting in a representative capacity. This method of establishing quorum is an internal party practice and has been observed in past General Assemblies of the party. Worthy of note is that Villamin was elected as Chairperson in 2018 in a General Assembly conducted in the same manner - a fact which Villamin never refuted.⁶⁹

⁶⁴ Decision, pp. 16-17.

⁶⁵ *Id.* at 17.

⁶⁶ *Id.*

⁶⁷ *Id.* at 18.

⁶⁸ *Id.*

⁶⁹ *Id.*

The Decision evidently took the bare allegations of Magsasaka and the supposed failure to refute the same as basis for its findings. It bears reiterating that Magsasaka has the burden of proving its allegations and they may not rely on the weakness of the defense of Villamin.⁷⁰ The Court should not cite any respondent's failure to refute a petitioner's allegations as basis for its rulings. Basic is the rule that he who alleges bears the burden of proof.

Furthermore, as correctly ruled by the COMELEC, the manner by which Villamin was removed as the party's National Chairperson was clearly not in accordance with the party's by-laws. The party-list's constitution and by-laws shall regulate, govern and control its own actions, affairs and concerns.⁷¹ By-laws are self-imposed private laws binding on all members, directors and officers.⁷² The provisions of the articles of incorporation or by-laws must be strictly complied with and applied to the letter.⁷³ This is especially true for matters concerning termination of membership or ouster from membership⁷⁴ and when the by-laws laid down the procedure therefore.

A plain reading of Magsasaka's by-laws vis-à-vis the procedure followed by the Du faction will show that since the beginning, Atty. Du's faction deliberately ignored the party's by-laws in removing or ousting Villamin as the party's National Chairperson. Even the voluminous documents attached to the Petition will show that the actuations of the Du faction were not in accordance with the party's *Saligang Batas*.

Verily, even the Decision points out that Villamin, et. al. were deliberately not notified of the meetings leading up and concerning their ouster or removal.⁷⁵ As Magsasaka's Secretary-General at the time, Atty. Du had the obligation to send out notices for the June 28 and November 3, 2019 meetings. As stated in the minutes of the June 28 meeting, Atty. Du expressed to the body that "he did not send invites" to Villamin et. al.

In addition, the unexplained enumeration of 13 Council of Leaders members during the June 28 and November 3 Council meetings is an irregularity too glaring for the Court to ignore. To reiterate, the undisputed facts in the case are as follows: (i) under the *Saligang Batas*, there shall be 11 Council members; and (ii) Villamin, et. al. are six individuals who are also Council members. From these alone, the absence of Villamin et. al. during any of the Council meetings will result in a lack of quorum. Magsasaka offered no explanation for this. Moreover, an examination of another Council of Leaders' resolution attached to the Petition only indicated 11 Council members.⁷⁶ The Court should not simply brush aside this irregularity as it

⁷⁰ *Peñalber v. Ramos*, 597 Phil. 502 (2009) [Per J. Chico-Nazario, Third Division].

⁷¹ *See Valley Golf & Country Club, Inc. v. Vda. de Caram*, 603 Phil 219, 233–234 (2009) [Per J. Tinga, Second Division]. *See also* the Separate Opinion of J. Brion in *Atong Paglaum, Inc. v. Commission on Elections*, 707 Phil. 454, 595 (2013) [Per J. Carpio, *En Banc*].

⁷² *See Valley Golf & Country Club, Inc. v. Vda. de Caram, id.* at 233–234.

⁷³ *See Valley Golf & Country Club, Inc. v. Vda. de Caram, id.*

⁷⁴ *See Valley Golf & Country Club, Inc. v. Vda. de Caram, id.*

⁷⁵ Council of Leaders Minutes of the Meeting dated June 28, 2019, *rollo*, pp. 77–78; *See* Decision, p. 15.

⁷⁶ *Rollo*, pp. 124–125

touches upon the validity of Villamin's removal as the party's Chairperson, an important issue raised in the instant Petition.

I am also of the view that the existence of a quorum during the December 21, 2019 GA is unsupported by the evidence on record. In order to determine whether Villamin was validly ousted, the Court must be able to categorically determine whether there was a quorum during the December 21 GA, either with the entire membership or leader-representation as basis. This will not, in any way, amount to an intrusion by the Court of the party's method of establishing a quorum, be it the quorum of entire membership or party leaders only.

The evidence, or the utter lack thereof, is undeniable. Magsasaka failed to establish the existence of a quorum. The Court, therefore, cannot conclude that there was a quorum in the absence of any evidence to show the party's total number of members or leaders and the names of those who attended the December 21 GA. Even if this Court is to conclude that representative voting is allowed, it is incumbent upon Magsasaka to show that the representatives present during the GA constitute a quorum. In addition to the absence of quorum, Magsasaka likewise failed to show that the meeting was specially called for the election of a new Council of Leaders, as required by the party's *Saligang Batas*. We cannot rely on the presumption of regularity in the party's conduct of its own affairs⁷⁷ given all the aforementioned irregularities.

It is glaring how Atty. Du and his faction failed to abide by the simple procedure and requisites laid down under Magsasaka's *Saligang Batas* in causing the removal and suspension of Villamin et al. as members of the Council of Leaders and the party. For this reason, I cannot, in good conscience, sanction the glaring violations of Magsasaka's by-laws and the undue haste of Atty. Du and his faction to suspend and oust Villamin et al. as members of the Council and the party. In addition, the statement in the Decision which expressed that "procedural deviations in the removal of a party officer, if any, should not affect the validity of the removal itself"⁷⁸ will serve as a dangerous precedent. This statement may be used as basis to undermine a party's by-laws or rules, regarded as self-imposed private laws binding on all members, under the pretense that it was the "intent of the party"⁷⁹ or the "totality of evidence"⁸⁰ warrant a deviation from the party's rules.

Therefore, Villamin, as Magsasaka's National Chairperson, legitimately represented the party when he filed the MIP. As such, the COMELEC properly issued a Certificate of Proclamation in favor of Villamin's nominee, Nazal, as Magsasaka's representative in the 19th Congress.

⁷⁷ Concurring Opinion, Associate Justice Alfredo Benjamin S. Caguioa, p. 9.

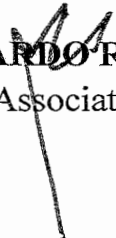
⁷⁸ Decision, p. 21.

⁷⁹ *Id.*

⁸⁰ *Id.*

All told, the COMELEC could not have issued the assailed Resolutions with grave abuse of discretion amounting to lack or excess of jurisdiction.

I, therefore, vote to **DISMISS** the Petition.


RICARDO R. ROSARIO
Associate Justice