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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DISSENT

LAZARO-JAVIER, *J.*:

The *Majority* granted the Petition and declared that the Commission on Elections (COMELEC) committed grave abuse of discretion in: (1) denying the petition of the Magkakasama sa Sakahan, Kaunlaran (MAGSASAKA) Party-List to deny due course to the Manifestation of Intent to Participate (MIP) in the Party-List System of Representation for the 2022 National and Local Elections of Soliman Villamin, Jr. (Villamin); (2) ruling that Villamin was not validly removed as MAGSASAKA's National Chairperson; and (3) finding that Villamin was the duly authorized representative of MAGSASAKA to file the said MIP. Accordingly, the *Majority* ordered the COMELEC to give due course to the nominations of MAGSASAKA and issue a Certificate of Proclamation to the rightful nominee of MAGSASAKA as its Party-List representative in the 19th Congress.

I dissent.

Jurisdiction of the COMELEC to settle intra-party disputes

Indeed, the COMELEC has been constitutionally endowed with a wide latitude of discretion pertaining to the enforcement and administration of all laws and regulations relative to the conduct of an election.[1] As for the party-list system, the mandate of the COMELEC principally stems from Republic Act No. 7941[2] authorizing it to approve the registration of party-lists and facilitate their election and the nomination of their representatives. The Court has clarified, however, that the COMELEC is not vested with *carte blanche* jurisdiction over every single matter or controversy affecting the party-lists and their activities. But whenever a proper

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1 1987 CONST, Art. IX-C, Sec. 2.
2 Party-List System Act (1995).

case is brought before the COMELEC involving an intra-party leadership dispute, the COMELEC has jurisdiction to take cognizance thereof and resolve it incidental to its power to register political parties, *viz.*:[3]

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

In *Lico v. Commission on Elections*,[4] the Court explicitly recognized the jurisdiction of the COMELEC to settle the struggle for leadership within Ating Koop Party-List. In that case, the Court even applied the relevant provisions of the constitution of Ating Koop in order to settle the intra-party dispute which had been haunting it, thus:

> We now pass upon the question of which, between the two contending groups, is the legitimate leadership of Ating Koop.
>
> **At the outset, We reject the Lico Group's argument that the COMELEC has no jurisdiction to decide which of the feuding groups is to be recognized, and that it is the Regional Trial Court which has jurisdiction over intra-corporate controversies. Indeed, the COMELEC's jurisdiction to settle the struggle for leadership within the party is well established. This power to rule upon questions of party identity and leadership is exercised by the COMELEC as an incident of its enforcement powers.**
>
> That being said, We find the COMELEC to have committed grave abuse of discretion in declaring the Rimas Group as the legitimate set of Ating Koop officers for the simple reason that the amendments to the Constitution and By-laws of Ating Koop were not registered with the COMELEC. Hence, neither of the elections held during the Cebu meeting and the Parañaque conference pursuant to the said amendments, were valid.[5] (Emphasis supplied, citation omitted)

As in *Lico,* the COMELEC here is necessarily empowered to determine whether Villamin was validly removed from his position as National Chairperson of

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3 *Atienza v. COMELEC*, 626 Phil. 654, 670-671 (2010) [Per J. Abad, *En Banc*].
4 770 Phil. 444, 460 (2015) [Per CJ Sereno, *En Banc*].
5 *Id.*

MAGSASAKA precisely for the purpose of settling its leadership dispute once and for all.

Villamin was illegally ousted as National Chairperson of MAGSASAKA in violation of its by-laws and the guaranty of due process

To determine the validity of Villamin's removal, the COMELEC must look into the by-laws of the party-list, i.e., the relatively permanent and continuing rules of action adopted by an organization for its own government and that of the individuals composing it and having the direction, management, and control of its affairs and activities in whole or in part.[6] In fine, Villamin's removal from his position may only be deemed valid if it was done in full conformity with the prescribed procedure under the by-laws or *Saligang Batas of* MAGSASAKA.

Article VIII of MAGSASAKA's by-laws ordains:[7]

> **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.
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> Seksyon 2: Isang Liham-Petisyon mula sa isang lehitimong kasaping indibiduwal o organisasyon na maaaring pagbatayan ng pagsusuri at imbestigasyon ang magiging daan para sa pagpapatalsik sa sinumang opisyal ng organisasyon.
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> 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 sa usapin, ito ay ihaharap sa mas mataas na pamunuan.
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> Seksyon 4: Ang opisyal na hahalili sa nabakanteng posisyon ay dapat na ihalal ng mga kasapi ng pamunuan kung saan ito nabibilang na organo.
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> Seksyon 5: Kung ang buong pamunuan o malaking bahagi ng pamunuan ay babawian ng posisyon at magreresulta sa krisis sa liderato, ang Kongreso na naghalal sa kanila ay kagyat na pupulungin para sa pagdaraos ng ispesyal na halalan.[8]

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6 *See China Banking Corporation v. Court of Appeals*, 337 Phil. 223, 241 (1997) [Per J. Kapunan, First Division].
7 *Rollo*, p. 430.
8 *Id.*

As succinctly summarized by the esteemed Associate Justice Benjamin Alfredo S. Caguioa in his *Concurring Opinion,* three requisites must concur before an officer may be removed from his or her position in MAGSASAKA:[9]

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

I concede that the first requisite is present. But I cannot say the same thing for the **second** and **third** requisites.

Let me first tackle the **third** requisite. It states that the ouster of Villamin et al. should carry at least two-thirds vote of the Council of Leaders. To recall, Villamin and the other sitting officers of MAGSASAKA (Villamin, et al.) were ousted during the General Assembly Meeting held on December 21, 2019 (December 21, 2019 General Assembly). After Atty. General D. Du (Atty. Du), then Secretary General of MAGSASAKA, informed the Council of Leaders of the suspension of Villamin *et al.*, the General Assembly allegedly voted to remove Villamin, et al. and consequently held an election for a new set of Council of Leaders.[10]

The required two-thirds vote of the leaders was **allegedly** obtained over the sole objection of King Cortez, Villamin's associate, on the ground that the persons being ousted were not given a chance to explain their side.[11] But as proof that the required number of votes was supposedly mustered, Atty. Du showed pictures of the so-called December 21, 2019 General Assembly and the corresponding Minutes of the Meeting. Atty. Du also asserted that although there was no attendance sheet, the personalities of the attendees were **anyway** not disputed.[12]

Mere allegation, however, is not evidence. It is not equivalent to proof. Allegations are, by their nature, self-serving and devoid of any evidentiary weight.[13] Unfortunately, the only pieces of evidence adduced here—the Minutes of the Meeting and pictures—are equivocal, *nay*, insufficient to prove the facts sought to be established, i.e., who were the attendees and how many of them voted to oust Villamin, et al.?

Hence, before we can even conclude that it was MAGSASAKA itself which desired to oust Villamin, et al., the seminal question should be settled: **was it really the two-thirds vote of MAGSASAKA which called for such removal or only a fraction of the required two-thirds vote which did?**

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9 J. Caguioa, Concurring Opinion, pp. 6–7.
10 *Rollo*, p. 213.
11 *Ponencia*, p. 18.
12 *Id.* at p. 8.
13 *Menez v. Status Maritime Corporation,* 839 Phil. 360, 369 (2018) [Per J. Caguioa, Second Division].

As aptly observed by COMELEC in its assailed dispositions, the Minutes of the Meeting inexplicably lacked the list of names of the attending members. Notably, this is **not refuted** by MAGSASAKA itself. Verily, *absent* this pertinent, *nay,* pivotal information, there is no way to ascertain who were actually present during the so-called December 21, 2019 General Assembly. Without this list of attendees, it is impossible to determine the presence of the required quorum, i.e., 50%+1, let alone, that two-thirds thereof cast their votes to remove Villamin *et al.* from their respective positions.

A party's bare allegation, especially a self-serving one, cannot be taken at its face value. Neither can it take the place of evidence. That the December 21, 2019 General Assembly is constituted by official representatives of the members and not the entire membership of MAGSASAKA[14] is irrelevant to the issue of quorum and the two-thirds vote. Without the attendance sheet and the identification of those who cast their votes for the supposed ouster of Villamin, et al. during the December 21, 2019 General Assembly, the ouster of Villamin, et al. is invalid as a necessary consequence of the absence of the third requisite.

Going now to the **second requisite**, the supposed investigation conducted by the Council of Elders was but a sham in view of the evident breach of its due process component. Indeed, *first,* the paramount interest of the State in the leadership affairs of party-list organizations requires that the right to due process be guaranteed in such disputes; and *second,* this guaranteed right to due process sits at the heart of any investigation that may be conducted relevant to an ouster of a party-list organization's leader.

The *Majority* maintained that the right to due process under the 1987 Constitution applies only if it is expressly provided by the party-list's constitution or by-laws. Since the requirement of prior notice is not in MAGSASAKA's *Saligang Batas,* it is allegedly not essential to effect a valid ouster.[15] Further, in his *Concurring Opinion,* Justice Caguioa reiterates the basic doctrine that the rights enshrined within Article III of the 1987 Constitution may only be invoked against the State, hence, Villamin cannot validly invoke his right to due process in an intra-party dispute against Atty. Du and MAGSASAKA, both being private persons.[16]

True, in *Atienza v. COMELEC,*[17] the Court *En Banc* ruled that violation of the constitutional right to due process cannot be invoked by the ex-Liberal Party member-respondents therein since political parties are still private organizations, not state instruments, *viz.*:

> 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

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14 *Ponencia*, p. 18.
15 *Id.* at 15–16.
16 J. Caguioa, Concurring Opinion, pp. 3–4.
17 626 Phil. 654, 673 2010 [Per J. Abad, *En Banc*].

> party does not involve the right to life, liberty or property within the meaning of 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 by 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 due process issue against the government or any of its agencies.

But I humbly submit that *Atienza* is inapplicable here. For while *Atienza* involves the expulsion of *ordinary* members of a party, the present case involves the ouster of a *leader* of a party-list organization. It has been settled that while the COMELEC may not interfere in the membership and disciplinary matters within a party, it is empowered to ascertain its legitimate leadership vis-à-vis its power to approve or disapprove party-lists' registration.[18]

There is therefore this marked difference by which jurisprudence treats matters pertaining to mere members of the party, on one hand, and the leaders who represent the party, on the other. The underlying rationale is simple: the membership of a party affects only its internal affairs and operates purely within the private sphere, but its leadership transcends such private sphere as it goes into the realm of public affairs. As they are juridical entities, party-lists may only act through their duly authorized representatives, i.e., the leaders of the organization. Thus, it is imperative that COMELEC ascertains who the legitimate leaders are, lest it attributes acts of usurpers as acts of the party-list itself.

In fine, while pursuant to *Atienza*, the remedy of expelled party-list members who have been deprived of due process is to file before a court of law an ordinary action for enforcement of such right as ordained in the party-list charter, if any; on the other hand, the remedy of an illegally ousted party-list leader falls within the cognizance of the COMELEC as a necessary incident to its power to resolve all registration issues affecting the party-list.

The party-list system is a creation of the Constitution. By this fact alone, it is imbued with public interest. Article IX-C, Section 2(5) of the 1987 Constitution sanctions their regulation and requires the presentation of their program of government. Not only must party-lists register with the COMELEC, certain restrictions have also been placed on them. For example, in accordance with the Constitutional separation of Church and State, religious denominations and sects are disqualified from registering as party-list organizations. For though party-lists are not state instruments or agencies, once they are proclaimed as winners in the party-list elections, they become entitled to seats in the House of Representatives and consequently acquire the status of public officers.

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[18] *Id.* at 670–671

Clearly, therefore, the State has an undeniable stake in the affairs of party-list organizations, if only to a specific fragment thereof—their registration and leadership. Surely, trivializing the significance of due process and sanctioning its dispensability in intra-party leadership disputes negates the worth accorded by the Constitution no less to party-list organizations which are imbued with public interest.

For this reason, I cannot, in good conscience, agree that in matters affecting one who sits as the leader of a party-list organization, the fundamental and universal right to due process has no place at all. Especially not in the present case, where due process was **persistently withheld**, not once, not twice, but **thrice**. Hence, a one-sided investigation which respondent claimed to have held against Villamin is inarguably void. There was a total absence of due process — one that hears before it condemns.

For perspective, consider these material facts which, with due respect, the *Majority* seemed to have overlooked:

- On June 28, 2019, the MAGSASAKA Party-list Council of Leaders convened for the purpose of taking action on the letter-petitions filed against Villamin and his group for their alleged involvement in the fraudulent schemes of DV Boer, Inc. Notably, the Minutes[19] of such meeting, **explicitly** referred to the admission of Atty. Du that Villamin and his group were **not notified** of the said meeting. Thus:

. . . .

> d. Congressman Cabatbat inquired whether the accused members of the Council were informed of the meeting. **Atty. Du said he did not send invites to the accused council members so as not to pre-empt any investigation that would ensue.** Atty. Du furthered that there is already prima-facie evidence of irregularity in the business dealings of DV Boer, Inc., as the SEC itself has issued an advisory against it.

. . . . (Emphasis supplied)

- In the same meeting, the Council **resolved** to create an investigation team to be led by Lejun Dela Cruz to investigate the so called DV Boer's fraudulent scheme.[20]

- On November 3, 2019, another meeting was held where Dela Cruz presented to the Council of Leaders his findings regarding the supposed illegal activities of DV Boer Inc. owned by Villamin. Dela Cruz concluded that there was *prima facie* basis and probable cause that DV Boer, Inc. violated the law, and that the name of the MAGSASAKA Party-list was being unnecessarily dragged into that controversy. It was eventually resolved that Villamin and his group be suspended from the Council of Leaders.

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19 *Rollo*, pp. 175–176.
20 *Id.* at 176.

Markedly though, it was again indicated in the Minutes[21] of the meeting that Villamin and his group were **absent during the said meeting.**

- On December 21, 2019, the MAGSASAKA Party-list conducted a General Assembly. The matter of the involvement of DV Boer, Inc. and Villamin in the alleged fraudulent schemes was raised anew. During the discussion, it was proposed that the current Board seats be deemed vacated and new members thereof be elected. But one Crisanto "King" Cortez objected to this proposal **because he recognized that Villamin and his group have not been given a chance to explain.** The Minutes[22] of the General Assembly thus state:

. . . .

> • Another coordinator have [sic] proposed to vacate the Board and elect new set of Board members.
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> • A formal motion was moved and has been objected by Mr. Cortez. **He manifested that it is unfair for the body to decide if other Board Members involved in the issue were not given the chance to explain their side. Given that it is a sensitive issue, the body might consider hearing their explanation first before moving to a vote to vacate all positions in the Board and proposed to consider rescheduling of another assembly.**
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> • Some coordinators have manifested that the General Assembly was the highest policy making body and have the power to decide including the vacancy and election of new Board Members. Given that the body is in quorum, they can proceed with the order of business.
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> • Atty. General Du have confirmed that coordinators and concerned individuals were given a notice regarding today's General Assembly and Christmas Party.

. . . . (Emphasis supplied)

- Notwithstanding Cortez's objection, the election of new members of the board and officers proceeded as proposed, resulting in the expulsion of Villamin as the MAGSASAKA Party-list's National Chairperson.[23]

- On January 30, 2020, the result of the December 21, 2019 election of the new board members was reported and filed with the COMELEC.[24]

- On February 8, 2021, the MAGSASAKA Party-list, through Atty. Du, filed an MIP for the May 9, 2022 National and Local Elections.[25]

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21 *Id.* at 183–185.
22 *Id.* at p. 192.
23 *Id.* at p. 213.
24 *Id.*
25 *Id.*

- On February 14, 2021, Villamin, believing that his ouster was invalid, filed a separate Manifestation with the COMELEC to report that his removal was procedurally and substantially infirm.[26]

- On March 29, 2021, Villamin, in his capacity as National Chairperson, filed an MIP for MAGSASAKA Party-list.[27]

- On June 21, 2021, Atty. Du filed a petition for Villamin's MIP to be denied due course. Atty. Du alleged that Villamin made material misrepresentations when he stated in his MIP that he was the National Chairperson of MAGSASAKA Party-list. Since he was removed as such, he was reputed to have lost his legal standing to file the MIP.[28]

- On June 26, 2021, another General Assembly was held where Villamin and his group were permanently expelled from the MAGSASAKA Party-list due to their supposed involvement in the DV Boer, Inc. scam and the issuance of a warrant of arrest on them. Thus, a new set of Council of Leaders was also elected.[29]

It is a matter of record that Villamin was **purposely** not given notice of the June 28, 2019 Council of Leaders Meeting. This was admitted by Atty. Du, no less. Also, it was uniformly pointed out both by the Office of the Solicitor General[30] in its Comment, and by Villamin[31] in his Comment/Opposition. Further, records show that Villamin was still absent during the November 3, 2019 Council of Leaders Meeting when he got suspended, as well as during the December 21, 2019 General Assembly when he was removed as MAGSASAKA's National Chairperson.

Yet, in finding that Villamin was sufficiently notified of the expulsion proceedings against him, the *Majority* ordained:

> MAGSASAKA maintains that even prior to the leadership controversy, 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 had not only refused MAGSASAKA's attempts to communicate, he had also been remiss in his duty to be present as National Chairman and perform his official functions, including facing his party mates to explain his involvement in the DV Boer scam. Curiously though, Villamin never debunked this statement.
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> . . . .

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26 *Id.*
27 *Id.* at p. 219.
28 *Id.* at pp. 162--167.
29 *Id.* at p. 219.
30 *Id.* at p. 999.
31 *Id.* at p. 696.

> . . . . Some members of the Court propound that the reasons for Villamin's non-attendance to the meetings have not been established by facts, and the intent to evade investigation cannot be presumed. While this may be true, the Court cannot simply accept Villamin's claim of lack of prior notice as sufficient justification for his non-participation in the party proceedings. As the highest-ranking official of the party, Villamin should be aware and concerned with what is happening within his organization, even if he himself is going through other personal and private issues. It is highly unlikely that he had no inkling of the internal turmoil in the party. With several persons filing administrative and criminal complaints against Villamin and DV Boer for the illegal investment scam, and the SEC advisory that DV Boer had no authority to offer, solicit, sell or distribute any investment/securities, 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. Thus, we find that Villamin was aware of the proceedings and was given several chances to be heard, only that he was the one who refused to communicate without reason. Surely, MAGSASAKA could not be completely at fault for acting expeditiously to conduct the proceedings since it was the Party's name and reputation, and even the members' investments, which were at stake.[32]

With due respect, Villamin's purported refusal to attend the meetings of the Council of Leaders, and even his supposed evasion of MAGSASAKA's attempt to communicate with him **are mere allegations of petitioner. These are not established facts nor supported by the evidence on record. The same therefore should not be taken as gospel truth.** To repeat, mere allegation is not evidence. Further, it does not follow that Villamin's non-participation in the party proceedings is inexcusable due to lack of prior notice since, as the highest ranking official of MAGSASAKA, he ought to be aware of what is happening within his organization. On the contrary, even if Villamin indeed had knowledge of the party meetings, still, his non-participation is justified for it is a matter of record that notice to him was purposely and persistently withheld by Atty. Du's faction. **Surely, We cannot continue to rely on mere speculations and petitioner's self-serving assertions while ignoring the glaring truth borne by the cold records of the case.**

In the same vein, the *Majority* faulted the COMELEC with grave abuse of discretion for focusing on procedural concerns at the expense of substantive matters, that is, it purportedly disregarded that substantive grounds existed for the ouster of Villamin, et al. from their leadership positions since Villamin was allegedly involved in anomalous and unusual business activities akin to *ponzi* schemes.[33] The *Majority* thus conclude that considering the totality of evidence affecting both procedural and substantive matters, the will of MAGSASAKA to oust Villamin *et al.* must purportedly prevail, violations of procedural due process notwithstanding.

While I agree that the totality of evidence ought to be the basis of the Court in determining the validity of the expulsion of a party-list leader moving forward, I do not agree that the same has been hurdled in this case. For MAGSASAKA's *Saligang Batas* perceptibly welded together both procedural and substantive matters as two faces of one coin. One cannot simply be said to exist without the other.

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32 *Ponencia*, pp. 17–18.

33 *Id.* at 21.

Here, the *Majority* mistakenly ordained that the observance of procedural due process is separable from establishing substantive grounds for the removal of MAGSASAKA's leaders. It bears stress, however, that MAGSASAKA's ground for ousting Villamin on the allegation that his family corporation DV Boer, Inc. is involved in anomalous business activities, *sans* observance of procedural due process, is just that—**mere allegation.**

Consider that under MAGSASAKA's Saligang Batas,[34] an officer may only be removed once it is **proven** that he or she had been remiss in the discharge of his or her functions and had committed acts that would taint the good image and reputation of the Party-list. **In fact, the same interpretation was adopted by the COMELEC, which the *Majority* has duly acknowledged.**[35] This proof, in turn, may be determined pursuant to the required investigation under MAGSASAKA's own Saligang Batas.

Such investigation must yield not only findings arising from independently gathered evidence relating to the charges; but requires as well that the person subject of the investigation be afforded an opportunity to air his or her defense and present evidence in support thereof. **For it is basic that a charge can be deemed as proven only after giving both the complainant and the respondent an opportunity to establish their respective claims and defenses.** It is only then that the charge can be said to have withstood evidence to the contrary, hence, is deemed to have been "established". Conversely, a charge cannot be considered established when a respondent was utterly deprived of an opportunity to present his or her defenses as in the case of Villamin. In such a case, the self-serving, if not, one-sided statements of one party (the accuser), without regard to any countervailing evidence from the party being charged or the accused, can never rise to the level of being an "established" accusation or charge.

Verily, there are no real substantive grounds to speak of here which ought to allegedly prevail over the procedural infirmities surrounding Villamin, et al.'s ouster—not without the allegations having been properly scrutinized *via* a real investigation. As such, COMELEC did not commit grave abuse of discretion when it focused on the procedural lapses in Villamin, et al.'s ouster as the same is a condition *sine qua non,* an indispensable prerequisite, to determining whether substantive grounds truly existed to oust Villamin, et al. from their positions.

To repeat, while it is recognized that the Bill of Rights is a protection afforded to citizens only against the State and not private persons, party-lists are entirely a different species. They are imbued with public interest not only because they are creations of the Constitution but also because whenever they win in party-list elections, they become entitled to a seat or seats in the House of Representatives,

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[34] Seksyon 1, 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 maaring mapatalsik sa kanyang posisyon.

[35] *Ponencia*, p. 17.

and through their nominees, conferred the status of public officers. **For all intents and purposes, therefore, violation of due process within the party-list cannot be considered a mere private matter affecting mere private individuals.** More so in this case where MAGSASAKA's own by-laws requires the observance of due process—both procedural and substantive—in the ouster of its leader or leaders.

Since the existence of the so-called December 21, 2019 General Assembly itself, including the alleged two-thirds vote of the members and the leaders is doubtful, and the consequent ouster of Villamin *et al.* was done in violation of due process, the entire process is void *ab initio*. As such, it did not create any right, nor impose any obligation.[36] This being the case, Villamin was still a validly sitting National Chairman of MAGSASAKA when he filed the MIP on March 29, 2021.

The Supplemental Petition for Certiorari assailing Nazal's qualification and proclamation was filed out of time and should be dismissed outright

While I am grateful that our esteemed colleague Justice Jose Midas P. Marquez explicitly stated[37] that the Court is not ruling on the qualifications of Nazal, as the Supplemental Petition for *Certiorari* attempts to put in issue, I find it necessary to discuss why petitioners' attempt to do so is in violation of the rules.

To recall, the Court issued a *Status Quo Ante* Order prior to: (a) the promulgation of the NBOC Resolution No. 22-0953 confirming Nazal's proclamation as MAGSASAKA's representative; and (b) the issuance of a Certificate of Proclamation in Nazal's favor, pursuant to petitioner's prayer contained in the belatedly filed **Supplemental Petition for *Certiorari***. The same, however, invalidly attempts to put in issue the qualification of Nazal **for the first time here and now** even though it is the COMELEC, not the Court which has exclusive original jurisdiction over this subject matter.

In *Asset Privatization Trust v. Court of Appeals*,[38] the Court emphasized that when the cause of action stated in the supplemental complaint is **different** from the cause of action mentioned in the original complaint, the court **should not admit the supplemental complaint**. In any case, the Court ruled that joinder of causes of action is only permissible when there is a unity in the problem presented as regards **jurisdiction,** venue, and joinder of parties, *viz.*:

> In *Leobrera v. Court of Appeals* the Court ruled that when the cause of action stated in the supplemental complaint is different from the cause of action

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36 *See Orlina v. Ventura,* 844 Phil. 334, 348 (2018) [Per J. Peralta, Third Division].

37 *Ponencia*, p. 21.

38 381 Phil. 530, 545–546 (2000) [Per J. Purisima, Third Division].

> mentioned in the original complaint, the court should not admit the supplemental complaint.
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> . . . .
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> In this case, hardly do the original and supplemental complaints meet the required test of "unity in the problem presented" and "a common question of law and fact involved" as regards jurisdiction, venue and joinder of parties. The ultimate problem in the original complaint as far as private respondents are concerned is how to prevent the DBP from pursuing the amount of deficiency after an extrajudicial foreclosure sale of the mortgaged vessels. In the supplemental complaint, what private respondent SIM seeks to preempt is the foreclosure of the mortgage of its Agusan del Sur plant.[39]

Here, the causes of action in the original petition and the supplemental petition are **distinct** from each other. On one hand, the original Petition questions Villamin's legal standing to file the MIP for MAGSASAKA on March 29, 2021 since, at that time, he was already allegedly removed as its National Chairperson. On the other hand, the supplemental petition assails the qualification of Nazal as the MAGSASAKA's nominee.

Different provisions of Republic Act No. 7941[40] are being invoked by petitioner in support of its original petition, on one hand, and its supplemental petition, on the other. Thus, for the first petition, the relevant provision is Section 2, *viz.*:

> **SEC. 2. Where to file manifestation of intent to participate.** The manifestation of intent to participate by any of the above-mentioned organized groups or parties shall be filed with the office of the Clerk of the Commission, Commission on Elections, Manila, in twelve (12) legible copies.
>
> The manifestation shall be signed by the President/Chairman or, in his absence, the Secretary-General of the party or group.
>
> Manifestations filed by mail, telegram or facsimile shall not be accepted.
>
> A sample of the manifestation to participate is attached as Annex A.

On the other hand, petitioner invokes Section 9 in assailing Nazal's qualification, thus:

> **Section 9. Qualifications of Party-List Nominees.** No person shall be nominated as party-list representative unless he is a natural-born citizen of the Philippines, a registered voter, a resident of the Philippines for a period of not less than one (1)year immediately preceding the day of the election, able to read and write, a bona fide member of the party or organization which he seeks to represent for at least ninety (90) days preceding the day of the election, and is at least twenty-five (25) years of age on the day of the election.

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39 *Id.*

40 Party-List System Act (1995), Sec. 2.

> In case of a nominee of the youth sector, he must at least be twenty-five (25) but not more than thirty (30) years of age on the day of the election. Any youth sectoral representative who attains the age of thirty (30) during his term shall be allowed to continue in office until the expiration of his term.

Even then, the causes of action in the original petition and the supplemental petition cannot be liberally joined as the Court plainly has no jurisdiction over the question raised in the Supplemental Petition for *Certiorari.* It is elementary that the Court's power to review the dispositions of the COMELEC is limited to the latter's judgment or final order or resolution.[41] Thus, the issue raised in a Petition for *Certiorari* under Rule 64 in relation to Rule 65 of the Rules of Court must have been raised and passed upon by the COMELEC. Here, petitioner failed to question Nazal's qualifications before the COMELEC within the prescribed period under the law and the rules. But by filing the supplemental petition, it now seeks to revive what it has long lost, and worse, it even ascribes to the Court the exclusive and original jurisdiction to determine the qualification of Nazal as a nominee which in fact belongs to no other than the COMELEC. Jurisdiction is vested by law and not by choice or agreement of the parties. Procedural maneuvers which circumvent jurisdiction and the rule of law must definitely be slayed at sight.

In any event, the basis for filing the original petition is Section 7, Rule 3 of COMELEC Resolution No. 9366, as amended by Resolution No. 10690:

> Section 7. **Petition to Deny Due Course to a Manifestation of Intent to Participate.** A verified petition seeking to deny due course to a manifestation of intent to participate, of both existing and registering party-list groups, organizations, or coalitions, may be filed with the Office of the Clerk of the Commissions, Commission on Elections in Manila, by any interested parties within ten (10) days from the date of publication of the manifestation of intent to participate on any of the grounds mentioned in Section 2 of Rule 2. (Emphasis in the original)

As for a petition to deny due course and/or cancel the nomination of an individual nominee, it is a distinct and separate **remedy** under Rule 5 Section 1 of COMELEC Resolution No. 9366, as amended by Resolution No. 10690, *viz.*:

> **SEC. 1. Petition to deny due course and/or cancellation; Grounds.** A verified petition seeking to deny due course the nomination of nominees of party-list groups may be filed by any person exclusively on the ground that a material misrepresentation has been committed in the qualification of the nominees.
>
> . . . .
>
> **SEC. 3. Where to file petitions.** The petitions herein mentioned shall be filed with the Office of the Clerk of the Commission, Commission on Elections in Intramuros, Manila;
>
> Petition for disqualification filed with office other than with the Office of the Clerk of the Commission shall not be accepted.

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41 Rules of Court, Rule 64, Sec. 2.

> **SEC. 4. When to file petitions.** Petitions for denial/cancellation/disqualification of party-list nominees shall be filed as follows:
>
> a. Petition to deny course to or cancellation of nomination of party-list nominees shall be filed **within ten (10) days from date of publication of the list of nominees by** the EID, or in case of subsequent publication by reason of substitution, within ten (10) days from the submission of proof of publication by the party-list groups, organizations, or coalitions of its new and complete list of nominees, with respect to the substitute nominees; and; and
>
> b. Petition for disqualification of party-list nominees shall be filed at any day not later than the date of proclamation. (Emphasis supplied)

To repeat, petitioner never filed before the COMELEC the proper action to assail the qualification of Nazal as an individual nominee. In fact, here, the only matter brought before the Court in the original petition was the COMELEC's resolution declaring as valid the MIP filed by Villamin alone, sans any challenge against **the individual qualification of Nazal.** It is, thus, illegal, *nay*, unconstitutional for petitioner to insert a rider *via* the supplemental petition which bears a subject matter not within the exclusive original jurisdiction of the Court and one that has never been brought before the proper forum within the prescribed reglementary period. As the *Majority* conceded, the resolution of the COMELEC became final and executory after 30 days from its promulgation or on October 10, 2022. **Indeed, how can grave abuse of discretion be imputed to the COMELEC here when it did not even have the chance to take cognizance of, let alone, resolve the issue of Nazal's qualification as MAGSASAKA's nominee? At any rate, the Court cannot assume the role of the COMELEC as the sole determinator of this question.**

All told, I vote to **DISMISS** both the original and supplemental petitions. The COMELEC First Division Resolution dated November 25,2021 and the COMELEC En Banc Resolution dated September 9, 2022 must be **AFFIRMED IN FULL.**

AMY C. LAZARO-JAVIER