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EN BANC

[G.R. No. 205505. September 29, 2015]

ATTY. ISIDRO Q. LICO, RAFAEL A. PUENTESPINA, PROCULO T. SARMEN, AMELITO L. REVUELTA, WILLIAM C. YBANEZ, SILVERIO J. SANCHEZ, GLORIA G. FUTALAN, HILARIO DE GUZMAN, EUGENE M. PABUALAN, RODOLFO E. PEREZ, HIPOLITO R. QUILLAN, MARIO ARENAS, TIRSO C. BUENAVENTURA, LYDIA B. TUBELLA, REYNALDO C. GOLO& JONATHAN DEQUINA IN THEIR INDIVIDUAL CAPACITIES, and AS LEGITIMATE MEMBERS AND OFFICERS OF ADHIKAING TINATAGUYOD NG KOOPERATIBA (ATING KOOP PARTY LIST), *petitioners, vs.* **THE COMMISSION ON ELECTIONS EN BANC and THE SELF-STYLED SHAM ATING KOOP PARTYLIST REPRESENTED BY AMPARO T. RIMAS,** *respondents.*

SYLLABUS

1. POLITICAL LAW; CONSTITUTIONAL COMMISSIONS; COMMISSION ON ELECTIONS (COMELEC); HAS NO JURISDICTION TO EXPEL A MEMBER OF THE HOUSE OF REPRESENTATIVES FROM HIS PARTY-LIST; IT IS THE HOUSE OF REPRESENTATIVES ELECTORAL TRIBUNAL (HRET) THAT HAS JURISDICTION OVER THE DISQUALIFICATION CASE.— We find that while the COMELEC correctly dismissed the Petition to expel petitioner Lico from the House of Representatives for being beyond its jurisdiction, it nevertheless proceeded to rule upon the validity of his expulsion from Ating Koop — a matter beyond its purview. The COMELEC notably characterized the Petition for expulsion of petitioner Lico from the House of Representatives and for the succession of the second nominee as party-list representative as a disqualification case. For this reason, the COMELEC dismissed the petition for lack of jurisdiction, insofar

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as it relates to the question of unseating petitioner Lico from the House of Representatives. Section 17, Article VI of the 1987 Constitution endows the HRET with jurisdiction to resolve questions on the qualifications of members of Congress. In the case of party-list representatives, the HRET acquires jurisdiction over a disqualification case upon proclamation of the winning party-list group, oath of the nominee, and assumption of office as member of the House of Representatives. In this case, the COMELEC proclaimed Ating Koop as a winning party-list group; petitioner Lico took his oath; and he assumed office in the House of Representatives. Thus, it is the HRET, and not the COMELEC, that has jurisdiction over the disqualification case.

2. **ID.; ID.; ID.; PARTY-LIST SYSTEM; *BONA FIDE* MEMBERSHIP IN THE PARTY-LIST GROUP IS A CONTINUING QUALIFICATION WHICH MUST BE POSSESSED BY THE REPRESENTATIVE NOT ONLY AT THE TIME OF APPOINTMENT OR ELECTION, OR ASSUMPTION OF OFFICE, BUT DURING THE OFFICER'S ENTIRE TENURE.—** In the present case, the Petition for petitioner Lico's expulsion from the House of Representatives is anchored on his expulsion from Ating Koop, which necessarily affects his title as member of Congress. A party-list nominee must have been, among others, a *bona fide* member of the party or organization for at least ninety (90) days preceding the day of the election. Needless to say, *bona fide* membership in the party-list group is a **continuing** qualification. We have ruled that qualifications for public office, whether elective or not, are continuing requirements. They must be possessed not only at the time of appointment or election, or of assumption of office, but during the officer's **entire** tenure.

3. **ID.; ID.; ID.; THE POWER TO RULE UPON QUESTIONS OF PARTY IDENTITY AND LEADERSHIP IS EXERCISED BY THE COMELEC AS AN INCIDENT OF ITS ENFORCEMENT POWERS.—** 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.

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4. ID.; ID.; ID.; NEITHER THE LICO GROUP NOR THE RIMAS GROUP CAN CLAIM TO BE LEGITIMATE SET OF OFFICERS OF ATING KOOP THERE BEING NO SHOWING THAT THE AMENDMENTS ON THEIR BY-LAWS WERE FILED WITH AND SUBSEQUENTLY APPROVED BY THE COMELEC.— A party-list organization owes its existence to the State and the latter's approval must be obtained through its agent, the COMELEC. In the 2013 case of *Dayao v. COMELEC,* We declared that it is the State, acting through the COMELEC, that breathes life to a party-list organization. The implication, therefore, is that the State, through the COMELEC, is a party to the principal contracts entered into by the party-list organization and its members — the Constitution and By-laws — such that any amendment to these contracts would constitute a novation requiring the consent of all the parties involved. An amendment to the by-laws of a party-list organization should become effective only upon approval by the COMELEC. Such a prerequisite is analogous to the requirement of filing of the amended by-laws and subsequent conformity thereto of the Securities and Exchange Commission (SEC) under corporation law. Under the Corporation Code, an amendment to a by-law provision must be filed with the SEC. The amendment shall be effective only upon the issuance by the SEC of a certification that it is not inconsistent with the Corporation Code. There being no showing that the amendments on the by-laws of Ating Koop were filed with and subsequently approved by the COMELEC, any election conducted pursuant thereto may not be considered valid. Without such requisite proof, neither the Lico Group nor the Rimas Group can claim to be the legitimate set of officers of Ating Koop.

5. ID.; ID.; ID.; EQUIPOISE DOCTRINE; APPLICABLE IN CASE AT BAR; SINCE NEITHER PARTY SUCCEEDS IN MAKING OUT A CASE, NEITHER SIDE PREVAILS.— Even assuming *arguendo* that the amendment calling for a special election were effective, this Court still cannot declare any of the feuding groups as the legitimate set of officers considering that the respective sets of evidence presented were evenly balanced. With respect to the Lico Group's Cebu meeting, the COMELEC correctly found — and the records bear out — that the notices sent were deficient and that there was no sufficient proof of quorum. Hence, the Cebu meeting was held to be invalid. On

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the other hand, the COMELEC failed to appreciate the fact that the Parañaque convention suffered from the same infirmity: the records of the said convention, consisting merely of the Minutes thereof, likewise fail to establish due notice and a quorum. Accordingly, as neither group can sufficiently lay claim to legitimacy, the equipoise doctrine comes into play. This rule provides that when the evidence in an issue of fact is in equipoise, that is, when the respective sets of evidence of both parties are evenly balanced, the party having the burden of proof fails in that issue. Since neither party succeeds in making out a case, neither side prevails. The courts are left with no other option but to leave them as they are. The consequence, therefore, is the dismissal of the complaint/petition.

6. **ID.; ID.; ID.; THE EVALUATION OF THE EVIDENCE BY THE COMELEC IN DECIDING THE ISSUE OF WHICH GROUP LEGITIMATELY REPRESENTS ATING KOOP WAS GROSSLY UNREASONABLE.—** As seen in the above discussions, neither of the parties was able to establish its legitimacy. The evaluation of the evidence by the COMELEC in deciding the issue of which group legitimately represents Ating Koop was therefore grossly unreasonable, which amounts to a jurisdictional error that may be remedied by certiorari under Rule 65. The final, and most important question to be addressed is: if neither of the two groups is the legitimate leadership of Ating Koop, then who is? We find such legitimate leadership to be the Interim Central Committee, whose members remain as such in a hold-over capacity. x x x In the present case, We have gone through the Constitution and By-laws of Ating Koop and We do not see any provision forbidding, either expressly or impliedly, the application of the hold-over rule. Thus, in accordance with corporation law, the existing Interim Central Committee is still a legitimate entity with full authority to bind the corporation and to carry out powers despite the lapse of the term of its members on 14 November 2011, since no successors had been validly elected at the time, or since.

7. **ID.; HOUSE OF REPRESENTATIVES ELECTORAL TRIBUNAL (HRET); HAS FULL AUTHORITY TO HEAR AND DECIDE THE CASES ON ANY MATTER TOUCHING ON THE VALIDITY OF THE TITLE OF THE PROCLAIMED WINNER.—** The rules on intra-party matters and on the jurisdiction of the HRET are not parallel concepts that do not intersect. Rather, the operation

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of the rule on intra-party matters is circumscribed by Section 17 of Article VI of the 1987 Constitution and jurisprudence on the jurisdiction of electoral tribunals. The jurisdiction of the HRET is **exclusive**. It is given full authority to hear and decide the cases on any matter touching on the validity of the title of the proclaimed winner.

8. ID.; ID.; THE HRET IS THE SOLE JUDGE OF ALL CONTESTS WHEN IT COMES TO QUALIFICATIONS OF THE MEMBERS OF THE HOUSE OF REPRESENTATIVES.— This is not the first time that this Court has passed upon the issue of HRET jurisdiction over the requirements for *bona fide* membership in a party-list organization. In *Abayon v. HRET,* it was argued that the petitioners did not belong to the marginalized and under-represented sectors that they should represent; as such, they could not be properly considered *bona fide* members of their respective party-list organizations. The Court held that it was for the HRET to interpret the meaning of the requirement of *bona fide* membership in a party-list organization. It reasoned that under Section 17, Article VI of the Constitution, the HRET is the **sole judge of all contests when it comes to qualifications of the members of the House of Representatives.** Consequently, the COMELEC failed to recognize that the issue on the validity of petitioner Lico's expulsion from Ating Koop is integral to the issue of his qualifications to sit in Congress. This is not merely an error of law but an error of jurisdiction correctible by a writ of certiorari; the COMELEC should not have encroached into the expulsion issue, as it was outside its authority to do so.

APPEARANCES OF COUNSEL

Ma. Rosario L. Payumo, Eric C. Opriasa and *Nadine Faye C. Miralles* for petitioners.

The Solicitor General for public respondent.

Sibayan Lumbos & Associates Law Office for private respondents.

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D E C I S I O N

SERENO, *C.J.*:

The pivotal and interrelated issues before Us in this case involve the seemingly elementary matter of the Commission on Elections' (COMELEC) jurisdiction over the expulsion of a sitting party-list representative: from the House of Representatives, on the one hand; and from his party-list organization, on the other.

The instant case involves two rival factions of the same party-list organization, the Adhikaing Tinataguyod ng Kooperatiba (Ating Koop). One group is headed by petitioner Atty. Isidro Q. Lico (the Lico Group), who represents the organization in the House of Representatives, and the other group by Amparo T. Rimas (respondents herein, or the Rimas Group).

THE CASE

Before Us is a Petition for Certiorari under Rule 64[1] in relation to Rule 65,[2] seeking to annul the Resolutions in E.M. No. 12-039 dated 18 July 2012 and 31 January 2013 of the COMELEC.

THE ANTECEDENT FACTS

Ating Koop is a multi-sectoral party-list organization which was registered on 16 November 2009 under Republic Act (R.A.) No. 7941, also known as the Party-List System Act (Party-List Law).

Under Ating Koop's Constitution and By-Laws, its highest policymaking body is the National Convention. The Central Committee, however, takes over when the National Convention is not in session.[3]

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[1] Rule 64 of the Rules of Court deals with review of judgments and final orders or resolutions of the Commission on Elections and the Commission on Audit.

[2] Rule 65 of the Rules of Court relates to the special civil actions of *certiorari*, prohibition and *mandamus*.

[3] Article V, Section 2 of the Constitution of Ating Koop and Section 1, Article V of its Amended Constitution. *Id*. at 384 and 1621. For the

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On 30 November 2009, Ating Koop filed its Manifestation of Intent to Participate in the Party-List System of Representation for the 10 May 2010 Elections.[4] On 6 March 2010, it filed with the COMELEC the list of its nominees, with petitioner Lico as first nominee and Roberto Mascariña as second nominee.

On 8 December 2010, COMELEC proclaimed Ating Koop as one of the winning party-list groups.[5] Based on the procedure provided in *BANAT Party-List v. COMELEC*,[6] Ating Koop earned a seat in the House of Representatives. Petitioner Lico subsequently took his oath of office on 9 December 2010 before the Secretary-General of the House of Representatives,[7] and thereafter assumed office.

Several months prior to its proclamation as one of the winning party-list organizations, or on 9 June 2010, Ating Koop issued Central Committee Resolution 2010-01, which incorporated a term-sharing agreement signed by its nominees.[8] Under the

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years 2010-2013, the Central Committee and officers of Ating Koop consisted of the following:

1. Fr. Mario DJ Arenas as President;
2. Atty. Proculo Sarmen as Executive Vice President;
3. Mr. Eduardo C. Bato as Vice President for Luzon;
4. Dra. Sylvia Flores as Vice President for Visayas;
5. Mr. Isagani Daba as Vice President for Mindanao;
6. Ms. Erlinda Duque as Treasurer;
7. Mr. Reynaldo C. Golo as Auditor;
8. Mr. Roberto C. Mascariña as Executive Director;
9. Fr. Anton CT. Pascual as Independent Director;
10. Mr. Aurelio Jose as Head, Political Affairs Committee;
11. Ms. Cristina R. Salvosa as Head, Rules Committee;
12. Ms. Emma Dela Cerna as Head, Platform and Program;
13. Mr. Rito Fabella as Head, Finance Committee;
14. Ms. Amparo Rimas as Head, Membership;
15. Atty. James dela Vega as Secretary General. *Id*. at 193-194.

[4] *Id*. at 1511.

[5] *Id*. at 299.

[6] G.R. No. 177508, 7 August 2009, 595 SCRA 477.

[7] *Rollo*, p. 300.

[8] *Id*. at 1578-1585.

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agreement, petitioner Lico was to serve as Party-list Representative for the first year of the three-year term.[9]

On 14 May 2011, Ating Koop held its Second National Convention, during which it introduced amendments to its Constitution and By-laws. Among the salient changes was the composition of the Central Committee,[10] which would still be composed of 15 representatives but with *five each coming from Luzon, Visayas and Mindanao* (5-5-5 equal representation).[11] The amendments likewise mandated the holding of an election of Central Committee members within six months after the Second National Convention.[12]

In effect, the amendments cut short the three-year term of the incumbent members (referred to hereafter as the Interim Central Committee) of the Central Committee.[13] The Interim Central Committee was dominated by members of the Rimas Group.

On 5 December 2011, or almost one year after petitioner Lico had assumed office, the Interim Central Committee expelled him from Ating Koop for disloyalty.[14] Apart from allegations of malversation and graft and corruption, the Committee cited petitioner Lico's refusal to honor the term-sharing agreement as factual basis for disloyalty and as cause for his expulsion under Ating Koop's Amended Constitution and By-laws.[15]

On 8 December 2011, Congressman Lico filed a Motion for Reconsideration with the Interim Central Committee,[16] which

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[9] *Id*. at 1578-1583.

[10] *Id*. at 384 and 1621.

[11] *Id*. at 384 and 1621-1622.

[12] *Id*. at 1632.

[13] *Id*. at 1622.

[14] *Id*. at 689.

[15] *Id*. at 1454; Comment, p. 7.

[16] *Id*. at 689.

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subsequently denied the same in a Resolution dated 29 December 2011.[17]

While petitioner Lico's Motion for Reconsideration was pending, the Lico Group held a special meeting in Cebu City (the Cebu meeting) on 19 December 2011. At the said meeting, new members of the Central Committee, as well as a new set of officers, were elected.[18] The election was purportedly held for the purpose of implementing the 5-5-5 equal representation amendment made during the Second National Convention.[19]

On 21 January 2012, the Rimas Group held a Special National Convention in Parañaque City[20] (the Parañaque convention), at which a new Central Committee and a new set of officers were constituted.[21] Members of the Rimas Group won the election and occupied all the corresponding seats.

PROCEEDINGS BEFORE THE COMELEC SECOND DIVISION

On 16 March 2012, the Rimas Group, claiming to represent Ating Koop, filed with COMELEC a Petition against petitioner

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[17] *Id.* at 117-120.

[18] *Id.* at 1549-1558.

[19] *Id.* at 1556; the following were the new members of the Central Committee:

1.	Amelito L. Revuelta	Luzon
2.	Tirso C. Buenaventura	Luzon
3.	Rafael A. Puentespina	Visayas
4.	William C. Ybanez	Visayas
5.	Rodolfo E. Perez	Visayas
6.	Hipolito R. Quillan	Visayas
7.	Jonathan B. Dequina	Visayas
8.	Lydia B. Tubella	Mindanao
9.	Atty. Proculo T. Sarmen	Mindanao
10.	Silverio J. Sanchez	Mindanao
11.	Reynold S. Alejo	Mindanao
12.	Francis C. Loque	Mindanao

[20] *Id.* at 155.

[21] *Id.* at 237.

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Lico docketed as E.M. No. 12-039.[22] The said Petition, which was subsequently raffled to the Second Division, prayed that petitioner Lico be ordered to vacate the office of Ating Koop in the House of Representatives, and for the succession of the second nominee, Roberto Mascariña as Ating Koop's representative in the House.

The Rimas Group thereafter filed an Amended Petition with the COMELEC on 14 May 2012, this time impleading not only petitioner Lico but the entire Lico Group. The Amended Petition also prayed that the COMELEC nullify the election conducted at the Cebu meeting and recognize the Parañaque convention.

In both the Petition and the Amended Petition, the Rimas Group alleged that Ating Koop had expelled Congressman Lico for acts inimical to the party-list group , such as malversation, graft and corruption, and that he had "boldly displayed his recalcitrance to honor party commitment to be upright and consistently honest, thus violating basic principles of the Ating Koop."[23] The Amended Petition stated further that the Cebu meeting held by the Lico Group violated notice and quorum requirements.[24]

In a Resolution dated 18 July 2012,[25] the COMELEC Second Division upheld the expulsion of petitioner Lico from Ating Koop and declared Mascariña as the duly qualified nominee of the party-list group.[26] The Second Division characterized the issue of the validity of the expulsion of petitioner Lico from Ating Koop as an intra-party leadership dispute, which it could resolve as an incident of its power to register political parties.[27]

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[22] *Id*. at 78.

[23] *Id*. at 150.

[24] *Id*. at 154.

[25] *Id*. at 687-696.

[26] *Id*. at 696.

[27] *Id*. at 692.

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PROCEEDINGS BEFORE THE COMELEC EN BANC

Consequently, the Lico Group filed a Motion for Reconsideration from the Second Division's Resolution, which the COMELEC *En Banc* denied on 31 January 2013. The dispositive portion of its Resolution reads:

> **WHEREFORE,** premises considered, the Commission (En Banc) **RESOLVES**, as it hereby **RESOLVED**, to:
>
> **a. DISMISS** the instant Petition to Expel Respondent Atty. Isidro Q. Lico in the House of Representatives and to Sanction the Immediate Succession of the Second Nominee of ATING KOOP Party List, Mr. Roberto C. Mascariña as its Party Representative, for lack of jurisdiction;
>
> **b. UPHOLD** the Expulsion of Respondent Atty. Isidro Lico from ATING KOOP Party-list Group; [and]
>
> **c. UPHOLD** the ATING KOOP Party-list Group represented by its President, Amparo T. Rimas, as the legitimate Party-list Group accredited by the Commission on Elections, to the exclusion of respondents Atty. Isidro Q. Lico, Rafael A. Puentespina, Proculo T. Sarmen, Amelito L. Revuelta, William C. Ybañez, Silverio J. Sanchez, Gloria G. Futalan, Hilario De Guzman, Eugene M. Pabualan, Rodolfo E. Perez, Hipolito R. Quillan, Mario Arenas, Tirso C. Buenaventura, Lydia B. Tubella, and Jonathan Dequina.[28]

In arriving at its Resolution, the COMELEC *En Banc* held that it had no jurisdiction to expel Congressman Lico *from the House of Representatives*, considering that his expulsion from Ating Koop affected his qualifications as member of the House, and therefore it was the House of Representatives Electoral Tribunal (HRET) that had jurisdiction over the Petition.

At the same time, the COMELEC upheld the validity of petitioner Lico's expulsion *from Ating Koop*, explaining that when the Interim Central Committee ousted him from Ating Koop, the said Committee's members remained in hold-over

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[28] *Id*. at 726.

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capacity even after their terms had expired;[29] and that the COMELEC was not in a position to substitute its judgment for that of Ating Koop with respect to the cause of the expulsion.[30]

Finally, the COMELEC *En Banc* recognized the Rimas Group as the legitimate representative of Ating Koop considering that: 1) it found nothing in the records to show that the Lico Group made a valid call for the special election of Central Committee members as required under the Amended Constitution and By-Laws;[31] 2) there is nothing on record indicating that a minimum of 100 attended the Cebu meeting;[32] and 3) the Parañaque convention was in accordance with Ating Koop's Amended Constitution and By-Laws.[33]

Hence, this Petition: the Lico Group now comes before Us, praying for a review of the COMELEC Resolutions.

THE COURT'S RULING

On the COMELEC's jurisdiction over the expulsion of a Member of the House of Representatives from his party-list organization

We find that while the COMELEC correctly dismissed the Petition to expel petitioner Lico from the House of Representatives for being beyond its jurisdiction, it nevertheless proceeded to rule upon the validity of his expulsion from Ating Koop – a matter beyond its purview.

The COMELEC notably characterized the Petition for expulsion of petitioner Lico from the House of Representatives and for the succession of the second nominee as party-list representative as a disqualification case. For this reason, the COMELEC dismissed the petition for lack of jurisdiction, insofar

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[29] *Id*. at 725; Resolution dated 31 January 2013, p. 4.

[30] *Id*. at 726; *id*. at 5.

[31] *Id.* at 725.

[32] *Id*. at 725-726; Resolution dated 31 January 2013, pp. 4-5.

[33] *Id*. at 726.

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as it relates to the question of unseating petitioner Lico from the House of Representatives.

Section 17, Article VI of the 1987 Constitution[34] endows the HRET with jurisdiction to resolve questions on the qualifications of members of Congress. In the case of party-list representatives, the HRET acquires jurisdiction over a disqualification case upon proclamation of the winning party-list group, oath of the nominee, and assumption of office as member of the House of Representatives.[35] In this case, the COMELEC proclaimed Ating Koop as a winning party-list group; petitioner Lico took his oath; and he assumed office in the House of Representatives. Thus, it is the HRET, and not the COMELEC, that has jurisdiction over the disqualification case.

What We find to be without legal basis, however, is the action of the COMELEC in upholding the validity of the expulsion of petitioner Lico from Ating Koop, despite its own ruling that the HRET has jurisdiction over the disqualification issue. These findings already touch upon the qualification requiring a party-list nominee to be a *bona fide* member of the party-list group sought to be represented.

The COMELEC justified its Resolution on the merits of the expulsion, by relying on the rule that it can decide intra-party matters as an incident of its constitutionally granted powers and functions. It cited *Lokin v. COMELEC*, where We held that when the resolution of an intra-party controversy is necessary

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[34] SECTION 17. The Senate and the House of Representatives shall each have an Electoral Tribunal, which shall be the **sole judge of all contests relating to the election, returns, and qualifications of their respective Members.** Each Electoral Tribunal shall be composed of nine Members, three of whom shall be Justices of the Supreme Court to be designated by the Chief Justice, and the remaining six shall be Members of the Senate or the House of Representatives, as the case may be, who shall be chosen on the basis of proportional representation from the political parties and the parties or organizations registered under the party-list system represented therein. The senior Justice in the Electoral Tribunal shall be its Chairman. (Emphasis supplied)

[35] *Infra*, note 41.

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or incidental to the performance of the constitutionally-granted functions of the COMELEC, the latter can step in and exercise jurisdiction over the intra-party matter.[36] The *Lokin* case, however, involved *nominees* and not incumbent *members* of Congress. In the present case, the fact that petitioner Lico was a member of Congress at the time of his expulsion from Ating Koop removes the matter from the jurisdiction of the COMELEC.

The rules on intra-party matters and on the jurisdiction of the HRET are not parallel concepts that do not intersect. Rather, the operation of the rule on intra-party matters is circumscribed by Section 17 of Article VI of the 1987 Constitution and jurisprudence on the jurisdiction of electoral tribunals. The jurisdiction of the HRET is **exclusive.** It is given full authority to hear and decide the cases on any matter touching on the validity of the title of the proclaimed winner.[37]

In the present case, the Petition for petitioner Lico's expulsion from the House of Representatives is anchored on his expulsion from Ating Koop, which necessarily affects his title as member of Congress. A party-list nominee must have been, among others, a *bona fide* member of the party or organization for at least ninety (90) days preceding the day of the election.[38] Needless

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[36] G.R. No. 193808, 26 June 2012, 674 SCRA 538.

[37] *Javier v. COMELEC,* G.R. Nos. 68379-81, 22 September 1986.

[38] The requirement is found under Section 9 of the Party-List Law, which reads as follows:

> Sec. 9. *Qualification 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, **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.
>
> 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 until the expiration of his term.

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to say, *bona fide* membership in the party-list group is a **continuing** qualification. We have ruled that qualifications for public office, whether elective or not, are continuing requirements. They must be possessed not only at the time of appointment or election, or of assumption of office, but during the officer's **entire** tenure.[39]

This is not the first time that this Court has passed upon the issue of HRET jurisdiction over the requirements for *bona fide* membership in a party-list organization. In *Abayon v. HRET,*[40] it was argued that the petitioners did not belong to the marginalized and under-represented sectors that they should represent; as such, they could not be properly considered *bona fide* members of their respective party-list organizations. The Court held that it was for the HRET to interpret the meaning of the requirement of *bona fide* membership in a party-list organization. It reasoned that under Section 17, Article VI of the Constitution, the HRET is the **sole judge of all contests when it comes to qualifications of the members of the House of Representatives**.[41]

Consequently, the COMELEC failed to recognize that the issue on the validity of petitioner Lico's expulsion from Ating Koop is integral to the issue of his qualifications to sit in Congress. This is not merely an error of law but an error of jurisdiction correctible by a writ of certiorari;[42] the COMELEC should not have encroached into the expulsion issue, as it was outside its authority to do so.

Distinguished from Reyes v. COMELEC

Our ruling here must be distinguished from *Regina Ongsiako Reyes v. Commission on Elections*.[43] In that case, We upheld

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[39] *Maquiling v. COMELEC*, G.R. No. 195649, 16 April 2013, 696 SCRA 420.

[40] G.R. Nos. 189466 and 189506, 11 February 2010, 612 SCRA 375.

[41] *Abayon v. HRET, supra* at 381-385.

[42] *Villareal v. Aliga*, G.R. No. 166995, 13 January 2014.

[43] G.R. No. 207264, 25 June 2013.

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the disqualification by the COMELEC of petitioner Reyes, even as she was already proclaimed winner in the elections at the time she filed her petition with the High Court. In doing so, We rejected the argument that the case fell within the exclusive jurisdiction of the HRET.

In *Reyes*, the petitioner was proclaimed winner of the 13 May 2013 Elections, and took her oath of office before the Speaker of the House of Representatives. However, the Court ruled on her qualifications since she was **not yet** a member of the House of Representatives: petitioner Reyes had yet to assume office, the term of which would officially start at noon of 30 June 2013, when she filed a Petition for Certiorari with Prayer for Temporary Restraining Order and/or Preliminary Injunction and/or Status Quo Ante Order dated 7 June 2013 assailing the Resolutions ordering the cancellation of her Certificate of Candidacy. In the present case, all three requirements of proclamation, oath of office, and assumption of office were satisfied.

Moreover, in *Reyes,* the COMELEC *En Banc* Resolution disqualifying petitioner on grounds of lack of Filipino citizenship and residency had become final and executory when petitioner elevated it to this Court.[44] It should be mentioned that when petitioner Reyes filed her petition with the Court, the COMELEC *En Banc* had, as early as 5 June 2013, already issued a Certificate of Finality over its 14 May 2013 Resolution disqualifying her. Therefore, there was no longer any pending case on the qualifications of petitioner Reyes to speak of. Here, the question of whether petitioner Lico remains a member of the House of Representatives in view of his expulsion from Ating Koop is a subsisting issue.

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[44] The assailed COMELEC *En Banc* Resolution dated 14 May 2013 became final and executory as early as 19 May 2013, based on Section 3, Rule 37 of the COMELEC Rules of Procedure. The provision gives a five-day period, to be reckoned from promulgation, within which to file a Rule 64 petition with this Court. Petitioner, however, failed to do so. She filed it only on 10 June 2013.

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Finally, in *Reyes,* We found the question of jurisdiction of the HRET to be a non-issue, since the recourse of the petitioner to the Court appeared to be a mere attempt to prevent the COMELEC from implementing a final and executory judgment. We said that the petitioner therein took an inconsistent, if not confusing, stance, considering that she sought remedy before the Court, and yet asserted that it is the HRET which had jurisdiction over the case.[45] In this case, the question on the validity of petitioner Lico's expulsion from Ating Koop is a genuine issue that falls within the jurisdiction of the HRET, as it unmistakably affects his qualifications as party-list representative.

On which group legitimately represents Ating Koop

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.[46]

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.

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[45] *Reyes v. COMELEC,* G.R. No. 207264, 25 June 2013.

[46] *Supra*, Note 48.

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Both the Lico Group and the Rimas Group indeed assert that their respective elections were conducted pursuant to the amendment introduced in the Second National Convention held on 14 May 2011. In particular, Section 1 of Article VI of Ating Koop's By-laws called for the conduct of an election of Central Committee members within six months after the Second National Convention.[47]

There is no showing, however, that the amendments were actually filed with the COMELEC.

A party-list organization owes its existence to the State and the latter's approval must be obtained through its agent, the COMELEC. In the 2013 case of *Dayao v. COMELEC,*[48] We declared that it is the State, acting through the COMELEC, that breathes life to a party-list organization. The implication, therefore, is that the State, through the COMELEC, is a party to the principal contracts entered into by the party-list organization and its members - the Constitution and By-laws - such that any amendment to these contracts would constitute a novation requiring the consent of all the parties involved. An amendment to the by-laws of a party-list organization should become effective only upon approval by the COMELEC.

Such a prerequisite is analogous to the requirement of filing of the amended by-laws and subsequent conformity thereto of the Securities and Exchange Commission (SEC) under corporation law. Under the Corporation Code, an amendment to a by-law provision must be filed with the SEC. The amendment shall be effective only upon the issuance by the SEC of a certification that it is not inconsistent with the Corporation Code.[49]

There being no showing that the amendments on the by-

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[47] *Id*. at 1632. The provision states:

SECTION 1. A special election of the members of the Central Committee, after due notice, shall be conducted six months after the approval of the amendments of this Constitution.

[48] G.R. No. 193643, January 29, 2013, 689 SCRA 412.

[49] Section 48, Corporation Code.

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laws of Ating Koop were filed with and subsequently approved by the COMELEC, any election conducted pursuant thereto may not be considered valid. Without such requisite proof, neither the Lico Group nor the Rimas Group can claim to be the legitimate set of officers of Ating Koop.

Even assuming *arguendo* that the amendment calling for a special election were effective, this Court still cannot declare any of the feuding groups as the legitimate set of officers considering that the respective sets of evidence presented were evenly balanced. With respect to the Lico Group's Cebu meeting, the COMELEC correctly found – and the records bear out - that the notices sent were deficient and that there was no sufficient proof of quorum. Hence, the Cebu meeting was held to be invalid. On the other hand, the COMELEC failed to appreciate the fact that the Parañaque convention suffered from the same infirmity: the records of the said convention, consisting merely of the Minutes thereof, likewise fail to establish due notice and a quorum.[50]

Accordingly, as neither group can sufficiently lay claim to legitimacy, the equipoise doctrine comes into play. This rule provides that when the evidence in an issue of fact is in equipoise, that is, when the respective sets of evidence of both parties are evenly balanced, the party having the burden of proof fails in that issue. Since neither party succeeds in making out a case, neither side prevails. The courts are left with no other option but to leave them as they are. The consequence, therefore, is the dismissal of the complaint/petition.[51]

The Rimas Group, being the petitioner before the COMELEC, had the burden of proving that it is the petitioner, and not the Lico Group, that is the legitimate group. As the evidence of both parties are in equipoise, the Rimas Group failed to discharge its burden. The COMELEC should have dismissed the petition of the Rimas Group insofar as it sought to be declared the legitimate group representing Ating Koop.

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[50] *Rollo,* pp. 1568-1576.

[51] *Rivera v. Court of Appeals,* 348 Phil. 734 (1998).

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Yet, the COMELEC held that the Parañaque convention "appeared to be in conformity" with Ating Koop's Amended Constitution and By-Laws.[52] It should be stressed that the COMELEC did not even substantiate this conclusion.[53]

The Court ordinarily refrains from reviewing the COMELEC's appreciation and evaluation of the evidence.[54] But when the COMELEC's assessment of the evidence is so grossly unreasonable that it turns into an error of jurisdiction, the Court is compelled to intervene and correct the error.[55]

As seen in the above discussions, neither of the parties was able to establish its legitimacy. The evaluation of the evidence by the COMELEC in deciding the issue of which group legitimately represents Ating Koop was therefore grossly unreasonable, which amounts to a jurisdictional error that may be remedied by certiorari under Rule 65.

The final, and most important question to be addressed is: if neither of the two groups is the legitimate leadership of Ating Koop, then who is?

We find such legitimate leadership to be the Interim Central Committee, whose members remain as such in a hold-over capacity.

In *Señeres v. COMELEC,*[56] the validity of the Certificate of Nomination filed by Buhay Party-List through its President, Roger Robles, was questioned on the ground that his term had expired at the time it was filed. The Court applied by analogy the default rule in corporation law to the effect that officers and directors of a corporation hold over after the expiration of

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[52] *Id*. at 726.

[53] *Id*.

[54] *Mitra v. Commission on Elections,* G.R. No. 191938, 2 July 2010, 622 SCRA 744.

[55] *Sabili v. COMELEC*, G.R. No. 193261, 24 April 2012, 670 SCRA 664.

[56] 603 Phil. 532 (2009).

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their terms until such time as their successors are elected or appointed.[57] *Señeres* ruled that the hold-over principle applies in the absence of a provision in the constitution or by-laws of the party-list organization prohibiting its application.

In the present case, We have gone through the Constitution and By-laws of Ating Koop and We do not see any provision forbidding, either expressly or impliedly, the application of the hold-over rule. Thus, in accordance with corporation law, the existing Interim Central Committee is still a legitimate entity with full authority to bind the corporation and to carry out powers despite the lapse of the term of its members on 14 November 2011, since no successors had been validly elected at the time, or since.

WHEREFORE, premises considered, the Petition is **GRANTED.** The COMELEC *En Banc* Resolution dated 31 January 2013 and the COMELEC Second Division Resolution dated 18 July 2012 in E.M. No. 12-039 are hereby **ANNULLED and SET ASIDE** insofar as it declares valid the expulsion of Congressman Lico from Ating Koop and it upholds the ATING KOOP Party-list Group represented by its President, Amparo T. Rimas, as the legitimate Party-list Group.

A new one is entered **DECLARING** that the legitimate Central Committee and set of officers legitimately representing Ating Koop are the Interim Central Committee and set of officers prior to the split of Ating Koop.

SO ORDERED.

Carpio, Leonardo-de Castro, Peralta, del Castillo, Villarama, Jr., Perez, and *Leonen, JJ.,* concur.

Jardeleza, J., no part.

Velasco, Jr., Bersamin, Mendoza, and *Perlas-Bernabe, JJ.,* on official leave.

Brion and *Reyes, JJ.,* on leave.

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[57] *Id*. at 568-570.