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WHEREFORE, the petition is *DENIED*. The Decision of the Court of Appeals dated May 30, 2006 is *AFFIRMED*.

SO ORDERED.

Quisumbing (Chairperson), Tinga, Velasco, Jr., and *Brion, JJ., concur.*

EN BANC

[G.R. No. 178678. April 16, 2009]

DR. HANS CHRISTIAN M. SEÑERES, *petitioner, vs.* **COMMISSION ON ELECTIONS and MELQUIADES A. ROBLES,** *respondents.*

SYLLABUS

1. REMEDIAL LAW; SPECIAL CIVIL ACTIONS; *CERTIORARI;* WHEN MAY BE AVAILED OF.— A special civil action for *certiorari* may be availed of when the tribunal, board, or officer exercising judicial or quasi-judicial functions has acted without or in excess of jurisdiction and there is no appeal or any plain, speedy, and adequate remedy in the ordinary course of law for the purpose of annulling the proceeding. It is the "proper remedy to question any final order, ruling and decision of the COMELEC rendered in the exercise of its adjudicatory or quasi-judicial powers." For *certiorari* to prosper, however, there must be a showing that the COMELEC acted with grave abuse of discretion and that there is no appeal or any plain, speedy and adequate remedy in the ordinary course of law.

2. ID.; ID.; ID.; IMPROPER REMEDY IN CASE AT BAR.— In the present case, a plain, speedy and adequate remedy in the ordinary course of law was available to Señeres. The 1987 Constitution cannot be more explicit in this regard. Its Article VI, Section 17 states: Sec. 17. The Senate and the House of Representatives

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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. x x x This constitutional provision is reiterated in Rule 14 of the 1991 Revised Rules of the Electoral Tribunal of the House of Representatives, to wit: RULE 14. *Jurisdiction.*—The Tribunal shall be the sole judge of all contests relating to the election, returns and qualifications of the Members of the House of Representatives. In *Lazatin v. House Electoral Tribunal*, the Court elucidated on the import of the word "sole" in Art. VI, Sec. 17 of the Constitution, thus: The use of the word 'sole' emphasizes the exclusive character of the jurisdiction conferred. The exercise of the power by the Electoral Commission under the 1935 Constitution has been described as 'intended to be as complete and unimpaired as if it had remained originally in the legislature.' Earlier, this grant of power to the legislature was characterized by Justice Malcolm as 'full, clear and complete.' Under the amended 1935 Constitution, the power was unqualifiedly reposed upon the Electoral Tribunal and it remained as full, clear and complete as that previously granted the legislature and the Electoral Commission. The same may be said with regard to the jurisdiction of the Electoral Tribunals under the 1987 Constitution." Then came *Rasul v. COMELEC and Aquino-Oreta*, in which the Court again stressed that "the word 'sole' in Sec. 17, Art. VI of the 1987 Constitution and Sec. 250 of the Omnibus Election Code underscore the exclusivity of the Tribunal's jurisdiction over election contests relating to its members." The House of Representatives Electoral Tribunal's (HRET's) sole and exclusive jurisdiction over contests relative to the election, returns and qualifications of the members of the House of Representatives "begins only after a candidate has become a member of the House of Representatives." Thus, once a winning candidate has been proclaimed, taken his oath, and assumed office as a Member of the House of Representatives, COMELEC's jurisdiction over elections relating to the election, returns, and qualifications ends, and the HRET's own jurisdiction begins.

3. ID.; ID.; ID.; A PLAIN, SPEEDY AND ADEQUATE REMEDY IN THE ORDINARY COURSE OF LAW WHICH WAS AVAILABLE TO PETITIONER.— Without a doubt, at the time Señeres filed this petition before this Court on July 23, 2007, the right of the nominees as party-list representatives had been

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recognized and declared in the July 19, 2007 Resolution and the nominees had taken their oath and already assumed their offices in the House of Representatives. As such, the proper recourse would have been to file a petition for *quo warranto* before the HRET within ten (10) days from receipt of the July 19, 2007 Resolution and not a petition for *certiorari* before this Court. Since Señeres failed to file a petition for *quo warranto* before the HRET within 10 days from receipt of the July 19, 2007 Resolution declaring the validity of Robles' Certificate of Nomination, said Resolution of the COMELEC has already become final and executory. Thus, this petition has now become moot and can be dismissed outright. And even if we entertain the instant special civil action, still, petitioner's postulations are bereft of merit.

4. ID.; ID.; ID.; A PETITION FOR *QUO WARRANTO* BEFORE THE HOUSE OF REPRESENTATIVES ELECTORAL TRIBUNAL (HRET) IS THE PROPER REMEDY IN CASE AT BAR.— Robles' act of submitting a nomination list for BUHAY cannot, without more, be considered electioneering or partisan political activity within the context of the Election Code. First of all, petitioner did not aver that Robles committed any of the five (5) acts defined in the aforequoted Sec. 79(b) of the Code, let alone adduce proof to show the fact of commission. Second, even if Robles performed any of the previously mentioned acts, Sec. 79 of the Code is nonetheless unequivocal that if the same is done only for the "purpose of enhancing the chances of aspirants for nominations for candidacy to a public office by a political party, agreement, or coalition of parties," it is not considered as a prohibited electioneering or partisan election activity. From this provision, one can conclude that as long as the acts embraced under Sec. 79 pertain to or are in connection with the nomination of a candidate by a party or organization, then such are treated as internal matters and cannot be considered as electioneering or partisan political activity. The twin acts of signing and filing a Certificate of Nomination are purely internal processes of the party or organization and are not designed to enable or ensure the victory of the candidate in the elections. The act of Robles of submitting the certificate nominating Velarde and others was merely in compliance with the COMELEC requirements for nomination of party-list representatives and, hence, cannot be treated as electioneering or partisan political activity proscribed under by Sec. 2(4) of

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Art. IX(B) of the Constitution for civil servants. Moreover, despite the fact that Robles is a nominating officer, as well as Chief of the LRTA, petitioner was unable to cite any legal provision that prohibits his concurrent positions of LRTA President and acting president of a party-list organization or that bars him from nominating. Last but not least, the nomination of Velarde, Coscolluela, Tieng, Monsod, and Villarama to the 2007 party-list elections was, in the final analysis, an act of the National Council of BUHAY. Robles' role in the nominating process was limited to signing, on behalf of BUHAY, and submitting the party's Certificate of Nomination to the COMELEC. The act of nominating BUHAY's representatives was veritably a direct and official act of the National Council of BUHAY and not Robles'. Be that as it may, it is irrelevant who among BUHAY's officials signs the Certificate of Nomination, as long as the signatory was so authorized by BUHAY. The alleged disqualification of Robles as nominating officer is indeed a non-issue and does not affect the act of the National Council of nominating Velarde and others. Hence, the Certificate of Nomination, albeit signed by Robles, is still the product of a valid and legal act of the National Council of BUHAY. Robles' connection with LRTA could not really be considered as a factor invalidating the nomination process.

5. POLITICAL LAW; ELECTION LAWS; OMNIBUS ELECTION CODE; ACT OF NOMINATING IS NOT PARTISAN POLITICAL ACTIVITY.— As a general rule, officers and directors of a corporation hold over after the expiration of their terms until such time as their successors are elected or appointed. Sec. 23 of the Corporation Code contains a provision to this effect, thus: Section 23. *The board of directors or trustees*.—Unless otherwise provided in this Code, the corporate powers of all corporations formed under this Code shall be exercised, all business conducted and all property of such corporations controlled and held by the board of directors or trustees to be elected from among the holders of stocks, or where there is no stock, from among the members of the corporation, who shall hold office for one (1) year until their successors are elected and qualified. The holdover doctrine has, to be sure, a purpose which is at once legal as it is practical. It accords validity to what would otherwise be deemed as dubious corporate acts and gives continuity to a corporate enterprise in its relation to outsiders. This is the analogical

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situation obtaining in the present case. The voting members of BUHAY duly elected Robles as party President in October 1999. And although his regular term as such President expired in October 2002, no election was held to replace him and the other original set of officers. Further, the constitution and by-laws of BUHAY do not expressly or impliedly prohibit a hold-over situation. As such, since no successor was ever elected or qualified, Robles remained the President of BUHAY in a "hold-over" capacity.

6. ID.; ID.; "HOLD-OVER" PRINCIPLE UNDER THE CORPORATION CODE IS APPLICABLE IN CASE AT BAR.— Authorities are almost unanimous that one who continues with the discharge of the functions of an office after the expiration of his or her legal term—no successor having, in the meantime, been appointed or chosen—is commonly regarded as a *de facto* officer, even where no provision is made by law for his holding over and there is nothing to indicate the contrary. By fiction of law, the acts of such *de facto* officer are considered valid and effective. So it must be for the acts of Robles while serving as a hold-over Buhay President. Among these acts was the submission of the nomination certificate for the May 14, 2007 elections.

7. ID.; ID.; PETITIONER IS ESTOPPED FROM QUESTIONING THE AUTHORITY OF PRIVATE RESPONDENT AS PRESIDENT OF *BUHAY*; PETITIONER CANNOT NOW BE HEARD TO ARGUE THAT PRIVATE RESPONDENT'S TERM AS BUHAY PRESIDENT HAS LONG SINCE EXPIRED, AND THAT HIS ACT OF SUBMITTING THE CERTIFICATE OF NOMINATION AND THE MANIFESTATION TO PARTICIPATE IN THE 2007 ELECTIONS IS NULL AND VOID.— It bears to state that petitioner is estopped from questioning the authority of Robles as President of BUHAY. As a principle of equity rooted on natural justice, the bar of estoppel precludes a person from going back on his own acts and representations to the prejudice of another whom he has led to rely upon them. Again, it cannot be denied that Robles, as BUHAY President, signed all manifestations of the party's desire to participate in the 2001 and 2004 elections, as well as all Certificates of Nomination. In fact, the corresponding certificate for the 2004 elections included petitioner as one of the nominees. During this time, Robles' term as President had already expired, and yet, petitioner never

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questioned Robles' authority to sign the Certificate of Nomination. As a matter of fact, petitioner even benefited from the nomination, because he earned a seat in the House of Representatives as a result of the party's success. Clearly, petitioner cannot now be heard to argue that Robles' term as president of BUHAY has long since expired, and that his act of submitting the Certificate of Nomination and the manifestation to participate in the 2007 elections is null and void. He is already precluded from doing so.

APPEARANCES OF COUNSEL

Antonio R. Bautista and Partners for petitioner.
The Solicitor General for public respondent.
Romulo B. Macalintal for private respondent.

D E C I S I O N

VELASCO, JR., *J.*:

The Case

Before us is a Petition for *Certiorari*[1] under Rule 65 with a prayer for a temporary restraining order and/or preliminary injunction to nullify and enjoin the implementation of the Resolution[2] dated July 19, 2007 of the Commission on Elections (COMELEC), which declared respondent Melquiades Robles (Robles) as the President of BUHAY HAYAAN YUMABONG (BUHAY).

The Undisputed Facts

In 1999, private respondent Robles was elected president and chairperson of BUHAY, a party-list group duly registered with COMELEC.[3] The constitution of BUHAY provides for a three-year term for all its party officers, without re-election.[4]

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[1] *Rollo*, pp. 3-17.

[2] *Id.* at 20-26.

[3] BUHAY was registered with the COMELEC on March 9, 2001. *Rollo*, p. 132.

[4] *Id.* at 172.

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BUHAY participated in the 2001 and 2004 elections, with Robles as its president. All the required Manifestations of Desire to Participate in the said electoral exercises, including the Certificates of Nomination of representatives, carried the signature of Robles as president of BUHAY.[5] On January 26, 2007, in connection with the May 2007 elections, BUHAY again filed a Manifestation of its Desire to Participate in the Party-List System of Representation.[6] As in the past two elections, the manifestation to participate bore the signature of Robles as BUHAY president.

On March 29, 2007, Robles signed and filed a Certificate of Nomination of BUHAY's nominees for the 2007 elections containing the following names: (i) Rene M. Velarde, (ii) Ma. Carissa Coscolluela, (iii) William Irwin C. Tieng, (iv) Melchor R. Monsod, and (v) Teresita B. Villarama. Earlier, however, or on March 27, 2007, petitioner Hans Christian Señeres, holding himself up as acting president and secretary-general of BUHAY, also filed a Certificate of Nomination with the COMELEC, nominating: (i) himself, (ii) Hermenegildo C. Dumlao, (iii) Antonio R. Bautista, (iv) Victor Pablo C. Trinidad, and (v) Eduardo C. Solangon, Jr.[7]

Consequently, on April 17, 2007, Señeres filed with the COMELEC a Petition to Deny Due Course to Certificates of Nomination.[8] In it, petitioner Señeres alleged that he was the acting president and secretary-general of BUHAY, having assumed that position since August 17, 2004 when Robles vacated the position. Pushing the point, Señeres would claim that the nominations made by Robles were, for lack of authority, null and void owing to the expiration of the latter's term as party president. Furthermore, Señeres asserted that Robles was, under the Constitution,[9] disqualified from being an officer of any political

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[5] *Id.* at 130-133.

[6] *Id.* at 134.

[7] *Id.* at 6.

[8] *Id.* at 27-31.

[9] *See* 1987 CONSTITUTION, Art. IX (B), Sec. 2 (4).

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party, the latter being the Acting Administrator of the Light Railway Transport Authority (LRTA), a government-controlled corporation. Robles, so Señeres would charge, was into a partisan political activity which civil service members, like the former, were enjoined from engaging in.

On May 10, 2007, the National Council of BUHAY adopted a resolution[10] expelling Señeres as party member for his act of submitting a Certificate of Nomination for the party. The resolution reads in part:

WHEREAS, Hans Christian M. Señeres, without authority from the National Council, caused the filing of his Certificate of Nomination with the Comelec last 27 March 2007.

WHEREAS, Hans Christian M. Señeres, again without authority from the National Council, listed in his Certificate of Nomination names of persons who are not even members of the Buhay party.

WHEREAS, Hans Christian M. Señeres, knowing fully well that the National Council had previously approved the following as its official nominees, to wit x x x to the 2007 Party-List elections; and that Mr. Melquiades A. Robles was authorized to sign and submit the party's Certificate of Nomination with the Comelec; and, with evident premeditation to put the party to public ridicule and with scheming intention to create confusion, still proceeded with the filing of his unauthorized certificate of nomination even nomination persons who are not members of Buhay.

WHEREAS, Hans Christian M. Señeres, in view of the foregoing, underwent Party Discipline process pursuant to Article VII of the Constitution and By-Laws of the Party.

x x x x x x x x x

WHEREAS, after a careful examination of the [evidence] on his case, the National Council found Hans Christian M. Señeres to have committed acts in violation of the constitution and by-laws of the party and decided to expel him as a member of the party.

NOW THEREFORE, be it **RESOLVED** as it is hereby **RESOLVED** that the National Council has decided to expel Hans M. Señeres as a member of the party effective close of business hour of 10 May 2007.

[10] *Rollo*, p. 40.

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BE IT RESOLVED FURTHER, that all rights and privileges pertaining to the membership of Hans M. Señeres with the party are consequently cancelled.

BE IT RESOLVED FURTHER, that the President and Chairman of the National Council of Buhay, Mr. Melquiades A. Robles, is hereby authorized to cause the necessary filing of whatever documents/letters before the House of Representatives and/or to any other entity/agency/person to remove/drop Mr. Señeres' name in the roll of members in the said lower house.[11]

Later developments saw Robles filing a petition praying for the recognition of Jose D. Villanueva as the new representative of BUHAY in the House of Representatives for the remaining term until June 30, 2007.[12] Attached to the petition was a copy of the expelling resolution adverted to. Additionally, Robles also filed on the same day an "Urgent Motion to Declare Null and Void the Certificate of Nomination and Certificates of Acceptance filed by Hans Christian M. Señeres, Hermenegildo Dumlao, Antonio R. Bautista, Victor Pablo Trinidad and Eduardo Solangon, Jr."[13]

On July 9 and July 18, 2007, respectively, the COMELEC issued two resolutions proclaiming BUHAY as a winning party-list organization for the May 2007 elections entitled to three (3) House seats.[14]

This was followed by the issuance on July 19, 2007 by the *en banc* COMELEC of Resolution E.M. No. 07-043 recognizing and declaring Robles as the president of BUHAY and, as such, was the one "duly authorized to sign documents in behalf of the party particularly the Manifestation to participate in the party-list system of representation and the Certification of

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[11] *Id.* at 36. The Resolution was signed by Melquiades A. Robles, Melchor R. Monsod, Emmanuel R. Sison, Wilfrido B. Villarama, and Norberto D. Enriquez.

[12] *Id.* at 39.

[13] *Id.* at 32-34.

[14] NBC Resolution No. 07-60, July 9, 2007, *id.* at 67-72; NBC Resolution No. 07-72, July 18, 2007, *id.* at 73-77.

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Nomination of its nominees."[15] Explaining its action, COMELEC stated that since no party election was held to replace Robles as party president, then he was holding the position in a hold-over capacity.[16]

The COMELEC disposed of the partisan political activity issue with the terse observation that Señeres' arguments on the applicability to Robles of the prohibition on partisan political activity were unconvincing.[17] The dispositive portion of the COMELEC Resolution reads:

> WHEREFORE, premises considered, this Commission (*En Banc*) hereby recognizes Melquiades A. Robles as the duly authorized representative of *Buhay Hayaan Yumabong* (Buhay) and to act for and in its behalf pursuant to its Constitution and By-Laws.
>
> SO ORDERED.[18]

On July 20, 2007, the first three (3) listed nominees of BUHAY for the May 2007 elections, as per the Certificate of Nomination filed by Robles, namely Rene M. Velarde, Ma. Carissa Coscolluela, and William Irwin C. Tieng, took their oaths of office as BUHAY party-list representatives in the current Congress.[19] Accordingly, on September 3, 2007, the COMELEC, sitting as National Board of Canvassers, issued a Certificate of Proclamation to BUHAY and its nominees as representatives to the House of Representatives.[20]

Aggrieved, petitioner filed the instant petition.

The Issue

Whether or not the COMELEC acted without or in excess of jurisdiction or with grave abuse of discretion amounting to lack or excess of jurisdiction in issuing its challenged Resolution dated June

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[15] *Id.* at 25.

[16] *Id.*

[17] *Id.*

[18] *Id.*

[19] *Id.* at 115.

[20] *Id.* at 213.

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19, 2007, which declared respondent Robles as the duly authorized representative of BUHAY, and there is no appeal or any other plain, speedy or adequate remedy in the ordinary course of law except the instant petition.

Our Ruling

The petition should be dismissed for lack of merit.

Petition for *Certiorari* Is an Improper Remedy

A crucial matter in this recourse is whether the petition for *certiorari* filed by Señeres is the proper remedy.

A special civil action for *certiorari* may be availed of when the tribunal, board, or officer exercising judicial or quasi-judicial functions has acted without or in excess of jurisdiction and there is no appeal or any plain, speedy, and adequate remedy in the ordinary course of law for the purpose of annulling the proceeding.[21] It is the "proper remedy to question any final order, ruling and decision of the COMELEC rendered in the exercise of its adjudicatory or quasi-judicial powers."[22] For *certiorari* to prosper, however, there must be a showing that the COMELEC acted with grave abuse of discretion and that there is no appeal or any plain, speedy and adequate remedy in the ordinary course of law.

In the present case, a plain, speedy and adequate remedy in the ordinary course of law was available to Señeres. The 1987 Constitution cannot be more explicit in this regard. Its Article VI, Section 17 states:

Sec. 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. x x x

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[21] *Guerrero v. COMELEC*, G.R. No. 137004, July 26, 2000, 336 SCRA 458, 466; citing *Suntay v. Conjuangco-Suntay*, G.R. No. 132524, December 29, 1998, 300 SCRA 760, 766.

[22] *Id.*; citing *Loong v. Commission on Elections, et al.*, G.R. No. 133676, April 14, 1999, 305 SCRA 832, 852.

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This constitutional provision is reiterated in Rule 14 of the 1991 Revised Rules of the Electoral Tribunal of the House of Representatives, to wit:

RULE 14. *Jurisdiction.*—The Tribunal shall be the sole judge of all contests relating to the election, returns and qualifications of the Members of the House of Representatives.

In *Lazatin v. House Electoral Tribunal*, the Court elucidated on the import of the word "sole" in Art. VI, Sec. 17 of the Constitution, thus:

The use of the word 'sole' emphasizes the exclusive character of the jurisdiction conferred. The exercise of the power by the Electoral Commission under the 1935 Constitution has been described as 'intended to be as complete and unimpaired as if it had remained originally in the legislature.' Earlier, this grant of power to the legislature was characterized by Justice Malcolm as 'full, clear and complete.' Under the amended 1935 Constitution, the power was unqualifiedly reposed upon the Electoral Tribunal and it remained as full, clear and complete as that previously granted the legislature and the Electoral Commission. The same may be said with regard to the jurisdiction of the Electoral Tribunals under the 1987 Constitution."[23]

Then came *Rasul v. COMELEC and Aquino-Oreta*, in which the Court again stressed that "the word 'sole' in Sec. 17, Art. VI of the 1987 Constitution and Sec. 250 of the Omnibus Election Code underscore the exclusivity of the Tribunal's jurisdiction over election contests relating to its members."[24]

The House of Representatives Electoral Tribunal's (HRET's) sole and exclusive jurisdiction over contests relative to the election, returns and qualifications of the members of the House of Representatives "begins only after a candidate has become a member of the House of Representatives."[25] Thus, once a

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[23] No. 84297, December 8, 1988, 168 SCRA 391, 401.

[24] G.R. No. 134142, August 24, 1999, 313 SCRA 18, 23.

[25] *Romualdez-Marcos v. Commission on Elections*, G.R. No. 119976, September 18, 1995, 248 SCRA 300, 340-341. *See* also *Domino v. COMELEC*, G.R. No. 134015, July 19, 1999, 310 SCRA 547; *Aquino v. COMELEC*, G.R. No. 120265, September 18, 1995, 248 SCRA 400.

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winning candidate has been proclaimed, taken his oath, and assumed office as a Member of the House of Representatives, COMELEC's jurisdiction over elections relating to the election, returns, and qualifications ends, and the HRET's own jurisdiction begins.[26]

It is undisputed that the COMELEC, sitting as National Board of Canvassers, proclaimed BUHAY as a winning party-list organization for the May 14, 2007 elections, entitled to three (3) seats in the House of Representatives.[27] The proclamation came in the form of two Resolutions dated July 9, 2007 and July 18, 2007,[28] respectively. Said resolutions are official proclamations of COMELEC considering it is BUHAY that ran for election as party-list organization and not the BUHAY nominees.

The following day, on July 19, 2007, the COMELEC issued the assailed resolution declaring "Melquiades A. Robles as the duly authorized representative of Buhay Hayaan Yumabong (Buhay) and to act in its behalf pursuant to its Constitution and By-Laws." COMELEC affirmed that his Certificate of Nomination was a valid one as it ruled that "Robles is the President of Buhay Party-List and therefore duly authorized to sign documents in behalf of the party particularly the Manifestation to participate in the pary-list system of representation and the **Certificate of Nomination of its nominees**."[29] The September 3, 2007 proclamation merely confirmed the challenged July 19, 2007 Resolution. The July 19, 2007 Resolution coupled with the July 9, 2007 and July 18, 2007 proclamations vested the Robles nominees the right to represent BUHAY as its sectoral representatives.

Consequently, the first three (3) nominees in the Certificate of Nomination submitted by Robles then took their oaths of

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[26] *Aggabao v. COMELEC*, G.R. No. 163756, January 26, 2005, 449 SCRA 400; *Guerrero*, *supra* note 21; *Lazatin*, *supra* note 23.

[27] *See* NBC Resolution No. 07-60 and 07-72, *rollo*, pp. 67-77.

[28] *Supra* note 14.

[29] *Rollo*, p. 211.

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office before the Chief Justice on July 20, 2007 and have since then exercised their duties and functions as BUHAY Party-List representatives in the current Congress.

Without a doubt, at the time Señeres filed this petition before this Court on July 23, 2007, the right of the nominees as party-list representatives had been recognized and declared in the July 19, 2007 Resolution and the nominees had taken their oath and already assumed their offices in the House of Representatives. As such, the proper recourse would have been to file a petition for *quo warranto* before the HRET within ten (10) days from receipt of the July 19, 2007 Resolution and not a petition for *certiorari* before this Court.[30]

Since Señeres failed to file a petition for *quo warranto* before the HRET within 10 days from receipt of the July 19, 2007 Resolution declaring the validity of Robles' Certificate of Nomination, said Resolution of the COMELEC has already become final and executory. Thus, this petition has now become moot and can be dismissed outright. And even if we entertain the instant special civil action, still, petitioner's postulations are bereft of merit.

Act of Nominating Is Not Partisan Political Activity

Petitioner Señeres contends that Robles, acting as BUHAY President and nominating officer, as well as being the Administrator of the LRTA, was engaging in electioneering or partisan political campaign. He bases his argument on the Constitution, which prohibits any officer or employee in the civil service from engaging, directly or indirectly, in any electioneering or partisan political campaign.[31] He also cites Sec. 4 of the Civil Service Law which provides that "no officer or employee in the Civil Service x x x shall engage in any partisan political activity." Lastly, he mentions Sec. 26(i) of the Omnibus Election Code which makes it "an election offense for any officer in the civil service to directly or indirectly x x x engage in any partisan political activity."

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[30] *See* Revised Rules of the HRET, Rule 17.

[31] CONSTITUTION, Art. IX(B), Sec. 2(4).

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This contention lacks basis and is far from being persuasive. The terms "electioneering" and "partisan political activity" have well-established meanings in the Omnibus Election Code, to wit:

> Section 79. x x x
>
> (b) The term 'election campaign' or 'partisan political activity' refers to an act designed to promote the election or defeat of a particular candidate or candidates to a public office which shall include:
>
> (1) Forming organizations, associations, clubs, committees, or other groups of persons for the purpose of soliciting votes and/or undertaking any campaign for or against a candidate;
>
> (2) Holding political caucuses, conferences, meetings, rallies, parades, or other similar assemblies, for the purpose of soliciting votes and/or undertaking any campaign or propaganda for or against a candidate;
>
> (3) Making speeches, announcements or commentaries, or holding interviews for or against the election of any candidate for public office;
>
> (4) Publishing or distributing campaign literature or materials designed to support or oppose the election of any candidate; or
>
> (5) Directly or indirectly soliciting votes, pledges or support for or against a candidate.
>
> **The foregoing enumerated acts if performed for the purpose of enhancing the chances of aspirants for nominations for candidacy to a public office by a political party, agreement, or coalition of parties shall not be considered as election campaign or partisan election activity.**
>
> Public expression of opinions or discussions of probable issues in a forthcoming election or on attributes of or criticisms against probable candidates proposed to be nominated in a forth coming political party convention shall not be construed as part of any election campaign or partisan political activity contemplated under this Article. (Emphasis supplied.)

Guided by the above perspective, Robles' act of submitting a nomination list for BUHAY cannot, without more, be considered

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electioneering or partisan political activity within the context of the Election Code. First of all, petitioner did not aver that Robles committed any of the five (5) acts defined in the aforequoted Sec. 79(b) of the Code, let alone adduce proof to show the fact of commission.

Second, even if Robles performed any of the previously mentioned acts, Sec. 79 of the Code is nonetheless unequivocal that if the same is done only for the "purpose of enhancing the chances of aspirants for nominations for candidacy to a public office by a political party, agreement, or coalition of parties," it is not considered as a prohibited electioneering or partisan election activity.

From this provision, one can conclude that as long as the acts embraced under Sec. 79 pertain to or are in connection with the nomination of a candidate by a party or organization, then such are treated as internal matters and cannot be considered as electioneering or partisan political activity. The twin acts of signing and filing a Certificate of Nomination are purely internal processes of the party or organization and are not designed to enable or ensure the victory of the candidate in the elections. The act of Robles of submitting the certificate nominating Velarde and others was merely in compliance with the COMELEC requirements for nomination of party-list representatives and, hence, cannot be treated as electioneering or partisan political activity proscribed under by Sec. 2(4) of Art. IX(B) of the Constitution for civil servants.

Moreover, despite the fact that Robles is a nominating officer, as well as Chief of the LRTA, petitioner was unable to cite any legal provision that prohibits his concurrent positions of LRTA President and acting president of a party-list organization or that bars him from nominating.

Last but not least, the nomination of Velarde, Coscolluela, Tieng, Monsod, and Villarama to the 2007 party-list elections was, in the final analysis, an act of the National Council of BUHAY. Robles' role in the nominating process was limited to signing, on behalf of BUHAY, and submitting the party's

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Certificate of Nomination to the COMELEC.[32] The act of nominating BUHAY's representatives was veritably a direct and official act of the National Council of BUHAY and not Robles'. Be that as it may, it is irrelevant who among BUHAY's officials signs the Certificate of Nomination, as long as the signatory was so authorized by BUHAY. The alleged disqualification of Robles as nominating officer is indeed a non-issue and does not affect the act of the National Council of nominating Velarde and others. Hence, the Certificate of Nomination, albeit signed by Robles, is still the product of a valid and legal act of the National Council of BUHAY. Robles' connection with LRTA could not really be considered as a factor invalidating the nomination process.

"Hold-Over" Principle Applies

Petitioner Señeres further maintains that at the time the Certificate of Nomination was submitted, Robles' term as President of BUHAY had already expired, thus effectively nullifying the Certificate of Nomination and the nomination process.

Again, petitioner's contention is untenable. As a general rule, officers and directors of a corporation hold over after the expiration of their terms until such time as their successors are elected or appointed.[33] Sec. 23 of the Corporation Code contains a provision to this effect, thus:

Section 23. *The board of directors or trustees*.—Unless otherwise provided in this Code, the corporate powers of all corporations formed under this Code shall be exercised, all business conducted and all property of such corporations controlled and held by the board of directors or trustees to be elected from among the holders of stocks, or where there is no stock, from among the members of the corporation,

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[32] *Rollo*, p. 36.

[33] 2 Fletcher Cyc. Corp. § 344; *citing Skarda v. Commissioner of Internal Revenue*, 250 F2d 429; *Schuckman v. Rubenstein*, 164 F2d 952; *In re Mathews Const. Co.*, 120 F Supp 818; *Liken v. Shaffer*, 64 F Supp 432; *Ingram v. Omelet Shoppe, Inc.*, 388 So 2d 190 (Ala); *Robertson v. Hartman*, 6 Cal 2d 408, 57 P2d 1310; *Levine v. Randolph Corp.*, 150 Conn 232, 188 A2d 59, and other cases. *See also* 19 C.J.S. Corporations § 536.

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who shall hold office for one (1) year until their successors are elected and qualified.

The holdover doctrine has, to be sure, a purpose which is at once legal as it is practical. It accords validity to what would otherwise be deemed as dubious corporate acts and gives continuity to a corporate enterprise in its relation to outsiders.[34] This is the analogical situation obtaining in the present case. The voting members of BUHAY duly elected Robles as party President in October 1999. And although his regular term as such President expired in October 2002,[35] no election was held to replace him and the other original set of officers.[36] Further, the constitution and by-laws of BUHAY do not expressly or impliedly prohibit a hold-over situation. As such, since no successor was ever elected or qualified, Robles remained the President of BUHAY in a "hold-over" capacity.

Authorities are almost unanimous that one who continues with the discharge of the functions of an office after the expiration of his or her legal term—no successor having, in the meantime, been appointed or chosen—is commonly regarded as a *de facto* officer, even where no provision is made by law for his holding over and there is nothing to indicate the contrary.[37] By fiction of law, the acts of such *de facto* officer are considered valid and effective.[38]

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[34] 2 Fletcher Cyc. Corp. § 344; citing *Jacksonville Terminal Co. v. Florida East Coast Ry. Co.,* 363 F2d 216.

[35] *Rollo*, p. 12.

[36] *Id.* at 25.

[37] *Smith v. City Council of Charleston*, 198 SC 313, 17 SE2d 860, 863; citing *Heyward v. Long*, 178 SC 351, 365, 183 SE 145, 151, 114 ALR 1130; *Cantwell v. Southfield*, 95 Mich App 375, 290 NW2d 151; *Gilson v. Heffernan*, 40 NJ 367, 192 A2d 577; *Commonwealth v. Glass*, 295 Pa 291, 145 A 278; *Killian v. Wilkins*, 203 SC 74, 26 SE2d 246; *Whatley v. State*, 110 Tex Crim 337, 8 SW2d 174; *Thorington v. Gould*, 59 Ala 461; *Milliken v. Steiner*, 56 Ga 251 and other cases.

[38] *Topacio v. Ong*, G.R. No. 179895, December 18, 2008; citing *Tayko v. Capistrano*, 53 Phil. 866 (1928).

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So it must be for the acts of Robles while serving as a hold-over Buhay President. Among these acts was the submission of the nomination certificate for the May 14, 2007 elections.

As a final consideration, it bears to state that petitioner is estopped from questioning the authority of Robles as President of BUHAY. As a principle of equity rooted on natural justice, the bar of estoppel precludes a person from going back on his own acts and representations to the prejudice of another whom he has led to rely upon them.[39]

Again, it cannot be denied that Robles, as BUHAY President, signed all manifestations of the party's desire to participate in the 2001 and 2004 elections, as well as all Certificates of Nomination.[40] In fact, the corresponding certificate for the 2004 elections included petitioner as one of the nominees. During this time, Robles' term as President had already expired, and yet, petitioner never questioned Robles' authority to sign the Certificate of Nomination. As a matter of fact, petitioner even benefited from the nomination, because he earned a seat in the House of Representatives as a result of the party's success.[41] Clearly, petitioner cannot now be heard to argue that Robles' term as president of BUHAY has long since expired, and that his act of submitting the Certificate of Nomination and the manifestation to participate in the 2007 elections is null and void. He is already precluded from doing so.

WHEREFORE, the petition is *DISMISSED*. Resolution E.M. No. 07-043 of the COMELEC dated July 19, 2007 is *AFFIRMED*. No costs.

SO ORDERED.

Quisumbing, Ynares-Santiago, Carpio, Austria-Martinez, Corona, Carpio Morales, Tinga, Chico-Nazario, Nachura, Leonardo-de Castro, Brion, Peralta, and *Bersamin, JJ.*, concur.

Puno, C.J., no part. Close to the parties.

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[39] *Stokes v. Malayan Insurance Co., Inc.*, No. L-34768, February 24, 1984, 127 SCRA 766, 770.

[40] *Rollo*, pp. 123, 132-133.

[41] *Id.* at 124-125.