



Republic of the Philippines
Supreme Court
 Manila

EN BANC

**ABANG LINGKOD PARTY-LIST
 (ABANG LINGKOD),**
 Petitioner,

G.R. No. 206952

Present:

SERENO, *C.J.*,
 CARPIO,
 VELASCO, JR.,
 LEONARDO-DE CASTRO,
 BRION,
 PERALTA,
 BERSAMIN,
 DEL CASTILLO,*
 ABAD,
 VILLARAMA, JR.,
 PEREZ,
 MENDOZA,
 REYES,
 PERLAS-BERNABE, and
 LEONEN, *JJ.*

- versus -

COMMISSION ON ELECTIONS,
 Respondent.

Promulgated:

OCTOBER 22, 2013

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DECISION

REYES, J.:

This is a petition for *certiorari* under Rule 64 in relation to Rule 65 of the Rules of Court filed by Abang Lingkod Party-List (ABANG LINGKOD) assailing the Resolution¹ dated May 10, 2013 issued by the Commission on Elections (COMELEC) *En Banc* in SPP No. 12-238 (PLM), which, *inter*

* On official leave.

¹ *Rollo*, pp. 30-36. Signed by Chairman Sixto S. Brillantes, Jr. and Commissioners Lucenito N. Tagle, Elias R. Yusoph, Christian Robert S. Lim and Ma. Gracia Cielo M. Padaca; Commissioners Al A. Parreno and Luie Tito F. Guia took no part.

alia, affirmed the cancellation of ABANG LINGKOD's registration as a party-list group.

The Facts

ABANG LINGKOD is a sectoral organization that represents the interests of peasant farmers and fisherfolks, and was registered under the party-list system on December 22, 2009. It participated in the May 2010 elections, but failed to obtain the number of votes needed for a seat in the House of Representatives.

On May 31, 2012, ABANG LINGKOD manifested before the COMELEC its intent to participate in the May 2013 elections. On August 2, 2012, the COMELEC issued Resolution No. 9513,² which, *inter alia*, required previously registered party-list groups that have filed their respective *Manifestations of Intent* to undergo summary evidentiary hearing for purposes of determining their continuing compliance with the requirements under Republic Act (R.A.) No. 7941³ and the guidelines set forth in *Ang Bagong Bayani-OFW Labor Party v. COMELEC*.⁴

Accordingly, on August 9, 2012, the COMELEC issued a Resolution, which set the summary evidentiary hearing of previously registered party-list groups. The COMELEC scheduled three (3) dates – August 17, 31 and September 3, 2012 – for the summary hearing of ABANG LINGKOD's *Manifestation of Intent*, to enable it to show proof of its continuing qualification under the party-list system.

On August 16, 2012, ABANG LINGKOD, in compliance with the COMELEC's August 9, 2012 Resolution, filed with the COMELEC pertinent documents to prove its continuing compliance with the requirements under R.A. No. 7941.

After due proceedings, the COMELEC *En Banc*, in a Resolution dated November 7, 2012, cancelled ABANG LINGKOD's registration as a party-list group. The COMELEC *En Banc* pointed out that ABANG LINGKOD failed to establish its track record in uplifting the cause of the marginalized and underrepresented; that it merely offered photographs of some alleged activities it conducted after the May 2010 elections. The COMELEC *En Banc* further opined that ABANG LINGKOD failed to show that its

² Entitled "In the matter of: (1) the automatic review by the Commission *En Banc* of pending petitions for registration of party-list groups; and (2) setting for hearing the accredited party-list groups or organizations which are existing and which have filed manifestations of intent to participate in the 2013 national and local elections," promulgated on August 2, 2012.

³ Entitled "An act providing for the election of party-list representatives through the party-list system, and appropriating funds therefor."

⁴ 412 Phil. 308 (2001).

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nominees are themselves marginalized and underrepresented or that they have been involved in activities aimed at improving the plight of the marginalized and underrepresented sectors it claims to represent.

ABANG LINGKOD then filed with this Court a petition⁵ for *certiorari*, alleging that the COMELEC gravely abused its discretion in cancelling its registration under the party-list system. The said petition was consolidated with the separate petitions filed by fifty-one (51) other party-list groups whose registration were cancelled or who were denied registration under the party-list system. The said party-list groups, including ABANG LINGKOD, were able to obtain status *quo ante* orders from this Court.

On April 2, 2013, the Court, in *Atong Paglaum, Inc. v. Commission on Elections*,⁶ laid down new parameters to be observed by the COMELEC in screening parties, organizations or associations seeking registration and/or accreditation under the party-list system, *viz*:

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

⁵ Docketed as G.R. No. 204220.

⁶ G.R. Nos. 203766, 203818-19, *et al.*, April 2, 2013, 694 SCRA 477.

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

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

Thus, the Court remanded to the COMELEC the cases of previously registered party-list groups, including that of ABANG LINGKOD, to determine whether they are qualified under the party-list system pursuant to the new parameters laid down by the Court and, in the affirmative, be allowed to participate in the May 2013 party-list elections.

On May 10, 2013, the COMELEC issued the herein assailed Resolution,⁷ which, *inter alia*, affirmed the cancellation of ABANG LINGKOD’s registration under the party-list system. The COMELEC issued the Resolution dated May 10, 2013 *sans* any summary evidentiary hearing, citing the proximity of the May 13, 2013 elections as the reason therefor.

In maintaining the cancellation of ABANG LINGKOD’s registration, the COMELEC held that:

The Commission maintains its position in the previous *en banc* ruling cancelling the registration of ABANG LINGKOD. To reiterate, it is not enough that the party-list organization claim representation of the marginalized and underrepresented because representation is easy to claim and to feign. It is but reasonable to require from groups and organizations consistent participation and advocacy in the sector it seeks to represent, and not just seasonal and “sporadic” programs which are unrelated to its sector.

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

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

⁷ Supra note 1.

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Under the party-list System Act, a group's registration may be cancelled for declaring unlawful statements in its petition. Photoshopping images to establish a fact that did not occur is tantamount to declaring unlawful statements. It is on this ground that the Commission cancels ABANG LINGKOD's registration.⁸

On May 12, 2013, ABANG LINGKOD sought a reconsideration of the COMELEC's Resolution dated May 10, 2013. However, on May 15, 2013, ABANG LINGKOD withdrew the motion for reconsideration it filed with the COMELEC and, instead, instituted the instant petition⁹ with this Court, alleging that there may not be enough time for the COMELEC to pass upon the merits of its motion for reconsideration considering that the election returns were already being canvassed and consolidated by the COMELEC.

In support of the instant petition, ABANG LINGKOD claims that the COMELEC gravely abused its discretion when it affirmed the cancellation of its registration *sans* a summary evidentiary hearing for that purpose, asserting that the COMELEC should have allowed it to present evidence to prove its qualification as a party-list group pursuant to *Atong Paglaum*. It claims that there was no valid justification for the COMELEC to cancel its registration considering that it complied with the six-point parameters in screening party-list groups laid down in *Atong Paglaum*.

On the other hand, the COMELEC avers that the instant petition should be dismissed for utter lack of merit. It asserts that ABANG LINGKOD was not denied due process when the COMELEC affirmed the cancellation of its registration since it was given every reasonable opportunity to be heard. The COMELEC further claims that it did not abuse its discretion when it cancelled ABANG LINGKOD's registration on the ground that it failed to establish a track record in representing the marginalized and underrepresented. Further, the COMELEC alleges that its finding of facts may not be passed upon by this Court as the same is supported by substantial evidence.

The Issues

In sum, the issues presented for the Court's resolution are the following: *first*, whether ABANG LINGKOD was denied due process when the COMELEC affirmed the cancellation of its registration under the party-list system *sans* any summary evidentiary hearing; and *second*, whether the COMELEC gravely abused its discretion in cancelling ABANG LINGKOD's registration under the party-list system.

⁸ Id. at 34.

⁹ G.R. No. 206952; id. at 6-29.

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The Court's Ruling

The petition is meritorious.

First Issue: Due Process

The essence of due process is simply an opportunity to be heard or as applied to administrative or quasi-judicial proceedings, an opportunity to explain one's side or an opportunity to seek reconsideration of the action or ruling complained of. A formal or trial type hearing is not at all times and in all instances essential. The requirements are satisfied when the parties are afforded fair and reasonable opportunity to explain their side of the controversy at hand. What is frowned upon is the absolute lack of notice or hearing.¹⁰

In the instant case, while the petitioner laments that it was denied due process, the Court finds that the COMELEC had afforded ABANG LINGKOD sufficient opportunity to present evidence establishing its qualification as a party-list group. It was notified through Resolution No. 9513 that its registration was to be reviewed by the COMELEC. That ABANG LINGKOD was able to file its *Manifestation of Intent* and other pertinent documents to prove its continuing compliance with the requirements under R.A. No. 7941, which the COMELEC set for summary hearing on three separate dates, belies its claim that it was denied due process.

There was no necessity for the COMELEC to conduct further summary evidentiary hearing to assess the qualification of ABANG LINGKOD pursuant to *Atong Paglaum*. ABANG LINGKOD's *Manifestation of Intent* and all the evidence adduced by it to establish its qualification as a party-list group are already in the possession of the COMELEC. Thus, conducting further summary evidentiary hearing for the sole purpose of determining ABANG LINGKOD's qualification under the party-list system pursuant to *Atong Paglaum* would just be a superfluity.

Contrary to ABANG LINGKOD's claim, the Court, in *Atong Paglaum*, did not categorically require the COMELEC to conduct a summary evidentiary hearing for the purpose of determining the qualifications of the petitioners therein pursuant to the new parameters for screening party-list groups. The dispositive portion of *Atong Paglaum* reads:

¹⁰ See *Barot v. Commission on Elections*, 452 Phil. 438, 446 (2003); *Mendoza v. Commission on Elections*, G.R. No. 188308, October 15, 2009, 603 SCRA 692, 714.



WHEREFORE, all the present 54 petitions are **GRANTED**. The 13 petitions, which have been granted Status Quo Ante Orders but without mandatory injunction to include the names of the petitioners in the printing of ballots, are remanded to the Commission on Elections only for determination whether petitioners are qualified to register under the party-list system under the parameters prescribed in this Decision but they shall not participate in the 13 May 2013 party-list elections. The 41 petitions, which have been granted mandatory injunctions to include the names of petitioners in the printing of ballots, **are remanded to the Commission on Elections for determination whether petitioners are qualified to register under the party-list system and to participate in the 13 May 2013 party-list elections under the parameters prescribed in this Decision.** The Commission on Elections **may conduct summary evidentiary hearings for this purpose.** This Decision is immediately executory.

SO ORDERED.¹¹ (Emphasis ours)

Thus, the cases of previously registered party-list groups, including ABANG LINGKOD, were remanded to the COMELEC so that it may reassess, based on the evidence already submitted by the former, whether they are qualified to participate in the party-list system pursuant to the new parameters laid down in *Atong Paglaum*. The Court did not require the COMELEC to conduct a hearing *de novo* in reassessing the qualifications of said party-list groups. Nevertheless, the Court gave the COMELEC the option to conduct further summary evidentiary hearing should it deem appropriate to do so.

The records also disclose that ABANG LINGKOD was able to file with the COMELEC a motion for reconsideration of the Resolution dated May 10, 2013, negating its claim that it was denied due process. As it has been held, deprivation of due process cannot be successfully invoked where a party was given a chance to be heard on his motion for reconsideration.¹²

Second Issue: Cancellation of ABANG LINGKOD's Registration

However, after a careful perusal of the factual antecedents of this case, pinned against the new parameters in screening party-list groups laid down in *Atong Paglaum*, the Court finds that the COMELEC gravely abused its discretion in cancelling the registration of ABANG LINGKOD under the party-list system.

¹¹ Supra note 6.

¹² *Paat v. Court of Appeals*, 334 Phil. 146, 155 (1997).

The COMELEC affirmed the cancellation of ABANG LINGKOD's registration on the ground that it declared untruthful statement in its bid for accreditation as a party-list group in the May 2013 elections, pointing out that it deliberately submitted digitally altered photographs of activities to make it appear that it had a track record in representing the marginalized and underrepresented. Essentially, ABANG LINGKOD's registration was cancelled on the ground that it failed to adduce evidence showing its track record in representing the marginalized and underrepresented.

The flaw in the COMELEC's disposition lies in the fact that it insists on requiring party-list groups to present evidence showing that they have a track record in representing the marginalized and underrepresented.

Track record is a record of past performance often taken as an indicator of likely future performance.¹³ As a requirement imposed by *Ang Bagong Bayani* for groups intending to participate in the party-list elections, **track record pertains to the actual activities undertaken by groups to uplift the cause of the sector/s, which they represent.**

Section 5 of R.A. No. 7941 however provides:

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

R.A. No. 7941 did not require groups intending to register under the party-list system to submit proof of their track record as a group. The track record requirement was only imposed in *Ang Bagong Bayani* where the Court held that national, regional, and sectoral parties or organizations seeking registration under the party-list system must prove through their, *inter alia*, track record that they truly represent the marginalized and underrepresented, thus:

x x x In this light, the Court finds it appropriate to lay down the following guidelines, culled from the law and the Constitution, to assist the Comelec in its work.

¹³ <http://www.merriam-webster.com/dictionary/track%20record>, last accessed on September 2, 2013.

First, the political party, sector, organization or coalition must represent the marginalized and underrepresented groups identified in Section 5 of RA 7941. **In other words, it must show -- through its constitution, articles of incorporation, bylaws, history, platform of government and track record -- that it represents and seeks to uplift marginalized and underrepresented sectors.** Verily, majority of its membership should belong to the marginalized and underrepresented. And it must demonstrate that in a conflict of interests, it has chosen or is likely to choose the interest of such sectors. (Emphasis ours)

Track record is not the same as the submission or presentation of “constitution, by-laws, platform of government, list of officers, coalition agreement, and other relevant information as may be required by the COMELEC,” which are but mere pieces of documentary evidence intended to establish that the group exists and is a going concern. The said documentary evidence presents an abstract of the ideals that national, regional, and sectoral parties or organizations seek to achieve.

This is not merely a matter of semantics; the delineation of what constitutes a track record has certain consequences in a group’s bid for registration under the party-list system. Under Section 5 of R.A. No. 7941, groups intending to register under the party-list system are not required to submit evidence of their track record; they are merely required to attach to their verified petitions their “constitution, by-laws, platform of government, list of officers, coalition agreement, and other relevant information as may be required by the COMELEC.”

In *Atong Paglaum*, the Court has modified to a great extent the jurisprudential doctrines on who may register under the party-list system and the representation of the marginalized and underrepresented. For purposes of registration under the party-list system, **national or regional parties or organizations need not represent any marginalized and underrepresented sector;** that representation of the marginalized and underrepresented is only required of **sectoral organizations** that represent the sectors stated under Section 5 of R.A. No. 7941 that are, by their nature, economically marginalized and underrepresented.

There was no mention that sectoral organizations intending to participate in the party-list elections are still required to present a track record, *viz*:

x x x In determining who may participate in the coming 13 May 2013 and subsequent party-list elections, the COMELEC shall adhere to the following parameters:

x x x x



4. **Sectoral parties or organizations may either be “marginalized and underrepresented” or lacking in “well-defined political constituencies.” It is enough that their principal advocacy pertains to the special interests and concerns of their sector.** The sectors that are “marginalized and underrepresented” include labor, peasant, fisherfolk, urban poor, indigenous cultural communities, handicapped, veterans, and overseas workers. The sectors that lack “well-defined political constituencies” include professionals, the elderly, women, and the youth. (Emphasis ours)

Contrary to the COMELEC’s claim, sectoral parties or organizations, such as ABANG LINGKOD, are no longer required to adduce evidence showing their track record, *i.e.* proof of activities that they have undertaken to further the cause of the sector they represent. Indeed, it is enough that their principal advocacy pertains to the special interest and concerns of their sector. Otherwise stated, **it is sufficient that the ideals represented by the sectoral organizations are geared towards the cause of the sector/s, which they represent.**

If at all, evidence showing a track record in representing the marginalized and underrepresented sectors is only required from nominees of sectoral parties or organizations that represent the marginalized and underrepresented who do not factually belong to the sector represented by their party or organization.

Dissenting, my esteemed colleague, Mr. Justice Leonen, however, maintains that parties or organizations intending to register under the party-list system are still required to present a track record notwithstanding the Court’s pronouncement in *Atong Paglaum*; that the track record that would have to be presented would only differ as to the nature of their group/organization. He opines that sectoral organizations must prove their links with the marginalized and underrepresented while national or regional parties or organizations must show that they have been existing as a *bona fide* organization.

To submit to the dissent’s insistence on **varying track records**, which are required of those intending to register under the party-list system, depending on the nature of their group, **would result into an absurd and unjust situation.** Under the “varying track record requirement,” sectoral organizations must present evidence showing their track record in representing the marginalized and underrepresented, *i.e.* actual activities conducted by them to further uplift the cause of the sector/s they represent. On the other hand, national and regional parties or organizations need only prove that they exist as *bona fide* organizations which, as the dissent suggests, may be done through the submission of their constitution, by-laws, platform of government, list of officers, coalition agreement, and other

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relevant information required by the COMELEC.

However, submission of a group's constitution, by-laws, platform of government, list of officers, coalition agreement, and other relevant information required by the COMELEC, as explained earlier, is not synonymous with the track record requirement. In such case, only sectoral organizations would be required to present a track record (actual activities conducted by them to further the cause of the marginalized and underrepresented); while national and regional organizations need not present their track record as they are only required to submit documentary evidence showing that they are *bona fide* organizations.

There is no logic in treating sectoral organizations differently from national and regional parties or organizations as regards their bid for registration under the party-list system. The "varying track record requirement" suggested by the dissent would **unnecessarily put a premium on groups intending to register as national and regional parties or organizations as against those intending to register as sectoral organizations**. The imposition of an additional burden on sectoral organizations, *i.e.* submission of their track record, would be plainly unjust as it effectively deters the marginalized and underrepresented sectors from organizing themselves under the party-list system.

Likewise, that there was no explicit reversal of the guidelines in *Ang Bagong Bayani* in *Atong Paglaum* does not mean that groups intending to register under the party-list system are still required to submit a track record. The track record of groups intending to register under the party-list system was required under the first guideline of *Ang Bagong Bayani* for a very **specific purpose** – to show that the national, regional, and sectoral parties or organizations that would be allowed to participate in the party-list elections are **truly representative of the marginalized and underrepresented sectors**. It was necessary then to require groups seeking registration under the party-list system since representation of the marginalized and underrepresented, as understood in the context of *Ang Bagong Bayani*, is easy to claim and feign.

There exists no reason to further require groups seeking registration under the party-list system to submit evidence showing their track record. Pursuant to *Atong Paglaum*, not all groups are required to represent the marginalized and underrepresented sectors and, accordingly, there is no longer any incentive in merely feigning representation of the marginalized and underrepresented sectors.

In the case of sectoral organizations, although they are still required to represent the marginalized and underrepresented, they are likewise not required to show a track record since there would be no reason for them to feign representation of the marginalized and underrepresented as they can just register as a national or regional party or organization. Thus, the Court, in *Atong Paglaum*, stated that, for purposes of registration under the party-list system, it is enough that the principal advocacy of sectoral organizations pertains to the sector/s they represent.

There is thus no basis in law and established jurisprudence to insist that groups seeking registration under the party-list system still comply with the track record requirement. Indeed, nowhere in R.A. No. 7941 is it mandated that groups seeking registration thereunder must submit evidence to show their track record as a group.

The dissent likewise suggests that the deceit committed by ABANG LINGKOD goes into its qualification as a party-list group since it seriously puts in question the existence of ABANG LINGKOD as a group *per se* and the genuineness of its representation of the farmers and fisherfolk.

It must be stressed that the COMELEC cancelled ABANG LINGKOD's registration **solely** on the ground of the lack of its track record – that it falsely represented, by submitting digitally altered photographs of its supposed activities, that it had a track record in representing the marginalized and underrepresented. **The existence of ABANG LINGKOD as a party-list group *per se* and the genuineness of its representation of the farmers and fisherfolks were never raised in the proceedings before the COMELEC.** It would thus be the height of injustice if the Court, in this *certiorari* action, would scrutinize the legitimacy of ABANG LINGKOD as a party-list group and the genuineness of its representation of the farmers and fisherfolk, and affirm the cancellation of its registration, when the issue is limited only to the track record of ABANG LINGKOD.

Moreover, ABANG LINGKOD had been previously registered as a party-list group, as in fact it participated in the May 2010 party-list elections, and it was able to obtain a sufficient number of votes in the May 2013 party-list elections to obtain a seat in the House of Representatives. These are circumstances, which clearly indicate that ABANG LINGKOD is indeed a legitimate party-list group.

ABANG LINGKOD, notwithstanding the cancellation of its registration three days prior to the May 13, 2013 elections, **was able to obtain a total of 260,215 votes out of the 26,722,131 votes that were cast**

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for the party-list,¹⁴ thus entitling it to a seat in the House of Representatives. This is indicative of the fact that a considerable portion of the electorate considers ABANG LINGKOD as truly representative of peasant farmers and fisherfolk.

Anent the photographs submitted by ABANG LINGKOD, these only show book-giving and medical missions, which are activities it conducted. Suffice it to state, however, that said activities do not specifically or directly pertain to the interest or advocacy espoused by ABANG LINGKOD. As such, the misrepresentation committed by ABANG LINGKOD with regard to said activities would not necessarily militate against its representation of the farmers and fisherfolk.

Lest it be misunderstood, the Court does not condone the deceit perpetrated by ABANG LINGKOD in connection with its bid for continued registration under the party-list system. That ABANG LINGKOD, to establish its track record, submitted photographs that were edited to make it appear that it conducted activities aimed at ameliorating the plight of the sectors it represents is a factual finding by the COMELEC, which the Court, considering that it is supported by substantial evidence, will not disturb. The Court does not tolerate ABANG LINGKOD's resort to chicanery and its shabby treatment of the requirements for registration under the party-list system.

Nevertheless, considering that track record is no longer a requirement, a group's misrepresentation as to its track record cannot be used as a ground to deny or cancel its registration – it is no longer material to its qualification under the party-list system. In this case, ABANG LINGKOD's submission of digitally altered photographs cannot be considered material to its qualification as a party-list group. Section 6 of R.A. No. 7941, in part, reads:

Sec. 6. *Refusal and/or Cancellation of Registration.* The COMELEC may, motu proprio or upon verified complaint of any interested party, refuse or cancel, after due notice and hearing, the registration of any national, regional or sectoral party, organization or coalition on any of the following grounds:

x x x x

(6) It declares untruthful statements in its petition;

¹⁴ National Board of Canvassers Resolution No. 0008-13, promulgated on May 28, 2013.

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Declaration of an untruthful statement in a petition for registration, or in any other document pertinent to the registration and/or accreditation under the party-list system, as a ground for the refusal or cancellation of registration under Section 6(6) of R.A. No. 7941, is akin to material misrepresentation in the certificate of candidacy filed by an individual candidate under Section 78 of the Omnibus Election Code. Both provisions disallow prospective candidates from participating in an election for declaring false statements in their eligibility requirements. Section 78 of the Omnibus Election Code reads:

Sec. 78. A verified petition seeking to deny due course to or cancel a certificate of candidacy may be filed by any person exclusively on the ground that any material misrepresentation contained therein as required under Section 74 hereof is false. The petition may be filed at any time not later than twenty-five days from the time of the filing of the certificate of candidacy and shall be decided, after due notice and hearing, not later than fifteen days before the election.

Elucidating on what constitutes material misrepresentation in a certificate of candidacy under Section 78 of the Omnibus Election Code, the Court, in *Lluz v. Commission on Elections*,¹⁵ explained that:

From these two cases several conclusions follow. *First*, a misrepresentation in a certificate of candidacy is material **when it refers to a qualification for elective office and affects the candidate's eligibility.** x x x *Third*, **a misrepresentation of a non-material fact, or a non-material misrepresentation, is not a ground to deny due course to or cancel a certificate of candidacy under Section 78.** In other words, **for a candidate's certificate of candidacy to be denied due course or canceled by the COMELEC, the fact misrepresented must pertain to a qualification for the office sought by the candidate.**¹⁶ (Emphasis ours)

In *Velasco v. Commission on Elections*,¹⁷ the Court further clarified that a false representation under Section 78 of the Omnibus Election Code, in order to be a ground to deny due course or cancel a certificate of candidacy, must consist of a deliberate attempt to mislead, misinform, or hide a fact which would otherwise render a candidate ineligible. Thus:

The false representation that [Sections 74 and 78 of the Omnibus Election Code] mention must necessarily pertain to a material fact, not to a mere innocuous mistake. This is emphasized by the consequences of any material falsity: a candidate who falsifies a material fact cannot run; if he runs and is elected, cannot serve; in both cases, he or she can be prosecuted for violation of the election laws. Obviously, these facts are those that refer to a candidate's qualification for elective office, such as his

¹⁵ G.R. No. 172840, June 7, 2007, 523 SCRA 456.

¹⁶ Id. at 471.

¹⁷ G.R. No. 180051, December 24, 2008, 575 SCRA 590.

or her citizenship and residence. The candidate's status as a registered voter similarly falls under this classification as it is a requirement that, by law (the Local Government Code), must be reflected in the COC. The reason for this is obvious: the candidate, if he or she wins, will work for and represent the local government under which he is running.

Separately from the requirement of materiality, a false representation under Section 78 must consist of a "deliberate attempt to mislead, misinform, or hide a fact which would otherwise render a candidate ineligible." In other words, it must be made with the intention to deceive the electorate as to the would-be candidate's qualifications for public office.¹⁸ (Citation omitted and emphasis ours)

Similarly, a declaration of an untruthful statement in a petition for registration under Section 6(6) of R.A. No. 7941, in order to be a ground for the refusal and/or cancellation of registration under the party-list system, must pertain to the qualification of the party, organization or coalition under the party-list system. In order to justify the cancellation or refusal of registration of a group, there must be a deliberate attempt to mislead, misinform, or hide a fact, which would otherwise render the group disqualified from participating in the party-list elections.

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

Further, the Court notes that the COMELEC, in its Resolution dated November 7, 2012, asserted that ABANG LINGKOD failed to adduce evidence that would show the track record of its five nominees, composed of a non-government organization worker, an employee and three farmers, in uplifting the cause of the sector that the group represents. The COMELEC opined that the failure of ABANG LINGKOD to present a track record of its nominees justified the cancellation of its registration as a party-list group.

The Court does not agree. Assuming *arguendo* that the nominees of ABANG LINGKOD, as opined by the COMELEC, indeed do not have track records showing their participation in activities aimed at improving the conditions of the sector that the group represents, the same would not affect the registration of ABANG LINGKOD as a party-list group.

¹⁸ Id. at 603-604.

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To stress, in *Atong Paglaum*, the Court pointed out that “[t]he nominees of sectoral parties or organizations that represent the ‘marginalized and underrepresented,’ or that represent those who lack ‘well-defined political constituencies,’ **either must belong to their respective sectors, or must have a track record of advocacy for their respective sectors.** Stated otherwise, the nominee of a party-list groups may either be: *first*, one who actually belongs to the sector which the party-list group represents, in which case the track record requirement does not apply; or *second*, one who does not actually belong to the sector which the party-list group represents but has a track record showing the nominee’s active participation in activities aimed at uplifting the cause of the sector which the group represents.”

In the case under consideration, three of the five nominees of ABANG LINGKOD are farmers and, thus, are not required to present a track record showing their active participation in activities aimed to promote the sector which ABANG LINGKOD represents, *i.e.* peasant farmers and fisherfolk. That two of ABANG LINGKOD’s nominees do not actually belong to the sector it represents is immaterial and would not result in the cancellation of ABANG LINGKOD’s registration as a party-list group. This is clear from the sixth parameter laid down by the Court in *Atong Paglaum*, which states that “[n]ational, regional and sectoral organizations **shall not be disqualified if some of their nominees are disqualified**, provided that they have at least one nominee who remains qualified.” At the very least, ABANG LINGKOD has three (3) qualified nominees, being farmers by occupation.

Indeed, the disqualification of one or some of the nominees of a party-list group should not automatically result in the disqualification of the group. Otherwise it would accord the nominees the same significance, which the law holds for the party-list groups; it is still the fact that the party-list group satisfied the qualifications of the law that is material to consider. The disqualification of the nominees must simply be regarded as failure to qualify for an office or position. It should not, in any way, blemish the qualifications of the party-list group itself with defect. The party-list group must be treated as separate and distinct from its nominees such that qualifications of the latter must not be considered part and parcel of the qualifications of the former.

In sum, that ABANG LINGKOD’s registration must be cancelled due to its misrepresentation is a conclusion derived from a simplistic reading of the provisions of R.A. No. 7941 and the import of the Court’s disposition in *Atong Paglaum*. Not every misrepresentation committed by national, regional, and sectoral groups or organizations would merit the denial or cancellation of their registration under the party-list system. The misrepresentation must relate to their qualification as a party-list group. In this regard, the COMELEC gravely abused its discretion when it insisted on

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requiring ABANG LINGKOD to prove its track record notwithstanding that a group's track record is no longer required pursuant to the Court's pronouncement in *Atong Paglaum*.

Likewise, upholding the cancellation of ABANG LINGKOD's registration, notwithstanding that it was able to obtain sufficient number of votes for a legislative seat, would serve no purpose other than to subvert the will of the electorate who voted to give ABANG LINGKOD the privilege to represent them in the House of Representatives.

WHEREFORE, in light of the foregoing disquisitions, the instant petition is hereby **GRANTED**. The Resolution dated May 10, 2013 issued by the Commission on Elections in SPP Case No. 12-238 (PLM), insofar as it affirmed the cancellation of ABANG LINGKOD's registration and disallowed it to participate in the May 13, 2013 elections is **REVERSED** and **SET ASIDE**.

The Commission on Elections is hereby **ORDERED** to **PROCLAIM** ABANG LINGKOD as one of the winning party-list groups during the May 13, 2013 elections with the number of seats it may be entitled to based on the total number of votes it garnered during the said elections.

SO ORDERED.


BIENVENIDO L. REYES
 Associate Justice

WE CONCUR:

I join the dissent of J. Leonen.

MARIA LOURDES P. A. SERENO
 Chief Justice

I join the dissent of J. Sereno

ANTONIO T. CARPIO
 Associate Justice


PRESBITERO J. VELASCO, JR.
 Associate Justice

Teresita Leonardo de Castro
TERESITA J. LEONARDO-DE CASTRO
 Associate Justice

Arturo D. Brion
ARTURO D. BRION
 Associate Justice

Diosdado M. Peralta
DIOSDADO M. PERALTA
 Associate Justice

Lucas P. Bersamin
LUCAS P. BERSAMIN
 Associate Justice

(On official leave)
MARIANO C. DEL CASTILLO
 Associate Justice

Roberto A. Abad
ROBERTO A. ABAD
 Associate Justice

Martin S. Villarama, Jr.
MARTIN S. VILLARAMA, JR.
 Associate Justice

Jose Portugal Perez
JOSE PORTUGAL PEREZ
 Associate Justice

Jose Catral Mendoza
JOSE CATRAL MENDOZA
 Associate Justice

Estela M. Perlas-Bernabe
ESTELA M. PERLAS-BERNABE
 Associate Justice

See dissenting opinion
Marc M. Victor F. Leonen
MARVIC MARIO VICTOR F. LEONEN
 Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court.

Maria Lourdes P. A. Sereno
MARIA LOURDES P. A. SERENO
 Chief Justice