

Summary of the Constitutional Court Ruling No. 25/2546

Dated 10th July B.E. 2546 (2003) *

**Re : Political Party Registrar applied to the Constitutional Court for an order
to dissolve Phalang Mahachon Party**

.....

1. Background and summarized facts

The political party registrar submitted an application dated 18th October B.E. 2544 (2001) to the Constitutional Court stating the followings. Phalang Mahachon Party notified the changes of its bylaws and members of the executive committees. The second ordinary general meeting of Phalang Mahachon Party (No. 2/2542) on 29th May B.E. 2542 (1999), which was held for such changes, did not constitute the quorum. The attendances of the meeting were less than 100 in number, and this was against article 69 and article 70 of the Bylaws of Phalang Mahachon Party which provided that the quorum of the Party's general meeting had to consist of not less than 100 members presenting at the meeting. The fact revealed that there were at most 93 attendances of the general meeting. The quorum was not in accordance with the bylaws of the Party. The political party registrar therefore did not acknowledge the changes of the bylaws and members of the executive committees as resolved by the ordinary general meeting of Phalang Mahachon Party. The examination of the facts concerning membership and attendance of the general meeting of Phalang Mahachon Party found that 12 persons in the list of the attendances gave statements confirming that they were not the Party's members and did not attend the meeting. Another 4 persons confirmed that they were the Party's members but did not attend the meeting. These presented that Phalang Mahachon Party intended to conceal the facts as to mislead the political party registrar into understanding that Phalang Mahachon Party held the second ordinary general meeting (No. 2/2542) on 29th May B.E. 2542 (1999) in compliance with its bylaws and relevant law. In addition, Phalang Mahachon Party notified to the political party registrar to operate in accordance with the provisions of law. Phalang Mahachon Party therefore intended to violate section 25 and section 26 of the Organic Act on Political Parties, B.E. 2541 (1998). This constituted a cause for the dissolution of a political party under section 65 paragraph one subparagraph (5) of the Organic Act on Political Parties, B.E. 2541 (1998). The political party registrar therefore submitted the application to the Constitutional Court for an order to dissolve Phalang Mahachon Party pursuant to section 65 paragraph two of the Organic Act on Political Parties, B.E. 2541 (1998).

* Published in the Government Gazette, Vol.121, Part 20a, dated 23rd March B.E. 2547 (2004).

The Constitutional Court ordered the acceptance of the application of the political party registrar for operation and consideration, and delivered its copy to Phalang Mahachon Party for filing a statement in response to the allegations.

2. The issue considered by the Constitutional Court

The issue to be considered by the Constitutional Court was whether there was a cause for an order to dissolve Phalang Mahachon Party due to non-compliance with section 25 and section 26 of the Organic Act on Political Parties, B.E. 2541 (1998).

After considering the facts according to the application, additional application and documents attached therewith of the political party registrar (the applicant) as well as to the response statement, additional response statement and documents attached therewith of Phalang Mahachon Party (the respondent), the Constitutional Court held that these facts were sufficient for adjudication. The facts were concluded that 16 persons in the list of attendances of the meeting did not attend the second ordinary general meeting of Phalang Mahachon Party (No. 2/2542) on 29th May B.E. 2542 (1999). Thus, there were, at most, not more than 93 members of the Party who attended the general meeting of the Party. In addition, the respondent admitted that in this meeting, the executive committee of the Party believed in good faith that all attendances were members of the Party. Accordingly, the Party did not inspect their member cards and identity cards but requested all of them signed their names as evidences. The Party could not know whether and to what extent the names and signatures of those attendances were true. The executive committee of Phalang Mahachon Party had the duty to operate the Party to be in accordance with the bylaws as provided by section 20 paragraph one of the Organic Act on Political Parties, B.E. 2541 (1998). Failing to do so was deemed that Phalang Mahachon Party failed to comply with article 69 and article 70 of the Bylaws of Phalang Mahachon Party and accordingly section 26 of the Organic Act on Political Parties, B.E. 2541 (1998). The fact that Phalang Mahachon Party did not hold the general meeting to be in accordance with article 69 and article 70 of its bylaws in order to pass the resolution changing the bylaws or members of the executive committees as mentioned before, showed that the changes of its bylaws and members of its executive committee were not carried out by the general meeting of Phalang Mahachon Party as they had to. The notification by Phalang Mahachon Party to the political party registrar for the acknowledgement of such changes therefore did not comply with section 25 of the Organic Act on Political Parties, B.E. 2541 (1998). This constituted a cause for the dissolution of the political party.

3. Ruling of the Constitutional Court

By virtue of section 65 paragraph two of the Organic Act on Political Parties, B.E. 2541 (1998), the Constitutional Court ordered the dissolution of Phalang Mahachon Party.
