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[G.R. No. 221538. September 20, 2016]

RIZALITO Y. DAVID, PETITIONER, VS. SENATE ELECTORAL TRIBUNAL AND MARY GRACE POE-LLAMANZARES, RESPONDENTS.

DECISION

LEONEN, J.:

The words of our most fundamental law cannot be read so as to callously exclude all foundlings from public service.

When the names of the parents of a foundling cannot be discovered despite a diligent search, but sufficient evidence is presented to sustain a reasonable inference that satisfies the quantum of proof required to conclude that at least one or both of his or her parents is Filipino, then this should be sufficient to establish that he or she is a natural-born citizen. When these inferences are made by the Senate Electoral Tribunal in the exercise of its sole and exclusive prerogative to decide the qualifications of the members of the Senate, then there is no grave abuse of discretion remediable by either Rule 65 of the Rules of Court or Article VIII, Section I of the Constitution.

This case certainly does not decide with finality the citizenship of every single foundling as natural-born. The circumstances of each case are unique, and substantial proof may exist to show that a foundling is not natural-born. The nature of the Senate Electoral Tribunal and its place in the scheme of political powers, as devised by the Constitution, are likewise different from the other ways to raise questions of citizenship.

Before this Court is a Petition for Certiorari[1] filed by petitioner Rizalito Y. David (David). He prays for the nullification of the assailed November 17, 2015 Decision and December 3, 2015 Resolution of public respondent Senate Electoral Tribunal in SET Case No. 001-15.[2] The assailed November 17, 2015 Decision[3] dismissed the Petition for Quo Warranto filed by David, which sought to unseat private respondent Mary Grace Poe-Llamanzares as a

Senator for allegedly not being a natural-born citizen of the Philippines and, therefore, not being qualified to hold such office under Article VI, Section 3[4] of the 1987 Constitution. The assailed December 3, 2015 Resolution[5] denied David's Motion for Reconsideration.

Senator Mary Grace Poe-Llamanzares (Senator Poe) is a foundling whose biological parents are unknown. As an infant, she was abandoned at the Parish Church of Jaro, Iloilo.[6] Edgardo Militar found her outside the church on September 3, 1968 at about 9:30 a.m.[7] He later turned her over to Mr. and Mrs. Emiliano Militar.[8] Emiliano Militar reported to the Office of the Local Civil Registrar that the infant was found on September 6, 1968.[9] She was given the name Mary Grace Natividad Contreras Militar.[10] Local Civil Registrar issued a Certificate of Live Birth/Foundling Certificate stating:

> Circumstances: THE SUBJECT CHILD WAS FOUND IN THE PARISH CHURCHD [sic] OF JARO, ON SEPTEMBER 3, 1968 AT ABOUT 9:30 A.M. BY EDGARDO MILITAR AND THE SAID CHILD IS PRESENTLY IN THE CUSTODY OF MR. AND MRS. EMILIANO MILITAR AT STA. ISABEL STREET, JARO . . .[11]

On May 13, 1974, the Municipal Court of San Juan, Rizal promulgated the Decision granting the Petition for Adoption of Senator Poe by Spouses Ronald Allan Poe (more popularly known as Fernando Poe, Jr.) and Jesusa Sonora Poe (more popularly known as Susan Roces).[12] The Decision also ordered the change in Senator Poe's name from Mary Grace Natividad Contreras Militar to Mary Grace Natividad Sonora Poe.[13] October 27, 2005, Clerk of Court III Eleanor A. Sorio certified that the Decision had become final in a Certificate of Finality.[14]

On April 11, 1980, the Office of Civil Registrar-Iloilo received the Decision of the San Juan Court Municipal Court and noted on Senator Poe's foundling certificate that she was adopted by Spouses Ronald Allan and Jesusa Poe.[15] This hand-written notation appears on Senator Poe's foundling certificate:

> NOTE: Adopted child by the Spouses Ronald Allan Poe and Jesusa Sonora Poe as per Court Order, Mun. Court, San Juan, Rizal, by Hon. Judge Alfredo M. Gorgonio dated May 13, 1974, under Sp. Proc. No. 138.[16]

Senator Poe became a registered voter in Greenhills, San Juan, Metro Manila when she

turned 18 years old.[17] The Commission on Elections issued her a Voter's Identification Card for Precinct No. 196, Greenhills, San Juan, Metro Manila on December 13, 1986.[18]

On April 4, 1988, the Department of Foreign Affairs issued her a Philippine passport.[19] Her passport was renewed on April 5, 1993, May 19, 1998, October 13, 2009, December 19, 2013, and March 18, 2014.[20] Having become Senator, she was also issued a Philippine diplomatic passport on December 19, 2013.[21]

Senator Poe took Development Studies at the University of the Philippines, Manila, but eventually went to the United States in 1988 to obtain her college degree.[22] In 1991, she earned a bachelor's degree in Political Science from Boston College, Chestnut Hill, Massachusetts.[23]

On July 27, 1991, Senator Poe married Teodoro Misael Daniel V. Llamanzares, both an American and Filipino national since birth.[24] The marriage took place in Sanctuario de San Jose Parish, San Juan, Manila.[25] On July 29, 1991, Senator Poe returned to the United States with her husband.[26] For some time, she lived with her husband and children in the United States.[27]

Senator Poe and her husband had three (3) children: Brian Daniel (Brian), Hanna MacKenzie (Hanna), and Jesusa Anika (Anika).[28] Brian was born in the United States on April 16, 1992. Hanna was born on July 10, 1998, and Anika on June 5, 2004. Both Hanna and Anika were born in the Philippines.[29]

Senator Poe was naturalized and granted American citizenship on October 18, 2001.[30] She was subsequently given a United States passport.[31]

Senator Poe's adoptive father, Fernando Poe, Jr., ran for President of the Republic of the Philippines in the 2004 National Elections.[32] To support her father's candidacy, Senator Poe and her daughter Hanna returned to the Philippines on April 8, 2004.[33] After the Elections, she returned to the United States on July 8, 2004.[34] It was during her stay in the Philippines that she gave birth to her youngest daughter, Anika.[35]

Fernando Poe, Jr. was hospitalized on December 11, 2004 and eventually "slipped into a coma."[36] Senator Poe returned to the Philippines on December 13, 2004.[37] On December 14, 2004, her father died.[38] She stayed in the country until February 3, 2005 to attend her father's funeral and to attend to the settling of his estate.[39]

In 2004, Senator Poe resigned from work in the United States. She never looked for work again in the United States.[40]

Senator Poe decided to return home in 2005.[41] After consulting her children, they all agreed to return to the Philippines to support the grieving Susan Roces.[42] In early 2005, they notified Brian and Hanna's schools Virginia, United States that they would be transferring to the Philippines the following semester.[43] She came back on May 24, 2005.[44] Her children also arrived in the first half of 2005.[45] However, her husband stayed in the United States to "finish pending projects, and to arrange for the sale of the family home there."[46]

Following her return, Senator Poe was issued by the Bureau of Internal Revenue a Tax Identification Number (TIN) on July 22, 2005.[47]

On July 7, 2006, Senator Poe took the Oath of Allegiance to Republic of the Philippines:[48]

> I, Mary Grace Poe Llamanzares, solemnly swear that I will support and defend the Constitution of the Republic of the Philippines and obey the laws and legal orders promulgated by the duly constituted authorities of the Philippines; and I hereby declare that I recognize and accept the supreme authority of the Philippines and will maintain true faith and allegiance thereto; and that I impose this obligation upon myself voluntarily without mental reservation or purpose of evasion.[49]

On July 10, 2006, Senator Poe filed a Petition for Retention and or Re-acquisition of Philippine Citizenship through Republic Act No. 9225.[50] She also "filed applications for derivative citizenship on behalf of her three children who were all below eighteen (18) years of age at that time."[51]

The Petition was granted by the Bureau of Immigration and Deportation on July 18, 2006 through an Order signed by Associate Commissioner Roy M. Almoro for Commissioner Alipio F. Fernandez, Jr:[52]

> A careful review of the documents submitted in support of the instant petition indicate that David was a former citizen of the Republic of the Philippines being born to Filipino parents and is presumed to be a natural born Philippine citizen;

> thereafter, became an American citizen and is now a holder of an American passport; was issued an ACT and ICR and has taken her oath of allegiance to the Republic of the Philippines on July 7, 2006 and so is thereby deemed to have re-acquired her Philippine Citizenship.[53] (Emphasis in the original)

In the same Order, Senator Poe's children were "deemed Citizens of the Philippines in accordance with Section 4 of R[epublic] A[ct] No. 9225."[54] Until now, the Order "has not been set aside by the Department of Justice or any other agency of Government."[55]

On July 31, 2006, the Bureau of Immigration issued Identification Certificates in the name of Senator Poe and her children.[56] It stated that Senator Poe is a "citizen of the Philippines pursuant to the Citizenship Retention and Re-acquisition Act of 2003 . . . in relation to Administrative Order No. 91, Series of 2004 and Memorandum Circular No. AFF-2-005 per Office Order No. AFF-06-9133 signed Associate Commissioner Roy M. Almoro dated July 18, 2006."[57]

Senator Poe became a registered voter of Barangay Santa Lucia, San Juan City on August 31, 2006.[58]

Senator Poe made several trips to the United States of America between 2006 and 2009 using her United States Passport No. 170377935.[59] She used her passport "after having taken her Oath of Allegiance to the Republic on 07 July 2006, but not after she has formally renounced her American citizenship on 20 October 2010."[60] The following are the flight records given by the Bureau of Immigration:

Departures	Flight No.
November 1, 2006	SQ071
July 20, 2007	PR730
October 31, 2007	PR300
October 2, 2008	PR358
April 20, 2009	PR104
July 31, 2009	PR730
October 19, 2009	PR102
November 15, 2009	PR103
December 27, 2009	PR112
March 27, 2010	PR102

Arrivals	Flight No.
November 4, 2006	SQ076
July 23, 2007	PR731
November 5, 2007	PR337
May 8, 2008	PR103
October 5, 2008	PR359
May 21, 2009	PR105
August 3, 2009	PR733
November 15, 2009	PR103[61]

On October 6, 2010, President Benigno Simeon Aquino III appointed Senator Poe as Chairperson of the Movie and Television Review and Classification Board (MTRCB).[62] On October 20, 2010, Senator Poe executed an Affidavit of Renunciation of Allegiance to the United States of America and Renunciation of American Citizenship,[63] stating:

I, MARY GRACE POE-LLAMANZARES, Filipino, of legal age, and presently residing at No. 107 Rodeo Drive, Corinthian Hills, Quezon City, Philippines, after having been duly sworn to in accordance with the law, do hereby depose and state that with this affidavit, I hereby expressly and voluntarily renounce my United States nationality/American citizenship, together with all rights and privileges and all duties and allegiance and fidelity thereunto pertaining. I make this renunciation intentionally, voluntarily, and of my own free will, free of any duress or undue influence.[64] (Emphasis in the original)

The affidavit was submitted to the Bureau of Immigration on October 21, 2010.[65] On October 21, 2010, she took her Oath of Office as MTRCB Chairperson and assumed office on October 26, 2010.[66] Her oath of office stated:

PANUNUMPA SA KATUNGKULAN

Ako, si MARY GRACE POE LLAMANZARES, na itinalaga sa katungkulan bilang *Chairperson, Movie and Television Review and Classification Board*, ay taimtim na nanunumpa na tutuparin ko nang buong husay at katapatan, sa abot ng aking kakayahan, ang mga tungkulin ng aking kasalukuyang katungkulan at ng mga iba pang pagkaraan nito'y gagampanan ko sa ilalim ng Republika ng Pilipinas; na aking itataguyod at ipagtatanggol ang Saligan Batas ng Pilipinas; na tunay na

> mananalig at tatalima ako rito; na susundin ko ang mga batas, mga kautusang lega, at mga dekretong pinaiiral ng mga sadyang itinakdang may kapangyarihan ng Republika ng Pilipinas; at kusa kong babalikatin ang pananagutang ito, nang walang ano mang pasubali o hangaring umiwas.
>
> Kasihan nawa ako ng Diyos.
>
> NILAGDAAN AT PINANUMPAAN sa harap ko ngayong ika-21 ng Oktubre 2010, Lungsod ng Maynila, Pilipinas.[67] (Emphasis in the original)

Senator Poe executed an Oath/Affirmation of Renunciation of Nationality of the United States[68] in the presence of Vice-Consul Somer E. Bessire-Briers on July 12, 2011.[69] On this occasion, she also filled out the Questionnaire Information for Determining Possible Loss of U.S. Citizenship.[70] On December 9, 2011, Vice Consul Jason Galian executed a Certificate of Loss of Nationality for Senator Poe.[71] The certificate was approved by the Overseas Citizen Service, Department of State, on February 3, 2012.[72]

Senator Poe decided to run as Senator in the 2013 Elections.[73] On September 27, 2012, she executed a Certificate of Candidacy, which was submitted to the Commission on Elections on October 2, 2012.[74] She won and was declared as Senator-elect on May 16, 2013.[75]

David, a losing candidate in the 2013 Senatorial Elections, filed before the Senate Electoral Tribunal a Petition for Quo Warranto on August 6, 2015.[76] He contested the election of Senator Poe for failing to "comply with the citizenship and residency requirements mandated by the 1987 Constitution."[77]

Thereafter, the Senate Electoral Tribunal issued Resolution No. 15-01 requiring David "to correct the formal defects of his petition."[78] David filed his amended Petition on August 17, 2015.[79]

On August 18, 2015, Resolution No. 15-02 was issued by the Senate Electoral Tribunal, through its Executive Committee, ordering the Secretary of the Senate Electoral Tribunal to summon Senator Poe to file an answer to the amended Petition.[80]

Pending the filing of Senator Poe's answer, David filed a Motion Subpoena the Record of Application of Citizenship Re-acquisition and related documents from the Bureau of Immigration on August 25, 2015.[81] The documents requested included Senator Poe's record of travels and NSO kept Birth Certificate.[82] On August 26, 2015, the Senate Electoral

Tribunal issued Resolution No. 15-04 granting the Motion.[83] The same Resolution directed the Secretary of the Tribunal to issue a subpoena to the concerned officials of the Bureau of Immigration and the National Statistics Office.[84] The subpoenas ordered the officials to appear on September 1, 2015 at 10:00 a.m. before the Office of the Secretary of the Senate bearing three (3) sets of the requested documents.[85] The subpoenas were complied with by both the Bureau of Immigration and the National Statistics Office on September 1, 2015.[86]

On September 1, 2015, Senator Poe submitted her Verified Answer with (1) Prayer for Summary Dismissal; (2) Motion for Preliminary Hearing on Grounds for Immediate Dismissal/Affirmative Defenses; (3) Motion to Cite David for Direct Contempt of Court; and (4) Counterclaim for Indirect Contempt of Court.[87]

On September 2, 2015, the Senate Electoral Tribunal issued Resolution No. 15-05 requiring the parties to file a preliminary conference brief on or before September 9, 2015.[88] The Resolution also set the Preliminary Conference on September 11, 2015.[89] During the Preliminary Conference, the parties "agreed to drop the issue of residency on the ground of prescription."[90]

Oral arguments were held by the Senate Electoral Tribunal on September 21, 2015.[91] The parties were then "required to submit their respective [memoranda], without prejudice to the submission of DNA evidence by [Senator Poe] within thirty (30) days from the said date."[92]

On October 21, 2015, Senator Poe moved to extend for 15 days the submission of DNA test results.[93] The Senate Electoral Tribunal granted the Motion on October 27, 2015 through Resolution No. 15-08.[94] On November 5, 2015, Senator Poe filed a Manifestation regarding the results of DNA Testing,[95] which stated that "none of the tests that [Senator Poe] took provided results that would shed light to the real identity of her biological parents."[96] The Manifestation also stated that Senator Poe was to continue to find closure regarding the issue and submit any development to the Senate Electoral Tribunal. Later, Senator Poe submitted "the issue of her natural-born Filipino citizenship as a foundling for resolution upon the legal arguments set forth in her submissions to the Tribunal."[97] On November 6, 2015, through Resolution No. 15-10, the Senate Electoral Tribunal "noted the [M]anifestation and considered the case submitted for resolution."[98]

On November 17, 2015, the Senate Electoral Tribunal promulgated its assailed Decision finding Senator Poe to be a natural-born citizen and, therefore, qualified to hold office as

Senator.[99] The Decision stated:

> We rule that Respondent is a natural-born citizen under the 1935 Constitution and continue to be a natural-born citizen as defined under the 1987 Constitution, as she is a citizen of the Philippines from birth, without having to perform any act to acquire or perfect (her) Philippine citizenship.
>
> . . . .
>
> In light of our earlier pronouncement that Respondent is a natural-born Filipino citizen, Respondent validly reacquired her natural-born Filipino citizenship upon taking her Oath of Allegiance to the Republic of the Philippines, as required under Section 3 of R.A. No. 9225.
>
> Under Section 11 of B.I. Memorandum Circular No. AFF 05-002 (the Revised Rules Implementing R.A. No. 9225), the foregoing Oath of Allegiance is the "final act" to reacquire natural-born Philippine citizenship.
>
> . . . .
>
> To repeat, Respondent never used her USA passport from the moment she renounced her American citizenship on 20 October 2010. She remained solely a natural-born Filipino citizen from that time on until today.
>
> WHEREFORE, in view of the foregoing, the petition for quo warranto is DISMISSED.
>
> No pronouncement as to costs.
>
> SO ORDERED.[100] (Citations omitted)

On November 23, 2015, David moved for reconsideration.[101] The Senate Electoral Tribunal issued Resolution No. 15-11 on November 24, 2015, giving Senator Poe five (5) days to comment on the Motion for Reconsideration.[102]

Senator Poe filed her Comment/Opposition to the Motion for Reconsideration on December 1, 2015.[103] David's Motion for Reconsideration was denied by the Senate Electoral Tribunal on December 3, 2015:[104]

> WHEREFORE, the Tribunal resolves to DENY the *Verified Motion for Reconsideration (of the Decision promulgated on 17 November 2015)* of David Rizalito Y. David dated 23 November 2015.
>
> The Tribunal further resolves to CONFIRM Resolution No. 15-11 dated 24 November 2015 issued by the Executive Committee of the Tribunal; to **NOTE** the Comment/Opposition filed by counsel for Respondent on 01 December 2015; to **GRANT** the motion for leave to appear and submit memorandum as *amici curiae* filed by Dean Arturo de Castro [and to] NOTE the Memorandum (for Volunteer Amicus Curiae) earlier submitted by Dean de Castro before the Commission on Elections in SPA No. 15-139 (DC), entitled "Amado D. Valdez, Petitoner, versus Mary Grace Natividad Sonora Poe Llaman[z]ares, Respondent."
>
> SO ORDERED.[105] (Emphasis in the original)

On December 8, 2015, the Senate Electoral Tribunal's Resolution was received by David.[106] On December 9, 2015, David filed the pre Petition for Certiorari before this Court.[107]

On December 16, 2015, this Court required the Senate Electoral Tribunal and Senator Poe to comment on the Petition "within a non-extendible period of fifteen (15) days from notice."[108] The Resolution also set oral arguments on January 19, 2016.[109] The Senate Electoral Tribunal, through the Office of the Solicitor General, submitted its Comment on December 30, 2015.[110] Senator Poe submitted her Comment on January 4, 2016.[111]

This case was held in abeyance pending the resolution of the Commission on Elections case on the issue of private respondent's citizenship.

For resolution is the sole issue of whether the Senate Electoral Tribunal committed grave abuse of discretion amounting to lack or excess of jurisdiction in dismissing petitioner's Petition for Quo Warranto based on its finding that private respondent is a natural-born Filipino citizen, qualified to hold a seat as Senator under Article VI, Section 3 of the 1987 Constitution.

I

Petitioner comes to this Court invoking our power of judicial review through a petition for certiorari under Rule 65 of the 1997 Rules of Civil Procedure. He seeks to annul the assailed

Decision and Resolution of the Senate Electoral Tribunal, which state its findings and conclusions on private respondent's citizenship.

Ruling on petitioner's plea for post-judgment relief calls for a consideration of two (2) factors: first, the breadth of this Court's competence relative to that of the Senate Electoral Tribunal; and second, the nature of the remedial vehicle—a petition for certiorari—through which one who is aggrieved by a judgment of the Senate Electoral Tribunal may seek relief from this Court.

I. A

The Senate Electoral Tribunal, along with the House of Representatives Electoral Tribunal, is a creation of Article VI, Section 17 of the 1987 Constitution:[112]

> ARTICLE VI
> The Legislative Department
>
> . . . .
>
> 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)

Through Article VI, Section 17, the Constitution segregates from all other judicial and quasi-judicial bodies (particularly, courts and the Commission on Elections[113]) the power to rule on contests[114] relating to the election, returns, and qualifications of members of the Senate (as well as of the House of Representatives). These powers are granted to a separate and distinct constitutional organ. There are two (2) aspects to the exclusivity of the Senate

Electoral Tribunal's power. The power to resolve such contests is exclusive to any other body. The resolution of such contests is its only task; it performs no other function.

The 1987 Constitution is not the first fundamental law to introduce into our legal system an "independent, impartial and non-partisan body attached to the legislature and specially created for that singular purpose."[115] The 1935 Constitution similarly created an Electoral Commission, independent from the National Assembly, to be the sole judge of all contests relating to members of the National Assembly.[116] This was a departure from the system introduced by prior organic acts enforced under American colonial rule—namely: the Philippine Bill of 1902 and the Jones Law of 1916—which vested the power to resolve such contests in the legislature itself. When the 1935 Constitution was amended to make room for a bicameral legislature, a corresponding amendment was made for there to be separate electoral tribunals for each chamber of Congress.[117] The 1973 Constitution did away with these electoral tribunals, but they have since been restored by the 1987 Constitution.

All constitutional provisions—under the 1935 and 1987 Constitutions—which provide for the creation of electoral tribunals (or their predecessor, the Electoral Commission), have been unequivocal in their language. The electoral tribunal shall be the "sole" judge.

In *Lazatin v. House Electoral Tribunal*:[118]

> 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 Malcohn 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.[119]

Exclusive, *original* jurisdiction over contests relating to the election, returns, and qualifications of the elective officials falling within the scope of their powers is, thus, vested in these electoral tribunals. It is only before them that post-election challenges against the election, returns, and qualifications of Senators and Representatives (as well as of the

President and the Vice-President, in the case of the Presidential Electoral Tribunal) may be initiated.

The judgments of these tribunals are not beyond the scope of any review. Article VI, Section 17's stipulation of electoral tribunals' being the "sole" judge must be read in harmony with Article VIII, Section 1's express statement that "[j]udicial power includes the duty of the courts of justice . . . to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of ***any branch or instrumentality*** of the Government." Judicial review is, therefore, still possible. In *Libanan v. House of Representatives Electoral Tribunal*:[120]

> The Court has stressed that ". . . so long as the Constitution grants the [House of Representatives Electoral Tribunal] the power to be the sole judge of all contests relating to the election, returns and qualifications of members of the House of Representatives, any final action taken by the [House of Representatives Electoral Tribunal] on a matter within its jurisdiction shall, as a rule, not be reviewed by this Court . . . the power granted to the Electoral Tribunal . . . excludes the exercise of any authority on the part of this Court that would in any wise restrict it or curtail it or even affect the same."
>
> The Court did recognize, of course, its power of judicial review in exceptional cases. In *Robles vs. [House of Representatives Electoral Tribunal]*, the Court has explained that while the judgments of the Tribunal are beyond judicial interference, *the Court may do so, however, but only "in the exercise of this Court's so-called* ***extraordinary jurisdiction****, . . . upon a determination that the Tribunal's decision or resolution was rendered without or in excess of its jurisdiction, or with grave abuse of discretion* or paraphrasing *Morrero*, upon a clear showing of such arbitrary and improvident use by the Tribunal of its power as constitutes a denial of due process of law, or upon a demonstration of a very clear unmitigated error, manifestly constituting such grave abuse of discretion that there has to be a remedy for such abuse."
>
> In the old, but still relevant, case of *Morrero vs. Bocar*, the Court has ruled that the power of the Electoral Commission "is beyond judicial interference except, in any event, upon a clear showing of such arbitrary and improvident use of power as will constitute a denial of due process." The Court does not, to paraphrase it in

> *Co vs. [House of Representatives Electoral Tribunal]*, venture into the perilous area of correcting perceived errors of independent branches of the Government; it comes in only when it has to vindicate a denial of due process or correct an abuse of discretion so grave or glaring that no less than the Constitution itself calls for remedial action.[121] (Emphasis supplied, citations omitted)

This Court reviews judgments of the House and Senate Electoral Tribunals not in the exercise of its appellate jurisdiction. Our review is limited to a determination of whether there has been an error in jurisdiction, not an error in judgment.

I. B

A party aggrieved by the rulings of the Senate or House Electoral Tribunal invokes the jurisdiction of this Court through the vehicle of a petition for certiorari under Rule 65 of the 1997 Rules of Civil Procedure. An appeal is a continuation of the proceedings in the tribunal from which the appeal is taken. A petition for certiorari is allowed in Article VIII, Section 1 of the Constitution and described in the 1997 Rules of Civil Procedure as an independent civil action.[122] The viability of such a petition is premised on an allegation of "grave abuse of discretion."[123]

The term "grave abuse of discretion" has been generally held to refer to such arbitrary, capricious, or whimsical exercise of judgment as is tantamount to lack of jurisdiction:

> [T]he abuse of discretion must be patent and gross as to amount to an evasion of a positive duty or a virtual refusal to perform a duty enjoined by law, or to act at all in contemplation of law, as where the power is exercised in an arbitrary and despotic manner by reason of passion and hostility. Mere abuse of discretion is not enough: it must be grave.[124]

There is grave abuse of discretion when a constitutional organ such as the Senate Electoral Tribunal or the Commission on Elections, makes manifestly gross errors in its factual inferences such that critical pieces of evidence, which have been nevertheless properly introduced by a party, or admitted, or which were the subject of stipulation, are ignored or not accounted for.[125]

A glaring misinterpretation of the constitutional text or of statutory provisions, as well as a misreading or misapplication of the current state of jurisprudence, is also considered grave abuse of discretion.[126] The arbitrariness consists in the disregard of the current state of our law.

Adjudication that fails to consider the facts and evidence or frivolously departs from settled principles engenders a strong suspicion of partiality. This can be a badge of hostile intent against a party.

Writs of certiorari have, therefore, been issued: (a) where the tribunal's approach to an issue is premised on wrong considerations and its conclusions founded on a gross misreading, if not misrepresentation, of the evidence;[127] (b) where a tribunal's assessment of a case is "far from reasonable[,] [and] based solely on very personal and subjective assessment standards when the law is replete with standards that can be used";[128] "(c) where the tribunal's action on the appreciation and evaluation of evidence oversteps the limits of its discretion to the point of being grossly unreasonable";[129] and (d) where the tribunal invokes erroneous or irrelevant considerations in resolving an issue.[130]

I. C

We find no basis for concluding that the Senate Electoral Tribunal acted without or in excess of jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction.

The Senate Electoral Tribunal's conclusions are in keeping with a faithful and exhaustive reading of the Constitution, one that proceeds from an intent to give life to all the aspirations of all its provisions.

Ruling on the Petition for Quo Warranto initiated by petitioner, the Senate Electoral Tribunal was confronted with a novel legal question: the citizenship status of children whose biological parents are unknown, considering that the Constitution, in Article IV, Section 1(2) explicitly makes reference to one's father or mother. It was compelled to exercise its original jurisdiction in the face of a constitutional ambiguity that, at that point, was without judicial precedent.

Acting within this void, the Senate Electoral Tribunal was only asked to make a reasonable interpretation of the law while needfully considering the established personal circumstances

of private respondent. It could not have asked the impossible of private respondent, sending her on a proverbial fool's errand to establish her parentage, when the controversy before it arose because private respondent's parentage was unknown and has remained so throughout her life.

The Senate Electoral Tribunal knew the limits of human capacity. It did not insist on burdening private respondent with conclusively proving, within the course of the few short months, the one thing that she has never been in a position to know throughout her lifetime. Instead, it conscientiously appreciated the implications of all other facts known about her finding. Therefore, it arrived at conclusions in a manner in keeping with the degree of proof required in proceedings before a quasi-judicial body: not absolute certainty, not proof beyond reasonable doubt or preponderance of evidence, but "substantial evidence, or that amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion."[131]

In the process, it avoided setting a damning precedent for all children with the misfortune of having been abandoned by their biological parents. Far from reducing them to inferior, second-class citizens, the Senate Electoral Tribunal did justice to the Constitution's aims of promoting and defending the well-being of children, advancing human rights, and guaranteeing equal protection of the laws and equal access to opportunities for public service.

II

Article VI, Section 3 of the 1987 Constitution spells out the requirement that "[n]o person shall be a Senator unless he [or she] is a natural-born citizen of the Philippines."

Petitioner asserts that private respondent is not a natural-born citizen and, therefore, not qualified to sit as Senator of the Republic, chiefly on two (2) grounds. First, he argues that as a foundling whose parents are unknown, private respondent fails to satisfy the *jus sanguinis* principle: that is, that she failed to establish her Filipino "blood line," which is supposedly the essence of the Constitution's determination of who are natural-born citizens of the Philippines. Proceeding from this first assertion, petitioner insists that as private respondent was never a natural-born citizen, she could never leave reverted to natural-born status despite the performance of acts that ostensibly comply with Republic Act No. 9225, otherwise known as the Citizenship Retention and Re-acquisition Act of 2003.

Petitioner's case hinges on the primacy he places over Article IV, Section 1 of the 1987 Constitution and its enumeration of who are Filipino citizens, more specifically on Section 1(2), which identifies as citizens "[t]hose whose fathers or mothers are citizens of the Philippines." Petitioner similarly claims that, as private respondent's foundling status is settled, the burden to prove Filipino parentage was upon her. With private respondent having supposedly failed to discharge this burden, the supposed inevitable conclusion is that she is not a natural-born Filipino.

III

At the heart of this controversy is a constitutional ambiguity. Definitely, foundlings have biological parents, either or both of whom can be Filipinos. Yet, by the nature of their being foundlings, they may, at critical times, not know their parents. Thus, this controversy must consider possibilities where parentage may be Filipino but, due to no fault of the foundling, remains unknown.[132] Resolving this controversy hinges on constitutional interpretation.

Discerning constitutional meaning is an exercise in discovering the sovereign's purpose so as to identify which among competing interpretations of the same text is the more contemporarily viable construction. Primarily, the actual words—text—and how they are situated within the whole document—context—govern. Secondarily, when discerning meaning from the plain text (i.e., verba legis) fails, contemporaneous construction may settle what is more viable. Nevertheless, even when a reading of the plain text is already sufficient, contemporaneous construction may still be resorted to as a means for verifying or validating the clear textual or contextual meaning of the Constitution.

III. A

The entire exercise of interpreting a constitutional provision must necessarily begin with the text itself. The language of the provision being interpreted is the principal source from which this Court determines constitutional intent.[133]

To the extent possible, words must be given their ordinary meaning; this is consistent with the basic precept of verba legis.[134] The Constitution is truly a public document in that it was ratified and approved by a direct act of the People exercising their right of suffrage, they approved of it through a plebiscite. The preeminent consideration in reading the Constitution, therefore, is the People's consciousness: that is, popular, rather than

technical-legal, understanding. Thus:

> *We look to the language of the document itself in our search for its meaning. We do not of course stop there, but that is where we begin.* It is to be assumed that the words in which constitutional provisions are couched express the objective sought to be attained. They are to be given their ordinary meaning except where technical terms are employed in which case the significance thus attached to them prevails. As the Constitution is not primarily a lawyer's document, it being essential for the rule of law to obtain that it should ever be present in the people's consciousness, its language as much as possible should be understood in the sense they have in common use. What it says according to the text of the provision to be construed compels acceptance and negates the power of the courts to alter it, based on the postulate that the framers and the people mean what they say. Thus, these are the cases where the need for construction is reduced to a minimum.[135] (Emphasis supplied)

Reading a constitutional provision requires awareness of its relation with the whole of the Constitution. A constitutional provision is but a constituent of a greater whole. It is the framework of the Constitution that animates each of its components through the dynamism of these components' interrelations. What is called into operation is the entire document, not simply a peripheral item. The Constitution should, therefore, be appreciated and read as a singular, whole unit—*ut magis valeat quam pereat*.[136] Each provision must be understood and effected in a way that gives life to all that the Constitution contains, from its foundational principles to its finest fixings.[137]

The words and phrases that establish its framework and its values color each provision at the heart of a controversy in an actual case. In *Civil Liberties Union v. Executive Secretary*:[138]

> It is a well-established rule in constitutional construction that no one provision of the Constitution is to be separated from all the others, to be considered alone, but that all the provisions bearing upon a particular subject are to be brought into view and to be so interpreted as to effectuate the great purposes of the instrument. Sections bearing on a particular subject should be considered and interpreted together as to effectuate the whole purpose of the Constitution and

> one section is not to be allowed to defeat another, if by any reasonable construction, the two can be made to stand together.
>
> In other words, the court must harmonize them, if practicable, and must lean in favor of construction which will render every word operative, rather than one which may make the words idle and nugatory.[139] (Citations omitted)

Reading a certain text includes a consideration of jurisprudence that has previously considered that exact same text, if any. Our legal system is founded on the basic principle that "judicial decisions applying or interpreting the laws or the Constitution shall form part of [our] legal system."[140] Jurisprudence is not an independent source of law. Nevertheless, judicial interpretation is deemed part of or written into the text itself as of the date that it was originally passed. This is because judicial construction articulates the contemporaneous intent that the text brings to effect.[141] Nevertheless, one must not fall into the temptation of considering prior interpretation as immutable.

Interpretation grounded on textual primacy likewise looks into how the text has evolved. Unless completely novel, legal provisions are the result of the re-adoption—often with accompanying re-calibration—of previously existing rules. Even when seemingly novel, provisions are often introduced as a means of addressing the inadequacies and excesses of previously existing rules.

One may trace the historical development of text by comparing its current iteration with prior counterpart provisions, keenly taking note of changes in syntax, along with accounting for more conspicuous substantive changes such as the addition and deletion of provisos or items in enumerations, shifting terminologies, the use of more emphatic or more moderate qualifiers, and the imposition of heavier penalties. The tension between consistency and change galvanizes meaning.

Article IV, Section 1 of the 1987 Constitution, which enumerates who are citizens of the Philippines, may be compared with counterpart provisions, not only in earlier Constitutions but even in organic laws[142] and in similar mechanisms[143] introduced by colonial rulers whose precepts nevertheless still resonate today.

Even as ordinary meaning is preeminent, a realistic appreciation of legal interpretation must grapple with the truth that meaning is not always singular and uniform. In *Social Weather Stations, Inc. v. Commission on Elections*,[144] this Court explained the place of a

holistic approach in legal interpretation:

> Interestingly, both COMELEC and petitioners appeal to what they (respectively) construe to be plainly evident from Section 5.2(a)'s text on the part of COMELEC, that the use of the words "paid for" evinces no distinction between direct purchasers and those who purchase via subscription schemes; and, on the part of petitioners, that Section 5.2(a)'s desistance from actually using the word "subscriber" means that subscribers are beyond its contemplation. The variance in the parties' positions, considering that they are both banking on what they claim to be the Fair Election Act's plain meaning, is the best evidence of an extant ambiguity.
>
> Second, statutory construction cannot lend itself to pedantic rigor that foments absurdity. The dangers of inordinate insistence on literal interpretation are commonsensical and need not be belabored. These dangers are by no means endemic to legal interpretation. Even in everyday conversations, misplaced literal interpretations are fodder for humor. A fixation on technical rules of grammar is no less innocuous. A pompously doctrinaire approach to text can stifle, rather than facilitate, the legislative wisdom that unbridled textualism purports to bolster.
>
> Third, the assumption that there is, in all cases, a universal plain language is erroneous. In reality, universality and uniformity in meaning is a rarity. A contrary belief wrongly assumes that language is static.
>
> ***The more appropriate and more effective approach is, thus, holistic rather than parochial: to consider context and the interplay of the historical, the contemporary, and even the envisioned.*** *Judicial interpretation entails the convergence of social realities and social ideals. The latter are meant to be effected by the legal apparatus, chief of which is the bedrock of the prevailing legal order: the Constitution. Indeed, the word in the vernacular that describes the Constitution — saligan — demonstrates this imperative of constitutional primacy.*
>
> Thus, we refuse to read Section 5.2(a) of the Fair Election Act in isolation. Here, we consider not an abstruse provision but a stipulation that is part of the whole, i.e., the statute of which it is a part, that is aimed at realizing the ideal of fair

> elections. We consider not a cloistered provision but a norm that should have a present authoritative effect to achieve the ideals of those who currently read, depend on, and demand fealty from the Constitution.[145] (Emphasis supplied)

III. B

Contemporaneous construction and aids that are external to the text may be resorted to when the text is capable of multiple, viable meanings.[146] It is only then that one can go beyond the strict boundaries of the document. Nevertheless, even when meaning has already been ascertained from a reading of the plain text, contemporaneous construction may serve to verify or validate the meaning yielded by such reading.

Limited resort to contemporaneous construction is justified by the realization that the business of understanding the Constitution is not exclusive to this Court. The basic democratic foundation of our constitutional order necessarily means that all organs of government, and even the People, read the fundamental law and are guided by it. When competing viable interpretations arise, a justiciable controversy may ensue requiring judicial intervention in order to arrive with finality at which interpretation shall be sustained. To remain true to its democratic moorings, however, judicial involvement must remain guided by a framework or deference and constitutional avoidance. This same principle underlies the basic doctrine that courts are to refrain from issuing advisory opinions. Specifically as regards this Court, only constitutional issues that are narrowly framed, sufficient to resolve an actual case, may be entertained.[147]

When permissible then, one may consider analogous jurisprudence (that is, judicial decisions on similar, but not the very same, matters or concerns),[148] as well as thematically similar statutes and international norms that form part of our legal system. This includes discerning the purpose and aims of the text in light of the specific facts under consideration. It is also only at this juncture—when external aids may be consulted—that the supposedly underlying notions of the framers, as articulated through records of deliberations and other similar accounts, can be illuminating.

III. C

In the hierarchy of the means for constitutional interpretation, inferring meaning from the supposed intent of the framers or fathoming the original understanding of the individuals

who adopted the basic document is the weakest approach.

These methods leave the greatest room for subjective interpretation. Moreover, they allow for the greatest errors. The alleged intent of the framers is not necessarily encompassed or exhaustively articulated in the records of deliberations. Those that have been otherwise silent and have not actively engaged in interpellation and debate may have voted for or against a proposition for reasons entirely their own and not necessarily in complete agreement with those articulated by the more vocal. It is even possible that the beliefs that motivated them were based on entirely erroneous premises. Fathoming original understanding can also misrepresent history as it compels a comprehension of actions made within specific historical episodes through detached, and not necessarily better-guided, modern lenses.

Moreover, the original intent of the framers of the Constitution is not always uniform with the original understanding of the People who ratified it. In *Civil Liberties Union*:

> While it is permissible in this jurisdiction to consult the debates and proceedings of the constitutional convention in order to arrive at the reason and purpose of the resulting Constitution, resort thereto may be had only when other guides fail as said proceedings are powerless to vary the terms of the Constitution when the meaning is clear. Debates in the constitutional convention "are of value as showing the views of the individual members, and as indicating the reasons for their votes, but they give us no light as to the views of the large majority who did not talk, much less of the mass of our fellow citizens whose votes at the polls gave the instrument the force of fundamental law. We think it safer to construe the constitution from what appears upon its face." *The proper interpretation therefore depends more on how it was understood by the people adopting it than in the framer's understanding thereof.*[149] (Emphasis supplied)

IV

Though her parents are unknown, private respondent is a Philippine citizen without the need for an express statement in the Constitution making her so. Her status as such is but the logical consequence of a reasonable reading of the Constitution within its plain text. The Constitution provides its own cues; there is not even a need to delve into the deliberations of its framers and the implications of international legal instruments. This reading proceeds

from several levels.

On an initial level, a plain textual reading readily identifies the specific provision, which principally governs: the Constitution's actual definition, in Article IV, Section 2, of "natural-born citizens." This definition must be harmonized with Section 1's enumeration, which includes a reference to parentage. These provisions must then be appreciated in relation to the factual milieu of this case. The pieces of evidence before the Senate Electoral Tribunal, admitted facts, and uncontroverted circumstances adequately justify the conclusion of private respondent's Filipino parentage.

On another level, the assumption should be that foundlings are natural-born unless there is substantial evidence to the contrary. This is necessarily engendered by a complete consideration of the whole Constitution, not just its provisions on citizenship. This includes its mandate of defending the well-being of children, guaranteeing equal protection of the law, equal access to opportunities for public service, and respecting human rights, as well as its reasons for requiring natural-born status for select public offices. Moreover, this is a reading validated by contemporaneous construction that considers related legislative enactments, executive and administrative actions, and international instruments.

V

Private respondent was a Filipino citizen at birth. This status' commencement from birth means that private respondent never had to do anything to consummate this status. By definition, she is natural-born. Though subsequently naturalized, she reacquired her natural-born status upon satisfying the requirement of Republic Act No. 9225. Accordingly, she is qualified to hold office as Senator of the Republic.

V. A

Article IV, Section 1 of the 1987 Constitution enumerates who are citizens of the Philippines:

> Section 1. The following are citizens of the Philippines:
>
> (1) Those who are citizens of the Philippines at the time of the adoption of this Constitution;

(2) Those whose fathers or mothers are citizens of the Philippines;
(3) Those born before January 17, 1973, of Filipino mothers, who elect Philippine citizenship upon reaching the age of majority; and
(4) Those who are naturalized in accordance with law.[150]

Article IV, Section 2 identifies who are natural-born citizens:

> Sec. 2. Natural-born citizens are those who are ***citizens of the Philippines from birth without having to perform any act to acquire or perfect their Philippine citizenship***. Those who elect Philippine citizenship in accordance with paragraph (3), Section 1 hereof shall be deemed natural-born citizens. (Emphasis supplied)

Section 2's significance is self-evident. It provides a definition of the term "natural-born citizens." This is distinct from Section 1's enumeration of who are citizens. As against Section 1's generic listing, Section 2 specifically articulates those who may count themselves as natural-born.

The weight and implications of this categorical definition are better appreciated when supplemented with an understanding of how our concepts of citizenship and natural-born citizenship have evolved. As will be seen, the term "natural-born citizen" was a transplanted, but tardily defined, foreign concept.

V. B

Citizenship is a legal device denoting political affiliation. It is the "right to have rights."[151] It is one's personal and . . . permanent membership in a political community. . . The core of citizenship is the capacity to enjoy political rights, that is, the right to participate in government principally through the right to vote, the right to hold public office[,] and the right to petition the government for redress of grievance.[152]

Citizenship also entails obligations to the political community of which one is part.[153] Citizenship, therefore, is intimately tied with the notion that loyalty is owed to the state, considering the benefits and protection provided by it. This is particularly so if these benefits and protection have been enjoyed from the moment of the citizen's birth.

Tecson v. Commission on Elections[154] reckoned with the historical development of our

concept of citizenship, beginning under Spanish colonial rule.[155] Under the Spanish, the native inhabitants of the Philippine Islands were identified not as citizens but as "Spanish subjects."[156] Church records show that native inhabitants were referred to as "indios." The alternative identification of native inhabitants as subjects or as indios demonstrated the colonial master's regard for native inhabitants as inferior.[157] Natives were, thus, reduced to subservience in their own land.

Under the Spanish Constitution of 1876, persons born within Spanish territory, not just peninsular Spain, were considered Spaniards, classification, however, did not extend to the Philippine Islands, as Article 89 expressly mandated that the archipelago was to be governed by special laws.[158] It was only on December 18, 1889, upon the effectivity in this jurisdiction of the Civil Code of Spain, that there existed a categorical enumeration of who were Spanish citizens,[159] thus:

(a) Persons born in Spanish territory,
(b) Children of a Spanish father or mother, even if they were born outside of Spain,
(c) Foreigners who have obtained naturalization papers,
(d) Those who, without such papers, may have become domiciled inhabitants of any town of the Monarchy.[160]

1898 marked the end of Spanish colonial rule. The Philippine Islands were ceded by Spain to the United States of America under the Treaty of Paris, which was entered into on December 10, 1898. The Treaty of Paris did not automatically convert the native inhabitants to American citizens.[161] Instead, it left the determination of the native inhabitants' status to the Congress of the United States:

> Spanish subjects, natives of the Peninsula, residing in the territory over which Spain by the present treaty relinquishes or cedes her sovereignty may remain in such territory or may remove therefrom. . . . In case they remain in the territory they may preserve their allegiance to the Crown of Spain by making . . . a declaration of their decision to preserve such allegiance; in default of which declaration they shall be held to have renounced it and to have adopted the nationality of the territory in which they may reside.
>
> Thus –
>
> The civil rights and political status of the native inhabitants of the territories hereby ceded to the United States shall be determined by Congress.[162]

Pending legislation by the United States Congress, the native inhabitants who had ceased to be Spanish subjects were "issued passports describing them to be citizens of the Philippines entitled to the protection of the United States."[163]

The term "citizens of the Philippine Islands" first appeared in legislation in the Philippine Organic Act, otherwise known as the Philippine Bill of 1902:[164]

> Section 4. That all inhabitants of the Philippine Islands continuing to reside therein, who were Spanish subjects on the eleventh day of April, eighteen hundred and ninety-nine, and then resided in said Islands, and their children born subsequent thereto, ***shall be deemed and held to be citizens of the Philippine Islands*** and as such entitled to the protection of the United States, except such as shall have elected to preserve their allegiance to the Crown of Spain in accordance with the provisions of the treaty of peace between the United States and Spain signed at Paris December tenth, eighteen hundred and ninety-eight. (Emphasis supplied)

The Philippine Bill of 1902 explicitly covered the status of children born in the Philippine Islands to its inhabitants who were Spanish subjects as of April 11, 1899. However, it did not account for the status of children born in the Islands to parents who were not Spanish subjects. A view was expressed that the common law concept of *jus soli* (or citizenship by place of birth), which was operative in the United States, applied to the Philippine Islands.[165]

On March 23, 1912, the United States Congress amended Section 4 of the Philippine Bill of 1902. It was made to include a proviso for the enactment by the legislature of a law on acquiring citizenship. This proviso read:

> *Provided*, That the Philippine Legislature, herein provided for, is hereby authorized to provide by law for the acquisition of Philippine citizenship by those natives of the Philippine Islands who do not come within the foregoing provisions, the natives of the insular possessions of the United States, and such other persons residing in the Philippine Islands who are citizens of the United States, or who could become citizens of the United States under the laws of the United States if residing therein.[166]

In 1916, the Philippine Autonomy Act, otherwise known as the Jones Law of 1916, replaced the Philippine Bill of 1902. It restated the citizenship provision of the Philippine Bill of 1902, as amended:[167]

> Section 2.—Philippine Citizenship and Naturalization
>
> That all inhabitants of the Philippine Islands who were Spanish subjects on the eleventh day of April, eighteen hundred and ninety-nine, and then resided in said Islands, and their children born subsequent thereto, shall be deemed and held to be citizens of the Philippine Islands, except such as shall have elected to preserve their allegiance to the Crown of Spain in accordance with the provisions of the treaty of peace between the United States and Spain, signed at Paris December tenth, eighteen hundred and ninety-eight, and except such others as have since become citizens of some other country: Provided, That the Philippine Legislature, herein provided for, is hereby authorized to provide by law for the acquisition of Philippine citizenship by those natives of the Philippine Islands who do not come within the foregoing provisions, the natives of the insular possessions of the United States, and such other persons residing in the Philippine Islands who are citizens of the United States, or who could become citizens of the United States under the laws of the United States if residing therein.

The Jones Law of 1916 provided that a native-born inhabitant of the Philippine Islands was deemed to be a citizen of the Philippines as of April 11, 1899 if he or she was "(1) a subject of Spain on April 11, 1899, (2) residing in the Philippines on said date, and (3) since that date, not a citizen of some other country."[168]

There was previously the view that *jus soli* may apply as a mode of acquiring citizenship. It was the 1935 Constitution that made sole reference to parentage vis-a-vis the determination of citizenship.[169] Article III, Section 1 of the 1935 Constitution provided:

> SECTION 1. The following are citizens of the Philippines:
>
> (1) Those who are citizens of the Philippine Islands at the time of the adoption of this Constitution.

(2) Those born in the Philippines Islands of foreign parents who, before the adoption of this Constitution, had been elected to public office in the Philippine Islands.
(3) Those whose fathers are citizens of the Philippines.
(4) Those whose mothers are citizens of the Philippines and upon reaching the age of majority, elect Philippine citizenship.
(5) Those who are naturalized in accordance with law.

The term "natural-born citizen" first appeared in this jurisdiction in the 1935 Constitution's provision stipulating the qualifications for President and Vice-President of the Philippines. Article VII, Section 3 read:

> SECTION 3. No person may be elected to the office of President or Vice-President, unless he be a natural-born citizen of the Philippines, a qualified voter, forty years of age or over, and has been a resident of the Philippines for at least ten years immediately preceding the election.

While it used the term "natural-born citizen," the 1935 Constitution did not define the term.

Article II, Section 1(4) of the 1935 Constitution—read with the then civil law provisions that stipulated the automatic loss of Filipino citizens lip by women who marry alien husbands—was discriminatory towards women.[170] The 1973 Constitution rectified this problematic situation:

> SECTION 1. The following are citizens of the Philippines:
>
> (1) Those who are citizens of the Philippines at the time of the adoption of this Constitution.
> (2) Those whose fathers or mothers are citizens of the Philippines.
> (3) Those who elect Philippine citizenship pursuant to the provisions of the Constitution of nineteen hundred and thirty-five.
> (4) Those who are naturalized in accordance with law.
>
> SECTION 2. A female citizen of the Philippines who marries an alien shall retain her Philippine citizenship, unless by her act or omission she is deemed, under the law, to have renounced her citizenship.[171]

The 1973 Constitution was the first instrument to actually define the term "natural-born citizen." Article III, Section 4 of the 1973 Constitution provided:

> SECTION 4. A natural-born citizen is one who is a citizen of the Philippines from birth without having to perform any act to acquire or perfect his Philippine citizenship.[172]

The present Constitution adopted most of the provisions of the 1973 Constitution on citizenship, "except for subsection (3) thereof that aimed to correct the irregular situation generated by the questionable proviso in the 1935 Constitution."[173]

Article IV, Section 1 of the 1987 Constitution now reads:

> Section 1. The following are citizens of the Philippines:
>
> (1) Those who are citizens of the Philippines at the time of the adoption of this Constitution;
> (2) Those whose fathers or mothers are citizens of the Philippines;
> (3) Those born before January 17, 1973, of Filipino mothers, who elect Philippine citizenship upon reaching the age of majority; and
> (4) Those who are naturalized in accordance with law.[174]

Article IV, Section 2 also calibrated the 1973 Constitution's previous definition of natural-born citizens, as follows:

> Sec. 2. Natural-born citizens are those who are ***citizens of the Philippines from birth without having to perform any act to acquire or perfect their Philippine citizenship***. Those who elect Philippine citizenship in accordance with paragraph (3), Section 1 hereof shall be deemed natural-born citizens. (Emphasis supplied)

Ironically, the concept of "natural-born" citizenship is a "foreign" concept that was transplanted into this jurisdiction as part of the 1935 Constitution's eligibility requirements for President and Vice-President of the Philippines.

In the United States Constitution, from which this concept originated, the term "natural-born citizen" appears in only a single instance: as an eligibility requirement for the presidency.[175] It is not defined in that Constitution or in American laws. Its origins and rationale for inclusion as a requirement for the presidency are not even found in the records of constitutional deliberations.[176] However, it has been suggested that, as the United States

was under British colonial rule before its independence, the requirement of being natural-born was introduced as a safeguard against foreign infiltration in the administration of national government:

> It has been suggested, quite plausibly, that this language was inserted in response to a letter sent by John Jay to George Washington, and probably to other delegates, on July 25, 1787, which stated:
>
> > Permit me to hint, whether it would be wise and seasonable to provide a strong check to the admission of Foreigners into the administration of our national Government; and to declare expressly that the Command in Chief of the American army shall not be given to nor devolve on, any but a natural *born* Citizen.
>
> Possibly this letter was motivated by distrust of Baron Von Steuben, who had served valiantly in the Revolutionary forces, but whose subsequent loyalty was suspected by Jay. Another theory is that the Jay letter, and the resulting constitutional provision, responded to rumors that the Convention was concocting a monarchy to be ruled by a foreign monarch.[177]

In the United States, however, citizenship is based on *jus soli*, not *jus sanguinis*.

V. C

Today, there are only two (2) categories of Filipino citizens: natural-born and naturalized.

A natural-born citizen is defined in Article IV, Section 2 as one who is a citizen of the Philippines "from birth without having to perform any act to acquire or perfect Philippine citizenship." By necessary implication, a naturalized citizen is one who is not natural-born. *Bengson v. House of Representatives Electoral Tribunal*[178] articulates this definition by dichotomy:

> [O]nly naturalized Filipinos are considered not natural-born citizens. It is apparent from the enumeration of who are citizens under the present

> Constitution that there are only two classes of citizens: . . . A citizen who is not a naturalized Filipino, i.e., did not have to undergo the process of naturalization to obtain Philippine citizenship, necessarily is a natural-born Filipino.[179]

Former Associate Justice Artemio Panganiban further shed light on the concept of naturalized citizens in his Concurring Opinion in *Bengson*: naturalized citizens, he stated, are "former aliens or foreigners who had to undergo a rigid procedure, in which they had to adduce sufficient evidence to prove that they possessed all the qualifications and none of the disqualifications provided by law in order to become Filipino citizens."[180]

One who desires to acquire Filipino citizenship by naturalization is generally required to file a verified petition.[181] He or she must establish. among others, that he or she is of legal age, is of good moral character, and has the capacity to adapt to Filipino culture, tradition, and principles, or otherwise has resided in the Philippines for a significant period of time.[182] Further, the applicant must show that he or she will not be a threat to the state, to the public, and to the Filipinos' core beliefs.[183]

V. D

Article IV, Section 1 of the 1987 Constitution merely gives an enumeration. Section 2 categorically defines "natural-born citizens." This constitutional definition is further clarified in jurisprudence, which delineates natural-born citizenship from naturalized citizenship. Consistent with Article 8 of the Civil Code, this jurisprudential clarification is deemed written into the interpreted text, thus establishing its contemporaneous intent.

Therefore, petitioner's restrictive reliance on Section 1 and the need to establish bloodline is misplaced. It is inordinately selective and myopic. It divines Section 1's mere enumeration but blatantly turns a blind eye to the succeeding Section's unequivocal definition.

Between Article IV, Section 1(2), which petitioner harps on, and Section 2, it is Section 2 that is on point. To determine whether private respondent is a natural-born citizen, we must look into whether she had to do anything to perfect her citizenship. In view of *Bengson*, this calls for an inquiry into whether she underwent the naturalization process to become a Filipino.

She did not.

At no point has it been substantiated that private respondent went through the actual naturalization process. There is no more straightforward and more effective way to terminate this inquiry than this realization of total and utter lack of proof.

At most, there have been suggestions *likening* a preferential approach to foundlings, as well as compliance with Republic Act No. 9225, with naturalization. These attempts at analogies are misplaced. The statutory mechanisms for naturalization are clear, specific, and narrowly devised. The investiture of citizenship on foundlings benefits children, individuals whose capacity to act is restricted.[184] It is a glaring mistake to liken them to an adult filing before the relevant authorities a sworn petition seeking to become a Filipino, the grant of which is contingent on evidence that he or she must himself or herself adduce. As shall later be discussed, Republic Act No. 9225 is premised on the immutability of natural-born status. It privileges natural-born citizens and proceeds from an entirely different premise from the restrictive process of naturalization.

So too, the jurisprudential treatment of naturalization vis-a-vis natural-born status is clear. It should be with the actual process of naturalization that natural-born status is to be contrasted, not against other procedures relating to citizenship. Otherwise, the door may be thrown open for the unbridled diminution of the status of citizens.

V. E

Natural-born citizenship is not concerned with being a human thoroughbred.

Section 2 defines “natural-born citizens.” Section 1(2) stipulates that to be a citizen, either one’s father or one’s mother must be a Filipino citizen.

That is all there is to Section 1(2). Physical features, genetics, pedigree, and ethnicity are not determinative of citizenship.

Section 1(2) does not require one’s parents to be natural-born Filipino citizens. It does not even require them to conform to traditional conceptions of what is indigenously or ethnically Filipino. One or both parents can, therefore, be ethnically foreign.

Section 1(2) requires nothing more than one ascendant degree: parentage. The citizenship of everyone else in one’s ancestry is irrelevant. There is no need, as petitioner insists, for a pure Filipino bloodline.

Section 1(2) requires citizenship, not identity. A conclusion of Filipino citizenship may be sustained by evidence adduced in a proper proceeding, which substantially proves that either or both of one's parents is a Filipino citizen.

V. F

Private respondent has done this. The evidence she adduced in these proceedings attests to how at least one—if not both—of her biological parents were Filipino citizens.

Proving private respondent's biological parentage is now practically impossible. To begin with, she was abandoned as a newborn infant. She was abandoned almost half a century ago. By now, there are only a handful of those who, in 1968, were able-minded adults who can still lucidly render testimonies on the circumstances of her birth and finding. Even the identification of individuals against whom DNA evidence may be tested is improbable, and by sheer economic cost, prohibitive.

However, our evidentiary rules admit of alternative means for private respondent to establish her parentage.

In lieu of direct evidence, facts may be proven through circumstantial evidence. In *Suerte-Felipe v. People*:[185]

> Direct evidence is that which proves the fact in dispute without the aid of any inference or presumption; while circumstantial evidence is the proof of fact or facts from which, taken either singly or collectively, the existence of a particular fact in dispute may be inferred as a necessary or probable consequence.[186]

People v. Raganas[187] further defines circumstantial evidence:

> Circumstantial evidence is that which relates to a series of facts other than the fact in issue, which by experience have been found so associated with such fact that in a relation of cause and effect, they lead us to a satisfactory conclusion.[188] (Citation omitted)

Rule 133, Section 4 of the Revised Rules on Evidence, for instance, stipulates when

circumstantial evidence is sufficient to justify a conviction in criminal proceedings:

> **Section 4.** *Circumstantial evidence, when sufficient.* — Circumstantial evidence is sufficient for conviction if:
>
> (a) There is more than one circumstances;
>
> (b) The facts from which the inferences are derived are proven; and
>
> (c) The combination of all the circumstances is such as to produce a conviction beyond reasonable doubt.

Although the Revised Rules on Evidence's sole mention of circumstantial evidence is in reference to criminal proceedings, this Court has nevertheless sustained the use of circumstantial evidence in other proceedings.[189] There is no rational basis for making the use of circumstantial evidence exclusive to criminal proceedings and for not considering circumstantial facts as valid means for proof in civil and/or administrative proceedings.

In criminal proceedings, circumstantial evidence suffices to sustain a conviction (which may result in deprivation of life, liberty, and property) anchored on the highest standard or proof that our legal system would require, i.e., proof beyond reasonable doubt. If circumstantial evidence suffices for such a high standard, so too may it suffice to satisfy the less stringent standard of proof in administrative and quasi-judicial proceedings such as those before the Senate Electoral Tribunal, i.e., substantial evidence.[190]

Private respondent was found as a newborn infant outside the Parish Church of Jaro, Iloilo on September 3, 1968.[191] In 1968, Iloilo, as did most—if not all—Philippine provinces, had a predominantly Filipino population.[192] Private respondent is described as having "brown almond-shaped eyes, a low nasal bridge, straight black hair and an oval-shaped face."[193] She stands at 5 feet and 2 inches tall.[194] Further, in 1968, there was no international airport in Jaro, Iloilo.

These circumstances are substantial evidence justifying an inference that her biological parents were Filipino. Her abandonment at a Catholic Church is more or less consistent with how a Filipino who, in 1968, lived in a predominantly religious and Catholic environment, would have behaved. The absence of an international airport in Jaro, Iloilo precludes the possibility of a foreigner mother, along with a foreigner father, swiftly and

surreptitiously coming in and out of Jaro, Iloilo just to give birth and leave her offspring there. Though proof of ethnicity is unnecessary, her physical features nonetheless attest to it.

In the other related case of *Poe-Llamanzares v. Commission on Elections*,[195] the Solicitor General underscored how it is statistically more probable that private respondent was born a Filipino citizen rather than as a foreigner. He submitted the following table is support of his statistical inference:[196]

NUMBER OF FOREIGN AND FILIPINO CHILDREN BORN IN THE PHILIPPINES: 1965-1975 and 2010-2014

YEAR	FOREIGN CHILDREN BORN IN THE PHILIPPINES	FILIPINO CHILDREN BORN IN THE PHILIPPINES
1965	1,479	795,415
1966	1,437	823,342
1967	1,440	840,302
1968	1,595	898,570
1969	1,728	946,753
1970	1,521	966,762
1971	1,401	963,749
1972	1,784	968,385
1973	1,212	1,045,290
1974	1,496	1,081,873
1975	1,493	1,223,837
2010	1,244	1,782,877
2011	1,140	1,746,685
2012	1,454	1,790,367
2013	1,315	1,751,523
2014	1,351	1,748,782

Source: Philippine Statistics Authority [illegible][197]

Thus, out of the 900,165 recorded births in the Philippines in 1968, only 1,595 or 0.18% newborns were foreigners. This translates to roughly 99.8% probability that private respondent was born a Filipino citizen.

Given the sheer difficulty, if not outright impossibility, of identifying her parents after half a

century, a range of substantive proof is available to sustain a reasonable conclusion as to private respondent's parentage.

VI

Before a discussion on how private respondent's natural-born status is sustained by a general assumption on foundlings arising from a comprehensive reading and validated by a contemporaneous construction of the Constitution, and considering that we have just discussed the evidence pertaining to the circumstances of private respondent's birth, it is opportune to consider petitioner's allegations that private respondent bore the burden of proving—through proof of her bloodline—her natural-born status.

Petitioner's claim that the burden of evidence shifted to private respondent upon a mere showing that she is a foundling is a serious error.

Petitioner invites this Court to establish a jurisprudential presumption that all newborns who have been abandoned in rural areas in the Philippines are not Filipinos. His emphasis on private respondent's supposed burden to prove the circumstances of her birth places upon her an impossible condition. To require proof from private respondent borders on the absurd when there is no dispute that the crux of the controversy—the identity of her biological parents—is simply not known.

"Burden of proof is the duty of a party to present evidence on the facts in issue necessary to establish his claim or defense by the amount of evidence required by law." Burden of proof lies on the party making the allegations;[198] that is, the party who "alleges the affirmative of the issue"[199] Burden of proof never shifts from one party to another. What shifts is the burden of evidence. This shift happens when a party makes a prima facie case in his or her favor.[200] The other party then bears the "burden of going forward"[201] with the evidence considering that which has ostensibly been established against him or her.

In an action for quo warranto, the burden of proof necessarily falls on the party who brings the action and who alleges that the respondent is ineligible for the office involved in the controversy. In proceedings before quasi-judicial bodies such as the Senate Electoral Tribunal, the requisite quantum of proof is substantial evidence.[202] This burden was petitioner's to discharge. Once the petitioner makes a prima facie case, the burden of evidence shifts to the respondent.

Private respondent's admitted status as a foundling does not establish a prima facie case in favor of petitioner. While it does establish that the identities of private respondent's biological parents are not known, it does not automatically mean that neither her father nor her mother is a Filipino.

The most that petitioner had in his favor was doubt. A taint of doubt, however, is by no means substantial evidence establishing a prima facie case and shifting the burden of evidence to private respondent.

Isolating the fact of private respondent's being a foundling, petitioner trivializes other uncontroverted circumstances that we have previously established as substantive evidence of private respondent's parentage:

(1) Petitioner was found in front of a church in Jaro, Iloilo;
(2) She was only an infant when she was found, practically a newborn;
(3) She was-found sometime in September 1968;
(4) Immediately after she was found, private respondent was registered as a foundling;
(5) There was no international airport in Jaro, Iloilo; and
(6) Private respondent's physical features are consistent with those of typical Filipinos.

Petitioner's refusal to account for these facts demonstrates an imperceptive bias. As against petitioner's suggested conclusions, the more reasonable inference from these facts is that at least one of private respondent's parents is a Filipino.

VII

Apart from how private respondent is a natural-born Filipino citizen consistent with a reading that harmonizes Article IV, Section 2's definition of natural-born citizens and Section 1(2)'s reference to parentage, the Constitution sustains a presumption that all foundlings found in the Philippines are born to at least either a Filipino father or a Filipino mother and are thus natural-born, unless there is substantial proof otherwise. Consistent with Article IV, Section 1(2), any such countervailing proof must show that both—not just one—of a foundling's biological parents are not Filipino citizens.

VII. A

Quoting heavily from Associate Justice Teresita Leonardo-De Castro's Dissenting Opinion to the assailed November 17, 2015 Decision, petitioner intimates that no inference or presumption in favor of natural-born citizenship may be indulged in resolving this case.[203] He insists that it is private respondent's duty to present incontrovertible proof of her Filipino parentage.

Relying on presumptions is concededly less than ideal. Common sense dictates that actual proof is preferable. Nevertheless, resolving citizenship issues based on presumptions is firmly established in jurisprudence.

In 2004, this Court resolved *Tecson* on the basis of presumptions. Ruling on the allegations that former presidential candidate Ronald Allan Poe (more popularly known as Fernando Poe, Jr.) was not a natural-born Filipino citizen, this Court proceeded from the presumptions that: first, Fernando Poe Jr.'s grandfather, Lorenzo Pou, was born sometime in 1870, while the country was still under Spanish colonial rule;[204] and second, that Lorenzo Pou's place of residence, as indicated in his dearth certificate, must have also been his place of residence before death, which subjected him to the "en masse Filipinization," or sweeping investiture of Filipino citizenship effected by the Philippine Bill of 1902.[205] This Court then noted that Lorenzo Pou's citizenship would have extended to his son and Fernando Poe Jr.'s father, Allan F. Poe. Based on these, Fernando Poe. Jr. would then have been a natural-born Filipino as he was born while the 1935 Constitution, which conferred Filipino citizenship to those born to Filipino fathers, was in effect:

> In ascertaining, in G.R. No. 161824, whether grave abuse of discretion has been committed by the COMELEC, it is necessary to take on the matter of whether or not respondent FPJ is a natural-born citizen, which, in turn, depended on whether or not the father of respondent, Allan F. Poe, would have himself been a Filipino citizen and, in the affirmative, whether or not the alleged illegitimacy of respondent prevents him from taking after the Filipino citizenship of his putative father. Any conclusion on the Filipino citizenship of Lorenzo Pou could only be drawn from the presumption that having died in 1954 at 84 years old, when the Philippines was under Spanish rule, and that San Carlos, Pangasinan, his place of residence upon his death in 1954, in the absence of any other evidence, could have well been his place of residence before death, such that Lorenzo Pou would have benefited from the "en masse Filipinization" that the Philippine Bill had effected in 1902. That citizenship (of Lorenzo Pou), if acquired, would thereby

> extend to his son, Allan F. Poe, father of respondent FPJ. The 1935 Constitution, during which regime respondent FPJ has seen first light, confers citizenship to all persons whose fathers are Filipino citizens regardless of whether such children are legitimate or illegitimate.[206]

It is true that there is jurisprudence—*Paa v. Chan*[207] and *Go v. Ramos*[208] (which merely cites *Paa*)—to the effect that presumptions cannot be entertained in citizenship cases.

Paa, decided in 1967, stated:

> It is incumbent upon *the respondent*, who claims Philippine citizenship, to prove to the satisfaction of the court that he is really a Filipino. No presumption can be indulged in favor of ***the** claimant*, of Philippine citizenship, and any doubt regarding citizenship must be resolved in favor of the State.[209] (Emphasis supplied)

These pronouncements are no longer controlling in light of this Court's more recent ruling in *Tecson*.

Moreover, what this Court stated in *Paa* was that "no presumption can be indulged in favor of ***the*** claimant of Philippine citizenship." This reference to "the claimant" was preceded by a sentence specifically referencing the duty of "the respondent." The syntax of this Court's pronouncement—using the definitive article "the"—reveals that its conclusion was specific only to Chan and to his circumstances. Otherwise, this Court would have used generic language. Instead of the definite article "the," it could have used the indefinite article "a" in that same sentence: "no presumption can be indulged in favor of ***a*** claimant of Philippine citizenship." In the alternative, it could have used other words that would show absolute or sweeping application, for instance: "no presumption can be indulged in favor of ***any/every*** claimant of Philippine citizenship;" or, "no presumption can be indulged in favor of ***all*** claimants of Philippine citizenship."

The factual backdrop of *Paa* is markedly different from those of this case. Its statements, therefore, are inappropriate precedents for this case. In *Paa*, clear evidence was adduced showing that respondent Quintin Chan was registered as an alien with the Bureau of Immigration. His father was likewise registered as an alien. These pieces of evidence already indubitably establish foreign citizenship and shut the door to any presumption. In

contrast, petitioner in this case presents no proof, direct or circumstantial, of private respondent's or of both of her parents' foreign citizenship.

Go cited *Paa*, taking the same quoted portion but revising it to make it appear that the same pronouncement was generally applicable:

> It is incumbent upon ***one*** who claims Philippine citizenship to prove to the satisfaction of the court that he is really a Filipino. No presumption can be indulged hi favor of the claimant of Philippine citizenship, and any doubt regarding citizenship must be resolved in favor of the state.[210] (Emphasis supplied)

Thus, *Paa*'s essential and pivotal nuance was lost in proverbial translation. In any case, Go was decided by this Court sitting in Division. It cannot overturn *Tecson*, which was decided by this Court sitting En Banc. Likewise, *Go*'s factual and even procedural backdrops are different from those of this case. *Go* involved the deportation of an allegedly illegal and undesirable alien, not an election controversy. In *Go*, copies of birth certificates unequivocally showing the Chinese citizenship of Go and of his siblings were adduced.

VII. B

The presumption that all foundlings found in the Philippines are born to at least either a Filipino father or a Filipino mother (and are thus natural-born, unless there is substantial proof otherwise) arises when one reads the Constitution as a whole, so as to "effectuate [its] whole purpose."[211]

As much as we have previously harmonized Article IV, Section 2 with Article IV, Section 1(2), constitutional provisions on citizenship must not be taken in isolation. They must be read in light of the constitutional mandate to defend the well-being of children, to guarantee equal protection of the law and equal access to opportunities for public service, and to respect human rights. They must also be read in conjunction with the Constitution's reasons for requiring natural-born status for select public offices. Further, this presumption is validated by contemporaneous construction that considers related legislative enactments, executive and administrative actions, and international instruments.

Article II, Section 13 and Article XV, Section 3 of the 1987 Constitution require the state to

enhance children's well-being and to project them from conditions prejudicial to or that may undermine their development. Fulfilling this mandate includes preventing discriminatory conditions and, especially, dismantling mechanisms for discrimination that hide behind the veneer of the legal apparatus:

> ARTICLE II
>
> . . . .
>
> State Policies
>
> . . . .
>
> SECTION 13. The State recognizes the vital role of the youth in nation-building and ***shall promote and protect their physical, moral, spiritual, intellectual, and social well-being***. It shall inculcate in the youth patriotism and nationalism, and encourage their involvement in public and civic affairs.
>
> . . . .
>
> ARTICLE XV
> The Family
>
> . . . .
>
> SECTION 3. The State shall defend:
>
> . . . .
>
> (2) ***The right of children to*** assistance, including proper care and nutrition, and ***special protection from all forms of neglect, abuse, cruelty, exploitation, and other conditions prejudicial to their development***[.] (Emphasis supplied)

Certain crucial government offices are exclusive to natural-born citizens of the Philippines. The 1987 Constitution makes the following offices exclusive to natural-born citizens:

(1) President;[212]
(2) Vice-President;[213]
(3) Senator;[214]
(4) Member of the House of Representatives;[215]
(5) Member of the Supreme Court or any lower collegiate court;[216]
(6) Chairperson and Commissioners of the Civil Service Commission;[217]
(7) Chairperson and Commissioners of the Commission on Elections;[218]
(8) Chairperson and Commissioners of the Commission on Audit;[219]
(9) Ombudsman and his or her deputies;[220]
(10) Board of Governors of the Bangko Sentral ng Pilipinas;[221] and
(11) Chairperson and Members of the Commission on Human Rights.[222]

Apart from these, other positions that are limited to natural-born citizens include, among others, city fiscals,[223] assistant city fiscals,[224] Presiding Judges and Associate Judges of the Sandiganbayan, and other public offices.[225] Certain professions are also limited to natural-born citizens,[226] as are other legally established benefits and incentives.[227]

Concluding that foundlings are not natural-born Filipino citizens is tantamount to permanently discriminating against our foundling citizens. They can then never be of service to the country in the highest possible capacities. It is also tantamount to excluding them from certain means such as professions and state scholarships, which will enable the actualization of their aspirations. These consequences cannot be tolerated by the Constitution, not least of all through the present politically charged proceedings, the direct objective of which is merely to exclude a singular politician from office. Concluding that foundlings are not natural-born citizens creates an inferior class of citizens who are made to suffer that inferiority through no fault of their own.

If that is not discrimination, we do not know what is.

The Constitution guarantees equal protection of the laws and equal access to opportunities for public service:

ARTICLE II

. . . .

State Policies

. . . .

> SECTION 26. The State shall ***guarantee equal access to opportunities for public service***, and prohibit political dynasties as may be defined by law.
>
> . . . .
>
> ARTICLE III
> Bill of Rights
>
> SECTION 1. No person shall be deprived of life, liberty, or property without due process of law, nor shall any person be denied the ***equal protection of the laws***.
>
> . . . .
>
> ARTICLE XIII
> Social Justice and Human Rights
>
> SECTION 1. The Congress shall give highest priority to the enactment of measures that ***protect and enhance the right of all the people to human dignity, reduce social, economic, and political inequalities, and remove cultural inequities by equitably diffusing wealth and political power for the common good***. (Emphasis supplied)

The equal protection clause serves as a guarantee that "persons under like circumstances and falling within the same class are treated alike, in terms of 'privileges conferred and liabilities enforced.' It is a guarantee against 'undue favor and individual or class privilege, as well as hostile discrimination or oppression of inequality.'"[228]

Other than the anonymity of their biological parents, no substantial distinction[229] differentiates foundlings from children with known Filipino parents. They are both entitled to the full extent of the state's protection from the moment of their birth. Foundlings' misfortune in failing to identify the parents who abandoned them—an inability arising from no fault of their own—cannot be the foundation of a rule that reduces them to statelessness or, at best, as inferior, second-class citizens who are not entitled to as much benefits and protection from the state as those who know their parents. Sustaining this classification is not only inequitable; it is dehumanizing. It condemns those who, from the very beginning of

their lives, were abandoned to a life of desolation and deprivation.

This Court does not exist in a vacuum. It is a constitutional organ, mandated to effect the Constitution's dictum of defending and promoting the well-being and development of children. It is not our business to reify discriminatory classes based on circumstances of birth.

Even more basic than their being citizens of the Philippines, foundlings are human persons whose dignity we value and rights we, as a civilized nation, respect. Thus:

> ARTICLE II
>
> . . . .
>
> State Policies
>
> . . . .
>
> SECTION 11. The State values the dignity of every human person and guarantees ***full respect for human rights***. (Emphasis supplied)

VII. C

Though the matter is settled by interpretation exclusively within the confines of constitutional text, the presumption that foundlings are natural-born citizens of the Philippines (unless substantial evidence of the foreign citizenship of both of the foundling's parents is presented) is validated by a parallel consideration or contemporaneous construction of the Constitution with acts of Congress, international instruments in force in the Philippines, as well as acts of executive organs such as the Bureau of Immigration, Civil Registrars, and the President of the Philippines.

Congress has enacted statutes founded on the premise that foundlings are Filipino citizens at birth. It has adopted mechanisms to effect the constitutional mandate to protect children. Likewise, the Senate has ratified treaties that put this mandate into effect.

Republic Act No. 9344, otherwise known as the Juvenile Justice and Welfare Act of 2006,

provides:

> **SEC. 2.** ***Declaration of State Policy.*** – The following State policies shall be observed at all times:
>
> . . . .
>
> ***(b) The State shall protect the best interests of the child through measures that will ensure the observance of international standards of child protection, especially those to which the Philippines is a party.*** Proceedings before any authority shall be conducted in the best interest of the child and in a manner which allows the child to participate and to express himself/herself freely. The participation of children in the program and policy formulation and implementation related to juvenile justice and welfare shall be ensured by the concerned government agency. (Emphasis supplied)

Section 4(b) of the Republic Act No. 9344 defines the "best interest of the child" as the "totality of the circumstances and conditions which are most congenial to the survival, protection and feelings of security of the child and most encouraging to the child's physical, psychological and emotional development."

Consistent with this statute is our ratification[230] of the United Nations Convention on the Rights of the Child. This specifically requires the states-parties' protection of: first, children's rights to immediate registration and nationality after birth; second, against statelessness; and third, against discrimination on account of their birth status.[231] Pertinent portions of the Convention read:

> **Preamble**
>
> The State Parties to the present Convention,
>
> Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the **inherent dignity and of the equal and inalienable rights of all members of the human family** is the foundation of freedom, justice and peace in the world,
>
> Bearing in mind that the peoples of the United Nations have, in the Charter,

reaffirmed their faith in fundamental human rights and in the dignity and worth of the human person, and have determined to promote social progress and better standards of life in larger freedom,

Recognizing that the United Nations has, in the Universal Declaration of Human Rights and in the International Covenants on Human Rights, proclaimed and agreed that **everyone is entitled to all the rights and freedoms** set forth therein, **without distinction of any kind**, such as race, colour, sex, language, religion, political or other opinion, **national or social origin**, property, **birth or other status**,

Recalling that, in the Universal Declaration of Human Rights, the United Nations has proclaimed that **childhood is entitled to special care and assistance**,

. . . .

Have agreed as follows:

. . . .

Article 2

1. State parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction **without discrimination of any kind, irrespective of the child's or his or her parent's** or legal guardian's race, colour, sex, language, religion, political or other opinion, national, **ethnic or social origin, property, disability, birth or other status**.
2. **States Parties shall take appropriate measures to ensure that the child is protected against all forms of discrimination** or punishment **on the basis of the status**, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.

Article 3

1. **In all actions concerning children**, whether undertaken by public or private social welfare institutions, **courts of law**, administrative authorities or legislative bodies, **the best interests of the child shall be a primary consideration**.

2. **States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being**, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.

. . . .

Article 7

1. The child, shall be **registered immediately after birth** and shall have the right from birth to a name, the **right to acquire a nationality** and as far as possible, the right to know and be cared for by his or her parents.
2. States Parties **shall ensure the implementation of these rights** in accordance with their national law and their obligations under the relevant international instruments in this field, **in particular where the child would otherwise be stateless**. (Emphasis supplied)

The Philippines likewise ratified[232] the 1966 International Covenant on Civil and Political Rights. As with the Convention on the Rights of the Child, this treaty requires that children be allowed immediate registration after birth and to acquire a nationality. It similarly defends them against discrimination:

Article 24. . . .

1. **Every child shall have, without any discrimination as to** race, colour, sex, language, religion, national or social origin, property **or birth**, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State.

2. Every child shall be **registered immediately after birth** and shall have a name.

3. Every child has the **right to acquire a nationality**.

. . . .

Article 26. **All persons** are equal before the law and are **entitled without any**

> **discrimination to the equal protection of the law**. In this respect, the law shall **prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground** such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, **birth or other status**. (Emphasis supplied)

Treaties are "international agreements] concluded between state| in written form and governed by international law, whether embodied in a single instrument or in two or more related instruments and whatever its particular designation."[233] Under Article VII, Section 21 of the 1987 Constitution, treaties require concurrence by the Senate before they became binding:

> SECTION 21. No treaty or international agreement shall be valid and effective unless concurred in by at least two-thirds of all the Members of the Senate.

The Senate's ratification of a treaty makes it legally effective and binding by transformation. It then has the force and effect of a statute enacted by Congress. In *Pharmaceutical and Health Care Association of the Philippines v. Duque III, et al.*:[234]

> Under the 1987 Constitution, international law can become part of the sphere of domestic law either by transformation or incorporation. *The transformation method requires that an international law be transformed into a domestic law through a constitutional mechanism such as local legislation.* The incorporation method applies when, by mere constitutional declaration, international law is deemed to have the force of domestic law.
>
> *Treaties become part of the law of the land through transformation pursuant to Article VII, Section 21 of the Constitution which provides that "[n]o treaty or international agreement shall be valid and effective unless concurred in by at least two-thirds of all the members of the Senate." Thus, treaties or conventional international law must go through a process prescribed by the Constitution for it to be transformed into municipal law that can be applied to domestic conflicts.*[235] (Emphasis supplied)

Following ratification by the Senate, no further action, legislative or otherwise, is necessary. Thereafter, the whole of government—including the judiciary—is duty-bound to abide by the treaty, consistent with the maxim *pacta sunt servanda*.

Accordingly, by the Constitution and by statute, foundlings cannot be the object of discrimination. They are vested with the rights to be registered and granted nationality upon birth. To deny them these rights, deprive them of citizenship, and render them stateless is to unduly burden them, discriminate them, and undermine their development.

Not only Republic Act No. 9344, the Convention on the Rights of the Child, and the International Covenant on Civil and Political Rights effect the constitutional dictum of promoting the well-being of children and protecting them from discrimination. Other legislative enactments demonstrate the intent to treat foundlings as Filipino citizens from birth.

Republic Act No. 8552, though briefly referred to as the Domestic Adoption Act of 1998, is formally entitled An Act Establishing the Rules and Policies on Domestic Adoption **of Filipino Children** and for Other Purposes. It was enacted as a mechanism to "provide alternative protection and assistance through foster care or adoption of every child who is neglected, orphaned, or abandoned."[236]

Foundlings are explicitly among the "Filipino children" covered by Republic Act No. 8552:[237]

> SECTION 5. *Location of Unknown Parent(s)*. — It shall be the duty of the Department or the child-placing or child-caring agency which has custody of the child to exert all efforts to locate his/her unknown biological parent(s). ***If such efforts fail, the child shall be registered as a foundling and subsequently be the subject of legal proceedings where he/she shall be declared abandoned.*** (Emphasis supplied)

Similarly, Republic Act No. 8043, though briefly referred to as the Inter-Country Adoption Act of 1995, is formally entitled An Act Establishing the Rules to Govern Inter-Country **Adoption of Filipino Children**, and for Other Purposes. As with Republic Act No. 8552, it expressly includes foundlings among "Filipino children" who may be adopted:

> SECTION 8. *Who May Be Adopted*. — Only a legally free child may be the subject of inter-country adoption, hi order that such child may be considered for placement, the following documents must be submitted: to the Board:
>
> a) Child study;
>
> ***b) Birth certificate/foundling certificate;***
>
> c) Deed of voluntary commitment/decree of abandonment/death certificate of parents;
>
> d) Medical evaluation/history;
>
> e) Psychological evaluation, as necessary; and
>
> f) Recent photo of the child. (Emphasis supplied)

In the case of foundlings, foundling certificates may be presented in lieu of authenticated birth certificates to satisfy the requirement for the issuance of passports, which will then facilitate their adoption by foreigners:

> SECTION 5. If the applicant is an adopted person, he must present a certified true copy of the Court Order of Adoption, certified true copy of his original and amended birth certificates as issued by the OCRG. If the applicant is a minor, a Clearance from the DSWD shall be required. In case the applicant is for adoption by foreign parents under R.A. No. 8043, the following, shall be required:
>
> a) Certified true copy of the Court Decree of Abandonment of Child, the Death Certificate of the child's parents, or the Deed of Voluntary Commitment executed after the birth of the child.
> b) Endorsement of child to the Intercountry Adoption Board by the DSWD.
> ***c) Authenticated Birth or Foundling Certificate.***[238] (Emphasis supplied)

Our statutes on adoption allow for the recognition of foundlings' Filipino citizenship on account of their birth. They benefit from this without having to do any act to perfect their citizenship or without having to complete the naturalization process. Thus, by definition, they are natural-born citizens.

Specifically regarding private respondent, several acts of executive organs have recognized

her natural-born status. This status was never questioned throughout her life; that is, until circumstances made it appear that she was a viable candidate for President of the Philippines. Until this, as well as the proceedings in the related case of *Poe-Llamanzares*, private respondent's natural-born status has been affirmed and reaffirmed through various official public acts.

First, private respondent was issued a foundling certificate and benefitted from the domestic adoption process. Second, on July 18, 2006, she was granted an order of reacquisition of natural-born citizenship under Republic Act No. 9225 by the Bureau of Immigration. Third, on October 6, 2010, the President of the Philippines appointed her as MTRCB Chairperson—an office that requires natural-born citizenship.[239]

VIII

As it is settled that private respondent's being a foundling is not a bar to natural-born citizenship, petitioner's proposition as to her inability to benefit from Republic Act No. 9225 crumbles. Private respondent, a natural-born Filipino citizen, re-acquired natural-born Filipino citizenship when, following her naturalization as a citizen of the United States, she complied with the requisites of Republic Act No. 9225.

VIII. A

"Philippine citizenship may be lost or reacquired in the manner provided by law."[240] Commonwealth Act No. 63, which was in effect when private respondent was naturalized an American citizen on October 18, 2001, provided in Section 1(1) that "[a] Filipino citizen may lose his citizenship . . . [b]y naturalization in a foreign country." Thus, private respondent lost her Philippine citizenship when she was naturalized an American citizen. However, on July 7, 2006, she took her Oath of Allegiance to the Republic of the Philippines under Section 3 of Republic Act No. 9225. Three (3) days later, July 10, 2006, she filed before the Bureau of Immigration and Deportation a Petition for Reacquisition of her Philippine citizenship. Shortly after, this Petition was granted.[241]

Republic Act No. 9225 superseded Commonwealth Act No. 63[242] and Republic Act No. 8171[243] specifically "to do away with the provision in Commonwealth Act No. 63 which takes away Philippine citizenship from natural-born Filipinos who become naturalized citizens of other countries."[244]

The citizenship regime put in place by Republic Act No. 9225 is designed, in its own words, to ensure "that all Philippine citizens who become citizens of another country shall be deemed *not to have lost* their Philippine citizenship."[245] This Court shed light on this in *Calilung v. Commission on Elections*:[246] "[w]hat Rep. Act No. 9225 does is allow dual citizenship to natural-born Filipino citizens who have lost Philippine citizenship by reason of their naturalization as citizens of a foreign country."[247]

Republic Act No. 9225 made natural-born Filipinos' status permanent and immutable despite naturalization as citizens of other countries. To effect this, Section 3 of Republic Act No. 9225 provides:

> SEC. 3. Retention of Philippine Citizenship. — Any provision of law to the contrary notwithstanding, natural-born citizens of the Philippines who have lost their Philippine citizenship by reason of their naturalization as citizens of a foreign country are hereby deemed to have reacquired Philippine citizenship upon taking the following oath of allegiance to the Republic:
>
> > "I ___________________________, solemnly swear (or affirm) that I will support and defend the Constitution of the Republic of the Philippines and obey the laws and legal orders promulgated by the duly constituted authorities of the Philippines; and I hereby declare that I recognize and accept the supreme authority of the Philippines and will maintain true faith and allegiance thereto; and that I impose this obligation upon myself voluntarily without mental reservation or purpose of evasion."
>
> Natural-born citizens of the Philippines who, after the effectivity of this Act, become citizens of a foreign country shall retain their Philippine citizenship upon taking the aforesaid oath.

Section 3's implications are clear. Natural-born Philippine citizens who, after Republic Act 9225 took effect, are naturalized in foreign countries "***retain***," that is, keep, their Philippine citizenship, although the effectivity of this retention and the ability to exercise the rights and capacities attendant to this status are subject to certain solemnities (i.e., oath of allegiance and other requirements for specific rights and/or acts, as enumerated in Section

5). On the other hand, those who became citizens of another country before the effectivity of Republic Act No. 9225 "***reacquire***" their Philippine citizenship and may exercise attendant rights and capacities, also upon compliance with certain solemnities. Read in conjunction with Section 2's declaration of a policy of immutability, this reacquisition is not a mere restoration that leaves a vacuum in the intervening period. Rather, this reacquisition works to restore natural-born status as though it was never lost at all.

VIII. B

Taking the Oath of Allegiance effects the retention or reacquisition of natural-born citizenship. It also facilitates the enjoyment of civil and political rights, "subject to all attendant liabilities and responsibilities."[248] However, other conditions must be met for the exercise of other faculties:

> Sec. 5. *Civil and Political Rights and Liabilities*. – Those who retain or re-acquire Philippine citizenship under this Act shall enjoy full civil and political rights and be subject to all attendant liabilities and responsibilities under existing laws of the Philippines and the following conditions:
>
> (1) Those intending to exercise their right of suffrage must meet the requirements under Section 1, Article V of the Constitution, Republic Act No. 9189, otherwise known as "the Overseas Absentee Voting Act of 2003" and other existing laws;
>
> (2) Those seeking elective public office in the Philippines shall meet the qualifications for holding such public office as required by the Constitution and existing laws and, ***at the time of the filing of the certificate of candidacy, make a personal and sworn renunciation of any and all foreign citizenship*** before any public officer authorized to administer an oath;
>
> (3) Those appointed to any public office shall subscribe and swear to an ***oath of allegiance to the Republic of the Philippines and its duly constituted authorities prior to their assumption of office***; *Provided*, That they renounce their oath of allegiance to the country where they took that oath;
>
> (4) Those intending to practice their profession in the Philippines shall apply with the proper authority for a license or permit to engage in such practice; and
>
> (5) That the right to vote or be elected or appointed to any public office in the Philippines cannot be exercised by, or extended to, those who:
>
> a. are candidates for or are occupying any public office in the country of which they are naturalized citizens; and/or

b. are in active service as commissioned or noncommissioned officers in the armed forces of the country which they are naturalized citizens. (Emphasis supplied)

Thus, natural-born Filipinos who have been naturalized elsewhere and wish to run for elective public office must comply with all of the following requirements:

First, taking the oath of allegiance to the Republic. This effects the retention or reacquisition of one's status as a natural-born Filipino.[249] This also enables the enjoyment of full civil and political rights, subject to all attendant liabilities and responsibilities under existing laws, provided the solemnities recited in Section 5 of Republic Act No. 9225 are satisfied.[250]

Second, compliance with Article V, Section 1 of the 1987 Constitution,[251] Republic Act No. 9189, otherwise known as the Overseas Absentee Voting Act of 2003, and other existing laws. This is to facilitate the exercise of the right of suffrage; that is, to allow for voting in elections.[252]

Third, "mak[ing] a personal and sworn renunciation of any and all foreign citizenship before any public officer authorized to administer an oath."[253] This, along with satisfying the other qualification requirements under relevant laws, makes one eligible for elective public office.

As explained in *Sobejana-Condon v. Commission on Elections*,[254] this required sworn renunciation is intended to complement Article XI, Section 18 of the Constitution in that "[p]ublic officers and employees owe the State and this Constitution allegiance at all times and any public officer or employee who seeks to change his citizenship or acquire the status of an immigrant of another country during his tenure shall be dealt with by law."[255] It is also in view of this that Section 5(5) similarly bars those who seek or occupy public office elsewhere and/or who are serving in the armed forces of other countries from being appointed or elected to public office in the Philippines.

VIII. C

Private respondent has complied with all of these requirements. First, on July 7, 2006, she took the Oath of Allegiance to the Republic of the Philippines.[256] Second, on August 31, 2006, she became a registered voter of Barangay Santa Lucia, San Juan.[257] This evidences her compliance with Article V, Section 1 of the 1987 Constitution. Since she was to vote within the country, this dispensed with the need to comply with the Overseas Absentee

Voting Act of 2003. Lastly, on October 20, 2010, she executed an Affidavit of Renunciation of Allegiance to the United States of America and Renunciation of American Citizenship.[258] This was complemented by her execution of an Oath/Affirmation of Renunciation of Nationality of the United States[259] before Vice-Consul Somer E. Bessire-Briers on July 12, 2011,[260] which was, in turn, followed by Vice Consul Jason Galian's issuance of a Certificate of Loss of Nationality on December 9, 2011[261] and the approval of this certificate by the Overseas Citizen Service, Department of State, on February 3, 2012.[262]

Private respondent has, therefore, not only fully reacquired natural-born citizenship; she has also complied with all of the other requirements for eligibility to elective public office, as stipulated in Republic Act No. 9225.

VIII. D

It is incorrect to intimate that private respondent's having had to comply with Republic Act No. 9225 shows that she is a naturalized, rather than a natural-born, Filipino citizen. It is wrong to postulate that compliance with Republic Act No. 9225 signifies the performance of acts to perfect citizenship.

To do so is to completely disregard the unequivocal policy of permanence and immutability as articulated in Section 2 of Republic Act No. 9225 and as illuminated in jurisprudence. It is to erroneously assume that a natural-born Filipino citizen's naturalization elsewhere is an irreversible termination of his or her natural-born status.

To belabor the point, those who take the Oath of Allegiance under Section 3 of Republic Act No. 9225 reacquire natural-born citizenship. The prefix "re" signifies reference to the preceding state of affairs. It is to this status quo ante that one returns. "Re"-acquiring can only mean a reversion to "the way things were." Had Republic Act No. 9225 intended to mean the investiture of an entirely new status, it should not have used a word such as "reacquire." Republic Act No. 9225, therefore, does not operate to make new citizens whose citizenship commences only from the moment of compliance with its requirements.

Bengson, speaking on the analogous situation of repatriation, ruled that repatriation involves the restoration of former status or the recovery of one's original nationality:

> Moreover, repatriation results in the recovery of the original nationality. This

> means that a naturalized Filipino who lost his citizenship will be restored to his prior status as a naturalized Filipino citizen. On the other hand, *if he was originally a natural-born citizen before he lost his Philippine citizenship, he will be restored to his former status as a natural-born Filipino*.[263] (Emphasis supplied)

Although Bengson was decided while Commonwealth Act No. 63 was in force, its ruling is in keeping with Republic Act No. 9225 's policy of permanence and immutablity: "all Philippine citizens of another country shall be deemed not to have lost their Philippine citizenship."[264] In *Bengson*'s words, the once naturalized citizen is "restored" or brought back to his or her natural-***born*** status. There may have been an interruption in the recognition of this status, as, in the interim, he or she was naturalized elsewhere, but the restoration of natural-born status expurgates this intervening fact. Thus, he or she does not become a Philippine citizen only from the point of restoration and moving forward. He or she is recognized, ***de jure***, as a Philippine citizen from birth, although the intervening fact may have consequences de facto.

Republic Act No. 9225 may involve extended processes not limited to taking the Oath of Allegiance and requiring compliance with additional solemnities, but these are for facilitating the enjoyment of other incidents to citizenship, not for effecting the reacquisition of natural-born citizenship itself. Therefore, it is markedly different from naturalization as there is no singular, extended process with which the former natural-born citizen must comply.

IX

To hold, as petitioner suggests, that private respondent is stateless[265] is not only to set a dangerous and callous precedent. It is to make this Court an accomplice to injustice.

Equality, the recognition of the humanity of every individual, and social justice are the bedrocks of our constitutional order. By the unfortunate fortuity of the inability or outright irresponsibility of those gave them life, foundlings are compelled to begin their very existence at a disadvantage. Theirs is a continuing destitution that can never be truly remedied by any economic relief.

If we are to make the motives of our Constitution true, then we an never tolerate an

interpretation that condemns foundlings to an even greater misfortune because of their being abandoned. The Constitution cannot be rendered inert and meaningless for them by mechanical judicial fiat.

Dura lex sed lex is not a callous and unthinking maxim to be deployed against other reasonable interpretations of our basic law. It does command us to consider legal text, but always with justice in mind.

It is the empowering and ennobling interpretation of the Constitution that we must always sustain. Not only will this manner of interpretation edify the less fortunate; it establishes us, as Filipinos, as a humane and civilized people.

The Senate Electoral Tribunal acted well within the bounds of its constitutional competence when it ruled that private respondent is a natural-born citizen qualified to sit as Senator of the Republic. Contrary to petitioner's arguments, there is no basis for annulling its assailed Decision and Resolution.

WHEREFORE, the Petition for Certiorari is **DISMISSED**. Public respondent Senate Electoral Tribunal did not act without or in excess of its jurisdiction or with grave abuse of discretion amounting to lack or excess of jurisdiction in rendering its assailed November 17, 2015 Decision and December 3, 2015 Resolution.

Private respondent Mary Grace Poe-Llamanzares is a natural-born Filipino citizen qualified to hold office as Senator of the Republic.

SO ORDERED.

Sereno, C. J., Velasco, Jr., Peralta, Bersamin, Perez, and *Caguioa, JJ.*, concur.
Carpio, J., no part.
Leonardo-De Castro, J., no part.
Brion, J., no part.
Del Castillo, J., not natural born until proven otherwise.
Mendoza, J., with some reservation.
Reyes, J., dissenting.
Perlas-Bernabe, J., please see dissenting opinion.
Jardeleza, J., in result.

NOTICE OF JUDGMENT

Sirs/Mesdames:

Please take notice that on September 20, 2016 a Decision/Resolution, copy attached herewith, was rendered by the Supreme Court in the above-entitled case, the original of which was received by this Office on October 3, 2016 at 2:04 p.m.

Very truly yours,
(SGD)
FELIPA G. BORLONGAN-ANAMA
Clerk of Court

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[1] *Rollo*, pp. 3-76. The Petition was filed under Rule 65 of the 1997 Rules of Civil Procedure.

[2] Id. at 73.

[3] Id. at 227-258.

[4] CONST., art. VI, sec. 3 provides:

SECTION 3. No person shall be a Senator unless he is a natural-born citizen of the Philippines, and, on the day of the election, is at least thirty-five years of age, able to read and write, a registered voter, and a resident of the Philippines for not less than two years immediately preceding the day of the election

[5] *Rollo*, pp. 80-83.

[6] Id. at 8.

[7] Id. See also *rollo*, p. 227, SET Decision.

[8] Id.

[9] Id. at 227.

[10] Id. at 681, Poe Comment.

[11] Id. at 8.

[12] Id. at 681.

[13] Id.

[14] Id.

[15] Id.

[16] Id.

[17] Id. at 9.

[18] Id.

[19] Id.

[20] Id. at 228.

[21] Id. at 682.

[22] Id. at 9 and 682.

[23] Id. at 9.

[24] Id. at 682-683.

[25] Id. at 228.

[26] Id.

[27] Id. at 9.

[28] Id. at 683.

[29] Id.

[30] Id. at 9.

[31] Id.

[32] Id. at 683.

[33] Id. at 9.

[34] Id.

[35] Id. at 683.

[36] Id. at 10.

[37] Id.

[38] Id.

[39] Id.

[40] Id. at 684.

[41] Id. at 228.

[42] Id. at 684.

[43] Id.

[44] Id. at 685.

[45] Id.

[46] Id.

[47] Id. at 228.

[48] Id. at 10.

[49] Id. at 685.

[50] Id. at 228.

[51] Id. 686.

[52] Id. at 228.

[53] Id. at 686.

[54] Id.

[55] Id.

[56] Id. at 686-687.

[57] Id. at 687.

[58] Id.

[59] Id. at 256.

[60] Id.

[61] Id.

[62] Id. at 10.

[63] Id. at 687.

[64] Id. at 687-688.

[65] Id. at 688.

[66] Id. at 229.

[67] Id. at 689, Poe Comment.

[68] Id. at 229.

[69] Id.

[70] Id.

[71] Id.

[72] Id.

[73] Id.

[74] Id.

[75] Id.

[76] Id.

[77] Id.

[78] Id. at 230.

[79] Id.

[80] Id.

[81] Id.

[82] Id.

[83] Id.

[84] Id.

[85] Id.

[86] Id.

[87] Id.

[88] Id. at 231.

[89] Id.

[90] Id.

[91] Id.

[92] Id.

[93] Id.

[94] Id.

[95] Id.

[96] Id.

[97] Id.

[98] Id.

[99] Id. at 257.

[100] Id. at 253-257.

[101] Id. at 84-100.

[102] Id. at 80, SET Resolution No. 15-12.

[103] Id. at 81.

[104] Id. at 80-83.

[105] Id. at 82.

[106] Id. at 7.

[107] Id. at 7-8.

[108] Id. at 647, SET Comment.

[109] Id.

[110] Id. at 669.

[111] Id. at 677-828.

[112] A counterpart electoral tribunal for the positions of President and Vice-President was also created by the seventh paragraph of Article VII, Section 4 of the 1987 Constitution.

CONST., art. VII, sec. 4 provides:

SECTION 4 . . . .

. . . .

The Supreme Court, sitting en banc, shall be the sole judge of all contests relating to the election, returns, and qualifications of the President or Vice-President, and may promulgate its rules for the purpose.

[113] Trial courts and the Commission on Elections still exercise jurisdiction over contests relating to the election, returns, and qualifications of local elective offices.

CONST., art. IX-C, sec. 2(2) provides:

SECTION 2. The Commission on Elections shall exercise the following powers and functions:

. . . .

(2) Exercise exclusive original jurisdiction over all contests relating to the elections, returns, and qualifications of all elective regional, provincial, and city officials, and appellate jurisdiction over all contests involving elective municipal officials decided by trial courts of general jurisdiction or involving elective barangay officials decided by trial courts of limited jurisdiction.

Decisions, final orders, or rulings of the Commission on election contests involving elective municipal and barangay offices shall be final, executory, and not appealable.

[114] The term "contest" refers to post-election disputes. In *Tecson v. Commission on Elections*, 468 Phil. 421 (2004) [Per J. Vitug, En Banc], this Court referring to the counterpart electoral tribunal for the President and Vice President — the Presidential Electoral Tribunal – explained: "Ordinary usage would characterize a "contest" in reference to a *post-election scenario*. Election contests consist of eitheir an election protest or a quo warranto which, although two distinct remedies, would have one objective in view, i.e. to dislodge the whining candidate from office. A perusal of the phraseology in Rule 12, Rule 13, and Rule 14 of the "Rules of the Presidential Electoral Tribunal" promulgated by the Supreme Court en banc on 18 April 1992, would support this premise. . . .

"The rules categorically speak of the jurisdiction of the tribunal over contests relating to the election, returns and qualifications of the "President" or "Vice-President", of the Philippines, and not of "candidates" for President or Vice-President. A *quo warranto* proceeding is generally defined as being an action against a person who usurps, intrudes into, or unlawfully holds or exercises a public office. In such context, the election contest can only contemplate a post-election *scenario*. In Rule 14, only a registered candidate who would

have received either the second or third highest number of votes could file an election protest. This rule again presupposes a post-election *scenario*.

"It is fair to conclude that the jurisdiction of the Supreme Court [sitting as the Presidential Electoral Tribunal], defined by Section 4, paragraph 7, of the 1987 Constitution, would not include cases directly brought before it, questioning the qualifications of a candidate for the presidency or vice-presidency before the elections are held."

[115] *Lazatin v. House of Representatives Electoral Tribunal*, 250 Phil. 390, 399 (1988). [Per J. Cortes, En Banc].

[116] CONST. (1935), art. VI, sec. 4 provides:

SECTION 4. There shall be an Electoral Commission composed of three Justices of the Supreme Court designated by the Chief Justice, and of six Members chosen by the National Assembly, three of whom shall be nominated by the party having the largest number of votes, and three by the party having the second largest number of votes therein. The senior Justice in the Commission shall be its Chairman. The Electoral Commission shall be the *sole judge* of all contests relating to the election, returns, and qualifications of the Members of the National Assembly.

[117] CONST. (1935 amended), art. VI, sec. 11 provides:

SECTION 11. The Senate and the House of Representatives shall 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 by each House, three upon nomination of the party having the largest number of votes and three of the party having the second largest numbers of votes therein. The senior Justice in each Electoral Tribunal shall be its Chairman.

[118] 250 Phil. 390 (1988) [Per J. Cortes, En Banc].

[119] Id. at 399-400.

[120] 347 Phil. 797 (1997) [Per J. Vitug, En Banc].

[121] Id. at 804-805.

[122] *See* J. Leonen, Concurring Opinions in *Rappler v. Bautista*, G.R. No. 222702, April 5, 2016 <http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2016/april2016/222702.pdf> 2-3 [Per J. Carpio, En Banc] and in *Villanueva v. Judicial Bar Council*, G.R. No. 211833, April 7, 2015 <http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2015/april2015/211833_leonen.pdf> 4-5 [Per J. Reyes, En Banc].

[123] RULES OF COURT, Rule 65, sec. 1 provides:

SECTION 1. Petition for certiorari. — When any tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or in excess its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, and there is no appeal, or any plain, speedy, and adequate remedy in the ordinary course of law, a person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered annulling or modifying the proceedings of such tribunal, board or officer, and granting such incidental reliefs as law and justice may require.

The petition shall be accompanied by a certified true copy of the judgment, order or resolution subject thereof, copies of all pleadings and documents relevant and pertinent thereto, and a sworn certification of non-forum shopping as provided in the third paragraph of section 3, Rule 46.

[124] *Mitra v. Commission on Elections*, 636 Phil. 753, 777 (2010) [Per J. Brion, En Banc].

[125] *Abosta Shipmanagement Corporation v. National Labor Relations Commission (First Division) and Arnulfo R. Flores*, 670 Phil. 136, 151 (2011) [Per J. Brion, Second Division].

[126] *Nightowl Watchman & Security Agency, Inc. v. Lumahan*, G.R. No. 212096, October 14, 2015 <http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2015/october2015/212096.pdf> 7 [Per J. Brion, Second Division].

[127] *Mitra v. Commission on Elections*, 636 Phil. 753, 777-778, 782 (2010) [Per J. Brion, En Banc].

[128] Id. at 787.

[129] Id. at 778. In *Mitra*, this Court faulted the Commission on Elections for relying on very select facts that appeared to have been appreciated precisely in such a manner as to make it appear that the candidate whose residence was in question was not qualified. Viewing these facts in isolation indicated a practically deliberate, ill-intentioned intent at sustaining a previously-conceived myopic conclusion:

"In considering the residency issue, the [Commission on Elections] practically focused solely on its consideration of Mitra's residence at Maligaya Feedmill, on the basis of mere photographs of the premises. In the [Commission on Elections'] view (expressly voiced out by the Division and fully concurred in by the En Banc), the Maligaya Feedmill building could not have been Mitra's residence because it is cold and utterly devoid of any indication of Mitra's personality and that it lacks loving attention and details inherent in every home to make it one's residence. This was the main reason that the [Commission on Elections] relied upon for its conclusion.

"Such assessment, in our view, based on the interior design and furnishings of a dwelling as showm by and examined only through photographs, is far from reasonable; the [Commission on Elections] thereby determined the fitness of a dwelling as a person's residence based solely on very personal and subjective assessment standards when the law is replete with standards that can be used. Where a dwelling qualifies as a residence – i.e., the dwelling where a person permanently intends to return to and to remain – his or her capacity or inclination to decorate the place, or the lack of it, is immaterial."

[130] In *Varias v. Commission on Elections*, 626 Phil. 292, 314-315 (2010) [Per J. Brion, En Banc], this Court, citing *Pecson v. Commission on Elections*, 595 Phil. 1214, 1226 (2008) [Per J. Brion, En Banc] stated: "[A] court abuses its discretion when it lacks jurisdiction, fails to consider and make a record of the factors relevant to its determination, relies on clearly erroneous factual findings, considers clearly irrelevant or improper factors, clearly gives too much weight to one factor, relies on erroneous conclusions of law or equity, or misapplies its factual or legal conclusions."

[131] RULES OF COURT, Rule 133, sec. 5.

[132] CONST., art. IV, sec. 1(2):

SECTION 1. The following are citizens of the Philippines:

. . . .

(2) Those whose fathers or mothers are citizens of the Philippines[.]

[133] *Ang Bagong Bayani-OFW Labor Party v. Commission on Elections*, 412 Phil. 308, 338 (2001) [Per J. Panganiban, En Banc].

[134] *See* J. Leonen, Dissenting Opinion in *Chavez v. Judicial and Bar Council*, 709 Phil. 478, 501-523 (2013) [Per J. Mendoza, En Banc].

[135] *Francisco v. House of Representatives*, 460 Phil. 830, 885 (2003) [Per J. Carpio Morales, En Banc], *citing J.M. Tuason & Co., Inc. v. Land Tenure Administration*, 142 Phil. 393 (1970) [Per J. Fernando, Second Division]. This was also cited in *Saguisag v. Ochoa*, G.R. No. 212426, January 12, 2016 <http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2016/january2016/212426.pdf> [Per C.J. Sereno, En Banc].

[136] *Francisco v. House of Representatives*, 460 Phil. 830, 886 (2003) [Per J. Carpio Morales, En Banc].

[137] *La Bugal-B'laan Tribal Association, Inc. v. Ramos (Resolution)*, 486 Phil. 754, 773 (2004) [Per J. Panganiban, En Banc] states that "[t]he Constitution should be read in broad, life-giving strokes."

[138] 272 Phil. 147 (1991) [Per C.J. Fernan, En Banc].

[139] Id. at 162, *as cited in Atty. Macalintal v. Presidential Electoral Tribunal*, 650 Phil. 326, 341 (2010) [Per J. Nachura, En Banc].

[140] CIVIL CODE, art. 8.

[141] *Senarillos v. Hermosisima*, 100 Phil. 501, 504 (1956) [Per J. J. B. L. Reyes, En Banc].

[142] The adoption of the Philippine Bill of 1902, otherwise known as the Philippine Organic Act of 1902, crystallized the concept of "Philippine citizens." *See Tecson v. Commission on Elections*, 468 Phil. 421, 467-468 (2004) per J. Vitug, En Banc].

[143] For example, the Civil Code of Spain became effective in the jurisdiction on December 18, 1889, making the first categorical listing on who were Spanish citizens. *See Tecson v. Commission on Elections*, 468 Phil. 421, 465 (2004) [Per J. Vitug, En Banc].

[144] G.R. No. 208062, April 7, 2015

<http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2015/april2015/208062.pdf> [Per J. Leonen, En Banc].

[145] Id. at 26.

[146] *Sobejana-Condon v. Commission on Elections*, 692 Phil. 407, 421 (2012) [Per J. Reyes, En Banc]: "Ambiguity is a condition of admitting two or more meanings, of being understood in more than one way, or of referring to two or more things at the same time. For a statute to be considered ambiguous, it must admit of two or more possible meanings."

[147] *See, for example, In the Matter of Save the Supreme Court Judicial Independence and Fiscal Autonomy Movement v. Abolition of Judiciary Development Fund*, UDK-15143, January 21, 2015 <http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2015/january2015/15143.pdf> [Per J. Leonen, En Banc], *citing* J. Leonen, Concurring Opinion in *Belgica v. Ochoa*, G.R. No. 208566, November 19, 2013, 710 SCRA 1, 278-279 [Per J. Perlas-Bernabe, En Banc].

[148] *Cf.* what was previously discussed regarding previous judicial decisions on the very same text.

[149] *Francisco, Jr. v. House of Representatives*, 460 Phil. 830, 887 [Per J. Carpio Morales, En Banc], *citing Civil Liberties Union v. Executive Secretary*, 272 Phil. 147, 169-170 (1991) [Per C.J. Fernan, En Banc].

[150] The 1935 Constitution was in effect when petitioner was born. However, the provisions are now substantially similar to the present Constitution, except that the present Constitution provides clarity for "natural born" status. For comparison, the 1935 provisions state:

SECTION 1. The following are citizens of the Philippines.

(1) Those who are citizens of the Philippine Islands at the time of the adoption of this Constitution.

(2) Those born in the Philippine Islands of foreign parents who, before the adoption of this Constitution, had been elected to public office in the Philippine Islands.

(3) Those whose fathers are citizens of the Philippines.

(4) Those whose mothers are citizens of the Philippines and, upon reaching the age of majority, elect Philippine citizenship.

(5) Those who are naturalized in accordance with law.

SECTION 2. Philippine citizenship may be lost or reacquired in the manner provided by law.

[151] C.J. Warren, Dissenting Opinion in *Perez v. Brownwell*, 356 U.S. 44 (1958).

[152] *Go v. Republic of the Philippines*, G.R. 202809, July 2, 2014, 729 SCRA 138, 149 [Per J. Mendoza, Third Division], *citing* BERNAS, THE 1987 CONSTITUTION OF THE REPUBLIC OF THE PHILIPPINES, A COMMENTARY (2009 ed.).

[153] Id.

[154] 468 Phil. 421 (2004) [Per J.Vitug, En Banc].

[155] Id. at 464-470.

[156] Id. at 464.

[157] Id.

[158] Id. at 465.

[159] Id.

[160] Id. at 465-466, *citing* The Civil Code of Spain, art. 17.

[161] Id. at 466-467, *citing* RAMON M. VELAYO, PHILIPPINE CITIZENSHIP AND NATURALIZATION 22-23 (1965).

[162] Id. at 466, *citing* RAMON M. VELAYO, PHILIPPINE CITIZENSHIP AND NATURALIZATION 22-23 (1965).

[163] Id. at 467.

[164] Id. at 467-468.

[165] Id.

[166] Id. at 468.

[167] Id.

[168] Id. at 469.

[169] Id.

[170] Id.

[171] CONST. (1973), art. III, secs. 1 and 2.

[172] CONST. (1973), art. III, sec. 4.

[173] *Tecson v. Commission on Elections*, 468 Phil. 421, 470 (2004) [Per J. Vitug, En Banc].

[174] The 1935 Constitution was in effect when petitioner was born. However, the provisions are now substantially similar to the present Constitution, except that the present Constitution provides clarity for "natural born" status. For comparison, the 1935 provisions state:

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(4) Those whose mothers are citizens of the Philippines and, upon reaching the age of majority, elect Philippine citizenship.

(5) Those who are naturalized in accordance with law.

SECTION 2. Philippine citizenship may be lost or reacquired in the manner provided by law.

[175] *See* Charles Gordon, *Who Can Be President of the United States: The Unresolved Enigma*, 28 Md. L. Rev. 1, 5 (1968).

[176] Id. at 3-4.

[177] Id. at 5.

[178] 409 Phil. 633 (2001) [Per J. Kapunan, En Banc].

[179] Id. at 651.

[180] Id. at 656.

[181] *See* Rep. Act No. 9139 (2000), sec. 5 provides:

SECTION 5. *Petition for Citizenship*. — (1) Any person desiring to acquire Philippine, citizenship under this Act shall file with the Special Committee on Naturalization created under Section 6 hereof, a petition of five (5) copies legibly typed and signed, thumbmarked and verified by him/her, with the latter's passport-sized photograph attached to each copy of the petition, and setting forth the following:

. . . .

Com. Act No. 473, sec.7 provides:

SECTION 7. *Petition for Citizenship*. — Any person desiring to acquire Philippine citizenship shall file with the competent court, a petition in triplicate, accompanied by two photographs of the petitioner, setting forth his name and surname; his present and former places of residence; his occupation; the place and date of his birth; whether single or married and if the father of children, the name, age, birthplace and residence of the wife and of the children; the approximate date of his or her arrival in the Philippines, the name of the port of debarkation, and, if he remembers it, the name of the ship on which he came; a declaration that he has the qualifications required by this Act, specifying the same, and that he is not disqualified for naturalization under the provisions of this Act; that he has complied with the requirements of section five of this Act; and that he will reside continuously in the Philippines from the date of the filing of the petition up to the time of his admission to Philippine citizenship. The petition must be signed by the applicant in his own handwriting and be supported by the affidavit of at least two credible persons, stating that they are citizens of the Philippines and personally know the petitioner to be a resident of the Philippines for the period of time required by this Act and a person of good repute and morally irreproachable, and that said petitioner has in then opinion all the qualifications necessary to become a citizen of the Philippines and is not in any way disqualified under the

provisions of this Act. The petition shall also set forth the names and post-office addresses of such witnesses as the petitioner may desire to introduce at the hearing of the case. The certificate of arrival, and the declaration of intention must be made part of the petition.

[182] *See* Rep. Act No. 9139 (2000), sec. 3 provides:

SECTION 3. Qualifications. — Subject to the provisions of the succeeding section, any person desiring to avail of the benefits of this Act must meet the following qualifications:

(a) The applicant must be born in the Philippines and residing therein since birth;

(b) The applicant must not be less than eighteen (18) years of age, at the time of filing of his/her petition;

(c) The applicant must be of good moral character and believes in the underlying principles of the Constitution, and must have conducted himselfherself in a proper and irreproachable manner during his/her entire period of residence in the Philippines in his relation with the duly constituted government as well as with the community in which he/she is living;

(d) The applicant must have received his/her primary and secondary education in any public school or private educational institution duly recognized by the Department of Education, Culture and Sports, where Philippine history, government and civics are taught and prescribed as part of the school curriculum and where enrollment is not limited to any race or nationality: Provided, That should he/she have minor children of school age, he/she must have enrolled them in similar schools;

(e) The applicant must have a known trade, business, profession or lawful occupation, from which he/she derives income sufficient for his/her support and if he/she is married and/or has dependents, also that of his/her family: Provided, however, That this shall not apply to applicants who are college degree holders but are unable to practice their profession because they are disqualified to do so by reason of their citizenship;

(f) The applicant must be able to read, write and speak Filipino or any of the dialects of the Philippines; and

(g) The applicant must have mingled with the Filipinos and evinced a sincere desire to learn and embrace the customs, traditions and ideals of the Filipino people.

Comm. Act No. 473, sec. 2 provides:

SECTION 2. Qualifications. — Subject to section four of this Act, any person having the following qualifications may become a citizen of the Philippines by naturalization:

First. He must be not less than twenty-one years of age on the day of the hearing of the petition;

Second. He must have resided in the Philippines for a continuous period of not less than ten years;

Third. He must be of good moral character and believes in the principles underlying the Philippine Constitution, and must have conducted himself in a proper and irreproachable manner during the entire period of his residence in the Philippines in his relation with the constituted government as well as with the community in which he is living.

Fourth. He must own real estate in the Philippines worth not less than five thousand pesos, Philippine currency, or must have some known lucrative trade, profession, or lawful occupation;

Fifth. He must be able to speak and write English or Spanish and any of the principal Philippine languages;

Sixth. He must have enrolled his minor children of school age, in any of the public schools or private schools recognized by the Office of Private Education of the Philippines, where Philippine history, government and civics are taught or prescribed as part of the school curriculum, during the entire period of the residence in the Philippines required of him prior to the hearing of his petition for naturalization as Philippine citizen.

[183] Rep. Act No. 9139 (2000), sec. 4 provides:

SECTION 4. Disqualifications. — The following are not qualified to be naturalized as Filipino citizens under this Act:

(a) Those opposed to organized government or affiliated with any association or group of persons who uphold and teach doctrines opposing all organized governments;

(b) Those defending or teaching the necessity of or propriety of violence, personal assault or assassination for the success or predominance of their ideas;

(c) Polygamists or believers in the practice of polygamy;

(d) Those convicted of crimes involving moral turpitude;

(e) Those suffering from mental alienation or incurable contagious diseases;

(f) Those who, during the period of their residence in the Philippines, have not mingled socially with Filipinos, or who have not evinced a sincere desire to learn and embrace the customs, traditions and ideals of the Filipinos;

(g) Citizens or subjects with whom the Philippines is at war, during the period of such war; and

(h) Citizens or subjects of a foreign country whose laws do not grant Filipinos the right to be naturalized citizens or subjects thereof.

Com. Act No. 473 (1939), sec. 4 provides:

SECTION 4. Who are Disqualified. — The following can not be naturalized as Philippine citizens:

(a) Persons opposed to organized government or affiliated with any association or group of persons who uphold and teach doctrines opposing all organized governments;

(b) Persons defending or teaching the necessity or propriety of violence, personal assault or assassination for the success and predominance of their ideas;

(c) Polygamists or believers in the practice of polygamy;

(d) Persons convicted of crimes involving moral turpitude;

(e) Persons suffering from mental alienation or incurable contagious diseases;

(f) Persons who, during the period of their residence in the Philippines, have not mingled socially with the Filipinos, or who have not evinced a sincere desire to learn and embrace the customs, traditions, and ideals of the Filipinos;

(g) Citizens or subjects of nations with whom the United States and the Philippines are at war, during the period of such war;

(h) Citizens or subjects of a foreign country other than the United States, whose laws do not grant Filipinos the right to become naturalized citizens or subjects thereof.

[184] The Civil Code states:

Article 37. Juridical capacity, which is the fitness to be the subject of legal relations, is inherent in every natural person and is lost only through death. Capacity to act, which is the power to do acts with legal effect, is acquired and may be lost.

Article 38. Minority, insanity or imbecility, the state of being a deaf-mute, prodigality and civil interdiction are mere restrictions on capacity to act, and do not exempt the incapacitated person from certain obligations, as when the latter arise from his acts or from property relations, such as easements.

Article 39. The following circumstances, among others, modify or limit capacity to act: age, insanity, imbecility, the state of being a deaf-mute, penalty, prodigality, family relations, alienage, absence, insolvency and trusteeship. The consequences of these circumstances are governed in this Code, other codes, the Rules of Court, and in special laws. Capacity to act is not limited on account of religious belief or political opinion.

A married woman, twenty-one years of age or over, is qualified for all acts of civil life, except in cases specified by law.

[185] 571 Phil. 170 (2008) [Per J. Chico-Nazario, Third Division].

[186] Id. at 189-190, *citing Lack County v. Neilon*, 44 Or. 14, 21, 74, p. 212; *State v. Avery*, 113 Mo. 475, 494, 21 S.W. 193; and *Reynolds Trial Ev.*, Sec. 4, p. 8.

[187] 374 Phil. 810 (1999) [Per J. Quisumbing, Second Division].

[188] Id. at 822.

[189] *See Lua v. O'Brien, et al.*, 55 Phil. 53 (1930) [Per J. Street, En Banc]; *Vda. De Laig, et al. v. Court of Appeals*, 172 Phil. 283 (1978) [Per J. Makasiar, First Division]; *Baloloy v. Hular*, 481 Phil. 398 (2004) [Per J. Callejo, Sr., Second Division]; and *Heirs of Celestial v. Heirs of Celestial*, 455 Phil. 704 (2003) [Per J. Ynares-Santiago, First Division].

[190] *Ang Tibay v. Court of Industrial Relations*, 69 Phil. 635 (1940) [Per J. Laurel, En Banc]. Also, Rule 133, Section 5 of the Revised Rules on Evidence states:

Section 5. Substantial evidence. — In cases filed before administrative or quasi-judicial bodie's, a fact may be deemed established if it is supported by substantial evidence, or that

amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion.

[191] *Rollo*, p. 8.

[192] *See* J. Leonen, Concurring Opinion in *Poe-Llamanzares v. Commission on Elections*, G.R. No. 221698-700, March 8, 2016 <http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2016/march2016/221697_leonen.pdf> 83 [Per J. Perez, En Banc].

[193] Id.

[194] Id.

[195] G.R. No. 221698-700, March 8, 2016 <http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2016/march2016/221697.pdf>

[196] J. Leonen, Dissenting Opinion in *Poe-Llamanzares v. Commission on Elections*, G.R. No. 221698-700, March 8, 2016 <http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2016/march2016/221697_leonen.pdf> 83 [Per J. Perez, En Banc].

[197] Id. at 84.

[198] *Uytengsu III v. Baduel*, 514 Phil. 1 (2005) [Per J. Tinga, Second Division].

[199] *Jison v. Court of Appeals*, 350 Phil. 138 (1998) [Per J. Davide, Jr., First Division].

[200] Id.

[201] *Tañada v. Angara*, 338 Phil. 546 (1997) [Per J. Panganiban, En Banc].

[202] RULES OF COURT, Rule 133, sec. 5.

[203] *Rollo*, pp. 56-58.

[204] *Tecson v. Commission on Elections*, 468 Phil. 421, 473-474 (2004) [Per J. Vitug, En Banc].

[205] Id. at 473-474 and 488.

[206] Id. at 487-488.

[207] 128 Phil. 815 (1967) [Per J. Zaldivar, En Banc].

[208] 614 Phil. 451, 479 (2009) [Per J. Quisumbing, Second Division].

[209] 128 Phil. 815, 825 (1967) [Per J. Zaldivar, En Banc].

[210] *Go v. Ramos*, 614 Phil. 451, 479 (2009) [Per J. Quisumbing, Second Division].

[211] *Civil Liberties Union v. Executive Secretary*, 272 Phil. 147, 162 (1991) [Per C.J. Fernan, En Banc].

[212] CONST., art. VII, sec. 2 provides:

ARTICLE VII. Executive Department

. . . .

SECTION 2. No person may be elected President unless he is a natural-born citizen of the Philippines, a registered voter, able to read and write, at least forty years of age on the day of the election, and a resident of the Philippines for at least ten years immediately preceding such election.

[213] CONST., art. VII, sec. 3.

[214] CONST., art. VI, sec. 3 provides:

ARTICLE VI. The Legislative Department

. . . .

SECTION 3. No person shall be a Senator unless he is a natural-born citizen of the Philippines, and, on the day of the election, is at least thirty-five years of age, able to read and write, a registered voter, and a resident of the Philippines for not less than two years immediately preceding the day of the election.

[215] CONST., art. VI, sec. 6 provides:

ARTICLE VI. The Legislative Department

. . . .

SECTION 6. No person shall be a Member of the House of Representatives unless he is a natural-born citizen of the Philippines and, on the day of the election, is at least twenty-five years of age, able to read and write, and, except the party-list representatives, a registered voter in the district in which he shall be elected, and a resident thereof for a period of not less than one year immediately preceding the day of the election.

[216] CONST., art. VIII, sec. 7(1) provides:

ARTICLE VIII. Judicial Department

. . . .

SECTION 7. (1) No person shall be appointed Member of the Supreme Court or any lower collegiate court unless he is a natural-born citizen of the Philippines. A Member of the Supreme Court must be at least forty years of age, and must have been for fifteen years or more a judge of a lower court or engaged in the practice of law in the Philippines.

[217] CONST., art. LX-B, sec. 1(1) provides:

ARTICLE IX. Constitutional Commissions

. . . .

B. The Civil Service Commission

SECTION 1. (1) The Civil Service shall be administered by the Civil Service Commission composed of a Chairman and two Commissioners who shall be natural-born citizens of the Philippines and, at the time of their appointment, at least thirty-five years of age, with proven capacity for public administration, and must not have been candidates for any elective position in the elections immediately preceding their appointment.

[218] CONST., art. IX-C, sec. 1(1) provides:

ARTICLE IX. Constitutional Commissions

. . . .

C. The Commission on Elections

SECTION 1. (1) There shall be a Commission on Elections composed of a Chairman and six Commissioners who shall be natural-born citizens of the Philippines and, at the time of their appointment, at least thirty-five years of age, holders of a college degree, and must not have been candidates for any elective position in the immediately preceding elections. However, a majority thereof, including the Chairman, shall be Members of the Philippine Bar who have been engaged in the practice of law for at least ten years.

[219] CONST., art. IX-D, sec. 1(1) provides:

ARTICLE IX. Constitutional Commissions

. . . .

D. Commission on Audit

SECTION 1. (1) There shall be a Commission on Audit composed of a Chairman and two Commissioners, who shall be natural-born citizens of the Philippines and, at the time of men-appointment, at least thirty-five years of age, certified public accountants with not less than ten years of auditing experience, or members of the Philippine Bar who have been engaged in the practice of law for at least ten years, and must not have been candidates for any elective position in the elections immediately preceding their appointment. At no time shall all Members of the Commission beloiig to the same profession.

[220] CONST., art. XI, sec.8 provides:

ARTICLE XI. Accountability of Public Officers

. . . .

SECTION 8. The Ombudsman and his Deputies shall be natural-born citizens of the Philippines, and at the time of their appointment, at least forty years old, of recognized probity and independence, and members of the Philippine Bar, and must not have been candidates for any elective office in the immediately preceding election. The Ombudsman must have for ten years or more been a judge or engaged in the practice of law in the Philippines.

[221] CONST., art. XII, sec. 20 provides:

ARTICLE XII. National Economy and Patrimony

. . . .

SECTION 20. The Congress shall establish an independent central monetary authority, the members of whose governing board must be natural-born Filipino citizens, of known probity, integrity, and patriotism, the majority of whom shall come from the private sector. They shall also be subject to such other qualifications and disabilities as may be prescribed by law. The authority shall provide policy direction in the areas of money, banking, and credit. It shall have supervision over the operations of banks and exercise such regulatory powers as may be provided by law over the operations of finance companies and other institutions performing similar functions.

[222] CONST., art. XIII, sec. 17(2) provides:

ARTICLE XIII. Social Justice and Human Rights

. . . .

Human Rights

SECTION 17. . . .

(2) The Commission shall be composed of a Chairman and four Members who must be natural-born citizens of the Philippines and a majority of whom shall be members of the Bar. The term of office and other qualifications and disabilities of the Members of the Commission shall be provided by law.

[223] Rep. Act No. 3537 (1963), sec. 1. Section thirty-eight of Republic Act Numbered Four hundred nine, as amended by Republic Act Numbered Eighteen hundred sixty and Republic Act Numbered Three thousand ten, is further amended to read as follows:

Sec. 38. *The City Fiscal and Assistant City Fiscals*. — There shall be in the Office of the City Fiscal one chief to be known as the City Fiscal with the rank, salary and privileges of a Judge of the Court of First Instance, an assistant chief to be known as the first assistant city fiscal, three second assistant city fiscals who shall be the chiefs of divisions, and fifty-seven assistant fiscals, who shall discharge their duties under the general supervision of the Secretary of Justice. *To be eligible for appointment as City Fiscal one must be a natural born citizen of the Philippines* and must have practiced law in the Philippines for a period of not

less than ten years or held during a like period of an office in the Philippine Government requiring admission to the practice of law as an indispensable requisite. *To be eligible for appointment as assistant fiscal one must be a natural born citizen of the Philippines* and must have practiced law for at least five years prior to his appointment or held during a like period an office in the Philippine Government requiring admission to the practice of law as an indispensable requisite. (Emphasis supplied)

[224] Rep. Act No. 3537 (1963).

[225] Examples of these are: the Land Transportation Office Commissioner, the Mines and Geosciences Bureau Director, the Executive Director of Bicol River Basin, the Board Member of the Energy Regulatory Commission, and the National Youth Commissioner, among others.

[226] Examples of these are pharmacists and officers of the Philippine Coast Guard, among others.

[227] Among these incentives are state scholarships in science and certain investment rights.

[228] *Sameer v. Cabiles*, G.R. No. 170139, August 5, 2014, 732 SCRA 22, 57 [Per J. Leonen, En Banc].

[229] *People v. Cayat*, 68 Phil. 12, 18 (1939) [Per J. Moran, First Division].

[230] Ratified on August 21, 1990.

[231] *See* United Nations Treaty Collection, *Convention on the Rights of the Child* (visited March 7, 2016).

[232] Ratified on October 23, 1986.

[233] *See Bayan v. Zamora*, 396 Phil. 623, 657-660 (2000) [Per J. Buena, En Banc], *citing* the Vienna Convention on the Laws of Treaties.

[234] 561 Phil. 386 (2007) [Per J. Austria-Martinez, En Banc].

[235] Id. at 397-398.

[236] Rep. Act No. 8552 (1998), sec. 2(b) provides:

Section 2 (b). In all matters relating to the care, custody and adoption of a child, his/her interest shall be the paramount consideration in accordance with the tenets set forth in the United Nations (UN) Convention on the Rights of the Child; UN Declaration on Social and Legal Principles Relating to the Protection and Welfare of Children with Special Reference to Foster Placement and Adoption, Nationally and Internationally; and the Hague Convention on the Protection of Children and Cooperation in Respect of Intercountry Adoption. Toward this end, the State shall provide alternative protection and assistance through foster care or adoption for every child who is neglected, orphaned, or abandoned.

[237] *See also* Rep. Act No. 9523 (2009), An Act Requiring the Certification of the Department of Social Welfare and Development (DSWD) to Declare a “Child Legally Available for Adoption” as a Prerequisite for Adoption Proceedings, Amending for this Purpose Certain Provision of Rep. Act No. 8552, otherwise known as the Inter-country Adoption Act of 1995, Pres. Decree No. 603, otherwise known as the Child and Youth Welfare Code, and for Other Purposes.

Rep. Act No. 9523 (2009), sec. 2 provides:

SECTION 2. *Definition of Terms*. — As used in this Act, the following terms shall mean:

(1) Department of Social Welfare and Development (DSWD) is the agency charged to implement the provisions of this Act and shall have the sole authority to issue the certification declaring a child legally available for adoption.

. . . .

(3) Abandoned Child refers to a child who has no proper parental care or guardianship, or whose parent(s) have deserted him/her for a period of at least three (3) continuous months, which includes a foundling.

[238] DFA Order No. 11-97, Implementing Rules and Regulations for Rep. Act No. 8239 (1997), Philippine Passport Act.

[239] Pres. Decree No. 1986, sec. 2 provides:

Section 2. Composition; qualifications; benefits. – The BOARD shall be composed of a Chairman, a Vice-Chairman and thirty (30) members, who shall all be appointed by the President of the Philippines. The Chairman, the Vice-Chairman, and the members of the BOARD, shall hold office for a term of one (1) year, unless sooner removed by the President

for any cause; Provided, That they shall be eligible for re-appointment after the expiration of their term. If the Chairman, or the Vice-Chairman or any member of the BOARD fails to complete his term, any person appointed to fill the vacancy shall serve only for the unexpired portion of the term of the BOARD member whom he succeeds.

No person shall be appointed to the BOARD, unless he is a natural-born citizen of the Philippines, not less than twenty-one (21) years of age, and of good moral character and standing in the community; Provided, That in the selection of the members of the BOARD due consideration shall be given to such qualifications as would produce a multi-sectoral combination of expertise in the various areas of motion picture and television; Provided, further, That at least five (5) members of the BOARD shall be members of the Philippine Bar. Provided, finally That at least fifteen (15) members of the BOARD may come from the movie and television industry to be nominated by legitimate associations representing the various sectors of said industry.

The Chairman, the Vice-Chairman and the other members of the BOARD shall be entitled to transportation, representation and other allowances which shall in no case exceed FIVE THOUSAND PESOS (P5,000.00) per month.

[240] CONST, art. IV, sec. 3.

[241] *Rollo*, pp. 685-686.

[242] An Act Providing for the Ways in which Philippine Citizenship may be Lost or Reacquired.

[243] An Act Providing for the Repatriation of Filipino Women who have Lost their Philippine Citizenship by Marriage to Aliens and Natural-born Filipinos.

[244] See *Calilung v. Commission on Elections*, 551 Phil. 110, 117-18 (2007) [Per J. Quisumbing, En Banc] in which this Court stated that this was the clear intent of the legislature when it enacted Republic Act No. 9225.

[245] Rep. Act No. 9225 (2003), sec. 2.

[246] 551 Phil. 110 (2007) [Per J. Quisumbing, En Banc].

[247] Id. at 118.

[248] Rep. Act No. 9225 (2003), sec. 5.

[249] Rep. Act No. 9225 (2003), sec. 3, par. 2:

Section 3. Retention of Philippine Citizenship – . . .

Natural-born citizens of the Philippines who, after the effectivity of this Act, become citizens of a foreign country shall retain their Philippine citizenship upon taking the aforesaid oath.

[250] Rep. Act No. 9225 (2003), sec. 5 provides:

Section 5. Civil and Political Rights and Liabilities – Those who retain or re-acquire Philippine citizenship under this Act shall enjoy full civil and political rights and be subject to all attendant liabilities and responsibilities under existing laws of the Philippines and the following conditions:

. . . .

[251] CONST., art. V, sec. 1 provides:

Section 1. Suffrage maybe exercised by all citizens of the Philippines not otherwise disqualified by law, who are at least eighteen years of age, and who shall have resided in the Philippines for at least one year, and in the place wherein they propose to vote, for at least six months immediately preceding the election. No literacy, property, or other substantive requirement shall be imposed on the exercise of suffrage.

[252] Rep. Act No. 9225 (2003), sec. 5(1) provides:

Section 5. Civil and Political Rights and Liabilities – Those who retain or re-acquire Philippine citizenship under this Act shall enjoy full civil and political rights and be subject to all attendant liabilities and responsibilities under existing laws of the Philippines and the following conditions:

(1) Those intending to exercise their right of suffrage must meet the requirements under Section 1, Article V of the Constitution, Republic Act No. 9189, otherwise known as "The Overseas Absentee Voting Act of 2003" and other existing laws;

[253] Rep. Act No. 9225 (2003), sec. 5(2) provides:

Section 5. Civil and Political Rights and Liabilities – Those who retain or re-acquire

Philippine citizenship under this Act shall enjoy full civil and political rights and be subject to all attendant liabilities and responsibilities under existing laws of the Philippines and the following conditions:

. . . .

(2) Those seeking elective public in the Philippines shall meet the qualification for holding such public office as required by the Constitution and existing laws and, at the time of the filing of the certificate of candidacy, make a personal and sworn renunciation of any and all foreign citizenship before any public officer authorized to administer an oath;

[254] 692 Phil. 407 (2012) [Per J. Reyes, En Banc].

[255] Id. at 428.

[256] *Rollo*, p. 10.

[257] Id. at 687.

[258] Id.

[259] Id. at 229.

[260] Id.

[261] Id.

[262] Id.

[263] *Bengson v. Bouse of Representatives Electoral Tribunal*, 409 Phil. 633, 649 (2001) [Per J. Kapunan, En Banc].

[264] Rep. Act No. 9225 (2003), sec. 2.

[265] *Rollo*, p. 35.

DISSENTING OPINION

PERLAS-BERNABE, J.:

I dissent.

I respectfully submit that the Senate Electoral Tribunal (SET) committed grave abuse of discretion in ruling that private respondent Mary Grace Poe-Llamanzares (respondent) was a natural-born citizen and, thus, qualified to hold office as Senator of the Republic of the Philippines.[1]

An act of a court or tribunal can only be considered as committed with grave abuse of discretion when such act is done in a capricious or whimsical exercise of judgment as is equivalent to lack of jurisdiction. The abuse of discretion must be so patent and gross as to amount to an evasion of a positive duty or to a virtual refusal to perform a duty enjoined by law, or to act at all in contemplation of law, as where the power is exercised in an arbitrary and despotic manner by reason of passion and hostility.[2] In this relation, "**grave abuse of discretion arises when a** lower court or **tribunal patently violates the Constitution**, the law or existing jurisprudence."[3]

The advent of the 1935 Constitution established the principle of *jus sanguinis* as basis for acquiring Philippine citizenship.[4] Following this principle, citizenship is conferred by virtue of blood relationship to a Filipino parent.[5]

It was admitted that respondent was a foundling with unknown facts of birth and parentage. On its face, Section 1, Article IV of the 1935 Constitution – the applicable law to respondent's case – did not include foundlings in the enumeration of those who are considered Filipino citizens. It reads:

> Section 1. The following are citizens of the Philippines:
>
> (1) Those who are citizens of the Philippine Islands at the time of the adoption of this Constitution.
> (2) Those born in the Philippine Islands of foreign parents who, before the adoption of this Constitution, had been elected to public office in the Philippine Islands.
> (3) Those whose fathers are citizens of the Philippines.
> (4) Those whose mothers are citizens of the Philippines and, upon reaching the age of majority, elect Philippine citizenship.
> (5) Those who are naturalized in accordance with law.

This case was originally a *quo warranto* proceeding before the SET.[6] The initial burden,

thus, fell upon petitioner Rizalito Y. David to show that respondent lacked the qualifications of a Senator. However, upon respondent's voluntary admission that she was a foundling, the burden of evidence was shifted to her. In his Dissenting Opinion before the SET, Associate Justice Arturo D. Brion pertinently explains:

> [I]n *quo warranto*, the petitioner who challenges the respondent's qualification to office carries the burden of proving, by preponderance of evidence, the facts constituting the disqualification. Upon such proof, the burden shifts to the respondent who must now present opposing evidence constituting his or her defense or establishing his or her affirmative defense.
>
> x x x x
>
> In the present case, the petitioner has alleged that the respondent is a foundling. He posits that, as a foundling has no known parents from whom to trace the origins of her citizenship, the respondent is not a Filipino citizen and is, therefore, not eligible for the position of senator.
>
> Significantly, the respondent admitted her status as a foundling, thus, lifting the petitioner's burden of proving his claim that she is a foundling. With the admission, the fact necessary to establish the petitioner's claim is considered established.[7]

In this case, respondent failed to present competent and sufficient evidence to prove her blood relation to a Filipino parent which is necessary to determine natural-born citizenship pursuant to the *jus sanguinis* principle. This notwithstanding, the *ponencia* concludes that the following circumstances are substantial evidence justifying the inference that respondent's biological parents are Filipino:[8]

(*a*) **Circumstances of abandonment:** Respondent was found as a newborn infant outside the Parish Church of Jaro, Iloilo on September 3, 1968. In 1968, Iloilo, as did most if not all other Philippine provinces, had a predominantly Filipino population. In 1968, there was also no international airport in Jaro, Iloilo.

(*b*) **Physical features:** She is described as having "brown almond-shaped eyes, a low nasal bridge, straight black hair and an oval-shaped face." She stands at only 5 feet and 2 inches tall.

(*c*) **Statistical inference:** in the related case of *Poe-Llamanzares v. Commission on Elections*,[9] former Solicitor General Florin T. Hilbay underscored how it was statistically more probable that respondent was born a Filipino citizen, submitting that out of 900,165 recorded births in the Philippines in 1968, over 1,595 or 0.18% were foreigners. This translates to, roughly, a 99.8% probability that respondent was born a Filipino citizen.

However, the foregoing "circumstantial evidence" do not adequately prove the determination sought to be established: that is, whether or not respondent can trace her parentage to a Filipino citizen. These circumstances can be easily debunked by contrary but likewise rationally-sounding suppositions. Case law holds that "[m]atters dealing with qualifications for public elective office must be strictly complied with."[10] The proof to hurdle a substantial challenge against a candidate's qualifications must therefore be solid. This Court cannot make a definitive pronouncement on a candidate's citizenship when there is a looming possibility that he/she is not Filipino. The circumstances surrounding respondent's abandonment (both as to the milieu of time and place), as well as her physical characteristics, hardly assuage this possibility. By parity of reasoning, they do not prove that she was born to a Filipino: her abandonment in the Philippines is just a restatement of her foundling status, while her physical features only tend to prove that her parents likely had Filipino features and yet it remains uncertain if their citizenship was Filipino. More so, the statistics cited – assuming the same to be true – do not account for all births but only of those recorded. To my mind, it is uncertain how "encompassing" was the Philippine's civil registration system at that time – in 1968 – to be able to conclude that those statistics logically reflect a credible and representative sample size. And even assuming it to be so, 1,595 were reflected as foreigners, rendering it factually possible that respondent belonged to this class. Ultimately, the opposition against respondent's natural-born citizenship claim is simple but striking: the fact that her parents are unknown directly puts into question her Filipino citizenship because she has no *prima facie* link to a Filipino parent from which she could have traced her Filipino citizenship.

Absent satisfactory proof establishing any blood relation to a Filipino parent, and without any mention in the 1935 Constitution that foundlings are considered or even presumed to be Filipino citizens at birth, it is my view that, under the auspices of the 1935 Constitution, respondent could not be considered a natural-born Filipino citizen. As worded, the provisions of Section 1, Article IV of the 1935 Constitution are clear, direct, and unambiguous. This Court should therefore apply the statutory construction principles of *expressio unius est exclusio alterius* and *verba legis non est recedendum*. Consequently, it would be unnecessary to resort to the constitutional deliberations or to examine the

underlying intent of the framers of the 1935 Constitution. In *Civil Liberties Union v. The Executive Secretary*,[11] this Court remarked that:

> Debates in the constitutional convention "are of value **as showing the views of the individual members, and as indicating the reasons for their votes**, but they give us no light as to the views of the large majority who did not talk, much less of the mass of our fellow citizens whose votes at the polls gave that instrument the force of fundamental law. **We think it [is] safer to construe the constitution from what appears upon its face.**"[12]

In fact, it should be pointed out that the 1935 Constitution, as it was adopted in its final form, **never carried over any proposed provision on foundlings being considered or presumed to be Filipino citizens**. Its final exclusion is therefore indicative of the framers' prevailing intent.[13] The *ponencia*'s theorized "harmonization"[14] of the constitutional provisions on citizenship with the provisions on the promotion of children's well-being,[15] equal protection,[16] public service,[17] and even human dignity and human rights[18] appears to be a tailor-fitted advocacy for allowing foundlings to run for key national posts that, quite frankly, stretches the import of these distinct provisions to the separate and unique matter of citizenship. There seems to be an evident logical problem with the argument that since the Constitution protects its children, and respects human rights and equality to run for office, then *ergo*, foundlings should be presumed to be natural-born. It appears that this approach aims to collate all possibly related constitutional text, albeit far-flung, just to divine a presumption when unfortunately, there is none.

Moreover, as Senior Associate Justice Antonio T. Carpio (Justice Carpio) aptly pointed out in his Dissenting Opinion before the SET, it would be insensible to suppose that the framers of the 1935 Constitution intended that foundlings be considered as natural-born citizens:

> [N]one of the framers of the 1935 Constitution mentioned the term natural-born in relation to the citizenship of foundlings. Again, under the 1935 Constitution, only those whose fathers were Filipino citizens were considered natural-born citizens. Those who were born of Filipino mothers and alien fathers were still required to elect Philippine citizenship, preventing them from being natural-born citizens. If, as respondent would like us to believe, the framers intended that foundlings be considered natural-born Filipino citizens, this would create an

> absurd situation where a child with unknown parentage would be placed in a better position than child whose mother is actually known to be a Filipino citizen. The framers of the 1935 Constitution could not have intended to create such absurdity.[19]

While the predicament of foundlings of having their parents unknown would seem to entail the difficult, if not impossible, task of proving their Filipino parentage, the current state of the law which requires evidence of blood relation to a Filipino parent to establish natural-born citizenship under the *jus sanguinis* principle must be respected at all costs. This is not to say that the position of foundlings in relation to their endeavors for high public offices has been overlooked in this discourse. Rather, the correction of this seeming "misfortune" – as the *ponencia* would suppose[20] – lies in legislative revision, not judicial supplication. For surely, it is not for this Court to step in and supply additional meaning when clarity is evoked in the citizenship provisions of the Constitution.

For another, I would also like to express my reservations on the *ponencia*'s reliance on *Tecson v. Commission on Elections*[21] (*Tecson*) wherein this Court resolved that respondent's adoptive father, Ronald Allan Kelley Poe, more popularly known as Fernando Poe Jr. (FPJ), was qualified to run for the presidential post during the 2004 National Elections which, according to the *ponencia*,[22] was based on the basis of "presumptions" that proved his status as a natural-born citizen. In that case, the identity of FPJ's parents, Allan F. Poe and Bessie Kelley, was never questioned. More importantly, there was direct documentary evidence to trace Allan F. Poe's parentage to Lorenzo Pou, whose death certificate identified him to be a Filipino. Thus, by that direct proof alone, there was a substantial trace of Allan F. Poe's parentage to a Filipino (Lorenzo Pou), which in turn, allowed the substantial tracing of FPJ's parentage to a Filipino (Allan F. Poe). As such, FPJ was declared qualified to run for the presidential post in 2004. The Court further explained that while the birth certificate of FPJ's grandfather, Lorenzo Pou, was not presented, it could be assumed that the latter was born in 1870 while the Philippines was still a colony of Spain. This inference was drawn from the fact that Lorezo Pou died at the age of 84 years old in 1954. Thus, absent any evidence to the contrary, and against petitioner therein's bare allegation, Lorenzo Pou was deemed to be a resident of the Philippines and hence, a Filipino citizen by operation of the Philippine Organic Act of 1902,[23] on the premise that the place of residence of a person at the time of his death was also his residence before his death. In any event, the certified true copy of the original death certificate of Lorenzo Pou reflecting that he was a Filipino citizen was enough basis to trace FPJ's Filipino natural-born

citizenship. As the Court aptly cited, according to Section 44, Rule 130 of the Rules of Court, "entries in official records made in the performance of his duty by a public officer of the Philippines, or by a person in the performance of a duty specially enjoined by law, are ***prima facie* evidence of the facts therein stated**."

In contrast, by her admission as a foundling whose parents are unknown, and without presenting any other evidence to show any substantial tracing of Filipino parentage similar to FPJ, the legal and factual nuances of respondent's case should be treated differently. Accordingly, *Tecson* provides no authoritative jurisprudential anchorage to this case.

Finally, it bears stressing that they *jus sanguinis* principle of citizenship established in the 1935 Constitution was subsequently carried over and adopted in the 1973 and 1987 Constitutions.[24] Thus, notwithstanding the existence of any treaty or generally accepted principle of international law which purportedly evince that foundlings are accorded natural-born citizenship in the State in which they are found, the same, nonetheless, could not be given effect as it would contravene the Constitution. To recall, should international law be adopted in this jurisdiction, it would only form part of the sphere of domestic law.[25] Being relegated to the same level as domestic laws, they could not modify or alter, much less prevail, over the express mandate of the Constitution. In this relation, I deem it fitting to echo the point made by Associate Justice Teresita J. Leonardo-De Castro, likewise in her Separate Opinion before the SET:

> Citizenship is not automatically conferred under the international conventions cited but will entail an affirmative action of the State, by a national law or legislative enactment, so that the nature of citizenship, if ever acquired pursuant thereto, is citizenship by naturalization. There must be a law by which citizenship can be acquired. By no means can this citizenship be considered that of a natural-born character under the principle of *jus sanguinis* in the Philippine Constitution.[26]

For all these reasons, I unfortunately depart from the ruling of the majority and perforce submit that the SET committed grave abuse of discretion in declaring respondent a natural-born citizen. The majority ruling runs afoul of and even distorts the plain language of the Constitution which firmly and consistently follows the *jus sanguinis* principle. In the final analysis, since respondent has not presented any competent and sufficient evidence to prove her blood relation to a Filipino parent in these proceedings, she should not be deemed to be

a natural-born citizen of the Philippines, which, thus, renders the instant petition meritorious. Nonetheless, it is important to point out that respondent is not precluded from later on proving her natural-born citizenship through such necessary evidence in the appropriate proceeding therefor, considering that a decision determining natural-born citizenship never becomes final.[27] I reach these conclusions solely under the peculiar auspices of this case and through nothing but my honest and conscientious assessment of the facts parallel to the applicable legal principles. As a magistrate of this High Court, I am impelled to do no less than fulfill my duty to faithfully interpret the laws and the Constitution, bereft of any politics or controversy, or of any regard to the tides of popularity or gleam of any personality.

WHEREFORE, I vote to **GRANT** the petition.

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[1] See Section 3, Article VI of the 1987 Constitution.

[2] *Carpio-Morales v. Court of Appeals*, G.R. Nos. 217126-27, November 10, 2015, citing *Yu v. Reyes-Carpio*, 667 Phil. 474, 481-482 (2011).

[3] See id., citing *Tagolino v. House of Representatives Electoral Tribunal*, 706 Phil. 534, 558 (2013).

[4] *Valles v. Commission on Elections*, 392 Phil. 327, 336 (2000).

[5] Id.

[6] Docketed as SET Case No. 001-15.

[7] See Dissenting Opinion of Justice Brion in *David v. Poe-Llamanzares*, SET Case No. 001-15, November 17, 2015, pp. 12-13.

[8] See *ponencia*, pp. 39-40.

[9] See G.R. Nos. 221697 and 221698-221700, March 8, 2016.

[10] See *Arnado v. COMELEC*, G.R. No. 210164, August 18, 2015.

[11] 272 Phil. 147 (1991).

[12] Id. at 169-170.

[13] See *Civil Liberties Union v. The Executive Secretary*, 272 Phil. 147, 157 (1991).

[14] *Ponencia*, pp. 45-50.

[15] Section 13, Article II of the 1987 Constitution provides:

> Section 13. The State recognizes the vital role of the youth in nation-building and shall promote and protect their physical, moral, spiritual, intellectual, and social well-being. It shall inculcate in the youth patriotism and nationalism, and encourage their involvement in public and civic affairs.

Section 3, Article XV of the 1987 Constitution also provides:

> Section 3. The State shall defend:
>
> x x x x
>
> (3) The right of children to assistance, including proper care and nutrition, and special protection from all forms of neglect, abuse, cruelty, exploitation and other conditions prejudicial to their development;
>
> x x x x

[16] Section 1, Article III of the 1987 Constitution reads:

> Section 1. No person shall be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the laws.

[17] Section 26, Article II of the 1987 Constitution states:

> Section 26. The State shall guarantee equal access to opportunities for public service and prohibit political dynasties as may be defined by law.

[18] Section 1, Article XIII of the 1987 Constitution provides:

> Section 1. The Congress shall give highest priority to the enactment of measures that protect and enhance the right of all the people to human dignity, reduce social, economic, and political inequalities, and remove cultural inequities by equitably diffusing wealth and political power for the common good.
>
> x x x x

Section 11, Article II of the 1987 Constitution states:

> Section 11. The State values the dignity of every human person and guarantees full respect for human rights.

[19] See Dissenting Opinion of Justice Carpio in *David v. Poe-Llamanzares*, SET Case No. 001-15, November 17, 2015, pp. 28-29.

[20] See *ponencia*, pp. 18-19.

[21] 468 Phil. 421 (2004).

[22] See *ponencia*, pp. 42-43.

[23] See Section 4 of the Philippine Organic Act of 1902, entitled “AN ACT TEMPORARILY TO PROVIDE FOR THE ADMINISTRATION OF THE AFFAIRS OF CIVIL GOVERNMENT IN THE PHILIPPINE ISLANDS, AND FOR OTHER PURPOSES.”

[24] See *Valles v. Commission on Elections*, supra note 4, at 336-337.

[25] *Pharmaceutical and Health Care Assoc. of the Phils, v. Duque III*, 561 Phil. 386, 397-398 (2007).

[26] See Separate Opinion of Justice De Castro in *David v. Poe-Llamanzares*, SET Case No. 001-15, November 17, 2015, p. 18.

[27] See Dissenting Opinion of Justice Carpio in *David v. Poe-Llamanzares*, SET Case. No. 001-15, p. 35, citing *Kilosbayan Foundation v. Ermita*, 553 Phil. 331, 343-344 (2007).

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