

Title:

****Kilosbayan Foundation and Bantay Katarungan Foundation vs. Executive Secretary Eduardo R. Ermita; and Sandiganbayan Justice Gregory S. Ong****

Facts:

Petitioners Kilosbayan Foundation and Bantay Katarungan Foundation, public and civic-oriented NGOs, filed a petition for certiorari under Rule 65 of the Rules of Court. The respondents were Executive Secretary Eduardo R. Ermita, responsible for presidential appointments, including Supreme Court Justices, and Gregory S. Ong, whose appointment to the Supreme Court was under scrutiny due to questions regarding his citizenship.

On May 16, 2007, Ermita, representing the president, announced the appointment of Gregory S. Ong as an associate justice of the Supreme Court to fill the vacancy left by the retirement of Associate Justice Romeo J. Callejo, Sr. However, following reports on Ong's citizenship, the appointment was reportedly put on hold by Malacañang for validation by the Judicial and Bar Council (JBC). Despite this, there was no clear cancellation of the appointment.

The petitioners argued that the appointment was unconstitutional due to Ong being of Chinese citizenship, as stated in his birth certificate. They maintained that even if his father obtained Filipino citizenship through naturalization eleven years after his birth, Ong would not qualify as a natural-born Filipino citizen, a requirement for appointment to the Supreme Court as per the Constitution. Consequently, they sought to annul Ong's appointment through a writ of certiorari.

In response, Executive Secretary Ermita defended the President's prerogative to appoint justices, noting the appointment was provisional pending JBC's citizenship validation. Ong, in his defense, traced his Filipino ancestry and asserted his status as a natural-born citizen, attributing his citizenship to his maternal line and presenting official determinations to that effect.

Issues:

1. Did the petitioners have legal standing to file the suit?
2. Was it necessary to implead the President as an indispensable party?
3. What is the proper forum for reviewing the qualifications of a Supreme Court appointee?
4. Is Gregory S. Ong a natural-born Filipino citizen?

Court's Decision:

1. **Legal Standing**: The Supreme Court granted standing to the petitioners as organizations and taxpayers due to the transcendental importance of the constitutional issue at hand.
2. **Impleading the President**: Not required since the suit targets the Executive Secretary, who acts for the President. The focus was to prevent the release and acceptance of the questionable appointment.
3. **Forum for Review**: The Supreme Court deemed itself the appropriate body to resolve this crucial constitutional matter.
4. **Citizenship of Gregory S. Ong**: The Court found from its records that Ong had been recognized as a naturalized Filipino citizen when he applied for bar admission, contradicting the claims of natural-born status. Significant corrections in civil registry records, such as changes in citizenship, require judicial orders, which hadn't been obtained. Therefore, without judicial correction of his birth certificate and a formal establishment of his Filipino citizenship through court proceedings, Ong could not be deemed a natural-born citizen.

Consequently, the Supreme Court granted the petition, enjoining Gregory S. Ong from accepting the appointment or performing duties as Associate Justice of the Supreme Court until he could credibly demonstrate through proper judicial proceedings that he was a natural-born Filipino citizen.

Doctrine:

The case reiterated that significant changes, like citizenship status in official civil records, necessitate judicial intervention. Furthermore, the qualification of natural-born citizenship for appointment to the Supreme Court must be stringently validated, often requiring a judicial mechanism to amend or clarify existing civil registry records.

Class Notes:

Key Elements for Consideration in Citizenship Disputes within Judicial Appointments:

- **Legal Standing**: Public interest and the significance of constitutional mandates can afford organizations or taxpayers legal standing in specific cases.
- **Citizenship Requirement**: Article VIII, Section 7(1) of the 1987 Constitution mandates that no person shall be appointed a Supreme Court Justice unless they are a natural-born citizen of the Philippines.
- **Civil Registry Amendments**: Substantial changes to civil registry documents, such as those altering citizenship, must be effected through a court order, per Article 412 of the Civil Code.
- **Judicial Review**: The Supreme Court has the primership in resolving issues of

constitutional importance, including questions of qualification for judicial appointments.

Historical Background:

This case underscores the constitutional and procedural intricacies involved in the appointment of Supreme Court Justices in the Philippines, highlighting the critical requirement of being a natural-born Filipino citizen. It also illustrates the judiciary's role in upholding constitutional mandates against executive appointments, ensuring that all appointed justices meet the constitutional criteria.