

# **Loida Nicolas-Lewis et al. vs. Commission on Elections**

**Title:**

Loida Nicolas-Lewis et al. vs. Commission on Elections, G.R. No. 162759, August 4, 2006

**Facts:**

1. **Initiation of Case:**

- Petitioners are individuals who retained or reacquired Philippine citizenship under Republic Act (R.A.) No. 9225, known as the Citizenship Retention and Reacquisition Act of 2003.
- They sought registration and certification as overseas absentee voters for the May 2004 elections under R.A. No. 9189, the Overseas Absentee Voting Act of 2003.

2. **COMELEC's Response:**

- The Philippine Embassy in the United States informed petitioners that the Commission on Elections (COMELEC) had determined they were not eligible to vote due to not meeting the one-year residency requirement per the Constitution.

3. **SEEKING CLARIFICATION:**

- Petitioner Loida Nicolas-Lewis sought clarification from the COMELEC, which reiterated that dual citizens who reacquired citizenship under R.A. 9225 were seen as regular voters, thus needing to meet residency requirements.

4. **Petition Filed with Supreme Court:**

- On April 1, 2004, facing non-inclusion in the National Registry of Absentee Voters, petitioners filed a Certiorari and Mandamus petition with the Supreme Court to compel COMELEC to allow them to vote in the upcoming elections.

5. **Election Developments:**

- On April 30, 2004, COMELEC filed a Comment asking for the petition's denial.
- The elections on May 10, 2004, rendered the immediate voting issue moot, but the broader issue regarding dual citizens' rights remained unresolved.

**Issues:**

1. **Primary Issue:**

- Can petitioners and other dual citizens vote as absentee voters under R.A. No. 9189 despite the residency requirements stated in Section 1, Article V of the Philippine

Constitution?

**Court's Decision:**

1. **Residence Requirement vs. Absentee Voting:**

- The Court acknowledged Section 1's general residency requirement for suffrage eligibility and noted Section 2 of Article V of the Constitution, authorizing Congress to establish systems for absentee voting as an exception to the residency requirement.

2. **COMELEC's Argument:**

- COMELEC argued that dual citizens must first establish residency in the Philippines to regain voting rights. They contended that upon acquiring foreign citizenship, individuals effectively abandoned their domicile in the Philippines.

3. **Court's Analysis and Rejection of COMELEC's Position:**

- The Court disagreed, citing the absence of a specific requirement in R.A. 9225 mandating dual citizens to establish physical residency in the Philippines before voting.

- The Court emphasized that R.A. 9189 seeks to enfranchise all Filipino citizens abroad who have not abandoned their domicile of origin.

- Section 5 of R.A. 9225 allows dual citizens the same absentee voting rights as granted under R.A. 9189.

4. **Enabling Legislation Intended for Absentee Voting:**

- Legislative deliberations and debates confirmed that Section 2 of Article V aimed to provide an exception to the residency requirement in Section 1, allowing overseas Filipinos to vote despite not meeting physical residency requirements.

**Doctrine:**

- **Necessary Implications Doctrine:** R.A. 9189 (Overseas Absentee Voting Act) and R.A. 9225 (Citizenship Retention and Re Acquisition Act) should be read together to reflect the constitutional intent to enfranchise overseas Filipinos, including those who have reacquired Philippine citizenship.

- **Suffrage Rights:** The right to suffrage for dual citizens is not contingent on re-establishing physical residency in the Philippines but only on the requirements laid out in R.A. 9189 and the Constitution.

**Class Notes:**

- **Key Elements**:

- **Suffrage Eligibility**: Citizens of at least 18 years, with one-year residency in the Philippines as a general rule, but absentee voting laws provide exceptions.
- **R.A. 9189 Compliance**: Overseas Filipino citizens, especially those considered dual citizens under R.A. 9225, do not need to fulfill physical residency in the Philippines to vote absentee.
- **Judicial Interpretation**: The harmonization of provisions and legislative intent, emphasizing absentee voting rights.

**Historical Background**:

- **Initial Legislations**:

- R.A. No. 9189 (Overseas Absentee Voting Act of 2003) aimed to enfranchise Filipino citizens living abroad.
- The Constitution's Article V, Section 2 mandated creating a system for absentee voting, expanding democratic participation for non-residents.

- **Dual Citizenship**:

- R.A. No. 9225 (Citizenship Retention and Reacquisition Act of 2003) allowed former natural-born Filipinos who became naturalized citizens of other countries to retain or reacquire their Filipino citizenship, intending to restore full civil and political rights, including voting.

- **Law and Policy Development**:

- The case reflects evolving legislative measures to balance constitutional residency requirements with inclusive democratic processes for Filipinos worldwide.

DOGMA FINEMIENTE.