

ERNESTO S. MERCADO, PETITIONER, VS. EDUARDO BARRIOS MANZANO AND THE COMMISSION ON ELECTIONS, RESPONDENTS.

G.R. No. 135083. May 26, 1999

Ponente: MENDOZA, J.

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MENDOZA, J.:

Petitioner Ernesto S. Mercado and private respondent Eduardo B. Manzano were candidates for vice mayor of the City of Makati in the May 11, 1998 elections. The other one was Gabriel V. Daza III. The results of the election were as follows:

Eduardo B. Manzano 103,853

Ernesto S. Mercado 100,894

Gabriel V. Daza III 54,275[1]

The proclamation of private respondent was suspended in view of a pending petition for disqualification filed by a certain Ernesto Mamaril who alleged that private respondent was not a citizen of the Philippines but of the United States.

In its resolution, dated May 7, 1998,[2] the Second Division of the COMELEC granted the petition of Mamaril and ordered the cancellation of the certificate of candidacy of private respondent on the ground that he is a dual citizen and, under §40(d) of the Local Government Code, persons with dual citizenship are disqualified from running for any elective position. The COMELEC's Second Division said:

What is presented before the Commission is a petition for disqualification of Eduardo Barrios Manzano as candidate for the office of Vice-Mayor of Makati City in the May 11, 1998 elections. The petition is based on the ground that the respondent is an American citizen based on the record of the Bureau of Immigration and misrepresented himself as a natural-born Filipino citizen.

In his answer to the petition filed on April 27, 1998, the respondent admitted that he is registered as a foreigner with the Bureau of Immigration under Alien Certificate of Registration No. B-31632 and alleged that he is a Filipino citizen because he was born in 1955 of a Filipino father and a Filipino mother. He was born in the United States, San Francisco, California, on September 14, 1955, and is considered an American citizen under US Laws. But notwithstanding his registration as an American citizen, he did not lose his Filipino citizenship.

Judging from the foregoing facts, it would appear that respondent Manzano is both a Filipino and a US citizen. In other words, he holds dual citizenship.

The question presented is whether under our laws, he is disqualified from the position for which he filed his certificate of candidacy. Is he eligible for the office he seeks to be elected?

Under Section 40(d) of the Local Government Code, those holding dual citizenship are disqualified from running for any elective local position.

WHEREFORE, the Commission hereby declares the respondent Eduardo Barrios Manzano DISQUALIFIED as candidate for Vice-Mayor of Makati City.

On May 8, 1998, private respondent filed a motion for reconsideration.[3] The motion remained pending even until after the election held on May 11, 1998.

Accordingly, pursuant to Omnibus Resolution No. 3044, dated May 10, 1998, of the COMELEC, the board of canvassers tabulated the votes cast for vice mayor of Makati City but suspended the proclamation of the winner.

On May 19, 1998, petitioner sought to intervene in the case for disqualification.[4] Petitioner's motion was opposed by private respondent.

The motion was not resolved. Instead, on August 31, 1998, the COMELEC en banc rendered its resolution. Voting 4 to 1, with one commissioner abstaining, the COMELEC en banc reversed the ruling of its Second Division and declared private respondent qualified to run for vice mayor of the City of Makati in the May 11, 1998 elections.[5] The pertinent portions of the resolution of the COMELEC en banc read:

As aforesaid, respondent Eduardo Barrios Manzano was born in San Francisco, California, U.S.A. He acquired US citizenship by operation of the United States Constitution and laws under the principle of jus soli.

He was also a natural born Filipino citizen by operation of the 1935 Philippine Constitution, as his father and mother were Filipinos at the time of his birth. At the age of six (6), his parents brought him to the Philippines using an American passport as travel document. His parents also registered him as an alien with the Philippine Bureau of Immigration. He was issued an alien certificate of registration. This, however, did not result in the loss of his Philippine citizenship, as he did not renounce Philippine citizenship and did not take an oath of allegiance to the United States.

It is an undisputed fact that when respondent attained the age of majority, he registered himself as a voter, and voted in the elections of 1992, 1995 and 1998, which effectively renounced his US citizenship under American law. Under Philippine law, he no longer had U.S. citizenship.

At the time of the May 11, 1998 elections, the resolution of the Second Division, adopted on May 7, 1998, was not yet final. Respondent Manzano obtained the highest number of votes among the candidates for vice-mayor of Makati City, garnering one hundred three thousand eight hundred fifty three (103,853) votes over his closest rival, Ernesto S. Mercado, who obtained one hundred thousand eight hundred ninety four (100,894) votes, or a margin of two thousand nine hundred fifty nine (2,959) votes. Gabriel Daza III obtained third place with fifty four thousand two hundred seventy five (54,275) votes. In applying election laws, it would be far better to err in favor of the popular choice than be embroiled in complex legal issues involving private international law which may well be settled before the highest court (Cf. *Frivaldo vs. Commission on Elections*, 257 SCRA 727).

WHEREFORE, the Commission en banc hereby REVERSES the resolution of the Second Division, adopted on May 7, 1998, ordering the cancellation of the respondent's certificate of candidacy.

We declare respondent Eduardo Luis Barrios Manzano to be QUALIFIED as a candidate for the position of vice-mayor of Makati City in the May 11, 1998, elections.

ACCORDINGLY, the Commission directs the Makati City Board of Canvassers, upon proper notice to the parties, to reconvene and proclaim the respondent Eduardo Luis Barrios Manzano as the winning candidate for vice-mayor of Makati City.

Pursuant to the resolution of the COMELEC en banc, the board of canvassers, on the evening of August 31, 1998, proclaimed private respondent as vice mayor of the City of Makati.

This is a petition for certiorari seeking to set aside the aforesaid resolution of the COMELEC en banc and to declare private respondent disqualified to hold the office of vice mayor of Makati City. Petitioner contends that

[T]he COMELEC en banc ERRED in holding that:

A. Under Philippine law, Manzano was no longer a U.S. citizen when he:

1. He renounced his U.S. citizenship when he attained the age of majority when he was already 37 years old; and,
2. He renounced his U.S. citizenship when he (merely) registered himself as a voter and voted in the elections of 1992, 1995 and 1998.

B. Manzano is qualified to run for and or hold the elective office of Vice-Mayor of the City of Makati;

C. At the time of the May 11, 1998 elections, the resolution of the Second Division adopted on 7 May 1998 was not yet final so that, effectively, petitioner may not be declared the winner even assuming that Manzano is disqualified to run for and hold the elective office of Vice-Mayor of the City of Makati.

We first consider the threshold procedural issue raised by private respondent Manzano ^¾ whether petitioner Mercado has personality to bring this suit considering that he was not an original party in the case for disqualification filed by Ernesto Mamaril nor was petitioner's motion for leave to intervene granted.

I. PETITIONER'S RIGHT TO BRING THIS SUIT

Private respondent cites the following provisions of Rule 8 of the Rules of Procedure of the COMELEC in support of his claim that petitioner has no right to intervene and, therefore, cannot bring this suit to set aside the ruling denying his motion for intervention:

Section 1. When proper and when may be permitted to intervene. ^¾ Any person allowed to initiate an action or proceeding may, before or during the trial of an action or proceeding, be permitted by the Commission, in its discretion to intervene in such action or proceeding, if he has legal interest in the matter in litigation, or in the success of either of the parties, or an interest against both, or when he is so situated as to be adversely affected by such action or proceeding.

. . . .

Section 3. Discretion of Commission. ^¾ In allowing or disallowing a motion for intervention, the Commission or the Division, in the exercise of its discretion, shall consider whether or not the intervention will unduly delay or prejudice the adjudication of the rights of the original parties and whether or not the intervenor's rights may be fully protected in a separate action or proceeding.

Private respondent argues that petitioner has neither legal interest in the matter in litigation nor an interest to protect because he is "a defeated candidate for the vice-mayoralty post of Makati City [who] cannot be proclaimed as the Vice-Mayor of Makati City even if the private respondent be ultimately disqualified by final and executory judgment."

The flaw in this argument is it assumes that, at the time petitioner sought to intervene in the proceedings before the COMELEC, there had already been a proclamation of the results of the election for the vice mayoralty contest for Makati City, on the basis of which petitioner came out only second to private respondent. The fact, however, is that there had been no proclamation at that time. Certainly, petitioner had, and still has, an interest in ousting private respondent from the race at the time he sought to intervene. The rule in *Labo v. COMELEC*,^[6] reiterated in several cases,^[7] only applies to cases in which the election of the respondent is contested, and the question is whether one who placed second to the disqualified candidate may be declared the winner. In the present case, at

the time petitioner filed a "Motion for Leave to File Intervention" on May 20, 1998, there had been no proclamation of the winner, and petitioner's purpose was precisely to have private respondent disqualified "from running for [an] elective local position" under §40(d) of R.A. No. 7160. If Ernesto Mamaril (who originally instituted the disqualification proceedings), a registered voter of Makati City, was competent to bring the action, so was petitioner since the latter was a rival candidate for vice mayor of Makati City.

Nor is petitioner's interest in the matter in litigation any less because he filed a motion for intervention only on May 20, 1998, after private respondent had been shown to have garnered the highest number of votes among the candidates for vice mayor. That petitioner had a right to intervene at that stage of the proceedings for the disqualification against private respondent is clear from §6 of R.A. No. 6646, otherwise known as the Electoral Reforms Law of 1987, which provides:

Any candidate who has been declared by final judgment to be disqualified shall not be voted for, and the votes cast for him shall not be counted. If for any reason a candidate is not declared by final judgment before an election to be disqualified and he is voted for and receives the winning number of votes in such election, the Court or Commission shall continue with the trial and hearing of the action, inquiry, or protest and, upon motion of the complainant or any intervenor, may during the pendency thereof order the suspension of the proclamation of such candidate whenever the evidence of guilt is strong.

Under this provision, intervention may be allowed in proceedings for disqualification even after election if there has yet been no final judgment rendered.

The failure of the COMELEC en banc to resolve petitioner's motion for intervention was tantamount to a denial of the motion, justifying petitioner in filing the instant petition for certiorari. As the COMELEC en banc instead decided the merits of the case, the present petition properly deals not only with the denial of petitioner's motion for intervention but also with the substantive issues respecting private respondent's alleged disqualification on the ground of dual citizenship.

This brings us to the next question, namely, whether private respondent Manzano possesses dual citizenship and, if so, whether he is disqualified from being a candidate for vice mayor of Makati City.

II. DUAL CITIZENSHIP AS A GROUND FOR DISQUALIFICATION

The disqualification of private respondent Manzano is being sought under §40 of the Local Government Code of 1991 (R.A. No. 7160), which declares as "disqualified from running for any elective local position: . . . (d) Those with dual citizenship." This provision is incorporated in the Charter of the City of Makati.[8]

Invoking the maxim *dura lex sed lex*, petitioner, as well as the Solicitor General, who sides with him in this case, contends that through §40(d) of the Local Government Code, Congress has "command[ed] in explicit terms the ineligibility of persons possessing dual allegiance to hold local elective office."

To begin with, dual citizenship is different from dual allegiance. The former arises when, as a result of the concurrent application of the different laws of two or more states, a person is simultaneously considered a national by the said states.[9] For instance, such a situation may arise when a person whose parents are citizens of a state which adheres to the principle of *jus sanguinis* is born in a state which follows the doctrine of *jus soli*. Such a person, *ipso facto* and without any voluntary act on his part, is concurrently considered a citizen of both states. Considering the citizenship clause (Art. IV) of our Constitution, it is possible for the following classes of citizens of the Philippines to possess dual citizenship:

- (1) Those born of Filipino fathers and/or mothers in foreign countries which follow the principle of *jus soli*;
- (2) Those born in the Philippines of Filipino mothers and alien fathers if by the laws of their fathers' country such

children are citizens of that country;

(3) Those who marry aliens if by the laws of the latter's country the former are considered citizens, unless by their act or omission they are deemed to have renounced Philippine citizenship.

There may be other situations in which a citizen of the Philippines may, without performing any act, be also a citizen of another state; but the above cases are clearly possible given the constitutional provisions on citizenship.

Dual allegiance, on the other hand, refers to the situation in which a person simultaneously owes, by some positive act, loyalty to two or more states. While dual citizenship is involuntary, dual allegiance is the result of an individual's volition.

With respect to dual allegiance, Article IV, §5 of the Constitution provides: "Dual allegiance of citizens is inimical to the national interest and shall be dealt with by law." This provision was included in the 1987 Constitution at the instance of Commissioner Blas F. Ople who explained its necessity as follows:[10]

. . . I want to draw attention to the fact that dual allegiance is not dual citizenship. I have circulated a memorandum to the Bernas Committee according to which a dual allegiance - and I reiterate a dual allegiance - is larger and more threatening than that of mere double citizenship which is seldom intentional and, perhaps, never insidious. That is often a function of the accident of mixed marriages or of birth on foreign soil. And so, I do not question double citizenship at all.

What we would like the Committee to consider is to take constitutional cognizance of the problem of dual allegiance. For example, we all know what happens in the triennial elections of the Federation of Filipino-Chinese Chambers of Commerce which consists of about 600 chapters all over the country. There is a Peking ticket, as well as a Taipei ticket. Not widely known is the fact that the Filipino-Chinese community is represented in the Legislative Yuan of the Republic of China in Taiwan. And until recently, the sponsor might recall, in Mainland China in the People's Republic of China, they have the Associated Legislative Council for overseas Chinese wherein all of Southeast Asia including some European and Latin countries were represented, which was dissolved after several years because of diplomatic friction. At that time, the Filipino-Chinese were also represented in that Overseas Council.

When I speak of double allegiance, therefore, I speak of this unsettled kind of allegiance of Filipinos, of citizens who are already Filipinos but who, by their acts, may be said to be bound by a second allegiance, either to Peking or Taiwan. I also took close note of the concern expressed by some Commissioners yesterday, including Commissioner Villacorta, who were concerned about the lack of guarantees of thorough assimilation, and especially Commissioner Concepcion who has always been worried about minority claims on our natural resources.

Dual allegiance can actually siphon scarce national capital to Taiwan, Singapore, China or Malaysia, and this is already happening. Some of the great commercial places in downtown Taipei are Filipino-owned, owned by Filipino-Chinese ¾ it is of common knowledge in Manila. It can mean a tragic capital outflow when we have to endure a capital famine which also means economic stagnation, worsening unemployment and social unrest.

And so, this is exactly what we ask ¾ that the Committee kindly consider incorporating a new section, probably Section 5, in the article on Citizenship which will read as follows: DUAL ALLEGIANCE IS INIMICAL TO CITIZENSHIP AND SHALL BE DEALT WITH ACCORDING TO LAW.

In another session of the Commission, Ople spoke on the problem of these citizens with dual allegiance, thus:[11]

. . . A significant number of Commissioners expressed their concern about dual citizenship in the sense that it implies a double allegiance under a double sovereignty which some of us who spoke then in a freewheeling debate thought would be repugnant to the sovereignty which pervades the Constitution and to citizenship itself

which implies a uniqueness and which elsewhere in the Constitution is defined in terms of rights and obligations exclusive to that citizenship including, of course, the obligation to rise to the defense of the State when it is threatened, and back of this, Commissioner Bernas, is, of course, the concern for national security. In the course of those debates, I think some noted the fact that as a result of the wave of naturalizations since the decision to establish diplomatic relations with the People's Republic of China was made in 1975, a good number of these naturalized Filipinos still routinely go to Taipei every October 10; and it is asserted that some of them do renew their oath of allegiance to a foreign government maybe just to enter into the spirit of the occasion when the anniversary of the Sun Yat-Sen Republic is commemorated. And so, I have detected a genuine and deep concern about double citizenship, with its attendant risk of double allegiance which is repugnant to our sovereignty and national security. I appreciate what the Committee said that this could be left to the determination of a future legislature. But considering the scale of the problem, the real impact on the security of this country, arising from, let us say, potentially great numbers of double citizens professing double allegiance, will the Committee entertain a proposed amendment at the proper time that will prohibit, in effect, or regulate double citizenship?

Clearly, in including §5 in Article IV on citizenship, the concern of the Constitutional Commission was not with dual citizens per se but with naturalized citizens who maintain their allegiance to their countries of origin even after their naturalization. Hence, the phrase "dual citizenship" in R.A. No. 7160, §40(d) and in R.A. No. 7854, §20 must be understood as referring to "dual allegiance." Consequently, persons with mere dual citizenship do not fall under this disqualification. Unlike those with dual allegiance, who must, therefore, be subject to strict process with respect to the termination of their status, for candidates with dual citizenship, it should suffice if, upon the filing of their certificates of candidacy, they elect Philippine citizenship to terminate their status as persons with dual citizenship considering that their condition is the unavoidable consequence of conflicting laws of different states. As Joaquin G. Bernas, one of the most perceptive members of the Constitutional Commission, pointed out: "[D]ual citizenship is just a reality imposed on us because we have no control of the laws on citizenship of other countries. We recognize a child of a Filipino mother. But whether or not she is considered a citizen of another country is something completely beyond our control." [12]

By electing Philippine citizenship, such candidates at the same time forswear allegiance to the other country of which they are also citizens and thereby terminate their status as dual citizens. It may be that, from the point of view of the foreign state and of its laws, such an individual has not effectively renounced his foreign citizenship. That is of no moment as the following discussion on §40(d) between Senators Enrile and Pimentel clearly shows: [13]

SENATOR ENRILE. Mr. President, I would like to ask clarification of line 41, page 17: "Any person with dual citizenship" is disqualified to run for any elective local position. Under the present Constitution, Mr. President, someone whose mother is a citizen of the Philippines but his father is a foreigner is a natural-born citizen of the Republic. There is no requirement that such a natural born citizen, upon reaching the age of majority, must elect or give up Philippine citizenship.

On the assumption that this person would carry two passports, one belonging to the country of his or her father and one belonging to the Republic of the Philippines, may such a situation disqualify the person to run for a local government position?

SENATOR PIMENTEL. To my mind, Mr. President, it only means that at the moment when he would want to run for public office, he has to repudiate one of his citizenships.

SENATOR ENRILE. Suppose he carries only a Philippine passport but the country of origin or the country of the father claims that person, nevertheless, as a citizen? No one can renounce. There are such countries in the world.

SENATOR PIMENTEL. Well, the very fact that he is running for public office would, in effect, be an election for him of his desire to be considered as a Filipino citizen.

SENATOR ENRILE. But, precisely, Mr. President, the Constitution does not require an election. Under the Constitution, a person whose mother is a citizen of the Philippines is, at birth, a citizen without any overt act to claim the citizenship.

SENATOR PIMENTEL. Yes. What we are saying, Mr. President, is: Under the Gentleman's example, if he does not renounce his other citizenship, then he is opening himself to question. So, if he is really interested to run, the first thing he should do is to say in the Certificate of Candidacy that: "I am a Filipino citizen, and I have only one citizenship."

SENATOR ENRILE. But we are talking from the viewpoint of Philippine law, Mr. President. He will always have one citizenship, and that is the citizenship invested upon him or her in the Constitution of the Republic.

SENATOR PIMENTEL. That is true, Mr. President. But if he exercises acts that will prove that he also acknowledges other citizenships, then he will probably fall under this disqualification.

This is similar to the requirement that an applicant for naturalization must renounce "all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty"[14] of which at the time he is a subject or citizen before he can be issued a certificate of naturalization as a citizen of the Philippines. In *Parado v. Republic*,[15] it was held:

[W]hen a person applying for citizenship by naturalization takes an oath that he renounces his loyalty to any other country or government and solemnly declares that he owes his allegiance to the Republic of the Philippines, the condition imposed by law is satisfied and complied with. The determination whether such renunciation is valid or fully complies with the provisions of our Naturalization Law lies within the province and is an exclusive prerogative of our courts. The latter should apply the law duly enacted by the legislative department of the Republic. No foreign law may or should interfere with its operation and application. If the requirement of the Chinese Law of Nationality were to be read into our Naturalization Law, we would be applying not what our legislative department has deemed it wise to require, but what a foreign government has thought or intended to exact. That, of course, is absurd. It must be resisted by all means and at all cost. It would be a brazen encroachment upon the sovereign will and power of the people of this Republic.

III. PETITIONER'S ELECTION OF PHILIPPINE CITIZENSHIP

The record shows that private respondent was born in San Francisco, California on September 4, 1955, of Filipino parents. Since the Philippines adheres to the principle of *jus sanguinis*, while the United States follows the doctrine of *jus soli*, the parties agree that, at birth at least, he was a national both of the Philippines and of the United States. However, the COMELEC en banc held that, by participating in Philippine elections in 1992, 1995, and 1998, private respondent "effectively renounced his U.S. citizenship under American law," so that now he is solely a Philippine national.

Petitioner challenges this ruling. He argues that merely taking part in Philippine elections is not sufficient evidence of renunciation and that, in any event, as the alleged renunciation was made when private respondent was already 37 years old, it was ineffective as it should have been made when he reached the age of majority.

In holding that by voting in Philippine elections private respondent renounced his American citizenship, the COMELEC must have in mind §349 of the Immigration and Nationality Act of the United States, which provided that "A person who is a national of the United States, whether by birth or naturalization, shall lose his nationality by: . . . (e) Voting in a political election in a foreign state or participating in an election or plebiscite to determine the sovereignty over foreign territory." To be sure this provision was declared unconstitutional by the U.S. Supreme Court in *Afroyim v. Rusk*[16] as beyond the power given to the U.S. Congress to regulate foreign relations. However, by filing a certificate of candidacy when he ran for his present post, private respondent

elected Philippine citizenship and in effect renounced his American citizenship. Private respondent's certificate of candidacy, filed on March 27, 1998, contained the following statements made under oath:

6. I AM A FILIPINO CITIZEN (STATE IF "NATURAL-BORN" OR "NATURALIZED")
NATURAL-BORN

....

10. I AM A REGISTERED VOTER OF PRECINCT NO. 747-A, BARANGAY SAN LORENZO, CITY/MUNICIPALITY OF MAKATI, PROVINCE OF NCR .

11. I AM NOT A PERMANENT RESIDENT OF, OR IMMIGRANT TO, A FOREIGN COUNTRY.

12. I AM ELIGIBLE FOR THE OFFICE I SEEK TO BE ELECTED. I WILL SUPPORT AND DEFEND THE CONSTITUTION OF THE PHILIPPINES AND WILL MAINTAIN TRUE FAITH AND ALLEGIANCE THERETO; THAT I WILL OBEY THE LAWS, LEGAL ORDERS AND DECREES PROMULGATED BY THE DULY CONSTITUTED AUTHORITIES OF THE REPUBLIC OF THE PHILIPPINES; AND THAT I IMPOSE THIS OBLIGATION UPON MYSELF VOLUNTARILY, WITHOUT MENTAL RESERVATION OR PURPOSE OF EVASION. I HEREBY CERTIFY THAT THE FACTS STATED HEREIN ARE TRUE AND CORRECT OF MY OWN PERSONAL KNOWLEDGE.

The filing of such certificate of candidacy sufficed to renounce his American citizenship, effectively removing any disqualification he might have as a dual citizen. Thus, in *Frivaldo v. COMELEC* it was held:[17]

It is not disputed that on January 20, 1983 Frivaldo became an American. Would the retroactivity of his repatriation not effectively give him dual citizenship, which under Sec. 40 of the Local Government Code would disqualify him "from running for any elective local position?" We answer this question in the negative, as there is cogent reason to hold that Frivaldo was really STATELESS at the time he took said oath of allegiance and even before that, when he ran for governor in 1988. In his Comment, Frivaldo wrote that he "had long renounced and had long abandoned his American citizenship-long before May 8, 1995. At best, Frivaldo was stateless in the interim-when he abandoned and renounced his US citizenship but before he was repatriated to his Filipino citizenship."

On this point, we quote from the assailed Resolution dated December 19, 1995:

"By the laws of the United States, petitioner Frivaldo lost his American citizenship when he took his oath of allegiance to the Philippine Government when he ran for Governor in 1988, in 1992, and in 1995. Every certificate of candidacy contains an oath of allegiance to the Philippine Government."

These factual findings that Frivaldo has lost his foreign nationality long before the elections of 1995 have not been effectively rebutted by Lee. Furthermore, it is basic that such findings of the Commission are conclusive upon this Court, absent any showing of capriciousness or arbitrariness or abuse.

There is, therefore, no merit in petitioner's contention that the oath of allegiance contained in private respondent's certificate of candidacy is insufficient to constitute renunciation of his American citizenship. Equally without merit is petitioner's contention that, to be effective, such renunciation should have been made upon private respondent reaching the age of majority since no law requires the election of Philippine citizenship to be made upon majority age.

Finally, much is made of the fact that private respondent admitted that he is registered as an American citizen in the Bureau of Immigration and Deportation and that he holds an American passport which he used in his last travel to the United States on April 22, 1997. There is no merit in this. Until the filing of his certificate of candidacy on March 21, 1998, he had dual citizenship. The acts attributed to him can be considered simply as the assertion of his American nationality before the termination of his American citizenship. What this Court said in

Aznar v. COMELEC[18] applies *mutatis mutandis* to private respondent in the case at bar:

. . . Considering the fact that admittedly Osmeña was both a Filipino and an American, the mere fact that he has a Certificate stating he is an American does not mean that he is not still a Filipino. . . . [T]he Certification that he is an American does not mean that he is not still a Filipino, possessed as he is, of both nationalities or citizenships. Indeed, there is no express renunciation here of Philippine citizenship; truth to tell, there is even no implied renunciation of said citizenship. When We consider that the renunciation needed to lose Philippine citizenship must be "express," it stands to reason that there can be no such loss of Philippine citizenship when there is no renunciation, either "express" or "implied."

To recapitulate, by declaring in his certificate of candidacy that he is a Filipino citizen; that he is not a permanent resident or immigrant of another country; that he will defend and support the Constitution of the Philippines and bear true faith and allegiance thereto and that he does so without mental reservation, private respondent has, as far as the laws of this country are concerned, effectively repudiated his American citizenship and anything which he may have said before as a dual citizen.

On the other hand, private respondent's oath of allegiance to the Philippines, when considered with the fact that he has spent his youth and adulthood, received his education, practiced his profession as an artist, and taken part in past elections in this country, leaves no doubt of his election of Philippine citizenship.

His declarations will be taken upon the faith that he will fulfill his undertaking made under oath. Should he betray that trust, there are enough sanctions for declaring the loss of his Philippine citizenship through expatriation in appropriate proceedings. In *Yu v. Defensor-Santiago*,^[19] we sustained the denial of entry into the country of petitioner on the ground that, after taking his oath as a naturalized citizen, he applied for the renewal of his Portuguese passport and declared in commercial documents executed abroad that he was a Portuguese national. A similar sanction can be taken against any one who, in electing Philippine citizenship, renounces his foreign nationality, but subsequently does some act constituting renunciation of his Philippine citizenship.

WHEREFORE, the petition for certiorari is DISMISSED for lack of merit.

SO ORDERED.

Davide, Jr., C.J., Romero, Bellosillo, Melo, Puno, Vitug, Kapunan, Quisumbing, Buena, Gonzaga-Reyes, and Ynares-Santiago, JJ., concur.
Panganiban, and Purisima, JJ., on leave.
Pardo, J., no part.

[1] Petition, Rollo, p. 5.

[2] Per Commissioner Amado M. Calderon and concurred in by Commissioners Julio F. Desamito and Japal M. Guiani.

[3] *Id.*, Annex E, Rollo, pp. 50-63.

[4] Rollo, pp. 78-83.

[5] Per Chairman Bernardo P. Pardo and concurred in by Commissioners Manolo B. Gorospe, Teresita Dy-Liaco Flores, Japal M. Guiani, and Luzviminda G. Tancango. Commissioner Julio F. Desamito dissented.

[6] 176 SCRA 1 (1989).

[7] *Abella v. COMELEC*, 201 SCRA 253 (1991); *Benito v. COMELEC*, 235 SCRA 436 (1994); *Aquino v. COMELEC*, 248 SCRA 400 (1995); *Frivaldo v. COMELEC*, 257 SCRA 727 (1996).

[8] R.A. No. 7854, the Charter of the City of Makati, provides: "Sec. 20 $\frac{3}{4}$ The following are disqualified from running for any elective position in the city: . . . (d) Those with dual citizenship."

[9] JOVITO R. SALONGA, PRIVATE INTERNATIONAL LAW 166 (1995).

[10] *Id.*, at 361 (Session of July 8, 1986).

[11] *Id.*, at 233-234 (Session of June 25, 1986).

[12] 1 RECORD OF THE CONSTITUTIONAL COMMISSION 203 (Session of June 23, 1986).

[13] Transcript, pp. 5-6, Session of Nov. 27, 1990.

[14] C.A. No. 473, §12.

[15] 86 Phil. 340, 343 (1950).

[16] 387 U.S. 253, 18 L. Ed. 2d 757 (1967), overruling *Perez v. Brownell*, 356 U.S. 2 L. Ed. 2d 603 (1958).

[17] 257 SCRA 727, 759-760 (1996).

[18] 185 SCRA 703, 711 (1990). See also *Kawakita v. United States*, 343 U.S. 717, 96 L. Ed. 1249 (1952).

[19] 169 SCRA 364 (1989).

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