

TEODULO M. COQUILLA, PETITIONER, VS. THE HON. COMMISSION ON ELECTIONS AND MR. NEIL M. ALVAREZ, RESPONDENTS.*G.R. No. 151914. July 31, 2002*

Ponente: MENDOZA, J.

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This is a petition for certiorari to set aside the resolution,[1] dated July 19, 2001, of the Second Division of the Commission on Elections (COMELEC), ordering the cancellation of the certificate of candidacy of petitioner Teodulo M. Coquilla for the position of mayor of Oras, Eastern Samar in the May 14, 2001 elections and the order, dated January 30, 2002, of the COMELEC en banc denying petitioner's motion for reconsideration.

The facts are as follows:

Petitioner Coquilla was born on February 17, 1938 of Filipino parents in Oras, Eastern Samar. He grew up and resided there until 1965, when he joined the United States Navy. He was subsequently naturalized as a U.S. citizen.[2] From 1970 to 1973, petitioner thrice visited the Philippines while on leave from the U.S. Navy.[3] Otherwise, even after his retirement from the U.S. Navy in 1985, he remained in the United States.

On October 15, 1998, petitioner came to the Philippines and took out a residence certificate, although he continued making several trips to the United States, the last of which took place on July 6, 2000 and lasted until August 5, 2000.[4] Subsequently, petitioner applied for repatriation under R.A. No. 8171[5] to the Special Committee on Naturalization. His application was approved on November 7, 2000, and, on November 10, 2000, he took his oath as a citizen of the Philippines. Petitioner was issued Certificate of Repatriation No. 000737 on November 10, 2000 and Bureau of Immigration Identification Certificate No. 115123 on November 13, 2000.

On November 21, 2000, petitioner applied for registration as a voter of Butnga, Oras, Eastern Samar. His application was approved by the Election Registration Board on January 12, 2001.[6] On February 27, 2001, he filed his certificate of candidacy stating therein that he had been a resident of Oras, Eastern Samar for "two (2) years." [7]

On March 5, 2001, respondent Neil M. Alvarez, who was the incumbent mayor of Oras and who was running for reelection, sought the cancellation of petitioner's certificate of candidacy on the ground that the latter had made a material misrepresentation in his certificate of candidacy by stating that he had been a resident of Oras for two years when in truth he had resided therein for only about six months since November 10, 2000, when he took his oath as a citizen of the Philippines.

The COMELEC was unable to render judgment on the case before the elections on May 14, 2001. Meanwhile, petitioner was voted for and received the highest number of votes (6,131) against private respondent's 5,752 votes, or a margin of 379 votes. On May 17, 2001, petitioner was proclaimed mayor of Oras by the Municipal Board of Canvassers.[8] He subsequently took his oath of office.

On July 19, 2001, the Second Division of the COMELEC granted private respondent's petition and ordered the

cancellation of petitioner's certificate of candidacy on the basis of the following findings:

Respondent's frequent or regular trips to the Philippines and stay in Oras, Eastern Samar after his retirement from the U.S. Navy in 1985 cannot be considered as a waiver of his status as a permanent resident or immigrant . . . of the U.S.A. prior to November 10, 2000 as would qualify him to acquire the status of residency for purposes of compliance with the one-year residency requirement of Section 39(a) of the Local Government Code of 1991 in relation to Sections 65 and 68 of the Omnibus Election Code. The one (1) year residency requirement contemplates of the actual residence of a Filipino citizen in the constituency where he seeks to be elected.

All things considered, the number of years he claimed to have resided or stayed in Oras, Eastern Samar since 1985 as an American citizen and permanent resident of the U.S.A. before November 10, 2000 when he reacquired his Philippine citizenship by [repatriation] cannot be added to his actual residence thereat after November 10, 2000 until May 14, 2001 to cure his deficiency in days, months, and year to allow or render him eligible to run for an elective office in the Philippines. Under such circumstances, by whatever formula of computation used, respondent is short of the one-year residence requirement before the May 14, 2001 elections.[9]

Petitioner filed a motion for reconsideration, but his motion was denied by the COMELEC en banc on January 30, 2002. Hence this petition.

I.

Two questions must first be resolved before considering the merits of this case: (a) whether the 30-day period for appealing the resolution of the COMELEC was suspended by the filing of a motion for reconsideration by petitioner and (b) whether the COMELEC retained jurisdiction to decide this case notwithstanding the proclamation of petitioner.

- With respect to the first question, private respondent contends that the petition in this case should be dismissed because it was filed late; that the COMELEC en banc had denied petitioner's motion for reconsideration for being pro forma; and that, pursuant to Rule 19, §4 of the COMELEC Rules of Procedure, the said motion did not suspend the running of the 30-day period for filing this petition. He points out that petitioner received a copy of the resolution, dated July 19, 2001, of the COMELEC's Second Division on July 28, 2001, so that he had only until August 27, 2001 within which to file this petition. Since the petition in this case was filed on February 11, 2002, the same should be considered as having been filed late and should be dismissed.

Private respondent's contention has no merit.

Rule 19 of the COMELEC Rules of Procedure provides in pertinent parts:

Sec. 2. Period for Filing Motions for Reconsideration. $\frac{3}{4}$ A motion to reconsider a decision, resolution, order, or ruling of a Division shall be filed within five days from the promulgation thereof. Such motion, if not pro-forma, suspends the execution for implementation of the decision, resolution, order, or ruling.

Sec. 4. Effect of Motion for Reconsideration on Period to Appeal. $\frac{3}{4}$ A motion to reconsider a decision, resolution, order, or ruling, when not pro-forma, suspends the running of the period to elevate the matter to the Supreme Court.

The five-day period for filing a motion for reconsideration under Rule 19, §2 should be counted from the receipt of the decision, resolution, order, or ruling of the COMELEC Division.[10] In this case, petitioner received a copy of the resolution of July 19, 2001 of the COMELEC's Second Division on July 28, 2001. Five days later, on August 2, 2001, he filed his motion for reconsideration. On February 6, 2002, he received a copy of the order,

dated January 30, 2002, of the COMELEC en banc denying his motion for reconsideration. Five days later, on February 11, 2002, he filed this petition for certiorari. There is no question, therefore, that petitioner's motion for reconsideration of the resolution of the COMELEC Second Division, as well as his petition for certiorari to set aside of the order of the COMELEC en banc, was filed within the period provided for in Rule 19, §2 of the COMELEC Rules of Procedure and in Art. IX(A), §7 of the Constitution.

It is contended, however, that petitioner's motion for reconsideration before the COMELEC en banc did not suspend the running of the period for filing this petition because the motion was pro forma and, consequently, this petition should have been filed on or before August 27, 2001. It was actually filed, however, only on February 11, 2002. Private respondent cites the finding of the COMELEC en banc that —

An incisive examination of the allegations in the Motion for Reconsideration shows that the same [are] a mere rehash of his averments contained in his Verified Answer and Memorandum. Neither did respondent raise new matters that would sufficiently warrant a reversal of the assailed resolution of the Second Division. This makes the said Motion pro forma.[11]

We do not think this contention is correct. The motion for reconsideration was not pro forma and its filing did suspend the period for filing the petition for certiorari in this case. The mere reiteration in a motion for reconsideration of the issues raised by the parties and passed upon by the court does not make a motion pro forma; otherwise, the movant's remedy would not be a reconsideration of the decision but a new trial or some other remedy.[12] But, as we have held in another case:[13]

Among the ends to which a motion for reconsideration is addressed, one is precisely to convince the court that its ruling is erroneous and improper, contrary to the law or the evidence; and in doing so, the movant has to dwell of necessity upon the issues passed upon by the court. If a motion for reconsideration may not discuss these issues, the consequence would be that after a decision is rendered, the losing party would be confined to filing only motions for reopening and new trial.

Indeed, in the cases where a motion for reconsideration was held to be pro forma, the motion was so held because (1) it was a second motion for reconsideration,[14] or (2) it did not comply with the rule that the motion must specify the findings and conclusions alleged to be contrary to law or not supported by the evidence,[15] or (3) it failed to substantiate the alleged errors,[16] or (4) it merely alleged that the decision in question was contrary to law,[17] or (5) the adverse party was not given notice thereof.[18] The 16-page motion for reconsideration filed by petitioner in the COMELEC en banc suffers from none of the foregoing defects, and it was error for the COMELEC en banc to rule that petitioner's motion for reconsideration was pro forma because the allegations raised therein are a mere "rehash" of his earlier pleadings or did not raise "new matters." Hence, the filing of the motion suspended the running of the 30-day period to file the petition in this case, which, as earlier shown, was done within the reglementary period provided by law.

- As stated before, the COMELEC failed to resolve private respondent's petition for cancellation of petitioner's certificate of candidacy before the elections on May 14, 2001. In the meantime, the votes were canvassed and petitioner was proclaimed elected with a margin of 379 votes over private respondent. Did the COMELEC thereby lose authority to act on the petition filed by private respondent?

R.A. No. 6646 provides:

SECTION 6. Effect of Disqualification Case.³⁴ 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 his guilt is strong. (Emphasis added)

SECTION 7. Petition to Deny Due Course To or Cancel a Certificate of Candidacy. — The procedure hereinabove provided shall apply to petitions to deny due course to or cancel a certificate of candidacy as provided in Section 78 of Batas Pambansa Blg. 881.

The rule then is that candidates who are disqualified by final judgment before the election shall not be voted for and the votes cast for them shall not be counted. But those against whom no final judgment of disqualification had been rendered may be voted for and proclaimed, unless, on motion of the complainant, the COMELEC suspends their proclamation because the grounds for their disqualification or cancellation of their certificates of candidacy are strong. Meanwhile, the proceedings for disqualification of candidates or for the cancellation or denial of certificates of candidacy, which have been begun before the elections, should continue even after such elections and proclamation of the winners. In *Abella v. COMELEC*[19] and *Salcedo II v. COMELEC*,^[20] the candidates whose certificates of candidacy were the subject of petitions for cancellation were voted for and, having received the highest number of votes, were duly proclaimed winners. This Court, in the first case, affirmed and, in the second, reversed the decisions of the COMELEC rendered after the proclamation of candidates, not on the ground that the latter had been divested of jurisdiction upon the candidates' proclamation but on the merits.

II.

On the merits, the question is whether petitioner had been a resident of Oras, Eastern Samar at least one (1) year before the elections held on May 14, 2001 as he represented in his certificate of candidacy. We find that he had not.

First, §39(a) of the Local Government Code (R.A No. 7160) provides:

Qualifications. — (a) An elective local official must be a citizen of the Philippines; a registered voter in the barangay, municipality, city, or province or, in the case of a member of the sangguniang panlalawigan, sangguniang panlungsod, or sangguniang bayan, the district where he intends to be elected; a resident therein for at least one (1) year immediately preceding the day of the election; and able to read and write Filipino or any other local language or dialect. (Emphasis added)

The term "residence" is to be understood not in its common acceptance as referring to "dwelling" or "habitation,"^[21] but rather to "domicile" or legal residence,^[22] that is, "the place where a party actually or constructively has his permanent home, where he, no matter where he may be found at any given time, eventually intends to return and remain (*animus manendi*)."^[23] A domicile of origin is acquired by every person at birth. It is usually the place where the child's parents reside and continues until the same is abandoned by acquisition of new domicile (domicile of choice).^[24]

In the case at bar, petitioner lost his domicile of origin in Oras by becoming a U.S. citizen after enlisting in the U.S. Navy in 1965. From then on and until November 10, 2000, when he reacquired Philippine citizenship, petitioner was an alien without any right to reside in the Philippines save as our immigration laws may have allowed him to stay as a visitor or as a resident alien.

Indeed, residence in the United States is a requirement for naturalization as a U.S. citizen. Title 8, §1427(a) of the United States Code provides:

Requirements of naturalization .¾ Residence

(a) No person, except as otherwise provided in this subchapter, shall be naturalized unless such applicant, (1) immediately preceding the date of filing his application for naturalization has resided continuously, after being lawfully admitted for permanent residence, within the United States for at least five years and during the five years immediately preceding the date of filing his petition has been physically present therein for periods totaling at least half of that time, and who has resided within the State or within the district of the Service in the United States in which the applicant filed the application for at least three months, (2) has resided continuously within the United States from the date of the application up to the time of admission to citizenship, and (3) during all the period referred to in this subsection has been and still is a person of good moral character, attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the United States. (Emphasis added)

In *Caasi v. Court of Appeals*,^[25] this Court ruled that immigration to the United States by virtue of a “greencard,” which entitles one to reside permanently in that country, constitutes abandonment of domicile in the Philippines. With more reason then does naturalization in a foreign country result in an abandonment of domicile in the Philippines.

Nor can petitioner contend that he was “compelled to adopt American citizenship” only by reason of his service in the U.S. armed forces.^[26] It is noteworthy that petitioner was repatriated not under R.A. No. 2630, which applies to the repatriation of those who lost their Philippine citizenship by accepting commission in the Armed Forces of the United States, but under R.A. No. 8171, which, as earlier mentioned, provides for the repatriation of, among others, natural-born Filipinos who lost their citizenship on account of political or economic necessity. In any event, the fact is that, by having been naturalized abroad, he lost his Philippine citizenship and with it his residence in the Philippines. Until his reacquisition of Philippine citizenship on November 10, 2000, petitioner did not reacquire his legal residence in this country.

Second, it is not true, as petitioner contends, that he reestablished residence in this country in 1998 when he came back to prepare for the mayoralty elections of Oras by securing a Community Tax Certificate in that year and by “constantly declaring” to his townmates of his intention to seek repatriation and run for mayor in the May 14, 2001 elections.^[27] The status of being an alien and a non-resident can be waived either separately, when one acquires the status of a resident alien before acquiring Philippine citizenship, or at the same time when one acquires Philippine citizenship. As an alien, an individual may obtain an immigrant visa under §13^[28] of the Philippine Immigration Act of 1948 and an Immigrant Certificate of Residence (ICR)^[29] and thus waive his status as a non-resident. On the other hand, he may acquire Philippine citizenship by naturalization under C.A. No. 473, as amended, or, if he is a former Philippine national, he may reacquire Philippine citizenship by repatriation or by an act of Congress,^[30] in which case he waives not only his status as an alien but also his status as a non-resident alien.

In the case at bar, the only evidence of petitioner’s status when he entered the country on October 15, 1998, December 20, 1998, October 16, 1999, and June 23, 2000 is the statement “Philippine Immigration [–] Balikbayan” in his 1998-2008 U.S. passport. As for his entry on August 5, 2000, the stamp bore the added inscription “good for one year stay.”^[31] Under §2 of R.A. No. 6768 (An Act Instituting a Balikbayan Program), the term balikbayan includes a former Filipino citizen who had been naturalized in a foreign country and comes or returns to the Philippines and, if so, he is entitled, among others, to a “visa-free entry to the Philippines for a period of one (1) year” (§3(c)). It would appear then that when petitioner entered the country on the dates in question, he did so as a visa-free balikbayan visitor whose stay as such was valid for one year only. Hence, petitioner can only be held to have waived his status as an alien and as a non-resident only on November 10, 2000 upon taking his oath as a citizen of the Philippines under R.A. No. 8171.^[32] He lacked the requisite residency to qualify him for the mayorship of Oras, Eastern, Samar.

Petitioner invokes the ruling in *Frivaldo v. Commission on Elections*[33] in support of his contention that the residency requirement in §39(a) of the Local Government Code includes the residency of one who is not a citizen of the Philippines. Residency, however, was not an issue in that case and this Court did not make any ruling on the issue now at bar. The question in *Frivaldo* was whether petitioner, who took his oath of repatriation on the same day that his term as governor of Sorsogon began on June 30, 1995, complied with the citizenship requirement under §39(a). It was held that he had, because citizenship may be possessed even on the day the candidate assumes office. But in the case of residency, as already noted, §39(a) of the Local Government Code requires that the candidate must have been a resident of the municipality “for at least one (1) year immediately preceding the day of the election.”

Nor can petitioner invoke this Court’s ruling in *Bengzon III v. House of Representatives Electoral Tribunal*.[34] What the Court held in that case was that, upon repatriation, a former natural-born Filipino is deemed to have recovered his original status as a natural-born citizen.

Third, petitioner nonetheless says that his registration as a voter of Butnga, Oras, Eastern Samar in January 2001 is conclusive of his residency as a candidate because §117 of the Omnibus Election Code requires that a voter must have resided in the Philippines for at least one year and in the city or municipality wherein he proposes to vote for at least six months immediately preceding the election. As held in *Nuval v. Guray*,[35] however, registration as a voter does not bar the filing of a subsequent case questioning a candidate’s lack of residency.

Petitioner’s invocation of the liberal interpretation of election laws cannot avail him any. As held in *Aquino v. Commission on Elections*: [36]

A democratic government is necessarily a government of laws. In a republican government those laws are themselves ordained by the people. Through their representatives, they dictate the qualifications necessary for service in government positions. And as petitioner clearly lacks one of the essential qualifications for running for membership in the House of Representatives, not even the will of a majority or plurality of the voters of the Second District of Makati City would substitute for a requirement mandated by the fundamental law itself.

Fourth, petitioner was not denied due process because the COMELEC failed to act on his motion to be allowed to present evidence. Under §5(d), in relation to §7, of R.A. No. 6646 (Electoral Reforms Law of 1987), proceedings for denial or cancellation of a certificate of candidacy are summary in nature. The holding of a formal hearing is thus not de rigeur. In any event, petitioner cannot claim denial of the right to be heard since he filed a Verified Answer, a Memorandum and a Manifestation, all dated March 19, 2001, before the COMELEC in which he submitted documents relied by him in this petition, which, contrary to petitioner’s claim, are complete and intact in the records.

III.

The statement in petitioner’s certificate of candidacy that he had been a resident of Oras, Eastern Samar for “two years” at the time he filed such certificate is not true. The question is whether the COMELEC was justified in ordering the cancellation of his certificate of candidacy for this reason. We hold that it was. Petitioner made a false representation of a material fact in his certificate of candidacy, thus rendering such certificate liable to cancellation. The Omnibus Election Code provides:

SEC. 74. Contents of certificate of candidacy. ³⁴ The certificate of candidacy shall state that the person filing it is announcing his candidacy for the office stated therein and that he is eligible for said office; if for Member of the Batasang Pambansa, the province, including its component cities, highly urbanized city or district or sector which he seeks to represent; the political party to which he belongs; civil status; his date of birth; residence; his post office address for all election purposes; his profession or occupation; that he will support and defend the

Constitution of the Philippines and will maintain true faith and allegiance thereto; that he will obey the laws, legal orders, and decrees promulgated by the duly constituted authorities; that he is not a permanent resident or immigrant to a foreign country; that the obligation imposed by his oath is assumed voluntarily, without mental reservation or purpose of evasion; and that the facts stated in the certificate of candidacy are true to the best of his knowledge.

SEC. 78. Petition to deny due course to or cancel a certificate of candidacy. ³⁴ A verified petition seeking to deny due course or to cancel a certificate of candidacy may be filed by any person exclusively on the ground that any material representation contained therein as required under Section 74 hereof is false. The petition may be filed at any time not later than twenty-five days from the time of the filing of the certificate of candidacy and shall be decided, after due notice and hearing, not later than fifteen days before the election.

Indeed, it has been held that a candidate's statement in her certificate of candidacy for the position of governor of Leyte that she was a resident of Kananga, Leyte when this was not so^[37] or that the candidate was a "natural-born" Filipino when in fact he had become an Australian citizen^[38] constitutes a ground for the cancellation of a certificate of candidacy. On the other hand, we held in *Salcedo II v. COMELEC* ^[39] that a candidate who used her husband's family name even though their marriage was void was not guilty of misrepresentation concerning a material fact. In the case at bar, what is involved is a false statement concerning a candidate's qualification for an office for which he filed the certificate of candidacy. This is a misrepresentation of a material fact justifying the cancellation of petitioner's certificate of candidacy. The cancellation of petitioner's certificate of candidacy in this case is thus fully justified.

WHEREFORE, the petition is DISMISSED and the resolution of the Second Division of the Commission on Elections, dated July 19, 2001, and the order, dated January 30, 2002 of the Commission on Elections en banc are AFFIRMED.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Puno, Vitug, Kapunan, Panganiban, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, and Corona, JJ., concur.

[1] Per Presiding Commissioner Ralph C. Lantion and concurred in by Commissioners Mehol K. Sadain and Florentino A. Tuazon, Jr.

[2] The records do not disclose when petitioner became a U.S. citizen. [3] Records, pp. 167-169. [4] Petitioner's U.S. passport for 1998-2008 shows the following dates of arrival in the Philippines and dates of departure for the United States: arrival - October 15, 1998, departure - November 3, 1998; arrival - December 20, 1998 (with no record of corresponding departure); arrival - October 16, 1999, departure - November 1, 1999; arrival - June 23, 2000, departure - July 6, 2000; arrival - August 5, 2000 (Records, pp. 227-228). [5] This law, entitled AN ACT PROVIDING FOR THE REPATRIATION OF FILIPINO WOMEN WHO HAVE LOST THEIR PHILIPPINE CITIZENSHIP BY MARRIAGE TO ALIENS AND NATURAL-BORN FILIPINOS, applies to former natural-born Filipinos who have lost their Philippine citizenship on account of economic or political necessity. It would appear that petitioner was repatriated under this law on the ground that he lost his Philippine citizenship on account of economic necessity.

[6] Petition, Annex O, p. 56. [7] Id., Annex C, p. 34. [8] Id., Annex H, p. 46. [9] Resolution, p. 7-8; Rollo, pp. 30-31 (emphasis added). [10] *Bulaong v. COMELEC*, 220 SCRA 745 (1993). [11] Order, pp. 1-2; Rollo, pp. 32-33. [12] *Siy v. Court of Appeals*, 138 SCRA 536 (1985); *Continental Cement Corporation v. Court of Appeals*, 184 SCRA 728 (1990). [13] *Guerra Enterprises Company, Inc. v. Court of First Instance of Lanao del Sur*, 32 SCRA 314, 317 (1970). [14] *Manila Trading v. Enriquez*, 1 SCRA 1056 (1961); *City of Cebu v. Mendoza*, 62

SCRA 440 (1975); *Debuque v. Climaco*, 99 SCRA 353 (1980); *Garcia v. Echiverri*, 132 SCRA 631 (1984); *Commissioner of Internal Revenue v. Island Garment Manufacturing Corporation*, 153 SCRA 665 (1987); *Vda. de Espina v. Abaya*, 196 SCRA 312 (1991). [15] A similar rule is found in Rule 19, §3 of the COMELEC Rules of Procedure. [16] *Villarica v. Court of Appeals*, 57 SCRA 24 (1974). [17] *Jessena v. Hervas*, 83 SCRA 799 (1978); *Marikina Valley Development Corporation v. Flojo*, 251 SCRA 87 (1995); *Nieto v. De los Angeles*, 109 SCRA 229 (1981). [18] *Sembrano v. Ramirez*, 166 SCRA 30 (1988); *Pojas v. Gozo-Dadole*, 192 SCRA 575 (1990); *Bank of the Philippine Islands v. Far East Molasses Corporation*, 198 SCRA 689 (1991). [19] 201 SCRA 253 (1991).

[20] 312 SCRA 447 (1999).

[21] *Uytengsu v. Republic*, 95 Phil. 890, 894 (1954). [22] *Nuval v. Guray*, 52 Phil. 645 (1928); *Gallego v. Verra*, 73 Phil. 453 (1941); *Romualdez v. RTC, Br. 7, Tacloban City*, 226 SCRA 408 (1993). [23] *Aquino v. COMELEC*, 248 SCRA 400, 420 (1995). [24] 25 Am. Jur. 2d, §11. [25] 191 SCRA 229 (1990). [26] *Petition*, p. 6; *Rollo*, p. 8. [27] *Id.*, pp. 9-11; *id.*, pp. 11-13. [28] This provision states:

“Under the conditions set forth in this Act, there may be admitted in the Philippines immigrants, termed “quota immigrants” not in excess of fifty (50) of any one nationality or without nationality for any one calendar year, except that the following immigrants, termed “nonquota immigrants,” may be admitted without regard to such numerical limitations.

The corresponding Philippine Consular representative abroad shall investigate and certify the eligibility of a quota immigrant previous to his admission into the Philippines. Qualified and desirable aliens who are in the Philippines under temporary stay may be admitted within the quota, subject to the provisions of the last paragraph of section 9 of this Act.

(a) The wife or the husband or the unmarried child under twenty-one years of age of a Philippine citizen, if accompanying or following to join such citizen;

(b) A child of alien parents born during the temporary visit abroad of the mother, the mother having been previously lawfully admitted into the Philippine for permanent residence, if the child is accompanying or coming to join a parent and applies for admission within five years from the date of its birth;

(c) A child born subsequent to the issuance of the immigration visa of the accompanying parent, the visa not having expired;

(d) A woman who was citizen of the Philippines and who lost her citizenship because of her marriage to an alien or by reason of the loss of Philippine citizenship by her husband, and her unmarried child under twenty-one years of age, if accompanying or following to join her;

(e) A person previously lawfully admitted into the Philippines for permanent residence, who is returning from a temporary visit abroad to an unrelinquished residence in the Philippines, (As amended by Sec. 5, Rep. Act No. 503.)

(f) The wife or the husband or the unmarried child under twenty-one years of age, of an alien lawfully admitted into the Philippines for permanent residence prior to the date on which this Act becomes effective and who is resident therein, if such wife, husband, or child applies for admission within a period of two years following the date on which this Act becomes effective;

(g) A natural born citizen of the Philippines, who has been naturalized in a foreign country, and is returning to the Philippines for permanent residence, including the spouse and minor children, shall be considered a non-quota immigrant for purposes of entering the Philippines (As amended by Rep. Act No. 4376, approved June 19,

1965).”

[29] See R. Ledesma, *An Outline of Philippine Immigration and Citizenship Laws* 135 (1999).

[30] C.A. No. 63, §2.

[31] Records, pp. 227-228.

[32] The COMELEC considered November 10, 2000 as the date of petitioner’s repatriation. Section 2 of R.A. No. 8171 provides, however, “Repatriation shall be effected by taking the necessary oath of allegiance to the Republic of the Philippines and registration in the proper civil registry and in the Bureau of Immigration. The Bureau of Immigration shall thereupon cancel the pertinent alien certificate of registration and issue the certificate of identification as Filipino citizen to the repatriated citizen.”

[33] 257 SCRA 727 (1996).

[34] G.R. No. 142840, May 7, 2001.

[35] 54 Phil. 645 (1928).

[36] 248 SCRA 400, 429 (1995).

[37] *Abella v. Larazabal*, 180 SCRA 509 (1989); *Abella v. COMELEC*, 201 SCRA 253 (1991).

[38] *Labo, Jr. v. COMELEC*, 211 SCRA 297 (1992).

[39] 312 SCRA 447 (1999).

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