

ROSELLER DE GUZMAN, PETITIONER, VS. COMMISSION ON ELECTIONS AND ANGELINA DG. DELA CRUZ, RESPONDENTS.

G.R. No. 180048. June 19, 2009

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

This petition[1] for certiorari with prayer for preliminary injunction and temporary restraining order assails the June 15, 2007 Resolution[2] of the First Division of the Commission on Elections (COMELEC) in SPA No. 07-211, disqualifying petitioner Roseller De Guzman from running as vice-mayor in the May 14, 2007 Synchronized National and Local Elections. Also assailed is the October 9, 2007 Resolution[3] of the COMELEC En Banc denying petitioner's motion for reconsideration.

Petitioner De Guzman and private respondent Angelina DG. Dela Cruz were candidates for vice-mayor of Guimba, Nueva Ecija in the May 14, 2007 elections. On April 3, 2007, private respondent filed against petitioner a petition[4] for disqualification docketed as SPA No. 07-211, alleging that petitioner is not a citizen of the Philippines, but an immigrant and resident of the United States of America.

In his answer, petitioner admitted that he was a naturalized American. However, on January 25, 2006, he applied for dual citizenship under Republic Act No. 9225 (R.A. No. 9225), otherwise known as the Citizenship Retention and Re-Acquisition Act of 2003.[5] Upon approval of his application, he took his oath of allegiance to the Republic of the Philippines on September 6, 2006. He argued that, having re-acquired Philippine citizenship, he is entitled to exercise full civil and political rights. As such, he is qualified to run as vice-mayor of Guimba, Nueva Ecija.

During the May 14, 2007 elections, private respondent won as vice-mayor. Petitioner filed an election protest on grounds of irregularities and massive cheating. The case was filed before Branch 31 of the Regional Trial Court of Guimba, Nueva Ecija and was docketed as Election Protest No. 07-01.

Meanwhile, in SPA No. 07-211, the COMELEC First Division rendered its June 15, 2007 Resolution disqualifying petitioner, which reads as follows:

Section 3 of R.A. No. 9225 states:

"Retention of Philippine Citizenship. - 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: x x x"

Hence, under the provisions of the aforementioned law, respondent has validly reacquired Filipino citizenship. By taking this Oath of Allegiance to the Republic of the Philippines on September 6, 2006 before Mary Jo Bernardo Aragon, Deputy Consul General at the Philippine Consulate General, Los Angeles, California respondent was deemed a dual citizen, possessing both Filipino and American citizenship.

However, subparagraph (2), Section 5 of the aforementioned Act also 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:

x x x x

(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.

As can be gleaned from the above cited provision, respondent [herein petitioner] should have renounced his American citizenship before he can run for any public elective position. This respondent did not do. The Oath of Allegiance taken by respondent was for the purpose of re-acquiring Philippine citizenship. It did not, at the same time, mean that respondent has renounced his American citizenship. Thus, at the time respondent filed his certificate of candidacy for the position of Vice-Mayor of Guimba, Nueva Ecija he was, and still is, a dual citizen, possessing both Philippine and American citizenship. For this reason alone, respondent is disqualified to run for the abovementioned elective position.

WHEREFORE, premises considered, the Commission (First Division) RESOLVED, as it hereby RESOLVES, to GRANT the instant petition finding it IMBUE WITH MERIT. Hence, respondent (petitioner herein) Roseller T. De Guzman is disqualified to run as Vice-Mayor of Guimba, Nueva Ecija in the May 14, 2007 Synchronized National and Local Elections.[6]

Petitioner filed a motion for reconsideration but it was dismissed on October 9, 2007 by the COMELEC En Banc for having been rendered moot in view of private respondent's victory.

Thereafter, the trial court in Election Protest No. 07-01 rendered a Decision,[7] dated November 26, 2007, declaring petitioner as the winner for the Vice-Mayoralty position. It held:

WHEREFORE, judgment is hereby rendered declaring protestant ROSELLER T. DE GUZMAN, as the winner for the Vice-Mayoralty position with a plurality of 776 votes over the protestee, ANGELINA D.G. DELA CRUZ, in the May 14, 2007 Local Elections in Guimba, Nueva Ecija. With costs against the protestee.

There being no evidence presented as to the damages by both parties, the same are hereby denied.

SO ORDERED.[8]

Petitioner filed the instant petition for certiorari, alleging that the COMELEC acted with grave abuse of discretion in disqualifying him from running as Vice-Mayor because of his failure to renounce his American citizenship, and in dismissing the motion for reconsideration for being moot.

Petitioner invokes the rulings in *Frivaldo v. Commission on Elections*[9] and *Mercado v. Manzano*,[10] that the filing by a person with dual citizenship of a certificate of candidacy, containing an oath of allegiance, constituted as a renunciation of his foreign citizenship. Moreover, he claims that the COMELEC En Banc prematurely dismissed the motion for reconsideration because at that time, there was a pending election protest which was later decided in his favor.

Meanwhile, private respondent claims that the passage of R.A. No. 9225 effectively abandoned the Court's rulings in *Frivaldo* and *Mercado*; that the current law requires a personal and sworn renunciation of any and all foreign citizenship; and that petitioner, having failed to renounce his American citizenship, remains a dual citizen and is therefore disqualified from running for an elective public position under Section 40[11] of Republic Act No. 7160, otherwise known as the Local Government Code of 1991 (LGC).

The issues for resolution are: 1) whether the COMELEC gravely abused its discretion in dismissing petitioner's motion for reconsideration for being moot; and 2) whether petitioner is disqualified from running for vice-mayor of Guimba, Nueva Ecija in the May 14, 2007 elections for having failed to renounce his American citizenship in accordance with R.A. No. 9225.

An issue becomes moot when it ceases to present a justifiable controversy so that a determination thereof would be without practical use and value.[12] In this case, the pendency of petitioner's election protest assailing the results of the election did not render moot the motion for reconsideration which he filed assailing his disqualification. Stated otherwise, the issue of petitioner's citizenship did not become moot; the resolution of the issue remained relevant because it could significantly affect the outcome of the election protest. Philippine citizenship is an indispensable requirement for holding an elective office. As mandated by law: "An elective local official must be a citizen of the Philippines." [13] It bears stressing that the Regional Trial Court later ruled in favor of petitioner in the election protest and declared him the winner. In view thereof, a definitive ruling on the issue of petitioner's citizenship was clearly necessary. Hence, the COMELEC committed grave abuse of discretion in dismissing petitioner's motion for reconsideration solely on the ground that the same was rendered moot because he lost to private respondent.

Anent the second issue, we find that petitioner is disqualified from running for public office in view of his failure to renounce his American citizenship.

R.A. No. 9225 was enacted to allow re-acquisition and retention of Philippine citizenship for: 1) natural-born citizens who have lost their Philippine citizenship by reason of their naturalization as citizens of a foreign country; and 2) natural-born citizens of the Philippines who, after the effectivity of the law, become citizens of a foreign country. The law provides that they are deemed to have re-acquired or retained their Philippine citizenship upon taking the oath of allegiance.[14]

Petitioner falls under the first category, being a natural-born citizen who lost his Philippine citizenship upon his naturalization as an American citizen. In the instant case, there is no question that petitioner re-acquired his Philippine citizenship after taking the oath of allegiance on September 6, 2006. However, it must be emphasized that R.A. No. 9225 imposes an additional requirement on those who wish to seek elective public office, as follows:

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:

x x x x

(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.

Contrary to petitioner's claims, the filing of a certificate of candidacy does not ipso facto amount to a renunciation of his foreign citizenship under R.A. No. 9225. Our rulings in the cases of Frivaldo and Mercado are not applicable to the instant case because R.A. No. 9225 provides for more requirements.

Thus, in *Japzon v. COMELEC*, [15] the Court held that Section 5(2) of R.A. No. 9225 requires the twin requirements of swearing to an Oath of Allegiance and executing a Renunciation of Foreign Citizenship, viz:

Breaking down the afore-quoted provision, for a natural born Filipino, who reacquired or retained his

Philippine citizenship under Republic Act No. 9225, to run for public office, he must: (1) meet the qualifications for holding such public office as required by the Constitution and existing laws; and (2) make a personal and sworn renunciation of any and all foreign citizenships before any public officer authorized to administer an oath.

Further, in *Jacot v. Dal and COMELEC*,^[16] the Court ruled that a candidate's oath of allegiance to the Republic of the Philippines and his Certificate of Candidacy do not substantially comply with the requirement of a personal and sworn renunciation of foreign citizenship. Thus:

The law categorically requires persons seeking elective public office, who either retained their Philippine citizenship or those who reacquired it, to make a personal and sworn renunciation of any and all foreign citizenship before a public officer authorized to administer an oath simultaneous with or before the filing of the certificate of candidacy.

Hence, Section 5(2) of Republic Act No. 9225 compels natural-born Filipinos, who have been naturalized as citizens of a foreign country, but who reacquired or retained their Philippine citizenship (1) to take the oath of allegiance under Section 3 of Republic Act No. 9225, and (2) for those seeking elective public offices in the Philippines, to additionally execute a personal and sworn renunciation of any and all foreign citizenship before an authorized public officer prior or simultaneous to the filing of their certificates of candidacy, to qualify as candidates in Philippine elections.

Clearly Section 5(2) of Republic Act No. 9225 (on the making of a personal and sworn renunciation of any and all foreign citizenship) requires of the Filipinos availing themselves of the benefits under the said Act to accomplish an undertaking other than that which they have presumably complied with under Section 3 thereof (oath of allegiance to the Republic of the Philippines). This is made clear in the discussion of the Bicameral Conference Committee on Disagreeing Provisions of House Bill No. 4720 and Senate Bill No. 2130 held on 18 August 2003 (precursors of Republic Act No. 9225), where the Hon. Chairman Franklin Drilon and Hon. Representative Arthur Defensor explained to Hon. Representative Exequiel Javier that the oath of allegiance is different from the renunciation of foreign citizenship:

CHAIRMAN DRILON. Okay. So, No. 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." I think it's very good, ha? No problem?

REP. JAVIER. ... I think it's already covered by the oath.

CHAIRMAN DRILON. Renouncing foreign citizenship.

REP. JAVIER. Ah... but he has taken his oath already.

CHAIRMAN DRILON. No...no, renouncing foreign citizenship.

x x x x

CHAIRMAN DRILON. Can I go back to No. 2. What's your problem, Boy? Those seeking elective office in the Philippines.

REP. JAVIER. They are trying to make him renounce his citizenship thinking that ano...

CHAIRMAN DRILON. His American citizenship.

REP. JAVIER. To discourage him from running?

CHAIRMAN DRILON. No.

REP. A.D. DEFENSOR. No. When he runs he will only have one citizenship. When he runs for office, he will have only one. (Emphasis ours.)

There is little doubt, therefore, that the intent of the legislators was not only for Filipinos reacquiring or retaining their Philippine citizenship under Republic Act No. 9225 to take their oath of allegiance to the Republic of the Philippines, but also to explicitly renounce their foreign citizenship if they wish to run for elective posts in the Philippines. To qualify as a candidate in Philippine elections, Filipinos must only have one citizenship, namely, Philippine citizenship.

By the same token, the oath of allegiance contained in the Certificate of Candidacy, which is substantially similar to the one contained in Section 3 of Republic Act No. 9225, does not constitute the personal and sworn renunciation sought under Section 5(2) of Republic Act No. 9225. It bears to emphasize that the said oath of allegiance is a general requirement for all those who wish to run as candidates in Philippine elections; while the renunciation of foreign citizenship is an additional requisite only for those who have retained or reacquired Philippine citizenship under Republic Act No. 9225 and who seek elective public posts, considering their special circumstance of having more than one citizenship.

In the instant case, petitioner's Oath of Allegiance and Certificate of Candidacy did not comply with Section 5(2) of R.A. No. 9225 which further requires those seeking elective public office in the Philippines to make a personal and sworn renunciation of foreign citizenship. Petitioner failed to renounce his American citizenship; as such, he is disqualified from running for vice-mayor of Guimba, Nueva Ecija in the May 14, 2007 elections.

WHEREFORE, the petition is DISMISSED. Petitioner is declared DISQUALIFIED from running for Vice-Mayor of Guimba, Nueva Ecija in the May 14, 2007 elections because of his failure to renounce his foreign citizenship pursuant to Section 5(2) of R.A. No. 9225.

SO ORDERED.

Puno, C.J., Quisumbing, Carpio, Corona, Chico-Nazario, Velasco, Jr., Nachura, Leonardo-De Castro, Brion, Peralta, and Bersamin, JJ., concur.
Carpio Morales, J., on leave.

[1] Rollo, pp. 3-21.

[2] Id. at 22-25. Penned by Commissioner Resurreccion Z. Borra and concurred in by Commissioner Romeo A. Brawner.

[3] Id. at 50-51. Penned by Commissioner Florentino A. Tuason, Jr. and concurred in by then Acting Chairman Resurreccion Z. Borra, Commissioners Romeo A. Brawner, Rene V. Sarmiento, and Nicodemo T. Ferrer.

[4] Id. at 52-55.

[5] AN ACT MAKING THE CITIZENSHIP OF PHILIPPINE CITIZENS WHO ACQUIRE FOREIGN CITIZENSHIP PERMANENT. AMENDING FOR THE PURPOSE COMMONWEALTH ACT. NO. 63, AS AMENDED AND FOR OTHER PURPOSES. Enacted August 29, 2003.

[6] Rollo, pp. 24-25.

[7] Id. at 84-99.

[8] Id. at 99.

[9] G.R. Nos. 120295 and 123755, June 28, 1996, 257 SCRA 727.

[10] 367 Phil. 132 (1999).

[11] SEC. 40. Disqualifications. The following persons are disqualified from running for any elective local position:

x x x x

(d) Those with dual citizenship;

x x x x

[12] Olanolan v. COMELEC, G.R. No. 165491, March 31, 2005, 454 SCRA 807, 816.

[13] Labo, Jr. v. COMELEC, G.R. Nos. 105111 and 105384, July 3, 1992, 211 SCRA 297, 308.

[14] Section 3. Retention of Philippine Citizenship. - Any provision of law to the contrary notwithstanding, natural-born citizens by reason of their naturalization as citizens of a foreign country are hereby deemed to have re-acquired 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 imposed 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.

[15] G.R. No. 180088, January 19, 2009.

[16] G.R. No. 179848, November 29, 2008.

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