

MANUEL B. JAPZON, PETITIONER, VS. COMMISSION ON ELECTIONS AND JAIME S. TY, RESPONDENTS.

G.R. No. 180088. January 19, 2009

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

This is a Petition for Review on Certiorari under Rules 64[1] and 65[2] of the Revised Rules of Court seeking to annul and set aside the Resolution[3] dated 31 July 2007 of the First Division of public respondent Commission on Elections (COMELEC) and the Resolution[4] dated 28 September 2007 of COMELEC en banc, in SPA No. 07-568, for having been rendered with grave abuse of discretion, amounting to lack or excess of jurisdiction.

Both petitioner Manuel B. Japzon (Japzon) and private respondent Jaime S. Ty (Ty) were candidates for the Office of Mayor of the Municipality of General Macarthur, Eastern Samar, in the local elections held on 14 May 2007.

On 15 June 2007, Japzon instituted SPA No. 07-568 by filing before the COMELEC a Petition[5] to disqualify and/or cancel Ty's Certificate of Candidacy on the ground of material misrepresentation. Japzon averred in his Petition that Ty was a former natural-born Filipino, having been born on 9 October 1943 in what was then Pambujan Sur, Hernani Eastern Samar (now the Municipality of General Macarthur, Easter Samar) to spouses Ang Chim Ty (a Chinese) and Crisanta Aranas Sumiguin (a Filipino). Ty eventually migrated to the United States of America (USA) and became a citizen thereof. Ty had been residing in the USA for the last 25 years. When Ty filed his Certificate of Candidacy on 28 March 2007, he falsely represented therein that he was a resident of Barangay 6, Poblacion, General Macarthur, Eastern Samar, for one year before 14 May 2007, and was not a permanent resident or immigrant of any foreign country. While Ty may have applied for the reacquisition of his Philippine citizenship, he never actually resided in Barangay 6, Poblacion, General Macarthur, Eastern Samar, for a period of one year immediately preceding the date of election as required under Section 39 of Republic Act No. 7160, otherwise known as the Local Government Code of 1991. In fact, even after filing his application for reacquisition of his Philippine citizenship, Ty continued to make trips to the USA, the most recent of which was on 31 October 2006 lasting until 20 January 2007. Moreover, although Ty already took his Oath of Allegiance to the Republic of the Philippines, he continued to comport himself as an American citizen as proven by his travel records. He had also failed to renounce his foreign citizenship as required by Republic Act No. 9225, otherwise known as the Citizenship Retention and Reacquisition Act of 2003, or related laws. Hence, Japzon prayed for in his Petition that the COMELEC order the disqualification of Ty from running for public office and the cancellation of the latter's Certificate of Candidacy.

In his Answer[6] to Japzon's Petition in SPA No. 07-568, Ty admitted that he was a natural-born Filipino who went to the USA to work and subsequently became a naturalized American citizen. Ty claimed, however, that prior to filing his Certificate of Candidacy for the Office of Mayor of the Municipality of General Macarthur, Eastern Samar, on 28 March 2007, he already performed the following acts: (1) with the enactment of Republic Act No. 9225, granting dual citizenship to natural-born Filipinos, Ty filed with the Philippine Consulate General

in Los Angeles, California, USA, an application for the reacquisition of his Philippine citizenship; (2) on 2 October 2005, Ty executed an Oath of Allegiance to the Republic of the Philippines before Noemi T. Diaz, Vice Consul of the Philippine Consulate General in Los Angeles, California, USA; (3) Ty applied for a Philippine passport indicating in his application that his residence in the Philippines was at A. Mabini St., Barangay 6, Poblacion, General Macarthur, Eastern Samar. Ty's application was approved and he was issued on 26 October 2005 a Philippine passport; (4) on 8 March 2006, Ty personally secured and signed his Community Tax Certificate (CTC) from the Municipality of General Macarthur, in which he stated that his address was at Barangay 6, Poblacion, General Macarthur, Eastern Samar; (5) thereafter, on 17 July 2006, Ty was registered as a voter in Precinct 0013A, Barangay 6, Poblacion, General Macarthur, Eastern Samar; (6) Ty secured another CTC dated 4 January 2007 again stating therein his address as Barangay 6, Poblacion, General Macarthur, Eastern Samar; and (7) finally, Ty executed on 19 March 2007 a duly notarized Renunciation of Foreign Citizenship. Given the aforementioned facts, Ty argued that he had reacquired his Philippine citizenship and renounced his American citizenship, and he had been a resident of the Municipality of General Macarthur, Eastern Samar, for more than one year prior to the 14 May 2007 elections. Therefore, Ty sought the dismissal of Japzon's Petition in SPA No. 07-568.

Pending the submission by the parties of their respective Position Papers in SPA No. 07-568, the 14 May 2007 elections were already held. Ty acquired the highest number of votes and was declared Mayor of the Municipality of General Macarthur, Eastern Samar, by the Municipal Board of Canvassers on 15 May 2007.[7]

Following the submission of the Position Papers of both parties, the COMELEC First Division rendered its Resolution[8] dated 31 July 2007 in favor of Ty.

The COMELEC First Division found that Ty complied with the requirements of Sections 3 and 5 of Republic Act No. 9225 and reacquired his Philippine citizenship, to wit:

Philippine citizenship is an indispensable requirement for holding an elective public office, and the purpose of the citizenship qualification is none other than to ensure that no alien, i.e., no person owing allegiance to another nation, shall govern our people and our country or a unit of territory thereof. Evidences revealed that [Ty] executed an Oath of Allegiance before Noemi T. Diaz, Vice Consul of the Philippine Consulate General, Los Angeles, California, U.S.A. on October 2, 2005 and executed a Renunciation of Foreign Citizenship on March 19, 2007 in compliance with R.A. [No.] 9225. Moreover, neither is [Ty] a candidate for or occupying public office nor is in active service as commissioned or non-commissioned officer in the armed forces in the country of which he was naturalized citizen.[9]

The COMELEC First Division also held that Ty did not commit material misrepresentation in stating in his Certificate of Candidacy that he was a resident of Barangay 6, Poblacion, General Macarthur, Eastern Samar, for at least one year before the elections on 14 May 2007. It reasoned that:

Although [Ty] has lost his domicile in [the] Philippines when he was naturalized as U.S. citizen in 1969, the reacquisition of his Philippine citizenship and subsequent acts thereof proved that he has been a resident of Barangay 6, Poblacion, General Macarthur, Eastern Samar for at least one (1) year before the elections held on 14 May 2007 as he represented in his certificate of candidacy[.]

As held in *Coquilla vs. Comelec*:

"The term 'residence' is to be understood not in its common acceptance as referring to 'dwelling' or 'habitation,' but rather to 'domicile' or legal residence, 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).' 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).

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: Residence

(a) No person, except as otherwise provided in this subchapter, shall be naturalized unless such applicant, (1) year 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 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*, 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 than does naturalization in a foreign country result in an abandonment of domicile in the Philippines.

Records showed that after taking an Oath of Allegiance before the Vice Consul of the Philippine Consulate General on October 2, 2005, [Ty] applied and was issued a Philippine passport on October 26, 2005; and secured a community tax certificate from the Municipality of General Macarthur on March 8, 2006. Evidently, [Ty] was already a resident of Barangay 6, Poblacion, General Macarthur, Eastern Samar for more than one (1) year before the elections on May 14, 2007.[10] (Emphasis ours.)

The dispositive portion of the 31 July 2007 Resolution of the COMELEC First Division, thus, reads:

WHEREFORE, premises considered, the petition is DENIED for lack of merit.[11]

Japzon filed a Motion for Reconsideration of the foregoing Resolution of the COMELEC First Division. On 28 September 2007, the COMELEC en banc issued its Resolution[12] denying Japzon's Motion for Reconsideration and affirming the assailed Resolution of the COMELEC First Division, on the basis of the following ratiocination:

We have held that a Natural born Filipino who obtains foreign citizenship, and subsequently spurns the same, is by clear acts of repatriation a Filipino Citizen and hence qualified to run as a candidate for any local post.

x x x x

It must be noted that absent any showing of irregularity that overturns the prevailing status of a citizen, the presumption of regularity remains. Citizenship is an important aspect of every individual's constitutionally granted rights and privileges. This is essential in determining whether one has the right to exercise pre-determined political rights such as the right to vote or the right to be elected to office and as such rights spring from citizenship.

Owing to its primordial importance, it is thus presumed that every person is a citizen of the country in which

he resides; that citizenship once granted is presumably retained unless voluntarily relinquished; and that the burden rests upon who alleges a change in citizenship and allegiance to establish the fact.

Our review of the Motion for Reconsideration shows that it does not raise any new or novel issues. The arguments made therein have already been dissected and expounded upon extensively by the first Division of the Commission, and there appears to be no reason to depart from the wisdom of the earlier resolution. We thus affirm that [Ty] did not commit any material misrepresentation when he accomplished his Certificate of Candidacy. The only ground for denial of a Certificate of Candidacy would be when there was material misrepresentation meant to mislead the electorate as to the qualifications of the candidate. There was none in this case, thus there is not enough reason to deny due course to the Certificate of Candidacy of Respondent James S. Ty.[13]

Failing to obtain a favorable resolution from the COMELEC, Japzon proceeded to file the instant Petition for Certiorari, relying on the following grounds:

- THE COMMISSION ON ELECTIONS COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN IT CAPRICIOUSLY, WHIMSICALLY AND WANTONLY DISREGARDED THE PARAMETERS SET BY LAW AND JURISPRUDENCE FOR THE ACQUISITION OF A NEW DOMICILE OF CHOICE AND RESIDENCE.[14]

- THE COMMISSION ON ELECTIONS COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN IT CAPRICIOUSLY, WHIMSICALLY AND WANTONLY REFUSED TO CANCEL [TY'S] CERTIFICATE OF CANDIDACY, AND CONSEQUENTLY DECLARE [JAPZON] AS THE DULY ELECTED MAYOR OF GEN. MACARTHUR, EASTERN SAMAR.[15]

Japzon argues that when Ty became a naturalized American citizen, he lost his domicile of origin. Ty did not establish his residence in the Municipality of General Macarthur, Eastern Samar, Philippines, just because he reacquired his Philippine citizenship. The burden falls upon Ty to prove that he established a new domicile of choice in General Macarthur, Eastern Samar, a burden which he failed to discharge. Ty did not become a resident of General Macarthur, Eastern Samar, by merely executing the Oath of Allegiance under Republic Act No. 9225.

Therefore, Japzon asserts that Ty did not meet the one-year residency requirement for running as a mayoralty candidate in the 14 May 2007 local elections. The one-year residency requirement for those running for public office cannot be waived or liberally applied in favor of dual citizens. Consequently, Japzon believes he was the only remaining candidate for the Office of Mayor of the Municipality of General Macarthur, Eastern Samar, and is the only placer in the 14 May 2007 local elections.

Japzon prays for the Court to annul and set aside the Resolutions dated 31 July 2007 and 28 September 2007 of the COMELEC First Division and en banc, respectively; to issue a new resolution denying due course to or canceling Ty's Certificate of Candidacy; and to declare Japzon as the duly elected Mayor of the Municipality of General Macarthur, Eastern Samar.

As expected, Ty sought the dismissal of the present Petition. According to Ty, the COMELEC already found sufficient evidence to prove that Ty was a resident of the Municipality of General Macarthur, Eastern Samar, one year prior to the 14 May 2007 local elections. The Court cannot evaluate again the very same pieces of evidence without violating the well-entrenched rule that findings of fact of the COMELEC are binding on the Court. Ty disputes Japzon's assertion that the COMELEC committed grave abuse of discretion in rendering the assailed Resolutions, and avers that the said Resolutions were based on the evidence presented by the parties and consistent with prevailing jurisprudence on the matter. Even assuming that Ty, the winning candidate for the Office of Mayor of the Municipality of General Macarthur, Eastern Samar, is indeed disqualified from running in

the local elections, Japzon as the second placer in the same elections cannot take his place.

The Office of the Solicitor General (OSG), meanwhile, is of the position that Ty failed to meet the one-year residency requirement set by law to qualify him to run as a mayoralty candidate in the 14 May 2007 local elections. The OSG opines that Ty was unable to prove that he intended to remain in the Philippines for good and ultimately make it his new domicile. Nonetheless, the OSG still prays for the dismissal of the instant Petition considering that Japzon, gathering only the second highest number of votes in the local elections, cannot be declared the duly elected Mayor of the Municipality of General Macarthur, Eastern Samar, even if Ty is found to be disqualified from running for the said position. And since it took a position adverse to that of the COMELEC, the OSG prays from this Court to allow the COMELEC to file its own Comment on Japzon's Petition. The Court, however, no longer acted on this particular prayer of the COMELEC, and with the submission of the Memoranda by Japzon, Ty, and the OSG, it already submitted the case for decision.

The Court finds no merit in the Petition at bar.

There is no dispute that Ty was a natural-born Filipino. He was born and raised in the Municipality of General Macarthur, Eastern Samar, Philippines. However, he left to work in the USA and eventually became an American citizen. On 2 October 2005, Ty reacquired his Philippine citizenship by taking his Oath of Allegiance to the Republic of the Philippines before Noemi T. Diaz, Vice Consul of the Philippine Consulate General in Los Angeles, California, USA, in accordance with the provisions of Republic Act No. 9225.[16] At this point, Ty still held dual citizenship, i.e., American and Philippine. It was only on 19 March 2007 that Ty renounced his American citizenship before a notary public and, resultantly, became a pure Philippine citizen again.

It bears to point out that Republic Act No. 9225 governs the manner in which a natural-born Filipino may reacquire or retain[17] his Philippine citizenship despite acquiring a foreign citizenship, and provides for his rights and liabilities under such circumstances. A close scrutiny of said statute would reveal that it does not at all touch on the matter of residence of the natural-born Filipino taking advantage of its provisions. Republic Act No. 9225 imposes no residency requirement for the reacquisition or retention of Philippine citizenship; nor does it mention any effect of such reacquisition or retention of Philippine citizenship on the current residence of the concerned natural-born Filipino. Clearly, Republic Act No. 9225 treats citizenship independently of residence. This is only logical and consistent with the general intent of the law to allow for dual citizenship. Since a natural-born Filipino may hold, at the same time, both Philippine and foreign citizenships, he may establish residence either in the Philippines or in the foreign country of which he is also a citizen.

Residency in the Philippines only becomes relevant when the natural-born Filipino with dual citizenship decides to run for public office.

Section 5(2) of Republic Act No. 9225 reads:

SEC. 5. Civil and Political Rights and Liabilities. - Those who retain or reacquire 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.

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.

That Ty complied with the second requirement is beyond question. On 19 March 2007, he personally executed a Renunciation of Foreign Citizenship before a notary public. By the time he filed his Certificate of Candidacy for the Office of Mayor of the Municipality of General Macarthur, Eastern Samar, on 28 March 2007, he had already effectively renounced his American citizenship, keeping solely his Philippine citizenship.

The other requirement of Section 5(2) of Republic Act No. 9225 pertains to the qualifications required by the Constitution and existing laws.

Article X, Section 3 of the Constitution left it to Congress to enact a local government code which shall provide, among other things, for the qualifications, election, appointment and removal, term, salaries, powers and functions and duties of local officials, and all other matters relating to the organization and operation of the local units.

Pursuant to the foregoing mandate, Congress enacted Republic Act No. 7160, the Local Government Code of 1991, Section 39 of which lays down the following qualifications for local elective officials:

SEC. 39. 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 sanggunian 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.

x x x x

(c) Candidates for the position of mayor or vice mayor of independent component cities, component cities, or municipalities must be at least twenty-one (21) years of age on election day.

The challenge against Ty's qualification to run as a candidate for the Office of Mayor of the Municipality of General Macarthur, Eastern Samar, centers on his purported failure to meet the one-year residency requirement in the said municipality.

The term "residence" is to be understood not in its common acceptance as referring to "dwelling" or "habitation," but rather to "domicile" or legal residence, 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)."[18]

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). In *Coquilla*,^[19] the Court already acknowledged that for an individual to acquire American citizenship, he must establish residence in the USA. Since Ty himself admitted that he became a naturalized American citizen, then he must have necessarily abandoned the Municipality of General Macarthur, Eastern Samar, Philippines, as his domicile of origin; and transferred to the USA, as his domicile of choice.

As has already been previously discussed by this Court herein, Ty's reacquisition of his Philippine citizenship under Republic Act No. 9225 had no automatic impact or effect on his residence/domicile. He could still retain his domicile in the USA, and he did not necessarily regain his domicile in the Municipality of General Macarthur, Eastern Samar, Philippines. Ty merely had the option to again establish his domicile in the Municipality of General Macarthur, Eastern Samar, Philippines, said place becoming his new domicile of choice. The length of his residence therein shall be determined from the time he made it his domicile of choice, and it shall not retroact

to the time of his birth.

How then could it be established that Ty indeed established a new domicile in the Municipality of General Macarthur, Eastern Samar, Philippines?

In *Papandayan, Jr. v. Commission on Elections*,^[20] the Court provided a summation of the different principles and concepts in jurisprudence relating to the residency qualification for elective local officials. Pertinent portions of the ratio in *Papandayan* are reproduced below:

Our decisions have applied certain tests and concepts in resolving the issue of whether or not a candidate has complied with the residency requirement for elective positions. The principle of *animus revertendi* has been used to determine whether a candidate has an "intention to return" to the place where he seeks to be elected. Corollary to this is a determination whether there has been an "abandonment" of his former residence which signifies an intention to depart therefrom. In *Caasi v. Court of Appeals*, this Court set aside the appealed orders of the COMELEC and the Court of Appeals and annulled the election of the respondent as Municipal Mayor of Bolinao, Pangasinan on the ground that respondent's immigration to the United States in 1984 constituted an abandonment of his domicile and residence in the Philippines. Being a green card holder, which was proof that he was a permanent resident or immigrant of the United States, and in the absence of any waiver of his status as such before he ran for election on January 18, 1988, respondent was held to be disqualified under §68 of the Omnibus Election Code of the Philippines (Batas Pambansa Blg. 881).

In *Co v. Electoral Tribunal of the House of Representatives*, respondent Jose Ong, Jr. was proclaimed the duly elected representative of the 2nd District of Northern Samar. The House of Representatives Electoral Tribunal (HRET) upheld his election against claims that he was not a natural born Filipino citizen and a resident of Laoang, Northern Samar. In sustaining the ruling of the HRET, this Court, citing *Faypon v. Quirino*, applied the concept of *animus revertendi* or "intent to return," stating that his absence from his residence in order to pursue studies or practice his profession as a certified public accountant in Manila or his registration as a voter other than in the place where he was elected did not constitute loss of residence. The fact that respondent made periodical journeys to his home province in Laoang revealed that he always had *animus revertendi*.

In *Abella v. Commission on Elections* and *Larrazabal v. Commission on Elections*, it was explained that the determination of a person's legal residence or domicile largely depends upon the intention that may be inferred from his acts, activities, and utterances. In that case, petitioner Adelina Larrazabal, who had obtained the highest number of votes in the local elections of February 1, 1988 and who had thus been proclaimed as the duly elected governor, was disqualified by the COMELEC for lack of residence and registration qualifications, not being a resident nor a registered voter of Kananga, Leyte. The COMELEC ruled that the attempt of petitioner Larrazabal to change her residence one year before the election by registering at Kananga, Leyte to qualify her to run for the position of governor of the province of Leyte was proof that she considered herself a resident of Ormoc City. This Court affirmed the ruling of the COMELEC and held that petitioner Larrazabal had established her residence in Ormoc City, not in Kananga, Leyte, from 1975 up to the time that she ran for the position of Provincial Governor of Leyte on February 1, 1988. There was no evidence to show that she and her husband maintained separate residences, i.e., she at Kananga, Leyte and her husband at Ormoc City. The fact that she occasionally visited Kananga, Leyte through the years did not signify an intention to continue her residence after leaving that place.

In *Romualdez v. RTC, Br. 7, Tacloban City*, the Court held that "domicile" and "residence" are synonymous. The term "residence," as used in the election law, imports not only an intention to reside in a fixed place but also personal presence in that place, coupled with conduct indicative of such intention. "Domicile" denotes a fixed permanent residence to which when absent for business or pleasure, or for like reasons, one intends to return. In that case, petitioner Philip G. Romualdez established his residence during the early 1980's in Barangay Malbog, Tolosa, Leyte. It was held that the sudden departure from the country of petitioner, because of the EDSA People's Power Revolution of 1986, to go into self-exile in the United States until favorable

conditions had been established, was not voluntary so as to constitute an abandonment of residence. The Court explained that in order to acquire a new domicile by choice, there must concur (1) residence or bodily presence in the new locality, (2) an intention to remain there, and (3) an intention to abandon the old domicile. There must be *animus manendi* coupled with *animus non revertendi*. The purpose to remain in or at the domicile of choice must be for an indefinite period of time; the change of residence must be voluntary; and the residence at the place chosen for the new domicile must be actual.

Ultimately, the Court recapitulates in *Papandayan, Jr.* that it is the fact of residence that is the decisive factor in determining whether or not an individual has satisfied the residency qualification requirement.

As espoused by Ty, the issue of whether he complied with the one-year residency requirement for running for public office is a question of fact. Its determination requires the Court to review, examine and evaluate or weigh the probative value of the evidence presented by the parties before the COMELEC.

The COMELEC, taking into consideration the very same pieces of evidence presently before this Court, found that Ty was a resident of the Municipality of General Macarthur, Eastern Samar, one year prior to the 14 May 2007 local elections. It is axiomatic that factual findings of administrative agencies, such as the COMELEC, which have acquired expertise in their field are binding and conclusive on the Court. An application for certiorari against actions of the COMELEC is confined to instances of grave abuse of discretion amounting to patent and substantial denial of due process, considering that the COMELEC is presumed to be most competent in matters falling within its domain.[21]

The Court even went further to say that the rule that factual findings of administrative bodies will not be disturbed by courts of justice, except when there is absolutely no evidence or no substantial evidence in support of such findings, should be applied with greater force when it concerns the COMELEC, as the framers of the Constitution intended to place the COMELEC—created and explicitly made independent by the Constitution itself—on a level higher than statutory administrative organs. The factual finding of the COMELEC en banc is therefore binding on the Court.[22]

The findings of facts of quasi-judicial agencies which have acquired expertise in the specific matters entrusted to their jurisdiction are accorded by this Court not only respect but even finality if they are supported by substantial evidence. Only substantial, not preponderance, of evidence is necessary. Section 5, Rule 133 of the Rules of Court provides that in cases filed before administrative or quasi-judicial bodies, a fact may be deemed established if it is supported by substantial evidence, or that amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion.[23]

The assailed Resolutions dated 31 July 2007 and 28 September 2007 of the COMELEC First Division and en banc, respectively, were both supported by substantial evidence and are, thus, binding and conclusive upon this Court.

Ty's intent to establish a new domicile of choice in the Municipality of General Macarthur, Eastern Samar, Philippines, became apparent when, immediately after reacquiring his Philippine citizenship on 2 October 2005, he applied for a Philippine passport indicating in his application that his residence in the Philippines was at A. Mabini St., Barangay 6, Poblacion, General Macarthur, Eastern Samar. For the years 2006 and 2007, Ty voluntarily submitted himself to the local tax jurisdiction of the Municipality of General Macarthur, Eastern Samar, by paying community tax and securing CTCs from the said municipality stating therein his address as A. Mabini St., Barangay 6, Poblacion, General Macarthur, Eastern Samar. Thereafter, Ty applied for and was registered as a voter on 17 July 2006 in Precinct 0013A, Barangay 6, Poblacion, General Macarthur, Eastern Samar.

In addition, Ty has also been bodily present in the Municipality of General Macarthur, Eastern Samar, Philippines, since his arrival on 4 May 2006, inarguably, just a little over a year prior to the 14 May 2007 local elections. Japzon maintains that Ty's trips abroad during said period, i.e., to Bangkok, Thailand (from 14 to 18 July 2006), and to the USA (from 31 October 2006 to 19 January 2007), indicate that Ty had no intention to permanently reside in the Municipality of General Macarthur, Eastern Samar, Philippines. The COMELEC First Division and en banc, as well as this Court, however, view these trips differently. The fact that Ty did come back to the Municipality of General Macarthur, Eastern Samar, Philippines, after said trips, is a further manifestation of his animus manendi and animus revertendi.

There is no basis for this Court to require Ty to stay in and never leave at all the Municipality of General Macarthur, Eastern Samar, for the full one-year period prior to the 14 May 2007 local elections so that he could be considered a resident thereof. To the contrary, the Court has previously ruled that absence from residence to pursue studies or practice a profession or registration as a voter other than in the place where one is elected, does not constitute loss of residence.[24] The Court also notes, that even with his trips to other countries, Ty was actually present in the Municipality of General Macarthur, Eastern Samar, Philippines, for at least nine of the 12 months preceding the 14 May 2007 local elections. Even if length of actual stay in a place is not necessarily determinative of the fact of residence therein, it does strongly support and is only consistent with Ty's avowed intent in the instant case to establish residence/domicile in the Municipality of General Macarthur, Eastern Samar.

Japzon repeatedly brings to the attention of this Court that Ty arrived in the Municipality of General Macarthur, Eastern Samar, on 4 May 2006 only to comply with the one-year residency requirement, so Ty could run as a mayoralty candidate in the 14 May 2007 elections. In *Aquino v. COMELEC*,^[25] the Court did not find anything wrong in an individual changing residences so he could run for an elective post, for as long as he is able to prove with reasonable certainty that he has effected a change of residence for election law purposes for the period required by law. As this Court already found in the present case, Ty has proven by substantial evidence that he had established residence/domicile in the Municipality of General Macarthur, Eastern Samar, by 4 May 2006, a little over a year prior to the 14 May 2007 local elections, in which he ran as a candidate for the Office of the Mayor and in which he garnered the most number of votes.

Finally, when the evidence of the alleged lack of residence qualification of a candidate for an elective position is weak or inconclusive and it clearly appears that the purpose of the law would not be thwarted by upholding the victor's right to the office, the will of the electorate should be respected. For the purpose of election laws is to give effect to, rather than frustrate, the will of the voters.[26] To successfully challenge Ty's disqualification, Japzon must clearly demonstrate that Ty's ineligibility is so patently antagonistic to constitutional and legal principles that overriding such ineligibility and thereby giving effect to the apparent will of the people would ultimately create greater prejudice to the very democratic institutions and juristic traditions that our Constitution and laws so zealously protect and promote. In this case, Japzon failed to substantiate his claim that Ty is ineligible to be Mayor of the Municipality of General Macarthur, Eastern Samar, Philippines.

WHEREFORE, premises considered, the instant Petition for Certiorari is DISMISSED.

SO ORDERED.

Puno, C.J., Quisumbing, Ynares-Santiago, Carpio, Austria-Martinez, Corona, Carpio Morales, Azcuna, Tinga, Velasco, Jr., Nachura, De Castro, and Brion, JJ., concur.

[1] Review of Judgments and Final Orders or Resolutions of the Commission on Elections and the Commission

on Audit.

[2] Certiorari, Prohibition and Mandamus.

[3] Penned by Commissioner Romeo A. Brawner with Presiding Commissioner Resurreccion Z. Borra, concurring; rollo, pp. 29-36.

[4] Penned by Commissioner Nicodemo T. Ferrer with Chairman Benjamin S. Abalos, Sr. and Commissioners Resurreccion Z. Borra, Florentino A. Tuason, Jr., Romeo A. Brawner, and Rene V. Sarmiento, concurring; id. at 37-40.

[5] Records, pp. 1-3.

[6] Id. at 28-34.

[7] Id. at 51.

[8] Rollo, pp. 29-36.

[9] Id. at 33.

[10] Id. at 34-35.

[11] Id. at 35.

[12] Id. at 37-40.

[13] Id. at 38-39.

[14] Id. at 10.

[15] Id. at 18.

[16] According to Section 2 of Republic Act No. 9225, natural-born citizens of the Philippines who have lost their Philippine citizenship by reason of their naturalization as citizens of a foreign country are deemed to have reacquired their Philippine citizenship upon taking the oath of allegiance to the Republic of the Philippines.

[17] Depending on when the concerned natural-born Filipino acquired foreign citizenship: if before the effectivity of Republic Act No. 9225 on 17 September 2003, he may reacquire his Philippine citizenship; and if after the effectivity of the said statute, he may retain his Philippine citizenship.

[18] *Coquilla v. Commission on Elections*, 434 Phil. 861, 871-872 (2002).

[19] Id.

[20] 430 Phil. 754, 768-770 (2002).

[21] *Matalam v. Commission on Elections*, 338 Phil. 447, 470 (1997).

[22] *Dagloc v. Commision on Elections*, 463 Phil. 263, 288 (2003); *Mastura v. Commission on Elections*, 349 Phil. 423, 429 (1998).

[23] *Hagonoy Rural Bank v. National Labor Relations Commission*, 349 Phil. 220, 232 (1998).

[24] *Co v. Electoral Tribunal of the House of Representatives*, G.R. Nos. 92191-92, 30 July 1991, 199 SCRA 692, 715-716.

[25] G.R. No. 120265, 18 September 1995, 248 SCRA 400.

[26] Papandayan, Jr. v. Commission on Elections, *supra* note 20 at 773-774.

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