

**BALGAMELO CABILING MA, FELIX CABILING MA, JR., AND
VALERIANO CABILING MA, PETITIONERS, VS. COMMISSIONER
ALIPIO F. FERNANDEZ, JR., ASSOCIATE COMMISSIONER ARTHIEL B.
CARONOGAN, A...**

G.R. No. 183133. July 26, 2010

Ponente: PEREZ, J.

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PEREZ, J.:

Should children born under the 1935 Constitution of a Filipino mother and an alien father, who executed an affidavit of election of Philippine citizenship and took their oath of allegiance to the government upon reaching the age of majority, but who failed to immediately file the documents of election with the nearest civil registry, be considered foreign nationals subject to deportation as undocumented aliens for failure to obtain alien certificates of registration?

Positioned upon the facts of this case, the question is translated into the inquiry whether or not the omission negates their rights to Filipino citizenship as children of a Filipino mother, and erase the years lived and spent as Filipinos.

The resolution of these questions would significantly mark a difference in the lives of herein petitioners.

The Facts

Balgamelo Cabiling Ma (Balgamelo), Felix Cabiling Ma, Jr. (Felix, Jr.), Valeriano Cabiling Ma (Valeriano), Lechi Ann Ma (Lechi Ann), Arceli Ma (Arceli), Nicolas Ma (Nicolas), and Isidro Ma (Isidro) are the children of Felix (Yao Kong) Ma,[1] a Taiwanese, and Dolores Sillona Cabiling, a Filipina.[2]

Records reveal that petitioners Felix, Jr., Balgamelo and Valeriano were all born under aegis of the 1935 Philippine Constitution in the years 1948, 1951, and 1957, respectively.[3]

They were all raised in the Philippines and have resided in this country for almost sixty (60) years; they spent their whole lives, studied and received their primary and secondary education in the country; they do not speak nor understand the Chinese language, have not set foot in Taiwan, and do not know any relative of their father; they have not even traveled abroad; and they have already raised their respective families in the Philippines.[4]

During their age of minority, they secured from the Bureau of Immigration their Alien Certificates of Registration (ACRs). [5]

Immediately upon reaching the age of twenty-one, they claimed Philippine citizenship in accordance with Section 1(4), Article IV, of the 1935 Constitution, which provides that "(t)hose whose mothers are citizens of the Philippines and, upon reaching the age of majority, elect Philippine citizenship" are citizens of the Philippines. Thus, on 15 August 1969, Felix, Jr. executed his affidavit of election of Philippine citizenship and took his oath of allegiance before then Judge Jose L. Gonzalez, Municipal Judge, Surigao, Surigao del Norte.[6] On 14 January

1972, Balgamelo did the same before Atty. Patrocinio C. Filoteo, Notary Public, Surigao City, Surigao del Norte.[7] In 1978, Valeriano took his oath of allegiance before then Judge Salvador C. Sering, City Court of Surigao City, the fact of which the latter attested to in his Affidavit of 7 March 2005.[8]

Having taken their oath of allegiance as Philippine citizens, petitioners, however, failed to have the necessary documents registered in the civil registry as required under Section 1 of Commonwealth Act No. 625 (An Act Providing the Manner in which the Option to Elect Philippine Citizenship shall be Declared by a Person whose Mother is a Filipino Citizen). It was only on 27 July 2005 or more than thirty (30) years after they elected Philippine citizenship that Balgamelo and Felix, Jr. did so.[9] On the other hand, there is no showing that Valeriano complied with the registration requirement.

Individual certifications[10] all dated 3 January 2005 issued by the Office of the City Election Officer, Commission on Elections, Surigao City, show that all of them are registered voters of Barangay Washington, Precinct No. 0015A since June 1997, and that records on previous registrations are no longer available because of the mandatory general registration every ten (10) years. Moreover, aside from exercising their right of suffrage, Balgamelo is one of the incumbent Barangay Kagawads in Barangay Washington, Surigao City.[11]

Records further reveal that Lechi Ann and Arceli were born also in Surigao City in 1953[12] and 1959,[13] respectively. The Office of the City Civil Registrar issued a Certification to the effect that the documents showing that Arceli elected Philippine citizenship on 27 January 1986 were registered in its Office on 4 February 1986. However, no other supporting documents appear to show that Lechi Ann initially obtained an ACR nor that she subsequently elected Philippine citizenship upon reaching the age of majority. Likewise, no document exists that will provide information on the citizenship of Nicolas and Isidro.

The Complaint

On 16 February 2004, the Bureau of Immigration received the Complaint-Affidavit[14] of a certain Mat G. Catral (Mr. Catral), alleging that Felix (Yao Kong) Ma and his seven (7) children are undesirable and overstaying aliens. Mr. Catral, however, did not participate in the proceedings, and the Ma family could not but believe that the complaint against them was politically motivated because they strongly supported a candidate in Surigao City in the 2004 National and Local Elections.[15]

On 9 November 2004, the Legal Department of the Bureau of Immigration charged them for violation of Sections 37(a)(7)[16] and 45(e)[17] of Commonwealth Act No. 613, otherwise known as the Philippine Immigration Act of 1940, as amended. The Charge Sheet[18] docketed as BSI-D.C. No. AFF-04-574 (OC-STF-04-09/23-1416) reads, in part:

That Respondents x x x, all Chinese nationals, failed and continuously failed to present any valid document to show their respective status in the Philippines. They likewise failed to produce documents to show their election of Philippines (sic) citizenship, hence, undocumented and overstaying foreign nationals in the country.

That respondents, being aliens, misrepresent themselves as Philippine citizens in order to evade the requirements of the immigration laws.

Ruling of the Board of Commissioners, Bureau of Immigration

After Felix Ma and his seven (7) children were afforded the opportunity to refute the allegations, the Board of Commissioners (Board) of the Bureau of Immigration (BI), composed of the public respondents, rendered a Judgment dated 2 February 2005 finding that Felix Ma and his children violated Commonwealth Act No. 613, Sections 37(a)(7) and 45(e) in relation to BI Memorandum Order Nos. ADD-01-031 and ADD-01-035 dated 6 and 22 August 2001, respectively.[19]

The Board ruled that since they elected Philippine citizenship after the enactment of Commonwealth Act No. 625, which was approved on 7 June 1941, they were governed by the following rules and regulations:

1. Section 1 of Commonwealth Act No. 625, providing that the election of Philippine citizenship embodied in a statement sworn before any officer authorized to administer oaths and the oath of allegiance shall be filed with the nearest civil registry;^[20] and Commission of Immigration and Deportation (CID, now Bureau of Immigration [BI]) Circular dated 12 April 1954,^[21] detailing the procedural requirements in the registration of the election of Philippine citizenship.
2. Memorandum Order dated 18 August 1956^[22] of the CID, requiring the filing of a petition for the cancellation of their alien certificate of registration with the CID, in view of their election of Philippine citizenship;
3. Department of Justice (DOJ) Opinion No. 182, 19 August 1982; and DOJ Guidelines, 27 March 1985, requiring that the records of the proceedings be forwarded to the Ministry (now the Department) of Justice for final determination and review.^[23]

As regards the documentation of aliens in the Philippines, Administrative Order No. 1-93 of the Bureau of Immigration^[24] requires that ACR, E-series, be issued to foreign nationals who apply for initial registration, finger printing and issuance of an ACR in accordance with the Alien Registration Act of 1950.^[25] According to public respondents, any foreign national found in possession of an ACR other than the E-series shall be considered improperly documented aliens and may be proceeded against in accordance with the Immigration Act of 1940 or the Alien Registration Act of 1950, as amended.^[26]

Supposedly for failure to comply with the procedure to prove a valid claim to Philippine citizenship via election proceedings, public respondents concluded that Felix, Jr. Balgamelo, Arceli, Valeriano and Lechi Ann are undocumented and/or improperly documented aliens.^[27]

Nicolas and Isidro, on the other hand, did not submit any document to support their claim that they are Philippine citizens. Neither did they present any evidence to show that they are properly documented aliens. For these reasons, public respondents likewise deemed them undocumented and/or improperly documented aliens.^[28]

The dispositive portion^[29] of the Judgment of 2 February 2005 reads:

- Subject to the submission of appropriate clearances, summary deportation of Felix (Yao Kong) Ma, Felix Ma, Jr., Balgamelo Ma, Valeriano Ma, Lechi Ann Ma, Nicolas Ma, Arceli Ma and Isidro Ma, Taiwanese [Chinese], under C.A. No. 613, Sections 37(a)(7), 45(e) and 38 in relation to BI M.O. Nos. ADD-01-031 and ADD-01-035 dated 6 and 22 August 2001, respectively;
- Issuance of a warrant of deportation against Felix (Yao Kong) Ma, Felix Ma, Jr., Balgamelo Ma, Valeriano Ma, Lechi Ann Ma, Nicolas Ma, Arceli Ma and Isidro Ma under C.A. No. 613, Section 37(a);
- Inclusion of the names of Felix (Yao Kong) Ma, Felix Ma, Jr., Balgamelo Ma, Valeriano Ma, Lechi Ann Ma, Nicolas Ma, Arceli Ma and Isidro Ma in the Immigration Blacklist; and
- Exclusion from the Philippines of Felix (Yao Kong) Ma, Felix Ma, Jr., Balgamelo Ma, Valeriano Ma, Lechi Ann Ma, Nicolas Ma, Arceli Ma and Isidro Ma under C.A. No. 613, Section 29(a)(15). (Emphasis supplied.)

In its Resolution^[30] of 8 April 2005, public respondents partially reconsidered their Judgment of 2 February 2005. They were convinced that Arceli is an immigrant under Commonwealth Act No. 613, Section 13(g).^[31] However, they denied the Motion for Reconsideration with respect to Felix Ma and the rest of his children.^[32]

Ruling of the Court of Appeals

On 3 May 2005, only Balgamelo, Felix, Jr., and Valeriano filed the Petition for Certiorari under Rule 65 of the 1997 Rules of Civil Procedure before the Court of Appeals, which was docketed as CA-G.R. SP No. 89532. They sought the nullification of the issuances of the public respondents, to wit: (1) the Judgment dated 2 February 2005, ordering the summary deportation of the petitioners, issuance of a warrant of deportation against them, inclusion of their names in the Immigration Blacklist, and exclusion of the petitioners from the Philippines; and (2) the Resolution dated 8 April 2005, denying the petitioners' Motion for Reconsideration.

On 29 August 2007, the Court of Appeals dismissed the petition[33] after finding that the petitioners "failed to comply with the exacting standards of the law providing for the procedure and conditions for their continued stay in the Philippines either as aliens or as its nationals." [34]

On 29 May 2008, it issued a Resolution[35] denying the petitioners' Motion for Reconsideration dated 20 September 2007.

To reiterate, a person's continued and uninterrupted stay in the Philippines, his being a registered voter or an elected public official cannot vest in him Philippine citizenship as the law specifically lays down the requirements for acquisition of Philippine citizenship by election. The prescribed procedure in electing Philippine citizenship is certainly not a tedious and painstaking process. All that is required of the elector is to execute an affidavit of election of Philippine citizenship and, thereafter, file the same with the nearest civil registry. The constitutional mandate concerning citizenship must be adhered to strictly. Philippine citizenship can never be treated like a commodity that can be claimed when needed and suppressed when convenient. One who is privileged to elect Philippine citizenship has only an inchoate right to such citizenship. As such, he should avail of the right with fervor, enthusiasm and promptitude.[36]

Our Ruling

The 1935 Constitution declares as citizens of the Philippines those whose mothers are citizens of the Philippines and elect Philippine citizenship upon reaching the age of majority. The mandate states:

Section 1. The following are citizens of the Philippines:

(1) xxx;

x x x x

(4) Those whose mothers are citizens of the Philippines and, upon reaching the age of majority, elect Philippine citizenship.[37]

In 1941, Commonwealth Act No. 625 was enacted. It laid down the manner of electing Philippine citizenship, to wit:

Section 1. The option to elect Philippine citizenship in accordance with subsection (4), Section 1, Article IV, of the Constitution shall be expressed in a statement to be signed and sworn to by the party concerned before any officer authorized to administer oaths, and shall be filed with the nearest civil registry. The said party shall accompany the aforesaid statement with the oath of allegiance to the Constitution and the Government of the Philippines.

The statutory formalities of electing Philippine citizenship are: (1) a statement of election under oath; (2) an oath of allegiance to the Constitution and Government of the Philippines; and (3) registration of the statement of election and of the oath with the nearest civil registry.

In *Re: Application for Admission to the Philippine Bar*, Vicente D. Ching,[38] we determined the meaning of the period of election described by phrase "upon reaching the age of majority." Our references were the Civil Code of

the Philippines, the opinions of the Secretary of Justice, and the case of Cueco v. Secretary of Justice.[39] We pronounced:

x x x [T]he 1935 Constitution and C.A. No. 625 did not prescribe a time period within which the election of Philippine citizenship should be made. The 1935 Charter only provides that the election should be made "upon reaching the age of majority." The age of majority then commenced upon reaching twenty-one (21) years.[40] In the opinions of the Secretary of Justice on cases involving the validity of election of Philippine citizenship, this dilemma was resolved by basing the time period on the decisions of this Court prior to the effectivity of the 1935 Constitution. In these decisions, the proper period for electing Philippine citizenship was, in turn, based on the pronouncements of the Department of State of the United States Government to the effect that the election should be made within a reasonable time after attaining the age of majority.[41] The phrase "reasonable time" has been interpreted to mean that the elections should be made within three (3) years from reaching the age of majority.[42] However, we held in Cue[n]co vs. Secretary of Justice,[43] that the three (3) year period is not an inflexible rule. We said:

It is true that this clause has been construed to mean a reasonable time after reaching the age of majority, and that the Secretary of Justice has ruled that three (3) years is the reasonable time to elect Philippine citizenship under the constitutional provision adverted to above, which period may be extended under certain circumstances, as when the person concerned has always considered himself a Filipino.

However, we cautioned in Cue[n]co that the extension of the option to elect Philippine citizenship is not indefinite.

Regardless of the foregoing, petitioner was born on February 16, 1923. He became of age on February 16, 1944. His election of citizenship was made on May 15, 1951, when he was over twenty-eight (28) years of age, or over seven (7) years after he had reached the age of majority. It is clear that said election has not been made "upon reaching the age of majority.[44]

We reiterated the above ruling in Go, Sr. v. Ramos,[45] a case in which we adopted the findings of the appellate court that the father of the petitioner, whose citizenship was in question, failed to elect Philippine citizenship within the reasonable period of three (3) years upon reaching the age of majority; and that "the belated submission to the local civil registry of the affidavit of election and oath of allegiance x x x was defective because the affidavit of election was executed after the oath of allegiance, and the delay of several years before their filing with the proper office was not satisfactorily explained." [46]

In both cases, we ruled against the petitioners because they belatedly complied with all the requirements. The acts of election and their registration with the nearest civil registry were all done beyond the reasonable period of three years upon reaching the age of majority.

The instant case presents a different factual setting. Petitioners complied with the first and second requirements upon reaching the age of majority. It was only the registration of the documents of election with the civil registry that was belatedly done.

We rule that under the facts peculiar to the petitioners, the right to elect Philippine citizenship has not been lost and they should be allowed to complete the statutory requirements for such election.

Such conclusion, contrary to the finding of the Court of Appeals, is in line with our decisions in In Re:Florencio Mallare,[47] Co v. Electoral Tribunal of the House of Representatives,[48] and Re:Application for Admission to the Philippine Bar, Vicente D. Ching.[49]

In Mallare, Esteban's exercise of the right of suffrage when he came of age was deemed to be a positive act of election of Philippine citizenship.[50] The Court of Appeals, however, said that the case cannot support herein

petitioners' cause, pointing out that, unlike petitioner, Esteban is a natural child of a Filipina, hence, no other act would be necessary to confer on him the rights and privileges of a Filipino citizen,[51] and that Esteban was born in 1929[52] prior to the adoption of the 1935 Constitution and the enactment of Commonwealth Act No. 625.[53]

In the Co case, Jose Ong, Jr. did more than exercise his right of suffrage, as he established his life here in the Philippines.[54] Again, such circumstance, while similar to that of herein petitioners', was not appreciated because it was ruled that any election of Philippine citizenship on the part of Ong would have resulted in absurdity, because the law itself had already elected Philippine citizenship for him[55] as, apparently, while he was still a minor, a certificate of naturalization was issued to his father.[56]

In Ching, it may be recalled that we denied his application for admission to the Philippine Bar because, in his case, all the requirements, to wit: (1) a statement of election under oath; (2) an oath of allegiance to the Constitution and Government of the Philippines; and (3) registration of the statement of election and of the oath with the nearest civil registry were complied with only fourteen (14) years after he reached the age of majority. Ching offered no reason for the late election of Philippine citizenship.[57]

In all, the Court of Appeals found the petitioners' argument of good faith and "informal election" unacceptable and held:

Their reliance in the ruling contained in Re:Application for Admission to the Philippine Bar, Vicente D. Ching, [which was decided on 1 October 1999], is obviously flawed. It bears emphasis that the Supreme Court, in said case, did not adopt the doctrine laid down in In Re: Florencio Mallare. On the contrary, the Supreme Court was emphatic in pronouncing that "the special circumstances invoked by Ching, i.e., his continuous and uninterrupted stay in the Philippines and his being a certified public accountant, a registered voter and a former elected public official, cannot vest in him Philippine citizenship as the law specifically lays down the requirements for acquisition of Philippine citizenship by election.[58]

We are not prepared to state that the mere exercise of suffrage, being elected public official, continuous and uninterrupted stay in the Philippines, and other similar acts showing exercise of Philippine citizenship can take the place of election of citizenship. What we now say is that where, as in petitioners' case, the election of citizenship has in fact been done and documented within the constitutional and statutory timeframe, the registration of the documents of election beyond the frame should be allowed if in the meanwhile positive acts of citizenship have publicly, consistently, and continuously been done. The actual exercise of Philippine citizenship, for over half a century by the herein petitioners, is actual notice to the Philippine public which is equivalent to formal registration of the election of Philippine citizenship.

For what purpose is registration?

In Pascua v. Court of Appeals,[59] we elucidated the principles of civil law on registration:

To register is to record or annotate. American and Spanish authorities are unanimous on the meaning of the term "to register" as "to enter in a register; to record formally and distinctly; to enroll; to enter in a list." [60] In general, registration refers to any entry made in the books of the registry, including both registration in its ordinary and strict sense, and cancellation, annotation, and even the marginal notes. In strict acceptance, it pertains to the entry made in the registry which records solemnly and permanently the right of ownership and other real rights.[61] Simply stated, registration is made for the purpose of notification.[62]

Actual knowledge may even have the effect of registration as to the person who has knowledge thereof. Thus, "[i]ts purpose is to give notice thereof to all persons (and it) operates as a notice of the deed, contract, or instrument to others." [63] As pertinent is the holding that registration "neither adds to its validity nor converts an invalid instrument into a valid one between the parties." [64] It lays emphasis on the validity of an unregistered

document.

Comparable jurisprudence may be consulted.

In a contract of partnership, we said that the purpose of registration is to give notice to third parties; that failure to register the contract does not affect the liability of the partnership and of the partners to third persons; and that neither does such failure affect the partnership's juridical personality.[65] An unregistered contract of partnership is valid as among the partners, so long as it has the essential requisites, because the main purpose of registration is to give notice to third parties, and it can be assumed that the members themselves knew of the contents of their contract.[66] The non-registration of a deed of donation does not also affect its validity. Registration is not a requirement for the validity of the contract as between the parties, for the effect of registration serves chiefly to bind third persons.[67]

Likewise relevant is the pronouncement that registration is not a mode of acquiring a right. In an analogous case involving an unrecorded deed of sale, we reiterated the settled rule that registration is not a mode of acquiring ownership.

Registration does not confer ownership. It is not a mode of acquiring dominion, but only a means of confirming the fact of its existence with notice to the world at large.[68]

Registration, then, is the confirmation of the existence of a fact. In the instant case, registration is the confirmation of election as such election. It is not the registration of the act of election, although a valid requirement under Commonwealth Act No. 625, that will confer Philippine citizenship on the petitioners. It is only a means of confirming the fact that citizenship has been claimed.

Indeed, we even allow the late registration of the fact of birth and of marriage.[69] Thus, has it been admitted through existing rules that the late registration of the fact of birth of a child does not erase the fact of birth. Also, the fact of marriage cannot be declared void solely because of the failure to have the marriage certificate registered with the designated government agency.

Notably, the petitioners timely took their oath of allegiance to the Philippines. This was a serious undertaking. It was commitment and fidelity to the state coupled with a pledge "to renounce absolutely and forever all allegiance" to any other state. This was unqualified acceptance of their identity as a Filipino and the complete disavowal of any other nationality.

Petitioners have passed decades of their lives in the Philippines as Filipinos. Their present status having been formed by their past, petitioners can no longer have any national identity except that which they chose upon reaching the age of reason.

Corollary to this fact, we cannot agree with the view of the Court of Appeals that since the ACR presented by the petitioners are no longer valid on account of the new requirement to present an E-series ACR, they are deemed not properly documented.[70] On the contrary, petitioners should not be expected to secure E-series ACR because it would be inconsistent with the election of citizenship and its constructive registration through their acts made public, among others, their exercise of suffrage, election as public official, and continued and uninterrupted stay in the Philippines since birth. The failure to register as aliens is, obviously, consistent with petitioners' election of Philippine citizenship.

The leanings towards recognition of the citizenship of children of Filipino mothers have been indicated not alone by the jurisprudence that liberalized the requirement on time of election, and recognized positive acts of Philippine citizenship.

The favor that is given to such children is likewise evident in the evolution of the constitutional provision on Philippine citizenship.

Thus, while the 1935 Constitution requires that children of Filipino mothers elect Philippine citizenship upon reaching their age of majority,[71] upon the effectivity of the 1973 Constitution, they automatically become Filipinos[72] and need not elect Philippine citizenship upon reaching the age of majority. The 1973 provision reads:

Section 1. The following are citizens of the Philippines:

(1) xxx.

(2) Those whose fathers and mothers are citizens of the Philippines.[73]

Better than the relaxation of the requirement, the 1987 Constitution now classifies them as natural-born citizens upon election of Philippine citizenship. Thus, Sec. 2, Article IV thereof provides:

Section 2. Natural-born citizens are those who are citizens of the Philippines from birth without having to perform any act to acquire or perfect their Philippine citizenship. Those who elect Philippine citizenship in accordance with paragraph (3), Section 1 hereof[74] shall be deemed natural-born citizens. (Emphasis supplied.)

The constitutional bias is reflected in the deliberations of the 1986 Constitutional Commission.

MR. CONCEPCION. x x x.

x x x x

x x x x As regards those born of Filipino mothers, the 1935 Constitution merely gave them the option to choose Philippine citizenship upon reaching the age of majority, even, apparently, if the father were an alien or unknown. Upon the other hand, under the 1973 Constitution, children of mixed marriages involving an alien father and a Filipino mother are Filipino citizens, thus liberalizing the counterpart provision in the 1935 Constitution by dispensing with the need to make a declaration of intention upon reaching the age of majority. I understand that the committee would further liberalize this provision of the 1935 Constitution. The Committee seemingly proposes to further liberalize the policy of the 1935 Constitution by making those who became citizens of the Philippines through a declaration of intention to choose their mother's citizenship upon reaching the majority age by declaring that such children are natural-born citizens of the Philippines.[75]

x x x x

xxx Why does the draft resolution adopt the provision of the 1973 Constitution and not that of the 1935? [76]

x x x x

FR. BERNAS. x x x Precisely, the reason behind the modification of the 1935 rule on citizenship was a recognition of the fact that it reflected a certain male chauvinism, and it was for the purpose of remedying that this proposed provision was put in. The idea was that we should not penalize the mother of a child simply because she fell in love with a foreigner. Now, the question on what citizenship the child would prefer arises. We really have no way of guessing the preference of the infant. But if we recognize the right of the child to choose, then let him choose when he reaches the age of majority. I think dual 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. But certainly it is within the jurisdiction of the Philippine government to require that [at] a certain point, a child be made to choose. But I do not think we should penalize the child before he is even able to choose. I would, therefore, support the retention of the modification made in 1973 of the male chauvinistic

rule of the 1935 Constitution.[77]

x x x x

MR. REGALADO. With respect to a child who became a Filipino citizen by election, which the Committee is now planning to consider a natural-born citizen, he will be so the moment he opts for Philippine citizenship. Did the Committee take into account the fact that at the time of birth, all he had was just an inchoate right to choose Philippine citizenship, and yet, by subsequently choosing Philippine citizenship, it would appear that his choice retroacted to the date of his birth so much so that under the Gentleman's proposed amendment, he would be a natural-born citizen?[78]

FR. BERNAS. But the difference between him and the natural-born who lost his status is that the natural-born who lost his status, lost it voluntarily; whereas, this individual in the situation contemplated in Section 1, paragraph 3 never had the chance to choose.[79]

x x x x

[on the period within which to elect Philippine citizenship]

MR. RODRIGO. [T]his provision becomes very, very important because his election of Philippine citizenship makes him not only a Filipino citizen but a natural-born Filipino citizen, entitling him to run for Congress, to be a Justice of the Supreme Court x x x.[80]

We are guided by this evolvement from election of Philippine citizenship upon reaching the age of majority under the 1935 Philippine Constitution to dispensing with the election requirement under the 1973 Philippine Constitution to express classification of these children as natural-born citizens under the 1987 Constitution towards the conclusion that the omission of the 1941 statutory requirement of registration of the documents of election should not result in the obliteration of the right to Philippine citizenship.

Having a Filipino mother is permanent. It is the basis of the right of the petitioners to elect Philippine citizenship. Petitioners elected Philippine citizenship in form and substance. The failure to register the election in the civil registry should not defeat the election and resultingly negate the permanent fact that they have a Filipino mother. The lacking requirements may still be complied with subject to the imposition of appropriate administrative penalties, if any. The documents they submitted supporting their allegations that they have already registered with the civil registry, although belatedly, should be examined for validation purposes by the appropriate agency, in this case, the Bureau of Immigration. Other requirements embodied in the administrative orders and other issuances of the Bureau of Immigration and the Department of Justice shall be complied with within a reasonable time.

WHEREFORE, the Decision dated 29 August 2007, and the Resolution dated 29 May 2008 of the Court of Appeals in CA-G.R. SP No. 89532 affirming the Judgment dated 2 February 2005, and the Resolution dated 8 April 2005 of the Bureau of Immigration in BSI-D.C. No. AFF-04-574 OC-STF-04-09/23-1416 are hereby SET ASIDE with respect to petitioners Balamelo Cabiling Ma, Felix Cabiling Ma, Jr., and Valeriano Cabiling Ma. Petitioners are given ninety (90) days from notice within which to COMPLY with the requirements of the Bureau of Immigration embodied in its Judgment of 2 February 2005. The Bureau of Immigration shall ENSURE that all requirements, including the payment of their financial obligations to the state, if any, have been complied with subject to the imposition of appropriate administrative fines; REVIEW the documents submitted by the petitioners; and ACT thereon in accordance with the decision of this Court.

SO ORDERED.

Corona, C.J., (Chairperson), Velasco, Jr., Nachura,[*] and Leonardo-De Castro, JJ., concur.

[*] Per raffle dated 5 October 2009, Associate Justice Antonio Eduardo B. Nachura is designated as additional member in place of Associate Justice Mariano C. Del Castillo.

[1] Deceased. CA rollo, p. 70.

[2] Rollo, p. 18.

[3] CA rollo, pp. 56, 61, and 66.

[4] Rollo, p. 41.

[5] CA rollo, pp. 99-101.

[6] Id. at 57-59.

[7] Id. at 62-64.

[8] Id. at 71.

[9] Rollo, pp. 85-86.

[10] CA rollo, pp. 72 and 76.

[11] Rollo, p. 220.

[12] Id. at 226.

[13] Id. at 119.

[14] CA rollo, back of pp. 37-38.

[15] Rollo, p. 42.

[16] Sec. 37. (a) The following aliens shall be arrested upon the warrant of the Commissioner of Immigration or any other officer designated by him for the purpose and deported upon the warrant of the Commissioner of Immigration after a determination by the Board of Commissioners of the existence of the ground for deportation as charged against the alien:

(1) xxx

x x x x

(7) Any alien who remains in the Philippines in violation of any limitation or condition under which he was admitted as a non-immigrant.

[17] Sec. 45. Any individual who:

(a) xxx

x x x x

(e) Being an alien shall, for any fraudulent purpose, represent himself to be a Philippine citizen in order to evade any requirement of the immigration laws.

[18] CA rollo, pp. 39-40.

[19] Id. at 29-33.

[20] Id. at 31.

[21] Ronaldo P. Ledesma, *An Outline of Philippine Immigration and Citizenship Laws*, 1999, Rex Printing Company, Inc., p. 360.

[22] CA rollo, p. 31.

[23] Id.

[24] Id. at 32.

[25] The Bureau of Immigration Official Website, www.immigration.gov.ph.

[26] CA rollo, p. 32.

[27] Id.

[28] Id.

[29] Id. at 32-33.

[30] Id. at 34-37.

[31] Id. at 35.

[32] Id.

[33] Penned by Associate Justice Josefina Guevara-Salonga with Associate Justices Mariano C. del Castillo (now a member of this Court) and Fernanda Lampas-Peralta, concurring. Rollo, pp. 10-23.

[34] Id. at 22.

[35] Id. at 25-26.

[36] Id.

[37] Section 1(4), Article IV, 1935 Philippine Constitution.

[38] 374 Phil. 342, 354 (1999).

[39] 115 Phil. 90 (1962).

[40] *Re: Application for Admission to the Philippine Bar*, Vicente D. Ching, *supra* note 38 at 350 citing Art. 402, Civil Code.

[41] Id.

[42] Id.

[43] Id. citing Cueco, *supra* note 39.

[44] Id.

[45] G.R. No. 167569, 4 September 2009, 598 SCRA 266.

[46] Id. at 280.

[47] 158 Phil. 50 (1974).

- [48] G.R. Nos. 92191-92, 30 July 1991, 199 SCRA 692.
- [49] Supra note 38.
- [50] In Re: Florencio Mallare, supra note 47 at 58.
- [51] Id. at 57-58.
- [52] Id. at 53.
- [53] Rollo, p. 20.
- [54] Co v. Electoral Tribunal of the House of Representatives, supra note 48 at 708.
- [55] Id. at 709.
- [56] Id.
- [57] Supra note 38 at 354.
- [58] Rollo, pp. 19-20.
- [59] 401 Phil. 350, 366-367 (2000).
- [60] Id. citing Po Sun Tun v. Prize and Provincial Government of Leyte, 54 Phil. 192, 195 (1929).
- [61] Id.
- [62] Id. citing Paras, Civil Code of the Philippines, Vol. II, 1989 ed., p. 653 citing Bautista v. Dy Bun Chin, 49 Official Gazette 179, 183 (1952).
- [63] Id.
- [64] Id.
- [65] Angeles, v. The Hon. Secretary of Justice, G.R. No. 142612, 29 July 2005, 465 SCRA 106, 115.
- [66] Sunga-Chan v. Chua, 415 Phil. 477, 491 (2001).
- [67] Gutierrez v. Mendoza-Plaza, G.R. No. 185477, 4 December 2009, 607 SCRA 807, 817.
- [68] Bollozos v. Yu Tieng Su, 239 Phil. 475, 485 (1987) citing Bautista v. Dy Bun Chin, supra note 62.
- [69] Delayed Registration - Birth, Death, and Marriage x x x.
http://www.census.gov.ph/data/civilreg/delayedreg_primer.html.
- [70] Rollo, pp. 21-22.
- [71] Section 1(4), Article IV, 1935 Philippine Constitution.
- [72] Records of the 1986 Constitutional Commission, Volume 1, p. 185.
- [73] Article IV, 1973 Constitution of the Philippines.
- [74] Section 1. The following are citizens of the Philippines:
- (1) xxx;
- x x x x

(3) Those born before January 17, 1973, of Filipino mothers, who elect Philippine citizenship upon reaching the age of majority.

[75] Records of the 1986 Constitutional Commission, Volume 1, 23 June 1986, p. 202.

[76] Id.

[77] Id. at 203.

[78] Id. at 206.

[79] Id.

[80] Records of the 1986 Constitutional Commission, Volume 1, 25 June 1986, p. 231.

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