

ROMMEL C. ARNADO, PETITIONER, VS. COMMISSION ON ELECTIONS AND FLORANTE CAPITAN, RESPONDENTS.*G.R. No. 210164. August 18, 2015*

Ponente: DEL CASTILLO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-210164/>**DEL CASTILLO, J.:**

Only natural-born Filipinos who owe total and undivided allegiance to the Republic of the Philippines could run for and hold elective public office.

Before this Court is a Petition for Certiorari[1] filed under Rule 64 in relation to Rule 65 of the Rules of Court assailing the Per Curiam Resolution[2] dated December 9, 2013 of respondent Commission on Elections (Comelec) En Banc in SPA No. 13-309 (DC), which affirmed the Resolution[3] dated September 6, 2013 of the Comelec Second Division. The Comelec, relying on our ruling in *Maquiling v. Commission on Elections*, [4] disqualified petitioner Rommel C. Arnado (Arnado) from running in the May 13, 2013 elections, set aside his proclamation as elected mayor of Kauswagan, Lanao del Norte, and declared respondent Florante T. Capitan (Capitan) as the duly elected mayor of said municipality.

Factual Antecedents

Petitioner Arnado is a natural-born Filipino citizen who lost his Philippine citizenship after he was naturalized as citizen of the United States of America (USA). Subsequently, and in preparation for his plans to run for public office in the Philippines, Arnado applied for repatriation under Republic Act No. 9225[5] (RA 9225) before the Consul General of the Philippines in San Francisco, USA. He took an Oath of Allegiance to the Republic of the Philippines on July 10, 2008 and, on even date, an Order of Approval of Citizenship Retention and Re-acquisition was issued in his favor. On April 3, 2009, Arnado executed an Affidavit of Renunciation of his foreign citizenship.

On November 30, 2009, Arnado filed his Certificate of Candidacy (CoC) for the mayoralty post of Kauswagan, Lanao del Norte for the May 10, 2010 national and local elections.

Linog C. Balua (Balua), another mayoralty candidate, however, filed a petition to disqualify Arnado and/or to cancel his CoC on the ground, among others, that Arnado remained a US citizen because he continued to use his US passport for entry to and exit from the Philippines after executing aforesaid Affidavit of Renunciation.

While Balua's petition remained pending, the May 10, 2010 elections proceeded where Arnado garnered the highest number of votes for the mayoralty post of Kauswagan. He was proclaimed the winning candidate.

On October 5, 2010, the Comelec First Division issued a Resolution holding that Arnado's continued use of his US passport effectively negated his April 3, 2009 Affidavit of Renunciation. Thus, he was disqualified to run for public office for failure to comply with the requirements of RA 9225. The Comelec First Division accordingly nullified his proclamation and held that the rule on succession should be followed.

Arnado moved for reconsideration. In the meantime, Casan Macode Maquiling (Maquiling), another mayoralty candidate who garnered the second highest number of votes, intervened in the case. He argued that the Comelec First Division erred in applying the rule on succession.

On February 2, 2011, the Comelec En Banc rendered a Resolution reversing the ruling of the Comelec First Division. It held that Arnado's use of his US passport did not operate to revert his status to dual citizenship. The Comelec En Banc found merit in Arnado's explanation that he continued to use his US passport because he did not yet know that he had been issued a Philippine passport at the time of the relevant foreign trips. The Comelec En Banc further noted that, after receiving his Philippine passport, Arnado used the same for his subsequent trips.

Maquiling then sought recourse to this Court by filing a petition docketed as G.R No. 195649.

While G.R No. 195649 was pending, the period for the filing of CoCs for local elective officials for the May 13, 2013 elections officially began. On October 1, 2012, Arnado filed his CoC[6] for the same position. Respondent Capitan also filed his CoC for the mayoralty post of Kauswagan.

On April 16, 2013, this Court rendered its Decision in Maquiling. Voting 10-5, it annulled and set aside the Comelec En Banc's February 2, 2011 Resolution, disqualified Arnado from running for elective position, and declared Maquiling as the duly elected mayor of Kauswagan, Lanao Del Norte in the May 10, 2010 elections. In so ruling, the majority of the Members of the Court opined that in his subsequent use of his US passport, Arnado effectively disavowed or recalled his April 3, 2009 Affidavit of Renunciation. Thus:

We agree with the pronouncement of the COMELEC First Division that "Arnado's act of consistently using his US passport effectively negated his "Affidavit of Renunciation." Tills does not mean that he failed to comply with the twin requirements under R.A. No. 9225, for he in fact did. It was after complying with the requirements that he performed positive acts which effectively disqualified him from running for an elective public office pursuant to Section 40(d) of the Local Government Code of 1991.

The purpose of the Local Government Code in disqualifying dual citizens from running for any elective public office would be thwarted if we were to allow a person who has earlier renounced his foreign citizenship, but who subsequently represents himself as a foreign citizen, to hold any public office.

x x x x

We therefore hold that Arnado, by using his US passport after renouncing his American citizenship, has recanted the same Oath of Renunciation he took. Section 40(d) of the Local Government Code applies to his situation. He is disqualified not only from holding the public office but even from becoming a candidate in the May 2010 elections.[7]

The issuance of this Court's April 16, 2013 Decision sets the stage for the present controversy.

On May 9, 2013 or shortly after the Court issued its Decision in Maquiling, Arnado executed an Affidavit Affirming Rommel C. Arnado's "Affidavit of Renunciation Dated April 3, 2009." [8]

The following day or on May 10, 2013, Capitan, Arnado's lone rival for the mayoralty post, filed a Petition[9] seeking to disqualify him from running for municipal mayor of Kauswagan and/or to cancel his CoC based on the ruling of this Court in Maquiling. The case was docketed as SPA No. 13-309 (DC) and was raffled to the Comelec's Second Division. The resolution of said petition was, however, overtaken by the May 13, 2013 elections where Arnado garnered 8,902 votes (84% of the total votes cast) while Capitan obtained 1,707 (16% of the total votes cast) votes only.

On May 14, 2013, Arnado was proclaimed as the winning candidate.

Unfazed, Capitan filed another Petition[10] this time seeking to nullify Arnado's proclamation. He argued that with the April 16, 2013 Decision of this Court in Maquiling, there is no doubt that Arnado is disqualified from running for any local elective office. Hence, Arnado's proclamation is void and without any legal effect.

Ruling of the Comelec Second Division

On September 6, 2013, the Comelec Second Division promulgated a Resolution granting the petition in SPA No. 13-309 (DC) and disqualify Arnado from running in the May 13, 2013 elections. Following Maquiling, it ratiocinated that at the time he filed his CoC on October 1, 2012, Arnado still failed to comply with the requirement of RA 9225 of making a personal and sworn renunciation of any and all foreign citizenship. While he executed the April 3, 2009 Affidavit of Renunciation, the same was deemed withdrawn or recalled when he subsequently traveled abroad using his US passport, as held in Maquiling.

The Comelec Second Division also noted that Arnado failed to execute another Affidavit of Renunciation for purposes of the May 13, 2013 elections. While a May 9, 2013 Affidavit Affirming Rommel C. Arnado's "Affidavit of Renunciation dated April 3, 2009" was submitted in evidence, the same would not suffice because it should have been executed on or before the filing of the CoC on October 1, 2012.

The dispositive portion of the Comelec Second Division's Resolution reads:

WHEREFORE, premises considered, the instant Petition is granted. Respondent Rommel Cagoco Arnado is disqualified from running in the 13 May 2013 National and Local Elections.

SO ORDERED.[11]

Ruling of the Comelec En Banc

Aggrieved, Arnado filed a Verified Motion for Reconsideration.[12] He argued that the Comelec Second Division erred in applying Maquiling claiming that the said case is not on all fours with the present controversy; that Capitan's Petition was filed beyond the 25-day reglementary period reckoned from the filing of the CoC sought to be cancelled; and, that the Comelec must uphold the sovereign will of the people of Kauswagan who expressed, thru the ballots, their overwhelming support for him as their mayor. Arnado prayed that the Comelec Second Division's September 6, 2013 Resolution be reversed and that he be declared as eligible to run for mayor of Kauswagan.

On December 9, 2013, the Comelec En Banc affirmed the ruling of the Comelec Second Division. It accordingly annulled the proclamation of Arnado and declared Capitan as the duly elected mayor of Kauswagan. The dispositive portion of the Comelec En Banc's Resolution reads:

WHEREFORE, premises considered, the instant motion for reconsideration is hereby DISMISSED. The Proclamation of Private Respondent Rommel C. Arnado as the duly elected mayor of Kauswagan, Lanao del Norte is hereby ANNULLED and SET ASIDE. FLORANTE T. CAPITAN is hereby DECLARED the duly elected Mayor of Kauswagan, Lanao del Norte in the May 13, 2013 Elections.

SO ORDERED.[13]

Hence, on December 16, 2013 Arnado filed the instant Petition with ancillary prayer for injunctive relief to maintain the status quo ante. On December 26, 2013, Arnado filed an Urgent Motion for Issuance of Status Quo Ante Order or Temporary Restraining Order[14] in view of the issuance by the Comelec En Banc of a Writ of Execution to implement its December 9, 2013 Resolution.

On January 14, 2014, this Court issued a Resolution[15] requiring the respondents to file their respective

comments on the petition. In the same Resolution, this Court granted Arnado's ancillary relief for temporary restraining order.

Capitan thus filed an Urgent Motion to Lift and/or Dissolve Temporary Restraining Order dated January 14, 2014,[16] contending that the acts sought to be restrained by Arnado are already fait accompli. He alleged that the Comelec En Banc had already issued a Writ of Execution[17] and pursuant thereto a Special Municipal Board of Canvassers was convened. It proclaimed him to be the duly elected mayor of Kauswagan and on January 2, 2014 he took his oath of office. Since then, he has assumed and performed the duties and functions of his office.

In a Resolution[18] dated February 25, 2014, this Court ordered the issuance of a Status Quo Ante Order directing the parties to allow Arnado to continue performing his functions as mayor of Kauswagan pending resolution of this case.

Issues

In support of his Petition, Arnado raises the following issues:

I

WHETHER x x x THE COMELEC EN BANC AND 2[ND] DIVISION VIOLATED PROCEDURAL DUE PROCESS AND COMMITTED GRAVE ABUSE OF DISCRETION IN FAILING TO DISMISS THE PETITIONS OF RESPONDENT CAPITAN ON THE GROUND OF FORUM-SHOPPING AND/OR LATE FILING, ETC.

II

WHETHER x x x THE COMELEC EN BANC VIOLATED DUE PROCESS AND COMMITTED GRAVE ABUSE OF DISCRETION BY ALLOWING COM. ELIAS YUSOPH TO REVIEW THE DECISION HE WROTE FOR THE 2[ND] DIVISION.

III

WHETHER x x x THE COMELEC COMMITTED GRAVE ABUSE OF DISCRETION IN DISENFRANCHISING 84% OF THE VOTERS OF KAUSWAGAN IN THE MAY 2013 ELECTIONS.

IV

WHETHER x x x THE COMELEC COMMITTED GRAVE ABUSE OF DISCRETION IN DISQUALIFYING PETITIONER WHO HAS FULLY COMPLIED WITH THE REQUIREMENTS OF RA 9225 BEFORE THE FILING OF HIS COC ON OCTOBER 1, 2012.[19]

Arnado claims that the Comelec committed grave abuse of discretion and violated his right to procedural due process in not dismissing Capitan's Petition in SPA No. 13-309 (DC). He avers that Capitan is guilty of forum-shopping because the latter subsequently filed a similar case docketed as SPC No. 13-019. In addition, SPA No. 13-309 (DC) was filed beyond the 25-day prescriptive period reckoned from the time of the filing of his CoC on October 1, 2012.

Arnado likewise claims that the proceeding before the Comelec is peppered with procedural infirmities. He asserts that the Comelec violated its own rules in deciding SPA No. 13-309 (DC) without first resolving Capitan's motion to consolidate; that SPA No. 13-309 (DC) was not set for trial and no hearing for the reception of evidence was ever conducted; and, that the Comelec did not follow its own rules requiring the issuance of a notice of promulgation of resolutions.

Arnado further claims that the Comelec En Banc not only committed grave abuse of discretion but also violated

his constitutional right to due process when it allowed Commissioner Elias R. Yusoph (Commissioner Yusoph) to participate in the review of the Decision he penned for the Second Division. Furthermore, the Comelec En Banc committed grave abuse of discretion when it disqualified him from running in the May 13, 2013 elections, thereby disenfranchising 84% of the voters of Kauswagan who all voted for him.

Finally, Arnado avers that further inquiry and examination of the notarial register of his former counsel, Atty. Thomas Dean M. Quijano, revealed that he executed an Affidavit of Renunciation with Oath of Allegiance[20] on November 30, 2009. Hence, at the time he filed his CoC on October 1, 2012, he is a citizen of the Philippines who does not owe allegiance to any other country and, therefore, is qualified to run for mayor of Kauswagan in the May 13, 2013 elections.

Our Ruling

The Petition is devoid of merit.

Petition for certiorari is limited to the determination of whether the respondent tribunal acted with grave abuse of discretion amounting to lack or excess of jurisdiction.

In a petition for certiorari under Rule 64 in relation to Rule 65 of the Rules of Court, the primordial issue to be resolved is whether the respondent tribunal committed grave abuse of discretion amounting to lack or excess of jurisdiction in issuing the assailed resolution. And as a matter of policy, this Court will not interfere with the resolutions of the Comelec unless it is shown that it had committed grave abuse of discretion.[21] Thus, in the absence of grave abuse of discretion, a Rule 64 petition will not prosper. Jurisprudence, on the other hand, defines grave abuse of discretion as the "capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction." [22] "Mere abuse of discretion is not enough; it must be grave." [23] Grave abuse of discretion has likewise been defined as an act done contrary to the Constitution, the law or jurisprudence.[24]

In this case, and as will be discussed below, there is no showing that the Comelec En Banc acted capriciously or whimsically in issuing its December 9, 2013 Resolution. Neither did it act contrary to law or jurisprudence.

Arnado's allegations that Capitan violated the rule against forum-shopping and that the latter's petition in SPA No.13-309(DC) was filed late, unsubstantiated and erroneous.

There is forum-shopping when two or more actions or proceedings, founded on the same cause, are instituted by a party on the supposition that one or the other court would make a favorable disposition.[25] It exists when the elements of *litis pendentia* are present or where a final judgment in one case will amount to *res judicata* in the other.[26] Thus, there is forum-shopping when in both actions there exist: (1) identity of parties, or at least such parties as would represent the same interests in both actions; (2) identity of rights asserted and relief prayed for, the relief being founded on the same facts; and (3) the identity of the two preceding particulars is such that any judgment rendered in the other action will, regardless of which party is successful, amount to *res judicata* in the action under consideration.[27]

Here, Arnado failed to substantiate his claim of forum-shopping. He merely made a general averment that in resolving the petitions of Capitan in SPA No. 13-309 (OC) and SPC No. 13-019, the Comelec En Banc, as well as its Second Division, failed to comply with this Court's Revised Circular No. 28-91,[28] without demonstrating

how forum-shopping was supposed to be present. He has not shown that the petitions in SPA No. 13-309 (DC) and SPC No. 13-019 involved the same parties, issues, and reliefs. In fact, Arnado did not even bother to submit to this Court a copy of the Petition in SPC No. 13-019 (annulment of proclamation case). As the party insisting that Capitan committed forum-shopping, Arnado bears the burden of establishing the same. After all, it is settled that he who alleges has the burden of proving it; mere allegation is not sufficient.[29]

Besides, and as correctly observed by the Solicitor General, the parties in SPA No. 13-309 (DC) and SPC No. 13-019 are not the same. In the first case, the parties are only Capitan and Arnado. In the second case, the Municipal Board of Canvassers of Kauswagan, Lanao del Norte is impleaded as respondent. There is also dissimilitude in the reliefs sought. The former case sought to disqualify Arnado and/or to cancel his CoC while the latter case prayed for the annulment of Arnado's proclamation as mayor of Kauswagan.

With regard to the alleged tardiness in the filing of Capitan's Petition in SPA No. 13-309 (DC), it appears that Arnado either failed to grasp the import of Capitan's allegations therein or he made a deliberate partial misrepresentation in stating that the same is one for cancellation of CoC. A copy[30] thereof annexed to Arnado's herein petition states that it is a petition "to disqualify and/or cancel the certificate of candidacy" of Arnado. The allegations therein state in no uncertain terms that it is one for disqualification based on Arnado's failure to comply with the requisites of RA 9225 and on the ruling of this Court in Maquiling. Thus, the Comelec Second Division appropriately treated it as a petition for disqualification with the alternative prayer to cancel Arnado's CoC. It is elementary that the nature of the action is determined by the allegations in the petition.[31]

Under Section 3, Rule 25 of the Comelec Rules of Procedure,[32] a petition for disqualification should be filed "any day after the last day for filing of certificates of candidacy but not later than the date of proclamation." Here, Arnado was proclaimed as the winning candidate on May 14, 2013.[33] Thus, the petition in SPA No. 13-309 (DC) was seasonably filed on May 10, 2013.[34]

The other procedural lapses allegedly committed by the Comelec are likewise unsubstantiated. Assuming the allegations of Arnado to be true, the Comelec did not commit grave abuse of discretion amounting to lack or excess of jurisdiction.

Arnado's claim that the Comelec gravely abused its discretion in deciding SPA No. 13-309 (DC) without first resolving Capitan's motion to consolidate likewise lacks substantiation. In the first place, Arnado has not attached a copy of said motion to his petition. This alone is sufficient ground for the dismissal of his Rule 64 Petition, filed in relation to Rule 65 of the Rules of Court, for not being accompanied by pleadings and documents relevant and pertinent thereto.[35] Also, it was Capitan who filed the motion for consolidation. Not being the movant, Arnado is not in a position to question the alleged inaction of the Comelec on said motion. And even assuming that he has, by filing a Verified Motion for Reconsideration with the Comelec En Banc and subsequently appealing to this Court despite the still unresolved motion for consolidation, Arnado effectively abandoned said motion for consolidation. In *Cayago v. Hon. Lina*,[36] it was held that once a party elevates the case before the appellate tribunal, the appellant is deemed to have abandoned the unresolved motion which remains pending with the tribunal of origin. "[I]t is not right for a party who has affirmed and invoked the jurisdiction of a court in a particular matter to secure an affirmative relief, to afterwards make a volte face and deny that same jurisdiction." [37]

In any case, under Section 9, Rule 3 of the Comelec Rules of Procedure, consolidation is only permissive. It is not mandatory. Section 9 reads:

Sec. 9. Consolidation of Cases.- When an action or proceeding involves a question of law and fact which is similar to or common with that of another action or proceeding, the same may be consolidated with the action or proceeding bearing the lower docket number.

In *Muñoz v. Comelec*,^[38] this Court accentuated "that the term 'may' is indicative of a mere possibility, an opportunity or an option. The grantee of that opportunity is vested with a right or faculty which he has the option to exercise. If he chooses to exercise the right, he must comply with the conditions attached thereto, which in this case require that the cases to be consolidated must involve similar questions of law and fact."^[39] In this case, the consolidation of SPA No. 13-309 (DC) and SPC No. 13-019 does not appear to be necessary. As earlier mentioned, said cases do not even involve the same parties and reliefs sought. Hence, no grave abuse of discretion can be attributed to the Comelec in not consolidating them.

Arnado's protestation that the Comelec violated its own rules when it decided SPA No. 13-309 (DC) without setting it for trial likewise deserves scant consideration. The proceedings in a special action for disqualification of candidates under Rule 25 of the Comelec Rules of Procedure are summary in nature where a trial type proceeding may be dispensed with.^[40] In *Diangka v. Comelec*,^[41] this Court held that:

Again, our ingrained jurisprudence is that technical rules of evidence should not be rigorously applied in administrative proceedings specially where the law calls for the proceeding to be summary in character. Pursuant to Section 4, Rule 25 of the 1993 COMELEC Rules of Procedure, petitions for disqualifications are subject to summary hearings. In relation thereto, Section 3, Rule 17 of the said Rules provides that it remains in the sound discretion of the COMELEC whether clarification questions are to be asked the witnesses-affiants, and whether the adverse party is to be granted opportunity to cross-examine said witnesses- affiants. Furthermore, when the COMELEC en banc reviews and evaluates a party's petition, or as in the case at bar, a party's answer and the supporting papers attached thereto, the same is tantamount to a fair "hearing" of his case.^[42]

Arnado's claim that the Comelec En Banc committed grave abuse of discretion and violated his right to due process in allowing Commissioner Yusoph to participate in the deliberation of the assailed Comelec En Banc Resolution is likewise bereft of substantiation.

Arnado's claim that Commissioner Yusoph penned both the September 6, 2013 Resolution of the Comelec Second Division and the December 9, 2013 Resolution of the Comelec En Banc is not correct. While Commissioner Yusoph, together with Commissioners Maria Gracia Cielo M. Padaca and Luie Tito F. Guia, signed said Resolution, there is nothing therein which would indicate that Commissioner Yusoph was the writer or the ponente of said Resolution. The September 6, 2013 Resolution of the Comelec Second Division does not state who the ponente is. The same goes true with the questioned December 9, 2013 Per Curiam Resolution^[43] of the Comelec En Banc. As a per curiam resolution, it was arrived at by the Comelec En Banc as a whole and without any particular ponente. Hence, we need not belabor Arnado's claim of denial of due process as his basis therefor lacks factual moorings.

Arnado has not yet satisfied the twin

requirements of Section 5(2) of RA 9225 at the time he filed his CoC for the May 13, 2013 elections; subsequent compliance does not suffice.

Under Section 4(d) of the Local Government Code, a person with "dual citizenship" is disqualified from running for any elective local position. In *Mercado v. Manzano*,^[44] it was clarified that the phrase "dual citizenship" in said Section 4(d) must be understood as referring to "dual allegiance."^[45] Subsequent, Congress enacted RA 9225 allowing natural-born citizens of the Philippines who have lost their Philippine citizenship by reason of their naturalization abroad to reacquire Philippine citizenship and to enjoy full civil and political rights upon compliance with the requirements of the law. They may now run for public office in the Philippines provided that they: (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^[46] prior to or at the time of filing of their CoC. Thus:

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 qualification 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;

In the case at bench, the Comelec Second Division, as affirmed by the Comelec En Banc, ruled that Arnado failed to comply with the second requisite of Section 5 (2) of RA 9225 because, as held in *Maquiling v. Commission on Elections*,^[47] his April 3, 2009 Affidavit of Renunciation was deemed withdrawn when he used his US passport after executing said affidavit. Consequently, at the time he filed his CoC on October 1, 2012 for purposes of the May 13, 2013 elections, Arnado had yet to comply with said second requirement. The Comelec also noted that while Arnado submitted an affidavit dated May 9, 2013, affirming his April 3, 2009 Affidavit of Renunciation, the same would not suffice for having been belatedly executed.

The Comelec En Banc did not err, nor did it commit grave abuse of discretion, in upholding the Resolution of the Comelec Second Division disqualifying Arnado from running for public office. It is worth noting that the reason for Arnado's disqualification to run for public office during the 2010 elections — being a candidate without total and undivided allegiance to the Republic of the Philippines - still subsisted when he filed his CoC for the 2013 elections on October 1, 2012. The Comelec En Banc merely adhered to the ruling of this Court in *Maquiling* lest it would be committing grave abuse of discretion had it departed therefrom.

Moreover, it cannot be validly argued that Arnado should be given the opportunity to correct the deficiency in his qualification because at the time this Court promulgated its Decision in *Maquiling* on April 16, 2013, the period for filing the CoC for local elective office had already lapsed. Or, as Justice Arturo D. Brion puts it in his Dissenting Opinion, "[t]o the extent that Arnado was denied the chance to submit a replacement oath of renunciation in 2013, then there was an unfair and abusive denial of opportunity equivalent to grave abuse of discretion." Besides, shortly after learning of the Court's April 16, 2013 ruling in *Maquiling* or on May 9, 2013, Arnado substantially complied therewith by executing an affidavit affirming his April 3, 2009 Affidavit of Renunciation.

The ruling in *Maquiling* is indeed novel in the sense that it was the first case dealing with the effect of the use of a

foreign passport on the qualification to run for public office of a natural-born Filipino citizen who was naturalized abroad and subsequently availed of the privileges under RA 9225. It was settled in that case that the use of a foreign passport amounts to repudiation or recantation of the oath of renunciation. Yet, despite the issue being novel and of first impression, plus the fact that Arnado could not have divined the possible adverse consequences of using his US passport, the Court in *Maquiling* did not act with leniency or benevolence towards Arnado. Voting 10-5, the Court ruled that matters dealing with qualifications for public elective office must be strictly complied with. Otherwise stated, the Court in *Maquiling* did not consider the novelty of the issue as to excuse Arnado from strictly complying with the eligibility requirements to run for public office or to simply allow him to correct the deficiency in his qualification by submitting another oath of renunciation. Thus, it is with more reason that in this case, we should similarly require strict compliance with the qualifications to run for local elective office.

The circumstances surrounding the qualification of Arnado to run for public office during the May 10, 2010 and May 13, 2013 elections, to reiterate for emphasis, are the same. Arnado's use of his US passport in 2009 invalidated his oath of renunciation resulting in his disqualification to run for mayor of Kauswagan in the 2010 elections. Since then and up to the time he filed his CoC for the 2013 elections, Arnado had not cured the defect in his qualification. *Maquiling*, therefore, is binding on and applicable to this case following the salutary doctrine of *stare decisis et non quieta movere*, which means to adhere to precedents, and not to unsettle things which are established.[48] Under the doctrine, "[w]hen the court has once laid down a principle of law as applicable to a certain state of facts, it will adhere to that principle and apply it to all future cases where facts are substantially the same." [49] It enjoins adherence to judicial precedents and bars relitigation of the same issue.[50]

It may not be amiss to add that as early as 2010, the year when Balua filed a petition to disqualify him, Arnado has gotten wind that the use of his US passport might pose a problem to his candidacy. In other words, when Arnado filed his CoC on October 1, 2012, he was not totally unaware that the use of his US passport after he had executed the Affidavit of Renunciation might have an impact on his qualification and candidacy. In fact, at that time, *Maquiling* had already reached this Court. But despite the petitions filed against him questioning his qualification to run for public office in 2010, Arnado filed his CoC on October 1, 2012 unmindful of any possible legal setbacks in his candidacy for the 2013 elections and without executing another Affidavit of Renunciation. In short, the argument that Arnado should be given the opportunity to correct the deficiency in his CoC since *Maquiling* was promulgated after the lapse of the period for filing a CoC for the 2013 elections, is totally bereft of merit. Consistent with our April 16, 2013 ruling in *Maquiling*, Arnado should be made to face the consequences of his inaction since he could have remedied it at the time he filed his CoC on October 1, 2012 or even before that. There is no law prohibiting him from executing an Affidavit of Renunciation every election period if only to avert possible questions about his qualifications.

The alleged November 30, 2009
Affidavit of Renunciation with Oath of
Allegiance cannot be given any
probative weight.

As to the alleged recently discovered November 30, 2009 Affidavit of Renunciation with Oath of Allegiance, the same is highly suspect. As correctly pointed out by the Solicitor General, the original or certified true copy thereof was not presented. In addition, such crucial evidence sufficient to alter the outcome of the case was never presented before the Comelec much less in the *Maquiling* case. Curiously, it only surfaced for the first time in this petition. In *Jacot v. Dal*, [51] this Court disallowed the belated presentation of similar evidence on due process considerations. Thus:

As a rule, no question will be entertained on appeal unless it has been raised in the proceedings below. Points of law, theories, issues and arguments not brought to the attention of the lower court, administrative agency or quasi-judicial body need not be considered by a reviewing court, as they cannot be raised for the first time at that late stage. Basic considerations of fairness and due process impel this rule. Courts have neither the time nor the resources to accommodate parties who chose to go to trial haphazardly.

Likewise, this Court does not countenance the late submission of evidence. Petitioner should have offered the Affidavit dated 7 February 2007 during the proceedings before the COMELEC.

Section 1 of Rule 43 of the COMELEC Rules of Procedure provides that "In the absence of any applicable provisions of these Rules, the pertinent provisions of the Rules of Court in the Philippines shall be applicable by analogy or in suppletory character and effect." Section 34 of Rule 132 of the Revised Rules of Court categorically enjoins the admission of evidence not formally presented:

SEC. 34. Offer of evidence.- The court shall consider no evidence which has not been formally offered. The purpose for which the evidence is offered must be specified.

Since the said Affidavit was not formally offered before the COMELEC, respondent had no opportunity to examine and controvert it. To admit this document would be contrary to due process. Additionally, the piecemeal presentation of evidence is not in accord with orderly justice.[52]

Moreover, in Maquiling it was mentioned that Arnado used his US passport on January 12, 2010 and March 23, 2010. Thus:

Balua likewise presented a certification from the Bureau of Immigration dated 23 April 2010, certifying that the name "Arnado, Rommel Cagoco" appears in the available Computer Database/Passenger manifest/IBM listing on file as of 21 April 2010, with the following pertinent travel records:

DATE OF Arrival

:

01/12/2010

NATIONALITY

:

USA-AMERICAN

PASSPORT

:

057782700

DATE OF Arrival

:

03/23/2010

NATIONALITY

:

USA-AMERICAN

PASSPORT

:

057782700[53]

Despite the existence of such statement in Maquiling, We are puzzled why Arnado never bothered to correct or refute it. He neither alleged nor presented evidence in this petition to prove that he did not travel abroad on those dates using his US passport.

Justice Marvic M.V.F. Leonen, however, dissents and maintains the same position he had taken in Maquiling that Arnado's use of his US passport in 2009 is an isolated act justified by the circumstances at that time. At any rate, Arnado started to use his Philippine passport in his travels abroad beginning December 11, 2009 and thenceforth. This, according to J. Leonen, is borne out by Arnado's Philippine passport.

With due respect to my esteemed colleague, it appears that J. Leonen is not only reviving an issue that had already been settled with finality in the Maquiling case, but he is also going beyond the issues raised in this petition. To reiterate for clarity, Arnado's argument in this case-that he is qualified to run for mayor as he has satisfied the requirements of Sec. 5(2) of RA 9225 relative to the May 13, 2013 elections- is premised only on the alleged newly discovered November 30, 2009 Affidavit. Nothing more. He does not claim in this case that his use of US passport in his travel abroad in 2009 is an isolated act, as J. Leonen insists. In *Vazquez v. De Borja*,[54] it was held that courts do not have jurisdiction over issues neither raised in the pleading nor tried with the express or implied consent of the parties. They cannot render judgment based on issues that have never been raised before them. Equally settled is the rule that "points of law, theories, issues, and arguments not brought to the attention of the lower [tribunal] need not be, and ordinarily will not be, considered by a reviewing court, as these cannot be raised for the first time at such late stage. Basic considerations of due process underlie this rule." [55] The same goes true with J. Brion's theory that what was cancelled by virtue of Maquiling was only the April 3, 2009 Affidavit of Renunciation where Arnado expressly renounced any foreign citizenship; not the July 10, 2008 Oath of Allegiance which carried with it an implied abdication of foreign citizenship. For J. Brion, "[t]he requirement of an express renunciation x x x does not negate the effect of, or make any less real, the prior implicit renunciation of citizenship and allegiance made upon taking the oath of allegiance." Again, this was never raised in this petition. At any rate, the execution of an Oath of Allegiance is required by Section 3[56] of RA 9225. For those who avail themselves of RA 9225 and intend to run for public office, Section 5(2) thereof provides the additional requirement of making a personal and sworn renunciation of any and all foreign citizenships prior to or at the time of filing of their CoC. Definitely, the provisions of Section 5(2) are not useless or meaningless surplusage. When the law expressly requires an explicit renunciation, an implicit one would be insufficient. Furthermore, even assuming that Arnado's 2008 implied renunciation is sufficient, the same has also been negated by his use of his US passport in 2009, following the ruling in Maquiling. Otherwise, we would give more weight to an implied renunciation than to an express one specifically required by law.

Besides, the Decision of this Court in Maquiling holding that Arnado's use of his US passport effectively recanted his Affidavit of Renunciation has already become final and immutable. We can no longer resurrect in this case the issues that have already been resolved there with finality.

In maintaining that Arnado used his Philippine passport in travelling abroad in the first quarter of 2010, J. Leonen relies on the copy thereof attached to the rollo of the Maquiling case. But said copy of Arnado's Philippine passport[57] is a mere "CERTIFIED TRUE COPY FROM THE MACHINE COPY ON FILE" as attested to by Rosario P. Palacio, Records Officer III of the Comelec.[58] This is clearly stamped on aforesaid copy of Arnado's Philippine passport. A machine copy or photocopy is a mere secondary evidence.[59] As such, it cannot be admitted in evidence until and unless the offeror has proven the due execution and the subsequent loss or

unavailability of the original.[60] In this case, however, Arnado's Philippine passport is not missing. Thus, said photocopy of Arnado's Philippine passport cannot sway us to depart from the uncontroverted certification of the Bureau of Immigration that Arnado used his US passport on January 12, 2010 and March 23, 2010. Consequently, even assuming that the recently discovered November 30, 2009 Affidavit of Renunciation with Oath of Allegiance is true and authentic, Arnado once more performed positive acts on January 12, 2010 and March 23, 2010, which effectively negated the alleged November 30, 2009 Affidavit resulting in his disqualification to run for an elective public office.

Landslide election victory cannot
override eligibility requirements.

In *Maquiling*, this Court emphasized that popular vote does not cure the ineligibility of a candidate. Thus, while in this case Arnado won by landslide majority during the 2013 elections, garnering 84% of the total votes cast, the same "cannot override the constitutional and statutory requirements for qualifications and disqualifications." [61] In *Velasco v. Comelec*, [62] this Court pronounced that election victory cannot be used as a magic formula to bypass election eligibility requirements; otherwise, certain provisions of laws pertaining to elections will become toothless. One of which is Section 39 of the Local Government Code of 1991, which specifies the basic positive qualifications of local government officials. If in *Velasco* the Court ruled that popular vote cannot override the required qualifications under Section 39, [63] a fortiori, there is no reason why the Court should not follow the same policy when it comes to disqualifications enumerated under Section 40 [64] of the same law. After all, "[t]he qualifications set out in [Section 39] are roughly half of the requirements for election to local public offices. The other half is contained in the succeeding section which lays down the circumstances that disqualify local candidates." [65]

Finally, this case is strikingly similar to the case of *Lopez v. Comelec*. [66] In that case, petitioner Lopez was also a natural-born Filipino who lost his Philippine citizenship after he became a naturalized US citizen. He later reacquired his Philippine citizenship by virtue of RA 9225. Thereafter, Lopez filed his candidacy for Chairman of Barangay Bagacay, San Dionisio, Iloilo in the synchronized Barangay and Sangguniang Kabataan Elections held on October 29, 2007 without first making a personal and sworn renunciation of his foreign citizenship. In spite of the fact that Lopez won in the elections, this Court still affirmed the Resolution of the Comelec disqualifying Lopez as a candidate for a local elective position for his failure to comply with the requirements of Section 5(2) of RA 9225. Thus:

While it is true that petitioner won the elections, took his oath and began to discharge the functions of Barangay Chairman, his victory cannot cure the defect of his candidacy. Garnering the most number of votes does not validate the election of a disqualified candidate because the application of the constitutional and statutory provisions on disqualification is not a matter of popularity. [67]

In fine, this Court finds no grave abuse of discretion on the part of the Comelec En Banc in sustaining the Resolution of the Comelec Second Division disqualifying Arnado from running in the May 13, 2013 elections and in accordingly setting aside his proclamation as elected mayor of Kauswagan, Lanao del Norte and proclaiming Capitan as the duly elected mayor of said municipality.

WHEREFORE, the instant Petition is hereby DISMISSED and the assailed Comelec Resolutions are AFFIRMED. The Status Quo Ante Order issued by this Court is LIFTED.

SO ORDERED.

Carpio, Velasco, Jr, Leonardo-De Castro, Peralta, Bersamin, and Perlas-Bernabe, JJ., concur.
Sereno, C.J., see concurring opinion.

Leonen, J., see concurring and dissenting opinion.

Brion, J., see my dissent.

Perez, J., joins the dissent of J. Brion.

Mendoza, J., joins the dissents of J. Brion and J. Leonen.

Jardeleza, J., no part.

Villarama, Jr., J., on official leave.

Reyes, J., on leave.

NOTICE OF JUDGMENT

Sirs/Mesdames:

Please take notice that on August 18, 2015 a Decision/Resolution, copy attached herewith, was rendered by the Supreme Court in the above-entitled case, the original of which was received by this Office on September 9, 2015 at 1:40 p.m.

Very truly yours,

(SGD)

FELIPA G. BORLONGAN-ANAMA

Clerk of Court

[1] Rollo, pp.3-19.

[2] Id. at 20-32; signed by Chainrum Sixto S. Brillantes, Jr. and Commissioners Lucenito N. Tagle, Elias R. Yusoph, Christian Robert S. Lim. Maria Gracia Cielo M. Padaca, Al A. Parreño and Luie Tito F. Guia.

[3] Id. at 37-46; signed by Commissioners Elias R. Yusoph, Maria Gracia Cielo M. Padaca, and Luie Tito F. Guia.

[4] G.R No. 195649, April 16, 2013, 696 SCRA 420.

[5] CITIZENSHIP RETENTION AND RE-ACQUISITION ACT OF 2003.

[6] Rollo, p.73.

[7] Supra note 4, at 453-455.

[8] Rollo, p. 74.

[9] Id. at 47-53.

[10] Id. at 442-454.

[11] Id. at 45.

[12] Id. at 75-84.

[13] Id. at 31.

[14] Id at 85-94.

[15] Id. at 116-117

[16] Id. at 133-142.

[17] Id. at 143-146.

[18] Id. at 418-421.

[19] Id. at 8.

[20] Id. at 84.

[21] Velasco v. Commission on Elections, 595 Phil. 1172, 1183 (2008).

[22] Mayor Varias v. COMELEC, 626 Phil. 292, 314 (2010).

[23] Id.

[24] Information Technology Foundation of the Philippines v. COMELEC, 464 Phil. 173, 190 (2004).

[25] Asia United Bank v. Goodland Company, Inc., 652 Phil. 234, 239 (2010).

[26] Id.

[27] Chavez v. Court of Appeals, 624 Phil. 396, 400 (2010).

[28] ADDITIONAL REQUISITES FOR PETITIONS FILED WITH THE SUPREME COURT AND THE COURT OF APPEALS TO PREVENT FORUM SHOPPING OR MULTIPLE FILING OF PETITIONS AND COMPLAINTS (1991).

[29] Morales v. Skills International Co. and/or Maher Daas, 531 Phil. 579, 590 (2006).

[30] Rollo, pp. 47-51.

[31] Banaga, Jr. v. Commission on Elections, 391 Phil. 596,605 (2000).

[32] Rule 25-Disqualification of Candidates

Sec. 3. Period to File Petition.-The petition shall be filed any day after the last day for filing of certificates of candidacy but not later than the date of proclamation.

For further discussion on the period for filing a petition for disqualification, see also Gonzalez v. COMELEC, 660 Phil. 225 (2011) and the case of Loong v. Commission on Elections, G.R No. 93986, December 22, 1992, 216 SCRA 760, cited therein.

[33] Rollo, p. 68.

[34] Id. at 47.

[35] Section I, Rule 65 of the Rules of Court requires that "[t]he petition shall be accompanied by a certified true copy of the judgment, order or resolution subject thereof, copies of all pleadings and documents relevant and pertinent thereto, and a sworn certification of non-forum shopping as provided in the third paragraph of Section 3, Rule 46.

[36] 489 Phil. 735 (2005).

[37] Id. at 749.

[38] 527 Phil. 733 (2006).

[39] Id. at 741-742.

[40] Section 4 of Rule 25 of the Comelec Rules of Procedure; *Nolasco v. COMELEC*, 341 Phil. 761, 773 (1997).

[41] 380 Phil. 859 (2000).

[42] Id. at 873-874.

[43] *Rollo*, pp. 20-31.

[44] 367 Phil. 132 (1999).

[45] Id. In this case the Court differentiated dual citizenship from dual allegiance as follows:

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

(1) Those born of Filipino fathers and/or mothers in foreign countries which follow the principle of *jus soli*;

(2) Those born in the Philippines of Filipino mothers and alien fathers if by the laws of their fathers' country such children are citizens of that country;

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

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

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

With respect to dual allegiance, Article IV, §5 of the Constitution provides: "Dual allegiance of citizens is inimical to the national interest and shall be dealt with by law."

[46] Section 5(2), RA. 9225; *Japzon v. COMELEC*, 596 Phil. 354, 368 (2009).

[47] Entry of judgment was made on August 16, 2013.

[48] *Lazatin v. Hon. Desierto*, 606 Phil. 271, 281 (2009).

[49] *Tung Chin Hui v. Rodriguez*, 395 Phil. 169, 177 (2000).

[50] *Philippine Guardians Brotherhood, Inc. (PGBI) v. COMELEC*, 633 Phil. 590, 603 (2010).

[51] 592 Phil. 661 (2008).

[52] Id. at 675-676.

[53] Supra note 4 at 433.

[54] 74 Phil. 560, 568 (1944).

[55] *Penera v. Commission on Elections*, 615 Phil. 667, 708 (2009).

[56] Section 3. Retention of Philippine Citizenship. - Any provision of law to the contrary notwithstanding, 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 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 impose 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 the foreign country shall retain their Philippine citizenship upon taking the aforesaid oath.

[57] *Rollo* (G.R No. 195649), pp. 242-245.

[58] Emphasis supplied.

[59] *Country Bankers Insurance Corporation v. Lagman*, 669 Phil. 205, 216 (2011).

[60] *Citibank, NA. Mastercard v. Teodoro*, 458 Phil. 480,489 (2003).

[61] Supra note 4 at 459.

[62] Supra note 21 at 1195.

[63] SECITON 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, 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.

(b) Candidates for the position of governor, vice-governor or member of the sangguniang panlalawigan, or mayor, vice-mayor or member of the sangguniang panlungsod of highly urbanized cities must be at least twenty- three (23) years of age on election day.

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

(d) Candidates for the position of member of the sangguniang panlungsod or sangguniang bayan must be at least eighteen (18) years of age on election day.

(e) Candidates for the position of punong barangay or member of the sangguniang barangay must be at least eighteen (18) years of age on election day.

(f) Candidates for the sangguniang kabataan must be at least fifteen (15) years of age but not more than twenty-one (21) years of age on election day.

[64] SECTION 40. Disqualifications.- The following persons are disqualified from running for any elective local position:

- (a) Those sentenced by final judgment for an offense involving moral turpitude or for an offense punishable by one (1) year or more of imprisonment, within two (2) years after serving sentence;
- (b) Those removed from office as a result of administrative case;
- (c) Those convicted by final judgment for violating the oath of allegiance to the Republic; (d) Those with dual citizenship;
- (e) Fugitives from justice in criminal or nonpolitical cases here or abroad;
- (f) Permanent residents in a foreign country or those who have acquired the right to reside abroad and continue to avail of the same right after the effectivity of this Code; and
- (g) The insane or feeble-minded.

[65] Pimentel, Jr., *The Local Government Code Revisited*, 2011 ed., 164.

[66] 581 Phil. 657 (2008).

[67] *Id.* at 663.

CONCURRING OPINION

SERENO, C.J.:

In *Moy Ya Lim Yao v. Commissioner of Immigration*,^[1] we emphasized the variable nature of a person's citizenship, which cannot be determined with finality or become the basis of rules that can be applied to any and all proceedings thereafter. We said:

Everytime the citizenship of a person is material or indispensable in a judicial or administrative case, whatever the corresponding court or administrative authority decides therein as to such citizenship is generally not considered as *res adjudicata*, hence it has to be threshed out again and again as the occasion may demand.^[2]

In election contests, this pronouncement gains significance, as elective local officials are constitutionally allowed to run and serve for three consecutive terms.^[3] While citizenship is a continuing requirement that must be possessed not only at the time of election or assumption of office, but also during the entire tenure of the official,^[4] it is not a continuing disqualification to run for and hold public office.^[5]

As such, each case involving the question of an elective official's citizenship must be treated anew in accordance with the surrounding relevant facts and applicable laws.

In this regard, I agree with some of the statements of J. Brion in his Dissenting Opinion. Indeed, the Court's ruling in *Maquiling v. COMELEC*^[6] went only so far as to determine whether Rommel C. Arnado (Arnado) was qualified to run for public office in the 2010 elections. It did not operate as, nor was it intended to be, a final determination of Arnado's citizenship that would forever derail his career as a public official.

In *Maquiling*, we reiterated that natural-born citizens of the Philippines who have lost their citizenship by reason of their naturalization as citizens of a foreign country may qualify to run for public office upon taking the Oath of Allegiance^[7] and making a sworn renunciation of their foreign citizenship.^[8] Arnado subjected his citizenship to attack when he continued to use his United States (US) passport to travel in and out of the country despite

previously renouncing his US citizenship. The Court ruled that his use of his US passport nullified the effect of his previous renunciation of US citizenship. While he did not lose his Philippine citizenship in the process, he reverted to his status as a dual citizen and remained as such at the time that he filed his Certificate of Candidacy for the position of mayor of Kauswagan, Lanao del Norte in the 2010 elections. Under Section 40(d) of the Local Government Code, those with dual citizenship are disqualified from running for any elective local position.

Considering that the Court had pinpointed the defect in Arnado's oath of renunciation, the simple act of taking the oath anew would have been enough compliance with the requirement of the law.

The Decision found that from the time Arnado used his US passport to travel in and out of the country up to the filing of his Certificate of Candidacy for the succeeding elections in 2013, there had been no change in his circumstances.[9] He still had not made a sworn renunciation of his US citizenship. Thus, the ruling in Maquiling still applies: that Arnado had dual citizenship when he filed for his candidacy on 1 October 2012.

It did not matter that Maquiling was promulgated months after Arnado had filed for candidacy. Since he was not totally unaware that the use of his US passport might have adverse consequences on his candidacy for the 2013 elections, the Decision concludes that he should have been prudent enough to remedy whatever defect there might have been in his citizenship.[10]

Even J. Brion concedes that Arnado could have been more circumspect in order to secure his qualification to run for public office.[11] However, it is insisted that the members of this Court should remove the present case from the shadow of Maquiling and arrive at its resolution based merely on the attendant factual and legal considerations specific to it.[12]

It cannot be denied that by virtue of its being a decision of the Court that joins the country's body of laws as jurisprudence, Maquiling serves as a "legal consideration" in the resolution of the present case. Maquiling's application cannot be helped, especially since the Decision therein hinged not only on relevant laws, but largely on the facts then presented before the Court. Thus, while the legal conclusion in Maquiling was not a final determination of Arnado's citizenship- as it applied only for purposes of the 2010 elections - the facts on which its legal conclusion was founded cannot be totally ignored.

A person's citizenship may be "threshed out again and again"[13] in every proceeding as long as it becomes relevant and necessary. Except for some clearly unmeritorious cases, it is always a good idea to decide on the merits, especially in election controversies in which the law is sometimes placed at odds with the will of the people. At the same time, the Court puts a premium on economy, and where previous declarations of one's citizenship become pertinent, those cases may be used as a take-off point if only to emphasize the differences and similarities, as well as the measures that were taken in the interim.

One point of contention between the Decision and the Dissenting Opinion is the finding that Arnado used his US passport for his travels in and out of the country on 12 January 2010 and 23 March 2010.

Maquiling indeed made a finding that Arnado used his US passport for travel on those dates. In the Court Resolution dated 2 July 2013, we said:

Well-settled is the rule that findings of fact of administrative bodies will not be interfered with by the courts in the absence of grave abuse of discretion on the part of said agencies, or unless the aforementioned findings are not supported by substantial evidence. They are accorded not only great respect but even finality, and are binding upon this Court, unless it is shown that the administrative body had arbitrarily disregarded or misapprehended evidence before it to such an extent as to compel a contrary conclusion had such evidence been properly appreciated.

Nevertheless, it must be emphasized that COMELEC First Division found that Arnado used his U.S. Passport at least six times after he renounced his American citizenship. This was debunked by the COMELEC En Banc, which found that Arnado only used his U.S. passport four times, and which agreed with Arnado's claim that he only used his U.S. passport on those occasions because his Philippine passport was not yet issued. The COMELEC En Banc argued that Arnado was able to prove that he used his Philippine passport for his travels on the following dates: 12 January 2010, 31 January 2010, 31 March 2010, 16 April 2010, 20 May 2010, and 4 June 2010.

None of these dates coincide with the two other dates indicated in the certification issued by the Bureau of Immigration showing that on 21 January 2010 and on 23 March 2010, Arnado arrived in the Philippines using his U.S. Passport No. 057782700 which also indicated therein that his nationality is USA-American. Adding these two travel dates to the travel record provided by the Bureau of Immigration showing that Arnado also presented his U.S. passport four times (upon departure on 14 April 2009, upon arrival on 25 June 2009, upon departure on 29 July 2009 and upon arrival on 24 November 2009), these incidents sum up to six.

The COMELEC En Banc concluded that "the use of the US passport was because to his knowledge, his Philippine passport was not yet issued to him for his use." This conclusion, however, is not supported by the facts. Arnado claims that his Philippine passport was issued on 18 June 2009. The records show that he continued to use his U.S. passport even after he already received his Philippine passport. Arnado's travel records show that he presented his U.S. passport on 24 November 2009, on 21 January 2010, and on 23 March 2010. These facts were never refuted by Arnado.

Thus, the ruling of the COMELEC En Banc is based on a misapprehension of the facts that the use of the U.S. passport was discontinued when Arnado obtained his Philippine passport.[14] (Emphases supplied)

It is important to clarify that the certification from the Bureau of Immigration indicated that Arnado arrived in the country using his US passport on 12 January 2010 and 23 March 2010.[15] The Court gave full credence to the certification, not only because it carried with it the presumption of regularity, but more important, Arnado never bothered to refute the contents thereof.

On the basis of this finding, the Court rejected the claim that Arnado's use of his US passport several times were mere isolated acts that were done only because he was not yet issued his Philippine passport.[16]

To my mind, this is the turning point of Maquiling that regrettably still applies in this case: that whatever professions of faith and allegiance to the Republic that Arnado claims when his citizenship is in question, the fact remains that during the instances that he used his US passport despite having a Philippine passport in his possession, those same professions became hollow. And, that up to the filing of Arnado's Certificate of Candidacy for the 2013 elections, he failed to remedy the fatal blow that such repeated use of his US passport dealt on his electoral qualifications.

I therefore concur with the DISMISSAL of the PETITION.

[1] 148-B Phil. 773 (1971).

[2] Id. at 855.

[3] CONSTITUTION, Article X, Section 8.

[4] Republic v. De La Rosa, G.R. Nos. 104654, 105715 & 105735, 6 June 1994, 232 SCRA 785; Labo, Jr. v. COMELEC, 257 Phil 1 (1989); Frivaldo v. COMELEC, G.R. No. 87193, 23 June 1989, 174 SCRA 245.

[5] Frivaldo v. COMELEC, 327 Phil 521 (1996).

[6] G.R. No. 195649, 16 April 2013, 696 SCRA 420.

[7] Section 3 of Republic Act No. 9225 (Citizenship Retention and Re-acquisition Act of 2003) states: Section 3. Retention of Philippine Citizenship. Any provision of law to the contrary notwithstanding, 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 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 impose 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.

[8] Section 5(2) of Republic Act No. 9225 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;

[9] Decision, G.R. No. 210164, p. 14.

[10] Id. at 15.

[11] Dissenting Opinion of J. Brion, G. R. No. 210164, p. 22.

[12] Id. at 2.

[13] *Moy Ya Lim Yao v. Commissioner of immigration*, supra.

[14] *Maquiling v. COMELEC*, G.R. No. 195649, 2 July 2013, 700 SCRA 367, 377-378.

[15] *Maquiling v. COMELEC*, supra note 6. The certification from the Bureau of Immigration dated 23 April 2010 certifies that the name "Arnado, Rommel Cagoco" appears in the Computer Database/Passenger Manifest/IBM Listing on file as of 21 April 2010 with the following pertinent travel records:

DATE of Arrival : 01/12/2010
NATIONALITY : USA-AMERICAN
PASSPORT : 057782700

DATE of Arrival : 03/23/2010
NATIONALITY : USA-AMERICAN
PASSPORT : 057782700

[16] Supra note 14.

CONCURRING AND DISSENTING OPINION

LEONEN, J.:

Petitioner Rommel C. Arnado renounced his foreign citizenship in accordance with Republic Act No. 9225 no less than three times. After he had filed his candidacy for the position of Mayor in 2013, this court promulgated its Decision in *Maquiling v. Commission on Elections*,^[1] which made it impossible for him to again renounce or reiterate his renunciation of his foreign citizenship. In the 2013 elections, he won garnering 84% of the votes cast in his municipality. The majority opinion requires him now, yet again, to renounce his foreign citizenship.

I concur with the ponencia's finding that petitioner's claim of procedural infirmities that occurred during the proceedings before the Commission on Elections is unsubstantiated.

However, I cannot agree with the conclusion that petitioner remained an American citizen in accordance with this court's ruling in *Maquiling*. Petitioner was already a Filipino citizen at the time he filed his Certificate of Candidacy on October 1, 2012. He was qualified to run in the 2013 Elections. The Petition should be granted.

I

Petitioner has performed all the acts required by Republic Act No. 9225^[2] in order to reacquire his Filipino citizenship.

Under Section 39(a) of the Local Government Code,^[3] a candidate for Mayor must be a citizen of the Philippines, a registered voter, a resident in the municipality or city where he or she intends to be elected for at least one (1) year immediately preceding the day of election, and be able to read and write Filipino or any local language or dialect.

Section 40(d) of the Local Government Code^[4] expressly disqualifies those who possess dual citizenship from running in any local elective position. These provisions, however, do not disqualify candidates who might have lost their citizenship but were able to reacquire it before running for public office.

Article IV, Section 3 of the Constitution provides that "Philippine citizenship may be lost or reacquired in the manner provided by law."

Those who lose their Filipino citizenship through naturalization in another country may reacquire it through the procedure outlined in Republic Act No. 9225. This also applies to naturalized citizens who wish to reacquire their Filipino citizenship in order to run for public office.

According to Section 3 of Republic Act No. 9225:

SEC. 3. Retention of Philippine Citizenship. - Any provision of law to the contrary notwithstanding, natural-born citizenship 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 impose 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.

The effect of reacquisition is the restoration of Philippine citizenship to natural-born Filipino citizens who have been naturalized as citizens in a foreign country. All that is required to retain their citizenship is to take the oath of allegiance under the law.

In the previous repatriation law, naturalized citizens seeking to reacquire Philippine citizenship only had to take an oath of allegiance in order to regain their citizenship, including the right to seek public office.[5] Section 4 of Commonwealth Act No. 63[6] states:

SEC. 4. Repatriation shall be effected by merely taking the necessary oath of allegiance to the Commonwealth of the Philippines and registration in the proper civil registry.

The same requirement is present in the present reacqms1t10n law. Philippine citizenship is deemed to have been reacquired through the taking of the oath of allegiance embodied in Section 3 of Republic Act No. 9225. However, unlike the previous law, the mere act of taking the oath of allegiance is not sufficient compliance for those seeking to run for public office. The law includes an additional requisite before they become qualified to run for public office, thus:

SEC. 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:

....

(2) Those seeking elective public in the Philippines shall meet the qualification 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[.] (Emphasis supplied)

In *Japzon v. Commission on Elections*:[7]

[F]or 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.[8]

The law requires a personal and sworn renunciation of all foreign citizenships before the candidate files a certificate of candidacy.

In *Jacot v. Dal and Commission on Elections*,[9] this court disqualified Nestor A. Jacot from running for Vice Mayor of Catarman, Camiguin, after he failed to make a personal and sworn renunciation of his American citizenship:

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.

CHAIRMAN DRILON. Can I go back to No. 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.

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.[10] (Emphasis in the original)

Section 5 of Republic Act No. 9225 restores full civil and political rights to those who wish to reacquire their citizenship, including the right to vote and be voted for. A candidate may have the right to vote and be voted for as long as he or she has already done all positive acts necessary for the reacquisition of his or her Philippine citizenship before filing his or her certificate of candidacy.

Residency as a requirement for public office must also be interpreted as a separate matter from citizenship. Residence is said to be synonymous to domicile.[11] Domicile requires both physical presence and animus revertendi or intent to return.[12] Citizenship may be presumed from one's domicile,[13] but this presumption is disputable. Further proof other than domicile may be required to prove citizenship.

A person residing in the Philippines is presumed to be a Filipino citizen. Domicile, however, does not ipso facto prove his or her citizenship. A Filipino may reside in the United States but still remain a Filipino citizen. An American may also reside in the Philippines and still remain an American citizen. The presumption created by residency is not conclusive of one's citizenship.

Residency also need not be continuous for as long as the total number of required years have been complied with before the election. Section 39(a) of the Local Government Code requires residency for "at least one (1) year immediately preceding the day of the election for local elective office." A candidate for local elective office may be eligible to run for as long as he or she is proven to have animus revertendi in a certain domicile for at least one (1) year immediately preceding the elections.

The purpose of the residency requirement is "to give candidates the opportunity to be familiar with the needs, difficulties, aspirations, potentials for growth[,] and all matters vital to the welfare of their constituencies; likewise, it enables the electorate to evaluate the office seekers' qualifications and fitness for the job they aspire for." [14] The length of a candidate's residency depends on the time necessary to acquire familiarity with the constituency as well as sensitivity to the welfare of the constituents. The requirement seeks "to exclude a stranger or newcomer, unacquainted with the conditions and needs of a community and not identified with the latter, from an elective office to serve that community." [15]

Continuity does not always guarantee familiarity. A momentary absence from the country does not negate the purpose of the residency requirement.[16] A candidate who has spent some time abroad may offer a unique perspective as opposed to a candidate who has never left the country. The former may be in a better position to observe the changes the country may have undergone through the years, or may have a stronger intuition as to the level of growth it still needs. What is important is that the purpose of residency is complied with.

Petitioner took his Oath of Allegiance to the Republic of the Philippines on July 10, 2008. On April 3, 2009, he executed his Affidavit of Renunciation of his foreign citizenship. Petitioner alleges that he executed his Affidavit of Renunciation with Oath of Allegiance on November 30, 2009. On May 9, 2013, he again executed the Affidavit Affirming Rommel C. Arnado's "Affidavit of Renunciation Dated April 3, 2009."

Petitioner renounced his American citizenship no less than three times before he filed his Certificate of Candidacy on October 1, 2012. He had performed all the acts required by Republic Act No. 9225 in order to reacquire his Filipino citizenship before he ran for public office.

However, the ponencia takes exception to these findings of fact and rules that, in accordance with this court's findings in Maquiling, petitioner's use of his American passport after executing his Affidavit of Renunciation negated his Affidavit. I cannot agree with this conclusion.

II

Petitioner's use of his American passport was an isolated act required by the circumstances. At that time, he had not yet been issued his Philippine passport.

In the dissent in Maquiling led by Associate Justice Arturo D. Brion, it was pointed out that when Arnado traveled back to the United States, "he had no Philippine passport that he could have used to travel to the United States to

attend to the winding up of his business and other affairs in America."[17]

The use of a foreign passport should not by itself cause the immediate nullity of one's affidavit of renunciation. Its circumstances must also be taken into account.

The necessity of the use of his American passport is shown by the timeline of events, thus:

Affidavit of Renunciation: April 3, 2009

Date of Issuance of Philippine Passport: June 18, 2009

Receipt of Philippine Passport: September 2009

Second Affidavit of Renunciation with Oath of Allegiance (alleged by petitioner): November 30, 2009

Date of Travels[18]

Destination

Date of Departure from
the Philippines

Date of Arrival in
the Philippines

Passport

USA

April 14, 2009

June 25, 2009

American

USA

July 29, 2009

November 24, 2009

American

USA

December 11, 2009

January 12, 2010

Philippine

USA

January 31, 2010

March 31, 2010

Philippine

USA

April 11, 2010

April 16, 2010

Philippine

USA

May 20, 2010

June 4, 2010

Philippine

Petitioner could use only his American passport when he traveled on April 14, 2009 since the Consulate of the Philippines had not yet issued him a Philippine passport.

When petitioner received his Philippine passport sometime in September 2009, he could not immediately use it to exit the United States since he entered the country using an American passport. If he exited using a Philippine passport, one presumably without an American visa, immigration authorities of both the Philippines and the United States would have questioned his travel documents. He would have had no choice but to use his American passport to exit the United States.

However, petitioner did use his Philippine passport in his subsequent travels. Hence, his isolated use of his American passport when he did not yet have his Philippine passport is not sufficient cause to negate his Affidavit of Renunciation.

The ponencia cites Maquiling, in that Linog C. Balua, petitioner's rival candidate in the 2010 Elections, presented a certification dated April 23, 2010 from the Bureau of Immigration indicating that as of January 12, 2010 and March 23, 2010, petitioner's nationality was "USA-American." The Computer Database/Passenger Manifest states:

DATE OF Arrival: 01/12/2010
NATIONALITY: USA-AMERICAN
PASSPORT: 057782700

DATE OF Arrival: 03/23/2010
NATIONALITY: USA-AMERICAN
PASSPORT: 057782700[19]

This certification is contradicted by petitioner's Philippine passport which was stamped by the Bureau of Immigration also on these dates.[20] It was, therefore, erroneous for the ponencia to refer to the certification as "uncontroverted." [21]

The ponencia unduly gives weight to the Bureau of Immigration's certification on the basis that the copy of his Philippine passport was a mere "certified true copy from the machine copy on file." [22] Maquiling undoubtedly states that petitioner was issued a Philippine passport and that he used it for his subsequent travels abroad. [23] There is a presumption that this piece of evidence, like the certification by the Bureau of Immigration, can be relied upon since it forms part of the case records. Under the presumption of regularity, his passport is presumed to have been stamped by the Bureau of Immigration. Until and unless it is alleged and proven that the stamps on his Philippine passport are fraudulent, it is presumed that the Bureau of Immigration certified the use of his Philippine passport and the use of his American passport on the dates alleged. It is also possible that at the time the certification was issued, the Bureau of Immigration had not yet updated its database. Therefore, it was erroneous for the ponencia to conclude that petitioner used his American passport on January 12, 2010 and on March 23, 2010 based merely on the certification dated April 23, 2010. [24]

III

Even if the ponencia applied the ruling in Maquiling, Amado should have already been qualified to run in the 2013 Elections.

Maquiling held that petitioner's use of his American passport negated his Affidavit of Renunciation, thus disqualifying him to run in the 2010 Elections:

We therefore hold that Arnado, by using his US passport after renouncing his American citizenship, has recanted the same Oath of Renunciation he took. Section 40(d) of the Local Government Code applies to his situation. He is disqualified not only from holding the public office but even from becoming a candidate in the May 2010 elections.[25]

Therefore, it can be reasonably concluded that, per Maquiling, petitioner's use of his Philippine passport signifies his Philippine citizenship.

According to Republic Act No. 8239,[26] a passport is "a document issued by the Philippine government to its citizens and requesting other governments to allow its citizens to pass safely and freely, and in case of need to give him/her all lawful aid and protection." [27]

By definition, a Philippine passport is a document issued by the government to its citizens. Clearly, a Philippine passport cannot be issued to an American citizen.

If this court concludes, as the ponencia has done, that petitioner remained an American citizen, the facts should show that he continued to use his American passport before he filed his Certificate of Candidacy for the 2013 Elections.

As of June 18, 2009, petitioner was issued a Philippine passport. He has continually used his Philippine passport from December 11, 2009. He also executed an Affidavit of Renunciation with Oath of Allegiance on November 30, 2009. By the time he filed his Certificate of Candidacy on October 1, 2012, he was already the bearer of a Philippine passport.

In *Yu v. Defensor-Santiago*, [28] a petition for habeas corpus was filed against then Commissioner for Immigration and Deportation Miriam Defensor-Santiago for the release of Willie Yu (Yu) from detention. This court, confronted with the issue of Yu's citizenship, found:

Petitioner's own compliance reveals that he was originally issued a Portuguese passport in 1971, valid for five (5) years and renewed for the same period upon presentment before the proper Portuguese consular officer. Despite his naturalization as a Philippine citizen on 10 February 1978, on 21 July 1981, petitioner applied for and was issued Portuguese Passport No. 35/81 series N. 1517410 by the Consular Section of the Portuguese Embassy in Tokyo. Said Consular Office certifies that his Portuguese passport expired on 20 July 1986. While still a citizen of the Philippines who had renounced, upon his naturalization, "absolutely and forever all allegiance and fidelity to any foreign prince, potentate, state or sovereignty" and pledged to "maintain true faith and allegiance to the Republic of the Philippines," he declared his nationality as Portuguese in commercial documents he signed, specifically, the Companies Registry of Tai Shun Estate Ltd. filed in Hongkong sometime in April 1980.

To the mind of the Court, the foregoing acts considered together constitute an express renunciation of petitioner's Philippine citizenship acquired through naturalization. In *Board of Immigration Commissioners vs. Go Gallano*, express renunciation was held to mean a renunciation that is made known distinctly and explicitly and not left to inference or implication. Petitioner, with full knowledge, and legal capacity, after having renounced Portuguese citizenship upon naturalization as a Philippine citizen resumed or reacquired his prior status as a Portuguese citizen, applied for a renewal of his Portuguese passport and represented himself as such

in official documents even after he had become a naturalized Philippine citizen. Such resumption or reacquisition of Portuguese citizenship is grossly inconsistent with his maintenance of Philippine citizenship.[29](Emphasis supplied)

Yu's renewal of his Portuguese passport was a renunciation of his Philippine citizenship. This court took into account Yu's application for renewal and his declaration of his Portuguese nationality in commercial documents.

In contrast, petitioner was forced by his circumstances to use his American passport at a time when he had not yet been issued a Philippine passport. Upon the issuance of his Philippine passport, however, petitioner consistently used this passport for his travels. His consistent use of his Philippine passport was a positive act that showed his continued allegiance to the country.

Petitioner's continued intent to renounce his American citizenship is clear when he executed his Affidavit Affirming Rommel C. Arnado's "Affidavit of Renunciation Dated April 3, 2009" on May 9, 2013.

Republic Act No. 9225 requires a personal and sworn renunciation from persons who seek to reacquire their Philippine citizenship in order to run for local office. Petitioner's Affidavit of Renunciation dated April 3, 2009, his continued use of his Philippine passport, his alleged Affidavit of Renunciation with Oath of Allegiance dated November 30, 2009, and his Affidavit dated May 9, 2013 are more than enough evidence to show his personal and sworn renunciation of his American citizenship.

IV

Election laws must be interpreted to give effect to the will of the people.

Petitioner garnered an overwhelming 8,902 votes, 84% of the total votes cast in the 2013 mayoralty elections. If he is disqualified, Florante Capitan, his opponent who garnered 1,707 votes, a mere 16% of the total votes cast,[31] will become the duly elected mayor of Kauswagan, Lanao del Norte. This court will have substituted its discretion over the sovereign will of the people.

The ponencia erroneously cites *Lopez v. Commission on Elections*[32] as basis for stating that petitioner's landslide victory could not override eligibility requirements.

In *Lopez*, a petition for disqualification was filed against Eusebio Eugenio K. Lopez (*Lopez*) to disqualify him from running for Barangay Chair in the 2007 Barangay Elections. *Lopez* argued that he was a dual citizen by virtue of Republic Act No. 9225 and, hence, was qualified to run.

This court disagreed and disqualified *Lopez* from running in public office since he failed to make a personal and sworn renunciation of his American citizenship. It also ruled that his subsequent victory in the elections could not cure the defect of his disqualification:

While it is true that petitioner won the elections, took his oath and began to discharge the functions of Barangay Chairman, his victory cannot cure the defect of his candidacy. Garnering the most number of votes does not validate the election of a disqualified candidate because the application of the constitutional and statutory provisions on disqualification is not a matter of popularity.[33]

Lopez, however, does not apply since the candidate in that case failed to execute a personal and sworn renunciation of his American citizenship. In this case, petitioner made a personal and sworn renunciation of his American citizenship no less than three times.

In *Japzon v. Commission on Elections*,[34] a petition for disqualification was brought against Jaime S. Ty (*Ty*), who won as Mayor of MacArthur, Eastern Samar in the 2007 Elections. *Ty* was a natural-born Filipino citizen

who migrated to the United States and stayed there for 25 years. He took an Oath of Allegiance in 2005 and renounced his American citizenship before a notary public on March 19, 2007. The question before this court, however, was whether his reacquisition of citizenship has the effect of regaining his domicile, in compliance with the residency requirements for elections.

In resolving the issue, this court found that Ty substantially complied with the requirements of Section 5(2) of Republic Act No. 9225 when he personally executed a Renunciation of Foreign Citizenship before a notary public before filing his Certificate of Candidacy. It also ruled that Ty was able to comply with the residency requirements:

[W]hen 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. 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.[35] (Emphasis supplied)

In *Bengson III v. House of Representatives Electoral Tribunal*,^[36] a similar citizenship issue was raised against Teodoro C. Cruz (Cruz) on the ground that he lost his citizenship when he enlisted in the United States Marine Corps in 1985. This court disagreed, stating that Cruz reacquired his Philippine citizenship through repatriation under Republic Act No. 2630.

Former Associate Justice Artemio V. Panganiban's Concurring Opinion is particularly instructive in stating that this court has a duty to uphold the clear mandate of the people, thus:

4. In Case of Doubt, Popular Will Prevails

[T]he Court has a solemn duty to uphold the clear and unmistakable mandate of the people. It cannot supplant the sovereign will of the Second District of Pangasinan with fractured legalism. The people of the District have clearly spoken. They overwhelmingly and unequivocally voted for private respondent to represent them in the House of Representatives. The votes that Cruz garnered (80,119) in the last elections were much more than those of all his opponents combined (66,182). In such instances, all possible doubts should be resolved in favor of the winning candidate's eligibility; to rule otherwise would be to defeat the will of the people.

Well-entrenched in our jurisprudence is the doctrine that in case of doubt, political laws must be so construed as to give life and spirit to the popular mandate freely expressed through the ballot. Public interest and the sovereign will should, at all times, be the paramount considerations in election controversies. For it would be better to err in favor of the people's choice than to be right in complex but little understood legalisms.

"Indeed, this Court has repeatedly stressed the importance of giving effect to the sovereign will in order to ensure the survival of our democracy. In any action involving the possibility of a reversal of the popular electoral choice, this Court must exert utmost effort to resolve the issues in a manner that would give effect to the will of the majority, for it is merely sound public policy to cause elective offices to be filled by those who are the choice of the majority. To successfully challenge a winning candidate's qualifications, the petitioner must clearly demonstrate that the 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." [37] (Emphasis supplied)

Petitioner has proven over and over again that he has renounced his American citizenship. He continues to use his Philippine passport for his foreign travels. His landslide victory in the 2013 Elections represents the trust of his constituents in him. To disqualify him from public office for the isolated and reasonable use of his American passport would be to set aside the clear and unmistakable sovereign will of the people. It will impose an unreasonable burden over his and the electorate's fundamental right to suffrage.

ACCORDINGLY, I vote to GRANT the Petition.

[1] G.R. No. 195649, April 16, 2013, 696 SCRA 420 [Per C.J. Sereno, En Banc].

[2] Citizenship Retention and Re-acquisition Act of 2003 (2003).

[3] SECTION 39. Qualifications. - (a) An elective local official must be a citizen of the Philippines; a registered voter in the Baran gay, 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.

[4] SECTION 40. Disqualifications. - The following persons are disqualified from running for any elective local position:

....

(d) Those with dual citizenship[.]

[5] See Com. Act No. 63 (1936), sec. 4.

[6] An Act Providing for the Ways in which Philippine Citizenship may be Lost or Reacquired.

[7] 596 Phil. 354 (2009) [Per J. Chico-Nazario, En Banc].

[8] Id. at 368.

[9] 592 Phil. 661 (2008) [Per J. Chico-Nazario, En Banc].

[10] Id. at 671-673, citing *Lopez v. Commission on Elections*, 581 Phil. 657 (2008) [Per J. R. T. Reyes, En Banc].

[11] *Co v. Electoral Tribunal of the House of Representatives*, G.R. Nos. 92191-92, July 30, 1991, 199 SCRA 692 [Per J. Gutierrez, Jr., En Banc].

[12] *Romualdez-Marcos v. Commission on Elections*, G.R. No. 119976, September 18, 1995, 248 SCRA 300 [Per J. Kapunan, En Banc].

[13] See *Coquilla v. Commission on Elections*, 434 Phil. 861, [Per J. Mendoza, En Banc].

[14] *Torayno v. Commission on Elections*, 392 Phil. 342, 345 (2000) [Per J. Panganiban, En Banc].

[15] *Gallego v. Verra*, 74 Phil. 453,459 (1941) [Per J. Ozaeta, En Banc].

[16] See *Faypon v. Quirino*, 96 Phil. 294 (1954) [Per J. Padilla, En Banc], where this court stated that a person who has left home "to seek greener pastures" and returns to his birthplace to participate in the electoral process without absenting himself from his professional or business activities is not considered to have lost his residence.

[17] J. Brion, Dissenting Opinion in *Maquiling v. Commission on Elections*, G.R. No. 195649, April 16, 2013, 696 SCRA 429, 487 [Per C.J. Sereno, En Banc].

[18] Id. at 476-477.

[19] Maquiling v. Commission on Elections, G.R. No. 195649, April 16, 2013, 696 SCRA 429, 433 [Per C.J. Sereno, En Banc].

[20] J. Brion, Dissenting Opinion in Maquiling v. Commission on Elections, G.R. No. 195649, April 16, 2013, 696 SCRA 429, 488 [Per C.J. Sereno, En Banc].

[21] Ponencia, p. 18.

[22] Id.

[23] Maquiling v. Commission on Elections, G.R. No. 195649, April 16, 2013, 696 SCRA 429 [Per C.J. Sereno, En Banc].

[24] Ponencia, p. 15.

[25] Maquiling v. Commission on Elections, GR. No. 195649, April 16, 2013, 696 SCRA 429, 455 [Per C.J. Sereno, En Banc].

[26] Philippine Passport Act of 1996 (1996).

[27] Rep. Act No. 8239, sec. 3(d).

[28] 251 Phil. 346 (1989) [Per J. Padilla, En Banc].

[29] Id. at 350-352, citing Oh Hek How v. Republic, 139 Phil. 567 (1969) [Per J. Concepcion, En Banc].

[30] Ponencia. , p. 4 .

[31] Id.

[32] 581 Phil. 657 (2008) [Per J. R.T. Reyes, En Banc].

[33] Id. at 663, citing Reyes v. Commission on Elections, 186 Phil. 349 (1980) [Per C.J. Fernando, En Banc].

[34] 596 Phil. 354 (2009) [Per J. Chiego-Nazario, En Banc].

[35] Id. at 375, citing Papandayan, Jr. v. Commission on Elections, 430 Phil. 754 (2002) [Per J. Mendoza, En Banc].

[36] 409 Phil. 633 (2001) [Per J. Kapunan, En Banc].

[37] J. Panganiban, Concurring Opinion in Bengson III v. House of Representatives Electoral Tribunal, 409 Phil. 633, 659-660 (2001) [Per J. Kapunan, En Banc], citing Sinaca v. Mula, 373 Phil. 896 (1999) [Per C.J. Davide, Jr., En Banc]; Frivaldo v. Commission on Elections, 327 Phil. 521 (1996) [Per J. Panganiban, En Banc]; and Olondriz v. Commission on Elections, G.R. No. 135084, August 25, 1999, 313 SCRA 128 [Per J. Kapunan, En Banc].

DISSENTING OPINION

BRION, J.:

The present certiorari petition,[1] filed under Rule 64 in relation with Rule 65 of the Rules of Court, involves the disqualification of the present petitioner, Rommel C. Arnado (Arnado), in the May 13, 2013 National and Local Elections (May 2013 Elections).

This case traces its roots to the earlier disqualification case [docketed as SPA No. 10-109 (DC)] filed against Arnado in relation with the May 10, 2010 Elections, that led to the Court's decision in Maquiling v. Comelec disqualifying Arnado.[2] To some extent, the present case is factually linked to the earlier disqualification case.

As in Maquiling, Arnado and his qualification to run for public office are at the center of the present petition. Private respondent Florante Capitan seeks to strengthen the linkage with the earlier Maquiling case by adopting the Maquiling positions and considering the present case as a seamless continuation of Maquiling.

Despite some commonalities, the present disqualification case, however, is separate and substantively distinct from the Maquiling disqualification case. The present case involves an election period (2013) separate and distinct from the election period covered by the Maquiling ruling (2010). The factual circumstances and consequent legal considerations also vary, as will be explained below, so that the present case need not necessarily follow the governing ruling in Maquiling.

Thus, at the outset, I invite the Court: to keep an open mind and remove any initial impression that the present case is a re-run of Maquiling; to recognize that at some point, the present case diverges from and must be viewed independently of Maquiling; and to resolve it from the perspective solely of the attendant factual and legal considerations specific to it.

The Court must not also forget that this is an election case where the electorate has its own separate interest to protect. This is an interest that the Court must not ignore when the issues posed carry the potential of setting aside the electorate's expressed choice.

Notably, the present controversy involves a candidate whose disqualification (to run for elective office) has twice been sought based on the same cited facts and grounds, but who nevertheless has twice been elected by a clear and overwhelming majority of the voters- in the May 2010 and May 2013 Elections. In 2013, he garnered 84% of the votes of the people of Kauswagan.

This clear and undeniably overwhelming voice of the electorate, to my mind, renders it necessary for the Court to consider and apply deeper democratic principles.[3] The circumstances of the present controversy call for this kind of consideration, particularly when the electorate's already limited democratic decision making process runs the risk of being negated for no clear and conclusive reason, as discussed below.

To disregard the electorate's voice once can perhaps be excused by invoking the rule of law; to ignore the people's voice a second time can only be justified by clear reasons from this Court that the people can readily understand.

I submit this Dissenting Opinion to object to the ponencia's conclusion that Arnado is disqualified from running in the May 2013 Elections and that his proclamation as elected Mayor of Kauswagan, Lanao del Norte, should now be set aside.

I specifically find the ponencia 's conclusions grossly erroneous and tainted with grave abuse of discretion based on the following considerations:

(1) Arnado became a "pure" Philippine citizen on April 3, 2009, after he took his oath of allegiance and executed his affidavit of renunciation. That he was subsequently deemed to have recanted his renunciation is unfortunate, but even the Maquiling ruling recognizes that for some eleven (11) days (i.e., from April 3 to 14, 2009), he was qualified to run for public office because he was a "pure" Filipino.

Arnado more than reconfirmed and regained this status and was qualified to run for public office in the May 2013 Elections based on his persistent assertions of sole allegiance to the Republic and his repeated renunciation of his US citizenship.

- Separately from the April 3, 2009 Affidavit of Renunciation that Maquiling said Arnado recanted, Arnado executed on May 9, 2013, another Affidavit of Renunciation affirming the terms of his April 3, 2009 Affidavit and thus cured any defect in his qualification to run in the May 2013 Elections.

(2) The legal consequences of the Maquiling ruling is limited to Arnado's qualification for public office in the May 2010 elections.

- The intervening 2010 Maquiling disqualification ruling did not and could not have invalidated Arnado's status as a "pure" Philippine citizen who was qualified to run for public office after having complied with the RA No. 9225 requirements in the May 2013 Elections.

(3) The Comelec gravely abused its discretion in ruling that the May 9, 2013 Confirmation of the Oath of Affirmation was filed out of time.

- The Comelec grossly failed to consider (i) the circumstances of the filing of the October 1, 2012 Certificate of Candidacy (CoC), and (ii) the circumstances and the dynamics between the 2010 Maquiling case and ruling, and the present 2013 disqualification case, in terms of the retroactive application of the Maquiling ruling.

- When Arnado filed his CoC on October 1, 2012 (for the 2013 Elections), the prevailing Comelec en banc ruling [in its February 2, 2011 resolution in SPA No. 10-109 (DC)] was that he was not disqualified to run for elective public office; hence, Arnado did not need to execute another affidavit of renunciation.

- Based solely on the Maquiling Decision (that pertained to Arnado's disqualification for the 2010 elections), the Comelec disqualified Arnado for the May 2013 elections because his October 1, 2012 CoC was not supported by any Affidavit of Renunciation (since Maquiling considered his April 3, 2009 Affidavit of Renunciation for the 2010 elections effectively recanted). This Comelec ruling disregards the unusual consequences of the April 3, 2009 Affidavit and the unique circumstances under which the October 1, 2012 CoC was filed.

- Since the Comelec did not accept the Affidavit of Renunciation that Arnado filed on May 9, 2013 (for the 2013 Elections) in the light of the 2010 Maquiling ruling, he was placed in an impossible situation of being disqualified in 2013 for a ruling applicable to the 2010 elections, without being given the opportunity to submit his compliance for the May 2013 elections.

- Notably, his May 9, 2013 Affidavit of Renunciation, submitted to comply with his May 2013 candidacy, was rejected because it should have been filed on October 1, 2012 (i.e., when he filed his CoC for the May 2013 elections). If the Maquiling ruling, made on April 16, 2013, was made to retroactively apply to October 1, 2012, so should the opportunity to comply be similarly made retroactive. To the extent he was denied this opportunity is grave abuse of discretion.

(4) At any rate, all doubts should be resolved in favour of Arnado's qualification:

- Arnado's unequivocal acts and show of allegiance to the Republic and renunciation of other citizenships, taken together, should have resolved all doubts in favor of his qualification;

- the mandate of the people of Kauswagan that twice elected Arnado as their Mayor should be respected and upheld.

I. Roots of the Present Petition

A. Factual Background

For a fuller understanding of the present disqualification case, I reiterate below the important antecedent facts.

Arnado is a natural-born Filipino citizen who lost his Filipino citizenship after becoming a naturalized citizen of

the United States of America (U.S.) in 1985.

In 2003, Congress enacted Republic Act (RA) No. 9225 (Citizenship Retention and Re-Acquisition Act of 2003).[4]

Arnado opted to re-acquire his Philippine citizenship pursuant to RA No. 9225 and soon filed the required application before the Philippine Consul General in San Francisco, U.S.A. On July 10, 2008, Arnado took his Oath of Allegiance to the Republic of the Philippines; the Approval of his Citizenship retention and re-acquisition was issued on the same date.

On April 3, 2009, Arnado executed an Affidavit of Renunciation of his foreign citizenship (interchangeably referred to, from here on, as April 3, 2009 Affidavit of Renunciation or 2009 express renunciation).

On April 14, 2009, Arnado left the country for the US using his US passport - US passport (No. 057782700) - which identified his nationality as "USA-American." He returned to the country on June 25, 2009, using the same US passport. He again left for the US on July 29, 2009, and returned to the country on November 24, 2009, still using his US passport.

Unknown to Arnado, however, the Philippine Consulate General in San Francisco, USA, had approved and issued in his favor a Philippine Passport (No. XX 3979162) on June 18, 2009.[5] He only received this Philippine passport three months later.[6]

From then on, he used his Philippine passport in his travels on the following dates: December 11, 2009 (departure); January 12, 2010 (arrival); January 31, 2010 (departure); March 31, 2010 (arrival); April 11, 2010 (departure); April 16, 2010 (arrival); May 20, 2010 (departure); and June 4, 2010 (arrival).[7]

B. The Maquiling Case and its Incidents

On November 30, 2009, Arnado filed his CoC for the mayoralty post of Kauswagan, Lanao del Norte, for the May 2010 Elections. On the same day, he executed another Affidavit of Renunciation with Oath of Allegiance.[8]

Notably, this Affidavit of Renunciation came after his travel using an American passport.

Linog C. Balua, another mayoralty candidate, filed with the Comelec a petition to disqualify Arnado and/or to cancel his CoC (2010 Disqualification case) on the ground that Arnado remained a US citizen: he continued to use his US passport for entry to and exit from the Philippines after executing the April 3, 2009 Affidavit of Renunciation. Balua's petition was docketed as SPA No. 10-109 (DC).

Arnado was proclaimed the winning candidate in the May 2010 Elections.

In a resolution dated February 2, 2011, the Comelec En Banc ruled [in SPA No. 10-109 (DC)] that Arnado's use of his US passport, subsequent to his 2009 Affidavit of Renunciation, did not have the effect of reverting him to his status as a dual citizen. The Comelec En Banc found believable and plausible Arnado's explanation that he continued to use his US passport because he only knew of and received his Philippine passport three months after it was issued on June 18, 2009. As soon as he received his Philippine passport, he used it in his subsequent travels abroad.

The 2010 disqualification case eventually reached this Court via the petition for certiorari filed by Maquiling; the case was docketed as GR No. 195649 entitled *Maquiling v. Comelec*.

a. The Court's Maquiling Decision.

In its April 16, 2013 Decision, the Court annulled and set aside the Comelec En Banc's February 2, 2011

Resolution; disqualified Arnado from running for the position of Mayor; and declared Maquiling the duly elected mayor of Kauswagan, Lanao del Norte, in the May 2010 Elections. The Court ruled that by his subsequent use of his US passport, Arnado effectively disavowed or recanted his April 3, 2009 Affidavit of Renunciation.

In ruling on the case, the Court significantly acknowledged that:

- i. The "act of using a foreign passport does not divest Arnado of his Filipino citizenship, which he re-acquired by repatriation. By representing himself as an American citizen, however, Arnado voluntarily and effectively reverted to his earlier status as a dual citizen. Such reversion was not retroactive; it took place the instant Arnado represented himself as an American citizen by using his US passport." [9]
- ii. "In effect, Arnado was solely and exclusively a Filipino citizen only for a period of eleven days, or from April 3, 2009, until 14 April 2009, on which date he first used his American passport after renouncing his American citizenship." [10]

C. The Present Disqualification Case

On October 1, 2012, and while the Maquiling case was still pending before this Court (so that the existing standing rule was the Comelec ruling that he was qualified to be a candidate), Arnado filed his CoC [11] for the same mayoralty post for the May 2013 Elections. Thus, Arnado saw no need to undertake another Renunciation.

Respondent Florante Capitan also filed his CoC [12] for the same position.

On April 16, 2013, the Court issued its Decision in *Maquiling v. Comelec*, disqualifying Arnado for the May 2010 Elections.

Apparently in response to the Maquiling ruling, Arnado executed on May 9, 2013, an Oath of Allegiance and Oath of Renunciation affirming the terms of his April 3, 2009 Affidavit of Renunciation (herein referred to as 2013 Affidavit). [13] Arnado undertook the required acts as soon as he was aware that they had to be done to perfect his May 2013 candidacy.

On May 10, 2013, Capitan filed a petition to disqualify [14] Arnado from running for the Kauswagan mayoralty post and/or to cancel his CoC (2013 Disqualification case) based on the Court's Maquiling ruling. The case was docketed as SPA No. 13-309 (DC) and was raffled to the Comelec Second Division (Second Division). [15]

On May 14, 2013, during the pendency of the 2013 Disqualification case before the Second Division, Arnado was proclaimed the duly elected Mayor of Lanao del Norte in the May 2013 Elections. [16]

Capitan responded to the proclamation by filing a petition to nullify Arnado's proclamation, arguing that pursuant to the Maquiling ruling (which declared Arnado disqualified from running for any local elective office), Arnado's proclamation was void and carried no legal effect.

In a resolution dated July 2, 2013, the Court denied Arnado's motion for reconsideration of the April 16, 2013 Maquiling Decision.

II. The Proceedings before the Comelec

A. Comelec Second Division Ruling

In its resolution dated September 6, 2013, in SPA No. 13-309(DC), the Comelec Second Division disqualified Arnado from running in the May 2013 Elections.

The Second Division declared that at the time he filed his CoC on October 1, 2012, Arnado still failed to comply with RA No. 9225's requirement of making a personal and sworn renunciation of any and all foreign citizenship,

as his April 3, 2009 Affidavit of Renunciation had been deemed withdrawn or recalled pursuant to Maquiling. His 2013 Affidavit did not rectify this failure as this subsequent affidavit should have been executed on or before the filing of his CoC on October 1, 2012.

B. The Comelec En Banc Ruling

In its December 9, 2013 resolution, the Comelec En Banc fully affirmed the Second Division's ruling; annulled Arnado's proclamation; and declared Capitan the duly elected mayor of Kauswagan.

III. The Issues

The issues raised for the Court's consideration are:

A. Whether the Comelec En Banc and the Second Division violated procedural due process and committed grave abuse of discretion in failing to dismiss the petitions filed by Capitan for forum shopping and/or late filing;

B. Whether the Comelec En Banc violated due process and committed grave abuse of discretion by allowing Commissioner Elias Yusoph to review the decision he wrote for the Second Division;

C. Whether the Comelec committed grave abuse of discretion in disenfranchising 84% of the voters of Kauswagan in the May 2013 elections; and

D. Whether the Comelec committed grave abuse of discretion in disqualifying Arnado who had fully complied with the requirements of RA No. 9225 before the filing of his CoC on October 1, 2012.

IV. Refutation of the Ponencia

A. Re-acquisition of Philippine citizenship under RA No. 9225; purposes and legal effect of the oath of allegiance and oath of renunciation

RA No. 9225 was enacted to allow natural-born Filipino citizens who lost their Philippine citizenship through naturalization in a foreign country, to expeditiously re-acquire Philippine citizenship.[17] It is a unique mode of re-acquiring Philippine citizenship and is a far departure from the citizenship re-acquisition procedure under Commonwealth Act (CA) No. 63,[18] the law in place before RA No. 9225 was enacted.

Under CA No. 63, Philippine citizenship may be re-acquired by: (1) naturalization; (2) repatriation of deserters of the Army, Navy, or Air Corps, or of a woman who has lost her citizenship by reason of marriage to an alien after the termination of her marital status; and (3) direct act of the National Assembly.[19]

Notably, re-acquisition of Philippine Citizenship under the first mode (i.e., by naturalization) involves the more stringent procedure laid down in CA No. 473.[20] The reacquisition of Philippine citizenship under the second mode (i.e., by repatriation), on the other hand, provides for an easier procedure as it requires only the taking of the oath of allegiance to the Republic of the Philippines and registration in the proper civil registry; it applies, however, only to the specific group of persons enumerated therein.

Under the procedure currently in place under RA No. 9225, the re-acquisition of Philippine citizenship requires only the taking of an oath of allegiance to the Republic of the Philippines in a manner similar to the second mode under CA No. 63. But, RA No. 9225 provides for a deeper effect by declaring it a State policy that under its terms "all Philippine citizens of another country shall be deemed not to have lost their Philippine citizenship"[21] under the conditions provided therein.

The full implication of the effects of RA No. 9225 can fully be appreciated by considering Section 3 of the law,

which reads:

Section 3. Retention of Philippine Citizenship - Any provision of law to the contrary notwithstanding, natural-born citizenship 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." [emphases supplied]

By its express terms, this oath is one of allegiance that recognizes the "supreme authority" of the Philippines and the obligation to "maintain true faith and allegiance thereto."

These terms, while seemingly allowing dual citizenship for natural- born Filipino citizens who have lost their Philippine citizenship by reason of their naturalization as citizens in a foreign country,[22] carry the implicit effect of renouncing their foreign citizenship and allegiance because of the renewed allegiance that is accorded to the supreme authority of the Republic.[23]

In effect, the problem of dual allegiance created by dual citizenship is transferred from the Philippines to the foreign country. Since the latest oath that the person takes is one of allegiance to the Republic, whatever treatment the foreign country may have on his or her status is a matter outside the concern and competence of the Philippine government.[24]

The congressional exchanges on dual citizenship and the potential problem of dual allegiance (which under the Constitution is inimical to public interest), attest to this interpretation as these exchanges reconciled the possession of dual citizenship and the dual allegiance that the Constitution states to "be inimical to public interest."

x x x x

Pursuing his point, Rep. Dilangalen noted that under the measure, two situations exist - the retention of foreign citizenship, and the reacquisition of Philippine citizenship. In this case, he observed that there are two citizenships and therefore, two allegiances. He pointed out that under the Constitution, dual allegiance is inimical to public interest. He thereafter asked whether with the creation of dual allegiance by reason of retention of foreign citizenship and the reacquisition of Philippine citizenship, there will now be a violation of the Constitution....

Rep. Locsin underscored that the measure does not seek to address the constitutional injunction on dual allegiance as inimical to public interest. He said that the proposed law aims to facilitate the reacquisition of Philippine citizenship by speedy means. However, he said that in one sense, it addresses the problem of dual citizenship by requiring the taking of an oath. He explained that the problem of dual citizenship is transferred from the Philippines to the foreign country because the latest oath that will be taken by the former Filipino is one of allegiance to the Philippines and not to the United States, as the case may be. He added that this is a matter which the Philippine government will have no concern and competence over.

Rep. Dilangalen asked why this will no longer be the country's concern, when dual allegiance is involved.

Rep. Locsin clarified that this was precisely his objection to the original version of the bill, which did not require an oath of allegiance. Since the measure now requires this oath, the problem of dual allegiance is transferred from the Philippines to the foreign country concerned, he explained.

xxxx

Rep. Dilangalen asked whether in the particular case, the person did not denounce his foreign citizenship and therefore still owes allegiance to the foreign government, and at the same time, owes his allegiance to the Philippine government, such that there is now a case of dual citizenship and dual allegiance.

Rep. Locsin clarified that by swearing to the supreme authority of the Republic, the person implicitly renounces his foreign citizenship. However, he said that this is not a matter that he wishes to address in Congress because he is not a member of a foreign parliament but a Member of the House.

x x x x

Rep. Locsin replied that it is imperative that those who have dual allegiance contrary to national interest should be dealt with by law. However, he said that the dual allegiance problem is not addressed in the bill. He then cited the Declaration of Policy in the bill which states that "It is hereby declared the policy of the State that all citizens who become citizens of another country shall be deemed not to have lost their Philippine citizenship under the conditions of this Act." He stressed that what the bill does is recognize Philippine citizenship but says nothing about the other citizenship.

Rep. Locsin further pointed out that the problem of dual allegiance is created wherein a natural-born citizen of the Philippines takes an oath of allegiance to another country and in that oath says that he abjures and absolutely renounces all allegiance to his country of origin and swears allegiance to that foreign country. The original Bill had left it at this stage, he explained. In the present measure, he clarified, a person is required to take an oath and the last he utters is one of allegiance to the country. He then said that the problem of dual allegiance is no longer the problem of the Philippines but of the other foreign country. [emphases supplied]

Jurisprudence confirms this interpretation of RA No. 9225 in *AASJS v. Hon. Datumanong*[25] when the Court pointedly declared:

By swearing to the supreme authority of the Republic, the person implicitly renounces his foreign citizenship. Plainly, from Section 3, Rep. Act No. 9225 stayed clear out of the problem of dual allegiance and shifted the burden of confronting the issue of whether or not there is dual allegiance to the concerned foreign country. What happens to the other citizenship was not made a concern of Rep. Act No. 9225.[26] [emphasis supplied]

The oath of allegiance taken under RA No. 9225 entitles a person to enjoy full civil and political rights that include the right to participate, directly or indirectly, in the establishment or administration of the government.[27] He or she may now vote.

To be voted upon to an elective office, however, a natural-born Filipino citizen who has implicitly renounced foreign allegiance when he or she swears allegiance to the Republic under RA No. 9225 must still make his or her previous implicit renunciation "express." In the words of the law, he must "make a personal and sworn renunciation of any and all foreign citizenship." [Section 5(2) of RA No. 9225]

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

"(2) Those seeking elective public in the Philippines shall meet the qualification 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;[emphases and underscoring supplied]

The requirement of an express renunciation, however, does not negate the effect of, or make any less real, the prior implicit renunciation of citizenship and allegiance made upon taking the oath of allegiance. Thus, persons

availing of RA No. 9225 do not renounce their foreign citizenship for the first time by executing the Affidavit of renunciation that Section 5(2) of the law requires; they have implicitly made this renunciation when they swore allegiance to the supreme authority of the Republic.

What the oath of renunciation simply does is to make express what natural-born Filipino citizens have already implicitly renounced. The requirement of express renunciation highlights the implication that it is not the exclusive means by which natural-born Filipino citizens may renounce their foreign citizenship. In reality, the oath of renunciation is a requirement simply for the purpose of running for elective public office, apparently to ensure that foreign citizenship and mixed loyalties are kept out of the elective public service.

To paraphrase *Japzon v. Comelec*,^[28] the oath of renunciation makes these natural-born potential candidates for public office "pure" Philippine citizens^[29] from the perspective of the election laws.

In sum, the oath of allegiance not only allows these natural-born Filipinos to re-acquire Philippine citizenship; thereby, they also implicitly renounce their citizenship and allegiance to any and all foreign country as they assert allegiance to the "supreme authority of the Philippines and x x x maintain true faith and allegiance thereto". The oath of renunciation, on the other hand, complements their oath of allegiance through the express manifestation, for purpose of running for public office, that the candidate is a "pure" Filipino.

B. Arnado's attainment, loss of "pure" Filipino citizen status, and subsequent developments

Based on the above discussions, I find - as the ponencia and the majority in *Maquiling* did - that Arnado became a "pure" Philippine citizen when he took his oath of allegiance to the Philippines on July 10, 2008, and his oath of renunciation on April 3, 2009.³⁰ With his oath of renunciation, he became solely a Filipino citizen with total allegiance to the Republic of the Philippines.

He could have, at that point, validly run for public office, except that subsequent to his renunciation, he travelled using his U.S. passport - a development that the *Maquiling* ruling unfortunately characterized as a recantation of his previous renunciation of American citizenship.

Had the developments that transpired in Arnado's political life simply stopped with his candidacy in the May 2010 Elections, then the present case and its complications would have been avoided. But as subsequent developments showed, a confluence of complicating factors arose.

First, Arnado ran again for the same office in the May 2013 Elections, and events overlapped. His disqualification case was not resolved with dispatch so that the period for the filing of the CoC for the May 2013 Elections (in October 2012) was set while the present case was still pending with this Court.

Second, at that time, the standing ruling was the *Comelec en banc* decision that Arnado was not disqualified and had perfected the required submissions for his candidacy. No restraining order or any other ruling from this Court intervened to prevent this *Comelec* ruling from being the governing rule in the interim.

As a result, Arnado saw no need to undertake remedial measures addressing the matters complained about in the 2010 *Maquiling* disqualification case. But at that point, he had already filed two oaths of renunciation - on April 3, 2009 and on November 30, 2009 - when he filed his CoC for the May 2010 Elections.

Third, he did not submit any oath of renunciation together with his October 1, 2012 CoC since, to his knowledge, he had complied with the requirements of RA No. 9225 and the Local Government Code, and had attained "pure" Filipino citizen status. (That he did attain this status based on the 2008 oath of allegiance and his 2009 affidavit of

renunciation is in fact confirmed by Maquiling, although his subsequent recantation intervened.)

Arnado's political world was overturned when the Court resolved the May 2010 disqualification case on April 16, 2013, or a few days before the May 2013 elections. But Arnado did not fully dwell on the past. While filing a motion for reconsideration of the Maquiling ruling, he also acted on his October 1, 2012 CoC by executing and submitting, on May 9, 2013, an Oath of Allegiance and Oath of Renunciation affirming his April 3, 2009 Affidavit of Renunciation.

Thus, from the perspective of the laws governing natural-born Filipinos who have re-acquired Philippine citizenship and who wish to run for public office, Arnado did not only comply with the twin requirements of RA No. 9225 as of April 3, 2009; he even exceeded the requirements of the law by asserting his oath of allegiance to the Republic four times, while also impliedly renouncing any and all foreign citizenships for the same number of "times, and twice expressly renouncing any and all other citizenships (with one express renunciation declared recanted by Maquiling).

All these are material considerations that should be taken into account in resolving the present case and are more fully discussed under separate headings below.

C. The Comelec gravely abused its discretion in ruling that the May 9, 2013 Confirmation of Oath of Affirmation was out of time

After the promulgation of the Maquiling Decision disqualifying Arnado for the May 2010 elections and relying solely on its terms, the Comelec disqualified Arnado for the May 2013 elections because his October 1, 2012 CoC was not supported by any Affidavit of Renunciation (since Maquiling considered his April 3, 2009 Affidavit of Renunciation for the May 2010 elections effectively recanted).

The Comelec ruling and its underlying reasons are, on their face, patently unreasonable since they did not consider at all the surrounding circumstances of the filing of the October 1, 2012 CoC and the circumstances that led to the absence of any oath of renunciation after the Maquiling ruling. The Comelec approach is in fact simplistic to the point of grave abuse of discretion. Apparently, it considered that with the oath of renunciation recanted and with no oath filed with the October 1, 2012 CoC, then the CoC should be considered fatally deficient. The ponencia's reasoning also runs this way.

Subject to fuller discussions below, I submit that the Comelec missed out on at least three (3) basic considerations.

First, at the time the October 1, 2012 CoC was filed, the prevailing ruling, although then contested before the Court, was the Comelec en banc ruling that did not consider Arnado disqualified. To reiterate, no intervening restraining order was issued by this Court addressing this Comelec ruling. Hence, there was no immediate need, at the time of the CoC's filing, for a replacement supporting oath of renunciation.

Second, since the Comelec did not accept Arnado's May 9, 2013 Affidavit of Renunciation (for the May 2013 Elections) in the light of the Maquiling ruling (affecting the May 2010 elections), he was placed in an impossible situation of being disqualified in the May 2013 Elections for a ruling applicable only to the May 2010 Elections, without being given the opportunity to submit his compliance for the May 2013 Elections.

Third, along the same line of thought, Arnado's May 9, 2013 Affidavit of Renunciation, submitted to comply with his May 2013 candidacy, was rejected because it should have been filed on October 1, 2012 (i.e., when he filed

his CoC for the May 2013 elections).

If the Maquiling ruling of April 16, 2013, which addressed the separate 2010 disqualification case, was made to retroactively apply to October 1, 2012, in the separate 2013 disqualification case, then a retroactive opportunity should also be given in the 2013 disqualification case to comply with what retroactively applied in Maquiling.

To the extent that Arnado was denied the chance to submit a replacement -oath of renunciation in 2013, there was an unfair and abusive denial of opportunity equivalent to grave abuse of discretion.

D. The Maquiling ruling is limited to Arnado's qualification to run for public office and only for the purpose of the May 2010 elections

I submit that the ponencia 's ruling, insofar as it adopts the Maquiling ruling, is an overreach that runs counter to the policy behind RA No. 9225.

I submit that the extent of the legal consequences of the Maquiling ruling affect solely Arnado's qualification to run for public office and only for the purpose of the May 2010 elections. These consequences should not be extended to situations outside of and not contemplated by Maquiling.

The following reasons support my view:

First, the Maquiling ruling only considered the material facts surrounding the May 2010 Elections. The critical facts on which the Maquiling case turned dwelt with the travels of Arnado using his U.S. passport. These facts are not contested in the present case. Nor am I contesting that for eleven days in April 2009, Arnado was a "pure" Filipino, until a recantation of his renunciation oath took place. These are settled and accepted facts.

The Maquiling ruling left out, because these are facts that it did not consider material for its resolution (such as the overlaps in the filing of the October 1, 2012 CoC and the resolution of Maquiling; the effect of Maquiling on the 2013 disqualification case; the oath of allegiance and renunciation that accompanied the November 30, 2009 CoC for the May 2010 elections) or because they were outside the scope of the relevant facts of Maquiling (such as the prevailing Comelec en banc ruling on October 1, 2012 when Arnado filed his CoC; the facts surrounding the filing of the CoC on October 1, 2012; and the May 9, 2013 filing of the Oath of Allegiance and Oath of Renunciation affirming his April 3, 2009 Affidavit of Renunciation).

From these perspectives, how can the 2010 Maquiling case be a seamless continuation of the 2013 disqualification case now before this Court?

Second, the implied renunciation of foreign citizenship that Arnado made on several occasions is different from and has distinct legal implications separate from the express renunciation he made on April 3, 2009.

The implied renunciation of foreign citizenship proceeds from the oath of allegiance that natural-born Filipino citizens take to re-acquire Philippine citizenship. This is patent from the terms of the oath of allegiance and is a consequence of the resulting re-acquisition of Philippine citizenship.

The express renunciation, in contrast, is an after-the-fact requirement that arises only if these natural-born Filipino citizens choose to run for public office. The requirement of an express renunciation of foreign citizenship arises only after they have re-acquired Philippine citizenship for the exclusive purpose of qualifying them for elective public office.

Note in this regard that Maquiling declared as recanted only the express renunciation that Arnado executed on April 3, 2009, not the implied renunciation that Arnado made on several occasions when he swore allegiance to

the supreme authority of the Republic.

This Maquiling declaration and the distinction that it signifies are crucial: first, the implied renunciation of foreign allegiance that Arnado made on several occasions still stands as valid, as Maquiling affected only his April 3, 2009 express renunciation; second, the implied renunciation must be valid because it did not affect Arnado's reacquisition of Filipino citizenship; and third, Arnado's express renunciation was declared recanted solely for the purpose of the May 2010 Elections, not for any and all other purposes.

In short, Maquiling did not declare Arnado's renunciation of his US citizenship invalid for all purposes; it certainly could not have done so as that case involved an election disqualification case that challenged Arnado's candidacy for the mayoralty post by reason of an alleged defect in his qualification, i.e., Arnado's isolated acts that, to the majority, effectively recanted his express renunciation.

In ruling as it did, Maquiling did not and could not have gone beyond the confines of the underlying election disqualification case and could not have ruled on Arnado's Philippine citizenship per se without exceeding the confines of the Court's jurisdiction.

Citizenship and its loss, acquisition, and re-acquisition are much broader concepts that cannot definitively be affected by a Court ruling in an election disqualification case, even if the disqualification case touches on the citizenship qualification of the candidate. Thus, I submit that Maquiling invalidated Arnado's renunciation oath solely for the purpose of his qualification for the May 2010 elections.

Third, Arnado became a "pure" Philippine citizen as of April 3, 2009, a legal consequence that Maquiling recognized and conceded as it declared that "he in fact did" comply with the "twin requirements under RA No. 9225" for the purpose of election qualification.

What made the Court rule against Arnado's qualification for the May 2010 Elections was the finding of positive, albeit isolated, acts that effectively "disqualified him from running for an elective public office pursuant to Section 40(d) of the Local Government Code of 1991."

Otherwise stated, Arnado, in the Maquiling sense, was indisputably already a "pure" Philippine citizen as of April 3, 2009. He reverted to a dual citizen status (and only from the perspective of the concerned foreign country) only on the date subsequent to April 3, 2009, and only by virtue of the ruling that considered his use of his US passport on isolated occasions as a "voluntar[y] and effective[] [act of] revert[ing] to [the] earlier status [of] a dual citizen."

To quote and highlight the majority's pronouncement on this point: "[such reversion was not retroactive as it took place the instant Arnado represented himself as an American citizen by using his US passport.]"[31]

Thus, even if only for qualification purposes, the April 3, 2009 Affidavit of Renunciation was a valid and Court-recognized express declaration of Arnado's renunciation of his US citizenship that the Court cannot lightly disregard in the present disqualification case.

Fourth, even Maquiling did not perpetually and absolutely disqualify Arnado from running for any elective public office, or from running in any elections as they declared that "[h]e is disqualified x x from becoming a candidate in the May 2010 elections." [32] In other words, Maquiling declared Arnado as disqualified from running only in the May 2010 Elections; they did not declare him as disqualified for any and all other elections, including the May 2013 Elections.

E. Arnado's May 9, 2013 Affidavit of Renunciation, affirming his April 3, 2009 Affidavit, cured any alleged defect in his

qualification to run for public office during the May 2013 Elections

I take exception to the ponencia's ruling that ignores Arnado's May 9, 2013 Affidavit of Renunciation simply because it was executed after Arnado filed his CoC on October 1, 2012. I submit that Arnado's May 9, 2013 Affidavit of Renunciation bears crucial significance to Arnado's qualification to run for the May 2013 Elections which the Court cannot and should not lightly ignore.

Maquiling unequivocally held that by using an American passport, he effectively recanted his express renunciation of his US citizenship.

Jurisprudence defines the act of recantation to mean to "withdraw or repudiate formally and publicly;" "to renounce or withdraw prior statement." To "retract" means to "take back;" "to retract an offer is to withdraw it before acceptance." [33]

That Arnado took back his statement disavowing allegiance to the US government, however, does not render invalid his status as a natural-born Filipino citizen; neither does it negate the fact that he had impliedly renounced his US citizenship, and had subsequently made an express renunciation of his US citizenship.

Granting that Arnado's use of his US passport amounted to a withdrawal of the express renunciation he made of his allegiance to the US, this withdrawal does not erase the fact that he did make an express renunciation of his US citizenship.

To my mind, this express renunciation, even if recanted, may still be re-affirmed, in the same way a statement already made and subsequently denied, can be re-confirmed. Thus, Arnado's 2013 Affidavit of Renunciation can validly re-affirm the 2009 express renunciation that the Court held to have been recanted in Maquiling.

Note that in the May 9, 2013 Affidavit of Renunciation, Arnado categorically stated that he renounces his US citizenship, as well as any and all foreign citizenship; swears allegiance to the Republic; and confirms the renunciation (of his US citizenship) he had previously made in the April 3, 2009 Affidavit of Renunciation.

Note, likewise, that as explained above, the April 3, 2009 Affidavit of Renunciation is a valid and Court-confirmed oath that Arnado had validly confirmed in his May 9, 2013 Affidavit. To confirm means "to make firm: strengthen in a resolution, conviction, loyalty, position; to give new assurance of the truth or validity; to state or imply the truth," [34] and implies a prior existence.

Finally, note that the Maquiling ruling was issued after Arnado took his oath of allegiance to the Republic four times- on July 10, 2008, April 3, 2009 (when he executed the affidavit of renunciation); November 30, 2009 (when he filed his CoC for the May 2010 Elections); and October 1, 2012 (when he filed his CoC for the May 2013 Elections). It was also issued after Arnado renounced his US citizenship expressly on April 3, 2009, and impliedly on four occasions - on July 10, 2008; April 3, 2009; November 30, 2009; and October 1, 2012- when he swore allegiance to the supreme authority of the Republic.

In fact, in his October 1, 2012 CoC, Arnado made the following oath:

I will support and defend the Constitution of the Republic of the Philippines and will maintain true faith and allegiance thereto. I will obey all laws, legal orders and decrees promulgated by the duly constituted authorities. I impose this obligation upon myself voluntarily, without mental reservation and purpose of evasion.

Taken together, all these facts undeniably show that Arnado's May 9, 2013 Affidavit of Renunciation was not entirely new, nor completely different and independent from the oath of renunciation that Arnado took on April 3,

2009. Rather, it affirmed and revalidated the Court-recognized renunciation oath that he had earlier taken.

Indisputably, Maquiling found that Arnado's express renunciation had been validly made. This express renunciation, having been disavowed, can be re-affirmed by subsequent acts - through his May 9, 2013 Affidavit of Renunciation and through the statement in his October 1, 2012 CoC.

The statement in Arnado's October 1, 2012 CoC, for instance, is substantially similar to the oath of allegiance required in RA No. 9225. This oath not only recognizes Arnado's Filipino citizenship, but impliedly renounces his US citizenship. That he swore sole allegiance to the Philippine Republic in his October 1, 2012 CoC in effect affirmed his express renunciation of US citizenship; and thus dispenses with the need for another express renunciation.

Rather than an oath that should simply be brushed aside as the Comelec did, the May 9, 2013 Affidavit served: first, to repair his reverted dual citizen status as declared in Maquiling; and second, to re-assert and emphasize his clear intent to renounce his US citizenship which he had expressly done once and impliedly done four times.

In this sense, the May 9, 2013 Affidavit of Renunciation retroacted to April 3, 2009, and cured any alleged defect in Arnado's October 1, 2012 CoC. More importantly, it cured any defect that the intervening Maquiling ruling introduced on Arnado's qualification to run for public office during the May 2013 Elections.

That Arnado executed his May 9, 2013 Affidavit of Renunciation while Maquiling was still under the Court's consideration (it was not confirmed on reconsideration until July 2, 2013) is not without significance. While the May 9, 2013 Affidavit was filed for purposes of the present disqualification case, it could have, had the Court been so inclined, considered as a factor in ruling on Maquiling's reconsideration; but apparently it was not at all considered since Arnado's use of his US passport was the focal point of the controversy.

F. The intervening Maquiling ruling did not and could not have invalidated his status as a "pure" Philippine citizen who was qualified to run and had filed a valid CoC for the May 2013 Elections

As the legal consequences of the Maquiling ruling on Arnado's renunciation of his US citizenship did not extend beyond his qualification to run for public office during the May 2010 elections; and that the May 9, 2013 Affidavit of Renunciation cured any alleged defect in Arnado's qualification to run for the May 2013 Elections, I submit that the Maquiling ruling on April 16, 2013 did not affect and could not have affected Arnado's qualification to run for public office for the purpose of the May 2013 Elections.

Under the circumstances, Arnado had effectively become a "pure" natural-born Philippine citizen again on October 1, 2012, when he executed the retroactive and curative May 9, 2013 Affidavit of Renunciation, and which status continued well beyond the May 2013 Elections. In this way, Arnado qualified for the position of Mayor of Kauswagan, Lanao del Norte, and filed a valid CoC.

G. When Arnado filed his CoC on October 1, 2012, the Comelec En Banc, in its February 2, 2011 Resolution in SPA No. 10-109(DC), declared him as qualified to run for the elective office; hence, Arnado did not need to execute another Affidavit of Renunciation because

of this standing Comelec ruling

I likewise strongly object to the ponencia for faulting Arnado for not executing another oath of renunciation at the time of or prior to the filing of his CoC on October 1, 2012, reasoning out that as "early as 2010 x x x Arnado has gotten wind that the use of his US passport might pose a problem to his candidacy."

It should be remembered that in the February 2, 2011 Resolution in SPA No. 10-109(DC), the Comelec En Banc declared Arnado as a "pure" Philippine citizen again, qualified to run for elective public office. This Comelec ruling still stood and had not yet been overturned at the time Arnado filed his CoC on October 1, 2012 for the May 2013 Elections. Arnado, therefore, had every right and reason to rely on this Comelec ruling and to believe that he was not disqualified to run in the May 2013 Elections.

I concede that, as the events have shown, he should, in retrospect, have exercised greater care and have taken every step to secure his qualification to run for public office. His failure, however, should not and cannot affect his qualification which then stands and is authoritatively affirmed by the Comelec.

Indeed "there is no law prohibiting him from executing an Affidavit of Renunciation every election period" as the ponencia puts it. But, note that there is equally no law that requires him to constantly and consistently assert his renunciation of any and all foreign citizenship. Neither is there any law that expressly or impliedly imposes on natural-born Filipino citizens the obligation to constantly assert their allegiance to the Republic and perform positive acts to assert this allegiance.

In fact, as the law stands, natural-born Filipino citizens who have lost their Philippine citizenship by reason of their naturalization as citizens of a foreign country need only to take an oath of allegiance to the supreme authority of the Republic to re-acquire Philippine citizenship as they are "deemed not to have lost their Philippine citizenship." Once they re-acquire their Philippine citizenship after complying with these legal steps, they no longer need to perform any positive act to assert Philippine citizenship or to elect citizenship.[35]

H. Arnado's persistent assertions of his allegiance to the Republic and renunciation of his US citizenship more than sufficiently proved his determined resolve to profess allegiance only to the Republic; these continuing assertions should have resolved any doubt in favor of his qualification

RA No. 9225 is a relatively new statutory enactment whose provisions have not been exhaustively interpreted and ruled upon by this Court, through an appropriate case. In this respect, I submit that in situations of doubt where the strict application of the equivocal letter of the law would clearly and undoubtedly disregard the legislative intent, the Court must and should tread lightly as it rules on the relatively uncharted area of application where RA No. 9225 overlaps with our elections laws.

The unique factual situation of this case presents such situation of doubt which the Court must resolve in the light of the clear legislative intent, rather than from the strict application of the equivocal letter of the law. I find that Arnado's persistent assertion of his allegiance to the Republic and renunciation of his US citizenship more than sufficiently prove his determined resolve to profess allegiance only to the Republic and to none other.

I submit that the following considerations should not be missed.

At the time Arnado filed his CoC on October 1, 2012, he had fully satisfied all of the requirements of RA No.

9225 to run for elective public office: he has re-acquired Philippine citizenship after having filed the Oath of Allegiance and secured the order of approval on July 10, 2008; he has also met all of the qualifications under the Constitution and the law for the local elective office; and he has already executed an Affidavit of Renunciation on April 3, 2009.

Likewise, as of October 1, 2012, Arnado had sworn allegiance to the Republic four times, i.e., on July 10, 2008; April 3, 2009; November 30, 2009; and October 1, 2012. He had also renounced his US citizenship expressly on April 3, 2009, and impliedly thrice on July 10, 2008, November 30, 2009, and October 1, 2012.

Additionally, on October 1, 2012, the Comelec en banc, via the February 2, 2011 resolution in SPA No. 10-109(DC), had ruled in his favour, affirmed the existence and validity of his oath of renunciation, and confirmed his continuing qualification for the elective post. At that time, the February 2, 2011 Comelec ruling had not yet been reversed by this Court and stood as the final and most recent ruling as regards his qualification to run for the local elective post. As it had not yet been reversed, he clearly and rightfully had every reason to rely on this Comelec ruling when he filed his CoC on October 1, 2012.

In these lights, Arnado's allegiance to the supreme authority of the Republic and his renunciation of any and all foreign allegiance, including those to the US government, cannot be doubted. From the time he had re-acquired "pure" Philippine citizenship under the terms of RA No. 9225, Arnado has persistently asserted these oaths even while the law does not require him to do so.

In this situation, any doubt or ambiguity should be resolved in favor of his full Filipino citizenship - with his qualification to run for the May 2013 Elections- since the thrust of RA No. 9225 is to encourage the return to Filipino citizenship of natural-born Filipinos who lost their Philippine citizenship through their acquisition of foreign citizenship.[36] Note in this regard that Arnado consciously and voluntarily gave up a very much sought-after citizenship status in favor of returning to full Filipino citizenship and of participating in Philippine governance.[37]

I. Maquiling did not say that Arnado used his US passport again on January 12, 2010, and on March 23, 2010

A minor matter, asserted by the ponencia, which should be corrected is the claim that Arnado "used his US passport on January 12, 2010, and on March 23, 2010, as found by this Court in Maquiling."

I strongly object to this observation as the ponencia clearly misread Maquiling.

Nowhere in Maquiling did the Court make a finding that Arnado used his US passport again on January 12, 2010, and March 23, 2010- months after he had received his Philippine passport. Rather, the alleged use by Arnado of his US passport on these dates was a mere assertion of Balua, before the Comelec First Division in the Maquiling case; interestingly, Balua was no longer a party when the case reached this Court. In fact, the Court in Maquiling, quoting a portion of the Comelec En Banc decision, noted that on January 12, 2010, what Arnado used was his Philippine passport, not his US passport.

J. Under the circumstances, the Comelec committed grave abuse of discretion

In this Rule 64-Rule 65 petition, the Court's review is limited to the jurisdictional issue of whether the Comelec acted without or in excess of jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction.

As a concept, grave abuse of discretion generally refers to capricious or whimsical exercise of judgment as is equivalent to lack of jurisdiction; the abuse of discretion must be patent and gross as to amount to an evasion of a positive duty or a virtual refusal to perform a duty enjoined by law, or to act at all in contemplation of law, as where the power is exercised in an arbitrary and despotic manner by reason of passion and hostility. Mere abuse of discretion is not enough; it must be grave.

The Court's review power is also limited by the condition, under Section 5, Rule 64 of the Rules of Court, that findings of fact of the Comelec, supported by substantial evidence, shall be final and non-reviewable. In this respect, the Court does not ordinarily review the Comelec's appreciation and evaluation of evidence as any misstep by the Comelec in this regard generally involves an error of judgment, not of jurisdiction.

In exceptional situations, however, where the assailed judgment is based on misapprehension or erroneous apprehension of facts or on the use of wrong or irrelevant considerations in deciding an issue[38] situations that are tainted with grave abuse of discretion the Court is not only obliged but has the constitutional duty to intervene.[39] When grave abuse of discretion is present, the resulting errors mutate from error of judgment to one of jurisdiction.

I find that, based on the reasons discussed above, the Comelec's action in this case as it disqualified Arnado from running for the May 2013 Elections, was clearly tainted with grave abuse of discretion.

The Comelec committed grave abuse of discretion when: first, it relied completely and indiscriminately on the Maquiling ruling - the wrong and irrelevant, or at the very least, incomplete - consideration in deciding the underlying disqualification case; and second, it did not make its own finding of facts and evaluation of the evidence, independent of Maquiling, and disregarded relevant facts and evidence subsequent to Maquiling - a clear misapprehension of the facts. Note that the Comelec, both in the September 6, 2013, and December 9, 2013 resolutions, quoted heavily portions of the Maquiling ruling and drew its discussions and conclusion largely from Maquiling.

For these reasons, and under the circumstances of this case, I submit that the assailed Comelec actions must be struck down for grave abuse of discretion amounting to lack or excess of jurisdiction.

K. At any rate, all doubts should be resolved in favor of Arnado's qualification: the mandate of the people of Kauswagan that twice elected Arnado as their Mayor should be respected and upheld

Independently of all these issues- of Arnado's qualification to run for the May 2013 Elections and the intervention of the Maquiling ruling the Court cannot and should not now ignore the undeniable fact that the people of Kauswagan, Lanao del Norte, have themselves responded to the situation of doubt that might have arisen because of the factual link between the present disqualification case and the intervention of the Maquiling ruling.

The people themselves made their own ruling when they elected Arnado as their mayor in the two successive elections - the May 2010 and the May 2013 elections - despite the "foreigner" label his rivals, even the ponencia, sought to continuously pin on him.

Arnado received an overwhelming 8,902 votes as against the meager 1,707 votes of his opponent Capitan in the May 2013 Elections; in the May 2010 Elections, he received the majority 5,952 of the total 11,309 votes cast. At this point, "even this Court should heed this verdict by resolving all doubts regarding Arnado's eligibility in his favor." This is not a novel approach.[40] To reiterate what Sinaca v. Mula[41] teaches us:

[When] a candidate has received popular mandate, overwhelmingly and clearly expressed, all possible doubts should be resolved in favor of the candidate¹ eligibility for to rule otherwise is to defeat the will of the people. Above and beyond all, the determination of the true will of the electorate should be paramount. It is their voice, not ours or of anyone else, that must prevail. This, in essence, is the democracy we continue to hold sacred.

In the words of another leading case - *Frivaldo v. Comelec*[42]- the law and the courts, including this Court, must give serious consideration to the popular will.

"In any action involving the possibility of a reversal of the popular electoral choice, this Court must exert utmost effort to resolve the issues in a manner that would give effect to the will of the majority, for it is merely sound public policy to cause elective offices to be filled by those who are the choice of the majority. To successfully challenge a winning candidate's qualifications, the petitioner must clearly demonstrate that the 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." [43]

Under the evidentiary and unique factual situation of this case, the alleged eligibility of Arnado is not antagonistic, patently or otherwise, to constitutional and legal principles such that giving effect to the sovereign will would create prejudice to our democratic institutions.

Notably, the Office of the Sangguniang Bayan, through Resolution No. 002-2014[44] dated January 2, 2014, and the Liga ng Mga Barangay, through Resolution No. 001-2014[45] dated January 2, 2014, expressed their continuing and overwhelming support for Arnado, notwithstanding the Comelec rulings disqualifying him from the May 2013 Elections, and implores the Court to heed the Kauswagan people's voice under the principle *vox populi, vox dei*.

Under the circumstances of this case, the ponencia's action that resolves all doubts against Arnado's eligibility undoubtedly defeats the will of the Kauswagan electorate.[46] In ruling as it does, the ponencia effectively disenfranchises an undoubtedly overwhelming majority of the Kauswagan people as "[t]he rights of suffrage can be denied by a debasement or dilution of the weight of a citizen's vote just as effectively as by wholly prohibiting the free exercise of the franchise." [47] The Court should respect and uphold the will of the electorate.

For the above reasons, I vote to grant the petition.

[1] Rollo, pp. 3-19.

[2] G.R. No. 195649, April 16, 2013, 696 SCRA 420.

[3] See J. Brion's Separate Opinion in *Atty. Alicia Risos-Vidal v. Commission on Elections and Joseph Ejerdto Estrada*, G.R. No. 206666, January 21, 2015.

[4] The complete title of RA 9225 reads: "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."

[5] See J. Brion's Dissent to the April 16, 2013 decision in *Maquiling*, *supra* note 2, at 474-493.

[6] *Id.*

[7] *Id.*

[8] Rollo, p. 7.

[9] Supra note 2, at 451-452.

[10] Id.

[11] Rollo, p.55.

[12] Id. at 54.

[13] Id. at 74.

[14] Id. at 47-52.

[15] The case was effectively a disqualification case as it was filed outside of the allowable period for the filing of a petition for cancellation of a certificate of candidacy.

[16] Id. at 68.

[17] See excerpts of Congress deliberations on RA 9225 in *AASJS v. Hon. Datumanong*, 51 Phil. 110, 116-117 (2007).

[18] Entitled "An Act Providing For The Ways In Which Philippine Citizenship May Be Lost Or Reacquired."

[19] See Section 2 of CA No. 63.

[20] Entitled "An Act To Provide For The Acquisition Of Philippine Citizenship By Naturalization, And To Repeal Acts Numbered Twenty-Nine Hundred And Twenty-Seven And Thirty-Four Hundred and Forty-Eight," enacted on June 17, 1939. CA No. 63, as worded, provides that the procedure for re-acquisition of Philippine citizenship by naturalization shall be in accordance with the procedure for naturalization under Act No. 2927 (or The Naturalization Law, enacted on March 26, 1920), as amended. CA No. 473, however, repealed Act No. 2927 and 3448, amending 2927.

[21] Section 1 of RA No. 9225.

[22] See *AASJS v. Hon. Datumanong*, supra note 17, at 117-418.

[23] Id.

[24] Id.

[25] Supra note 22.

[26] Id. at 117-118.

[27] See Section 5(2) of RA No. 9225.

[28] 596 Phil. 354 (2009).

[29] Id. at 366-376. In declaring that Jaime Ty became a "pure" Philippine citizen after taking the Oath of Allegiance and executing an Oath of Renunciation, the Court said:

"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. 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."

[30] Arnado executed an affidavit of Renunciation and Oath of Allegiance before notary public Thomas Dean M. Quijano. (See J. Brion Dissent in Maquiling, *supra* note 2.)

[31] *Supra* note 2, at 451-452.

[32] *Id.* at 455.

[33] *Almonte v. Sevallano*, G.R. No. 131652, March 9, 1998.

[34] *Black's Law Dictionary*, Fifth Edition, p. 476.

[35] Their situation should be contrasted with the situation of naturalized Filipinos who must not only prove that they possess all of the qualifications and none of the disqualifications provided by law to acquire Philippine citizenship. They must also expressly renounce any and all foreign citizenship, including their foreign citizenship, in order to acquire Philippine citizenship. Should they lose their Philippine citizenship, they must comply with the same requirements and go through the same rigorous procedure when they first applied for Philippine citizenship.

[36] See *Japzon v. COMELEC, et. al.*, *supra* note 28, at 366-376 (2009) and *AASJS v. Hon. Datumanong*, *supra* note 17 at 116-117, cited in J. Brion's Dissenting Opinion dated July 2, 2013 (in *Maquiling v. Comelec*, *supra* note 2).

[37] See J. Brion's Dissenting Opinion dated July 2, 2013 (in *Maquiling v. Comelec*, *supra* note 2).

[38] See *Varias v. Comelec*, G.R. No. 189078, February 11 2010, cited in *Mitra v. Comelec*, G.R. No. 191938, July 2, 2010; and *Belongilot v. Cua, et. al.*, 650 Phil. 392, 405 (2010).

[39] See Section I, Article VIII of the Constitution.

[40] See J. Panganiban's Concurring Opinion in *Bengson III v. House Representatives Electoral Tribunal* (G.R. No. 142840, May 7, 2001, 357 SCRA 545) where respondent Teodoro C. Cruz's citizenship was also questioned, viz:

4. In Case of Doubt, Popular Will Prevails

Fourth, the court has a solemn duty to uphold the clear and unmistakable mandate of the people. It cannot supplant the sovereign will of the Second District of Pangasinan with fractured legalism. The people of the District have clearly spoken. They overwhelmingly and unequivocally voted for private respondent to represent them in the House of Representatives. The votes that Cruz garnered (80, 119) in the last elections were much more than those of all his opponents combined (66, 182). In such instances, all possible doubts should be resolved in favor of the winning candidate's eligibility; to rule otherwise would be to defeat the will of the people.

Well-entrenched in our jurisprudence is the doctrine that in case of doubt, political laws must be so constructed as to give life and spirit to the popular mandate freely expressed through the ballot. Public interest and the sovereign will should, at all times, be the paramount considerations in election controversies. For it would be better to err in favor of the people's choice than to be right in complex but little understood legalisms.

Indeed, this Court has repeatedly stressed the importance of giving effect to the sovereign will in order to ensure the survival of our democracy. In any action involving the possibility of a reversal of the popular electoral choice, this Court must exert utmost effort to resolve the issues in a manner that would give effect to the will of the majority, for it is merely sound public policy to cause elective offices to be filled by those who

are the choice of the majority. To successfully challenge a winning candidate's qualifications, the petitioner must clearly demonstrate that the 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. [Emphasis ours]

See also *Fernandez v. House of Representatives Electoral Tribunal*, G.R. No. 187478, December 21, 2009, 608 SCRA 733.

[41] 373 Phil. 896 (1999).

[42] G.R. No. 120295, June 28, 1996.

[43] *Frivaldo v. Comelec*, G.R. No. 120295, June 28, 1996.

[44] *Rollo*, pp. 103-108.

[45] *Rollo*, pp. 109-113.

[46] See *Sinaca v. Mula*, 373 Phil. 896 (1999), where the Court said:

"[When], a candidate has received popular mandate, overwhelmingly and clearly expressed, all possible doubts should be resolved in favor of the candidate's eligibility for to rule otherwise is to defeat the will of the people. Above and beyond all, the determination of the true will of the electorate should be paramount. It is their voice, not ours or of anyone else, that must prevail. This, in essence, is the democracy we continue to hold sacred."

[47] *Gore v. Bush*, 531 U.S. 98, 105, 121 S. Ct. 525, 530; 148 L. Ed. 2d 288, 397 (2000), citing *Reynolds v. Sims*, 377 U.S. 533, 555, 12 L. Ed. 2d 506, 84 S. Ct. 1362 (1964).

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.