MARY GRACE NATIVIDAD S. POE-LLAMANZARES, PETITIONER, VS. COMMISSION ON ELECTIONS AND ESTRELLA C. ELAMPARO, RESPONDENTS.

G.R. No. 221697. March 08, 2016

Ponente: PEREZ, J.

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PEREZ, J.:

Before the Court are two consolidated petitions under Rule 64 in relation to Rule 65 of the Rules of Court with extremely urgent application for an ex parte issuance of temporary restraining order/status quo ante order and/or writ of preliminary injunction assailing the following: (1) 1 December 2015 Resolution of the Commission on Elections (COMELEC) Second Division; (2) 23 December 2015 Resolution of the COMELEC En Banc, in SPA No. 15-001 (DC); (3) 11 December 2015 Resolution of the COMELEC First Division; and (4) 23 December 2015 Resolution of the COMELEC En Banc, in SPA No. 15-002 (DC), SPA No. 15-007 (DC) and SPA No. 15-139 (DC) for having been issued without jurisdiction or with grave abuse of discretion amounting to lack or excess of jurisdiction.

The Facts

Mary Grace Natividad S. Poe-Llamanzares (petitioner) was found abandoned as a newborn infant in the Parish Church of Jaro, Iloilo by a certain Edgardo Militar (Edgardo) on 3 September 1968. Parental care and custody over petitioner was passed on by Edgardo to his relatives, Emiliano Militar (Emiliano) and his wife. Three days after, 6 September 1968, Emiliano reported and registered petitioner as a foundling with the Office of the Civil Registrar of Iloilo City (OCR-Iloilo). In her Foundling Certificate and Certificate of Live Birth, the petitioner was given the name "Mary Grace Natividad Contreras Militar."[1]

When petitioner was five (5) years old, celebrity spouses Ronald Allan Kelley Poe (a.k.a. Fenando Poe, Jr.) and Jesusa Sonora Poe (a.k.a. Susan Roces) filed a petition for her adoption with the Municipal Trial Court (MTC) of San Juan City. On 13 May 1974, the trial court granted their petition and ordered that petitioner's name be changed from "Mary Grace Natividad Contreras Militar" to "Mary Grace Natividad Sonora Poe." Although necessary notations were made by OCR-Iloilo on petitioner's foundling certificate reflecting the court decreed adoption,[2] the petitioner's adoptive mother discovered only sometime in the second half of 2005 that the lawyer who handled petitioner's adoption failed to secure from the OCR-

Iloilo a new Certificate of Live Birth indicating petitioner's new name and the name of her adoptive parents.[3] Without delay, petitioner's mother executed an affidavit attesting to the lawyer's omission which she submitted to the OCR-Iloilo. On 4 May 2006, OCR-Iloilo issued a new Certificate of Live Birth in the name of Mary Grace Natividad Sonora Poe.[4]

Having reached the age of eighteen (18) years in 1986, petitioner registered as a voter with the local COMELEC Office in San Juan City. On 13 December 1986, she received her COMELEC Voter's Identification Card for Precinct No. 196 in Greenhills, San Juan, Metro Manila.[5]

On 4 April 1988, petitioner applied for and was issued Philippine Passport No. F927287[6] by the Department of Foreign Affairs (DFA). Subsequently, on 5 April 1993 and 19 May 1998, she renewed her Philippine passport and respectively secured Philippine Passport Nos. L881511 and DD156616.[7]

Initially, the petitioner enrolled and pursued a degree in Development Studies at the University of the Philippines[8] but she opted to continue her studies abroad and left for the United States of America (U.S.) in 1988. Petitioner graduated in 1991 from Boston College in Chestnuts Hill, Massachusetts where she earned her Bachelor of Arts degree in Political Studies.[9]

On 27 July 1991, petitioner married Teodoro Misael Daniel V. Llamanzares (Llamanzares), a citizen of both the Philippines and the U.S., at Sanctuario de San Jose Parish in San Juan City.[10] Desirous of being with her husband who was then based in the U.S., the couple flew back to the U.S. two days after the wedding ceremony or on 29 July 1991.[11]

While in the U.S., the petitioner gave birth to her eldest child Brian Daniel (Brian) on 16 April 1992.[12] Her two daughters Hanna MacKenzie (Hanna) and Jesusa Anika (Anika) were both born in the Philippines on 10 July 1998 and 5 June 2004, respectively.[13]

On 18 October 2001, petitioner became a naturalized American citizen.[14] She obtained U.S. Passport No. 017037793 on 19 December 2001.[15]

On 8 April 2004, the petitioner came back to the Philippines together with Hanna to support her father's candidacy for President in the May 2004 elections. It was during this time that she gave birth to her youngest daughter Anika. She returned to the U.S. with her two daughters on 8 July 2004.[16]

After a few months, specifically on 13 December 2004, petitioner rushed back to the Philippines upon learning of her father's deteriorating medical condition.[17] Her father slipped into a coma and eventually expired. The petitioner stayed in the country until 3 February 2005 to take care of her father's funeral arrangements as well as to assist in the settlement of his estate.[18]

According to the petitioner, the untimely demise of her father was a severe blow to her entire family. In her earnest desire to be with her grieving mother, the petitioner and her husband decided to move and reside permanently in the Philippines sometime in the first quarter of 2005.[19] The couple began preparing for their resettlement including notification of their children's schools that they will be transferring to Philippine schools for the next semester;[20] coordination with property movers for the relocation of their household goods, furniture and cars from the U.S. to the Philippines;[21] and inquiry with Philippine authorities as to the proper procedure to be followed in bringing their pet dog into the country.[22] As early as 2004, the petitioner already quit her job in the U.S.[23]

Finally, petitioner came home to the Philippines on 24 May 2005[24] and without delay, secured a Tax Identification Number from the Bureau of Internal Revenue. Her three (3) children immediately followed[25] while her husband was forced to stay in the U.S. to complete pending projects as well as to arrange the sale of their family home there.[26]

The petitioner and her children briefly stayed at her mother's place until she and her husband purchased a condominium unit with a parking slot at One Wilson Place Condominium in San Juan City in the second half of 2005.[27] The corresponding Condominium Certificates of Title covering the unit and parking slot were issued by the Register of Deeds of San Juan City to petitioner and her husband on 20 February 2006.[28] Meanwhile, her children of school age began attending Philippine private schools.

On 14 February 2006, the petitioner made a quick trip to the U.S. to supervise the disposal of some of the family's remaining household belongings.[29] She travelled back to the Philippines on 11 March 2006.[30]

In late March 2006, petitioner's husband officially informed the U.S. Postal Service of the family's change and abandonment of their address in the U.S.[31] The family home was eventually sold on 27 April 2006.[32]

Petitioner's husband resigned from his job in the U.S. in April 2006, arrived in the country on 4 May 2006 and started working for a major Philippine company in July 2006.[33]

In early 2006, petitioner and her husband acquired a 509-square meter lot in Corinthian Hills, Quezon City where they built their family home[34] and to this day, is where the couple and their children have been residing.[35] A Transfer Certificate of Title covering said property was issued in the couple's name by the Register of Deeds of Quezon City on 1 June 2006.

On 7 July 2006, petitioner took her Oath of Allegiance to the Republic of the Philippines pursuant to Republic Act (R.A.) No. 9225 or the Citizenship Retention and Re-acquisition Act of 2003.[36] Under the same Act, she filed with the Bureau of Immigration (BI) a sworn petition to reacquire Philippine citizenship together with petitions for derivative citizenship on behalf of her three minor children on 10 July 2006.[37] As can be gathered from its 18 July 2006 Order, the BI acted favorably on petitioner's petitions and declared that she is deemed to have reacquired her Philippine citizenship while her children are considered as citizens of the Philippines.[38]

Consequently, the BI issued Identification Certificates (ICs) in petitioner's name and in the names of her three (3) children.[39]

Again, petitioner registered as a voter of Barangay Santa Lucia, San Juan City on 31 August 2006.[40] She also secured from the DFA a new Philippine Passport bearing the No. XX4731999.[41] This passport was renewed on 18 March 2014 and she was issued Philippine Passport No. EC0588861 by the DFA.[42]

On 6 October 2010, President Benigno S. Aquino III appointed petitioner as Chairperson of the Movie and Television Review and Classification Board (MTRCB).[43] Before assuming her post, petitioner executed an "Affidavit of Renunciation of Allegiance to the United States of America and Renunciation of American Citizenship" before a notary public in Pasig City on 20 October 2010,[44] in satisfaction of the legal requisites stated in Section 5 of R.A. No. 9225.[45] The following day, 21 October 2010 petitioner submitted the said affidavit to the BI[46] and took her oath of office as Chairperson of the MTRCB.[47] From then on, petitioner stopped using her American passport.[48]

On 12 July 2011, the petitioner executed before the Vice Consul of the U.S. Embassy in Manila an "Oath/Affirmation of Renunciation of Nationality of the United States."[49] On that day, she accomplished a sworn questionnaire before the U.S. Vice Consul wherein she stated that she had taken her oath as MTRCB Chairperson on 21 October 2010 with the intent, among others, of relinquishing her American citizenship.[50] In the same questionnaire, the petitioner stated that she had resided outside of the U.S., specifically in the Philippines, from 3 September 1968 to 29 July 1991 and from May 2005 to present.[51]

On 9 December 2011, the U.S. Vice Consul issued to petitioner a "Certificate of Loss of Nationality of the United States" effective 21 October 2010.[52]

On 2 October 2012, the petitioner filed with the COMELEC her Certificate of Candidacy (COC) for Senator for the 2013 Elections wherein she answered "6 years and 6 months" to the question "Period of residence in the Philippines before May 13, 2013."[53] Petitioner obtained the highest number of votes and was proclaimed Senator on 16 May 2013.[54]

On 19 December 2013, petitioner obtained Philippine Diplomatic Passport No. DE0004530.[55]

On 15 October 2015, petitioner filed her COC for the Presidency for the May 2016 Elections.[56] In her COC, the petitioner declared that she is a natural-born citizen and that her residence in the Philippines up to the day before 9 May 2016 would be ten (10) years and eleven (11) months counted from 24 May 2005.[57] The petitioner attached to her COC an "Affidavit Affirming Renunciation of U.S.A. Citizenship" subscribed and sworn to before a notary public in Quezon City on 14 October 2015.[58]

Petitioner's filing of her COC for President in the upcoming elections triggered the filing of several COMELEC cases against her which were the subject of these consolidated cases.

Origin of Petition for Certiorari in G.R. No. 221697

A day after petitioner filed her COC for President, Estrella Elamparo (Elamparo) filed a petition to deny due course or cancel said COC which was docketed as SPA No. 15-001 (DC) and raffled to the COMELEC Second Division.[59] She is convinced that the COMELEC has jurisdiction over her petition.[60] Essentially, Elamparo's contention is that petitioner committed material misrepresentation when she stated in her COC that she is a natural-born Filipino citizen and that she is a resident of the Philippines for at least ten (10) years and eleven (11) months up to the day before the 9 May 2016 Elections.[61]

On the issue of citizenship, Elamparo argued that petitioner cannot be considered as a natural-born Filipino on account of the fact that she was a foundling.[62] Elamparo claimed that international law does not confer natural-born status and Filipino citizenship on foundlings.[63] Following this line of reasoning, petitioner is not qualified to apply for reacquisition of Filipino citizenship under R.A. No. 9225 for she is not a natural-born Filipino citizen to begin with.[64] Even assuming arguendo that petitioner was a natural-born Filipino, she is deemed to have lost that status when she became a naturalized American citizen.[65] According to Elamparo, natural-born citizenship must be continuous from birth.[66]

On the matter of petitioner's residency, Elamparo pointed out that petitioner was bound by the sworn declaration she made in her 2012 COC for Senator wherein she indicated that she had resided in the country for only six (6) years and six (6) months as of May 2013 Elections. Elamparo likewise insisted that assuming arguendo that petitioner is qualified to regain her natural-born status under R.A. No. 9225, she still fell short of the ten-year residency requirement of the Constitution as her residence could only be counted at the earliest from July 2006, when she reacquired Philippine citizenship under the said Act. Also on the assumption that petitioner is qualified to reacquire lost Philippine Citizenship, Elamparo is of the belief that she failed to reestablish her domicile in the Philippines.[67]

Petitioner seasonably filed her Answer wherein she countered that:

(1)

the COMELEC did not have jurisdiction over Elamparo's petition as it was actually a petition for quo warranto which could only be filed if Grace Poe wins in the Presidential elections, and that the Department of Justice (DOJ) has primary jurisdiction to revoke the BI's July 18, 2006 Order;

(2)

the petition failed to state a cause of action because it did not contain allegations which, if hypothetically admitted, would make false the statement in her COC that she is a natural-born Filipino citizen nor was there any allegation that there was a willful or deliberate intent to misrepresent on her part;

(3)

she did not make any material misrepresentation in the COC regarding her citizenship and residency qualifications for:

a. the 1934 Constitutional Convention deliberations show that foundlings were considered citizens;

b. foundlings are presumed under international law to have been born of citizens of the place where they are found;

c. she reacquired her natural-born Philippine citizenship under the provisions of R.A. No. 9225;

d. she executed a sworn renunciation of her American citizenship prior to the filing of her COC for President in the May 9, 2016 Elections and that the same is in full force and effect and has not been withdrawn or recanted;

e. the burden was on Elamparo in proving that she did not possess natural-born status;

f. residence is a matter of evidence and that she reestablished her domicile in the Philippines as early as May 24, 2005;

g. she could reestablish residence even before she reacquired natural-born citizenship under R.A. No. 9225;

h. statement regarding the period of residence in her 2012 COC for Senator was an honest mistake, not binding and should give way to evidence on her true date of reacquisition of domicile;

i. Elamparo's petition is merely an action to usurp the sovereign right of the Filipino people to decide a purely political question, that is, should she serve as the country's next leader.[68]

After the parties submitted their respective Memoranda, the petition was deemed submitted for resolution.

On 1 December 2015, the COMELEC Second Division promulgated a Resolution finding that petitioner's COC, filed for the purpose of running for the President of the Republic of the Philippines in the 9 May 2016 National and Local Elections, contained material representations which are false. The fallo of the aforesaid Resolution reads:

WHEREFORE, in view of all the foregoing considerations, the instant Petition to Deny Due Course to or Cancel Certificate of Candidacy is hereby GRANTED. Accordingly, the Certificate of Candidacy for President of the Republic of the Philippines in the May 9, 2016 National and Local Elections filed by respondent Mary Grace Natividad Sonora Poe Llamanzares is hereby CANCELLED.[69]

Motion for Reconsideration of the 1 December 2015 Resolution was filed by petitioner which the COMELEC En Banc resolved in its 23 December 2015 Resolution by denying the same.[70]

Origin of Petition for Certiorari in GR. Nos. 221698-700

This case stemmed from three (3) separate petitions filed by Francisco S. Tatad (Tatad), Antonio P. Contreras (Contreras) and Amado D. Valdez (Valdez) against petitioner before the COMELEC which were consolidated and raffled to its First Division.

In his petition to disqualify petitioner under Rule 25 of the COMELEC Rules of Procedure,[71] docketed as SPA No. 15-002 (DC), Tatad alleged that petitioner lacks the requisite residency and citizenship to qualify her for the Presidency.[72]

Tatad theorized that since the Philippines adheres to the principle of jus sanguinis, persons of unknown parentage, particularly foundlings, cannot be considered natural-born Filipino citizens since blood relationship is determinative of natural-born status.[73] Tatad invoked the rule of statutory construction that what is not included is excluded. He averred that the fact that foundlings were not expressly included in the categories of citizens in the

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1935 Constitution is indicative of the framers' intent to exclude them.[74]

Therefore, the burden lies on petitioner to prove that she is a natural-born citizen.[75]

Neither can petitioner seek refuge under international conventions or treaties to support her claim that foundlings have a nationality.[76] According to Tatad, international conventions and treaties are not self-executory and that local legislations are necessary in order to give effect to treaty obligations assumed by the Philippines.[77] He also stressed that there is no standard state practice that automatically confers natural-born status to foundlings.[78]

Similar to Elamparo's argument, Tatad claimed that petitioner cannot avail of the option to reacquire Philippine citizenship under R.A. No. 9225 because it only applies to former natural-born citizens and petitioner was not as she was a foundling.[79]

Referring to petitioner's COC for Senator, Tatad concluded that she did not comply with the ten (10) year residency requirement.[80] Tatad opined that petitioner acquired her domicile in Quezon City only from the time she renounced her American citizenship which was sometime in 2010 or 2011.[81]

Additionally, Tatad questioned petitioner's lack of intention to abandon her U.S. domicile as evinced by the fact that her husband stayed thereat and her frequent trips to the U.S.[82]

In support of his petition to deny due course or cancel the COC of petitioner, docketed as SPA No. 15-139 (DC), Valdez alleged that her repatriation under R.A. No. 9225 did not bestow upon her the status of a natural-born citizen.[83] He advanced the view that former natural-born citizens who are repatriated under the said Act reacquires only their Philippine citizenship and will not revert to their original status as natural- born citizens.[84]

He further argued that petitioner's own admission in her COC for Senator that she had only been a resident of the Philippines for at least six (6) years and six (6) months prior to the 13 May 2013 Elections operates against her. Valdez rejected petitioner's claim that she could have validly reestablished her domicile in the Philippines prior to her reacquisition of Philippine citizenship. In effect, his position was that petitioner did not meet the ten (10) year residency requirement for President.

Unlike the previous COMELEC cases filed against petitioner, Contreras' petition,[85] docketed as SPA No. 15-007 (DC), limited the attack to the residency issue. He claimed that petitioner's 2015 COC for President should be cancelled on the ground that she did not possess the ten-year period of residency required for said candidacy and that she made false entry in her COC when she stated that she is a legal resident of the Philippines for ten (10) years and eleven (11) months by 9 May 2016.[86] Contreras contended that the reckoning period for computing petitioner's residency in the Philippines should be from 18 July 2006, the date when her petition to reacquire Philippine citizenship was approved by the BI.[87] He asserted that petitioner's physical presence in the country before 18 July 2006 could not be valid evidence of reacquisition of her Philippine domicile since she was then living here as an American citizen and as such, she was governed by the Philippine immigration laws.[88]

In her defense, petitioner raised the following arguments:

First, Tatad's petition should be dismissed outright for failure to state a cause of action. His petition did not invoke grounds proper for a disqualification case as enumerated under Sections 12 and 68 of the Omnibus Election Code.[89] Instead, Tatad completely relied on the alleged lack of residency and natural-born status of petitioner which are not among the recognized grounds for the disqualification of a candidate to an elective office.[90]

Second, the petitions filed against her are basically petitions for quo warranto as they focus on establishing her ineligibility for the Presidency.[91] A petition for quo warranto falls within the exclusive jurisdiction of the

Presidential Electoral Tribunal (PET) and not the COMELEC.[92]

Third, the burden to prove that she is not a natural-born Filipino citizen is on the respondents.[93] Otherwise stated, she has a presumption in her favor that she is a natural-born citizen of this country.

Fourth, customary international law dictates that foundlings are entitled to a nationality and are presumed to be citizens of the country where they are found.[94] Consequently, the petitioner is considered as a natural-born citizen of the Philippines.[95]

Fifth, she claimed that as a natural-born citizen, she has every right to be repatriated under R.A. No. 9225 or the right to reacquire her natural-born status.[96] Moreover, the official acts of the Philippine Government enjoy the presumption of regularity, to wit: the issuance of the 18 July 2006 Order of the BI declaring her as natural-born citizen, her appointment as MTRCB Chair and the issuance of the decree of adoption of San Juan RTC.[97] She believed that all these acts reinforced her position that she is a natural-born citizen of the Philippines.[98]

Sixth, she maintained that as early as the first quarter of 2005, she started reestablishing her domicile of choice in the Philippines as demonstrated by her children's resettlement and schooling in the country, purchase of a condominium unit in San Juan City and the construction of their family home in Corinthian Hills.[99]

Seventh, she insisted that she could legally reestablish her domicile of choice in the Philippines even before she renounced her American citizenship as long as the three determinants for a change of domicile are complied with.[100] She reasoned out that there was no requirement that renunciation of foreign citizenship is a prerequisite for the acquisition of a new domicilee of choice.[101]

Eighth, she reiterated that the period appearing in the residency portion of her COC for Senator was a mistake made in good faith.[102]

In a Resolution[103] promulgated on 11 December 2015, the COMELEC First Division ruled that petitioner is not a natural-born citizen, that she failed to complete the ten (10) year residency requirement, and that she committed material misrepresentation in her COC when she declared therein that she has been a resident of the Philippines for a period of ten (10) years and eleven (11) months as of the day of the elections on 9 May 2016. The COMELEC First Division concluded that she is not qualified for the elective position of President of the Republic of the Philippines. The dispositive portion of said Resolution reads:

> WHEREFORE, premises considered, the Commission RESOLVED, as it hereby RESOLVES, to GRANT the Petitions and cancel the Certificate of Candidacy of MARY GRACE NATIVIDAD SONORA POE-LLAMANZARES for the elective position of President of the Republic of the Philippines in connection with the 9 May 2016 Synchronized Local and National Elections.

Petitioner filed a motion for reconsideration seeking a reversal of the COMELEC First Division's Resolution. On 23 December 2015, the COMELEC En Banc issued a Resolution denying petitioner's motion for reconsideration.

Alarmed by the adverse rulings of the COMELEC, petitioner instituted the present petitions for certiorari with urgent prayer for the issuance of an ex parte temporary restraining order/status quo ante order and/or writ of preliminary injunction. On 28 December 2015, temporary restraining orders were issued by the Court enjoining the COMELEC and its representatives from implementing the assailed COMELEC Resolutions until further orders from the Court. The Court also ordered the consolidation of the two petitions filed by petitioner in its Resolution of 12 January 2016. Thereafter, oral arguments were held in these cases.

The Court GRANTS the petition of Mary Grace Natividad S. Poe- Llamanzares and to ANNUL and SET ASIDE the:

- Resolution dated 1 December 2015 rendered through its Second Division, in SPA No. 15-001 (DC), entitled Estrella C. Elamparo, petitioner, vs. Mary Grace Natividad Sonora Poe-Llamanzares.

- Resolution dated 11 December 2015, rendered through its First Division, in the consolidated cases SPA No. 15-002 (DC) entitled Francisco S. Tatad, petitioner, vs. Mary Grace Natividad Sonora Poe-Llamanzares, respondent; SPA No. 15-007 (DC) entitled Antonio P. Contreras, petitioner, vs. Mary Grace Natividad Sonora Poe-Llamanzares, respondent; and SPA No. 15-139 (DC) entitled Amado D. Valdez, petitioner, v. Mary Grace Natividad Sonora Poe- Llamanzares, respondent.

- Resolution dated 23 December 2015 of the Commission En Banc, upholding the I December 2015 Resolution of the Second Division.

- Resolution dated 23 December 2015 of the Commission En Banc, upholding the 11 December 2015 Resolution of the First Division.

The procedure and the conclusions from which the questioned Resolutions emanated are tainted with grave abuse of discretion amounting to lack of jurisdiction. The petitioner is a QUALIFIED CANDIDATE for President in the 9 May 2016 National Elections.

The issue before the COMELEC is whether or not the COC of petitioner should be denied due course or cancelled "on the exclusive ground" that she made in the certificate a false material representation. The exclusivity of the ground should hedge in the discretion of the COMELEC and restrain it from going into the issue of the qualifications of the candidate for the position, if, as in this case, such issue is yet undecided or undetermined by the proper authority. The COMELEC cannot itself, in the same cancellation case, decide the qualification or lack thereof of the candidate.

We rely, first of all, on the Constitution of our Republic, particularly its provisions in Article IX, C, Section 2:

> Section 2. The Commission on Elections shall exercise the following powers and functions:
>
> (1) Enforce and administer all laws and regulations relative to the conduct of an election, plebiscite, initiative, referendum, and recall.
>
> (2) Exercise exclusive original jurisdiction over all contests relating to the elections, returns, and qualifications of all elective regional, provincial, and city officials, and appellate jurisdiction over all contests involving elective municipal officials decided by trial courts of general jurisdiction, or involving elective barangay officials decided by trial courts of limited jurisdiction.
>
> Decisions, final orders, or rulings of the Commission on election contests involving elective municipal and barangay offices shall be final, executory, and not appealable.
>
> (3) Decide, except those involving the right to vote, all questions affecting elections, including determination of the number and location of polling places, appointment of election officials and inspectors, and registration of voters.
>
> (4) Deputize, with the concurrence of the President, law enforcement agencies and instrumentalities of the Government, including the Armed Forces of the Philippines, for the exclusive purpose of ensuring free, orderly, honest, peaceful, and credible elections.
>
> (5) Register, after sufficient publication, political parties, organizations, or coalitions which, in addition to other requirements, must present their platform or program of government; and accredit citizens' arms of the Commission on Elections. Religious denominations and sects shall not be registered. Those which seek to achieve their goals through violence or unlawful means, or refuse to uphold and adhere to this Constitution, or

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> which are supported by any foreign government shall likewise be refused registration.
>
> Financial contributions from foreign governments and their agencies to political parties, organizations, coalitions, or candidates related to elections constitute interference in national affairs, and, when accepted, shall be an additional ground for the cancellation of their registration with the Commission, in addition to other penalties that may be prescribed by law.
>
> (6) File, upon a verified complaint, or on its own initiative, petitions in court for inclusion or exclusion of voters; investigate and, where appropriate, prosecute cases of violations of election laws, including acts or omissions constituting election frauds, offenses, and malpractices.
>
> (7) Recommend to the Congress effective measures to minimize election spending, including limitation of places where propaganda materials shall be posted, and to prevent and penalize all forms of election frauds, offenses, malpractices, and nuisance candidacies.
>
> (8) Recommend to the President the removal of any officer or employee it has deputized, or the imposition of any other disciplinary action, for violation or disregard of, or disobedience to its directive, order, or decision.
>
> (9) Submit to the President and the Congress a comprehensive report on the conduct of each election, plebiscite, initiative, referendum, or recall.

Not any one of the enumerated powers approximate the exactitude of the provisions of Article VI, Section 17 of the same basic law stating that:

> The Senate and the House of Representatives shall each have an Electoral Tribunal which shall be the sole judge of all contests relating to the election, returns, and qualifications of their respective Members. Each Electoral Tribunal shall be composed of nine Members, three of whom shall be Justices of the Supreme Court to be designated by the Chief Justice, and the remaining six shall be Members of the Senate or the House of Representatives, as the case may be, who shall be chosen on the basis of proportional representation from the political parties and the parties or organizations registered under the party-list system represented therein. The senior Justice in the Electoral Tribunal shall be its Chairman.

or of the last paragraph of Article VII, Section 4 which provides that:

> The Supreme Court, sitting en banc, shall be the sole judge of all contests relating to the election, returns, and qualifications of the President or Vice-President, and may promulgate its rules for the purpose.

The tribunals which have jurisdiction over the question of the qualifications of the President, the Vice-President, Senators and the Members of the House of Representatives was made clear by the Constitution. There is no such provision for candidates for these positions.

Can the COMELEC be such judge?

The opinion of Justice Vicente V. Mendoza in Romualdez-Marcos v. Commission on Elections,[104] which was affirmatively cited in the En Banc decision in Fermin v. COMELEC[105] is our guide. The citation in Fermin reads:

> Apparently realizing the lack of an authorized proceeding for declaring the ineligibility of candidates, the COMELEC amended its rules on February 15, 1993 so as to provide in Rule 25 § 1, the following:
> Grounds for disqualification. - Any candidate who does not possess all the qualifications of a candidate as provided for by the Constitution or by existing law or who commits any act declared by law to be grounds for disqualification may be disqualified from continuing as a candidate.

The lack of provision for declaring the ineligibility of candidates, however, cannot be supplied by a mere rule. Such an act is equivalent to the creation of a cause of action which is a substantive matter which the COMELEC,

in the exercise of its rule-making power under Art. IX, A, § 6 of the Constitution, cannot do it. It is noteworthy that the Constitution withholds from the COMELEC even the power to decide cases involving the right to vote, which essentially involves an inquiry into qualifications based on age, residence and citizenship of voters. [Art. IX, C, § 2(3)]

The assimilation in Rule 25 of the COMELEC rules of grounds for ineligibility into grounds for disqualification is contrary to the evident intention of the law. For not only in their grounds but also in their consequences are proceedings for "disqualification" different from those for a declaration of "ineligibility." "Disqualification" proceedings, as already stated, are based on grounds specified in § 12 and § 68 of the Omnibus Election Code and in § 40 of the Local Government Code and are for the purpose of barring an individual from becoming a candidate or from continuing as a candidate for public office. In a word, their purpose is to eliminate a candidate from the race either from the start or during its progress. "Ineligibility," on the other hand, refers to the lack of the qualifications prescribed in the Constitution or the statutes for holding public office and the purpose of the proceedings for declaration of ineligibility is to remove the incumbent from office.

Consequently, that an individual possesses the qualifications for a public office does not imply that he is not disqualified from becoming a candidate or continuing as a candidate for a public office and vice versa. We have this sort of dichotomy in our Naturalization Law. (C.A. No. 473) That an alien has the qualifications prescribed in § 2 of the Law does not imply that he does not suffer from any of [the] disqualifications provided in § 4.

Before we get derailed by the distinction as to grounds and the consequences of the respective proceedings, the importance of the opinion is in its statement that "the lack of provision for declaring the ineligibility of candidates, however, cannot be supplied by a mere rule". Justice Mendoza lectured in Romualdez-Marcos that:

> Three reasons may be cited to explain the absence of an authorized proceeding for determining before election the qualifications of a candidate.
>
> First is the fact that unless a candidate wins and is proclaimed elected, there is no necessity for determining his eligibility for the office. In contrast, whether an individual should be disqualified as a candidate for acts constituting election offenses (e.g., vote buying, over spending, commission of prohibited acts) is a prejudicial question which should be determined lest he wins because of the very acts for which his disqualification is being sought. That is why it is provided that if the grounds for disqualification are established, a candidate will not be voted for; if he has been voted for, the votes in his favor will not be counted; and if for some reason he has been voted for and he has won, either he will not be proclaimed or his proclamation will be set aside.
>
> Second is the fact that the determination of a candidates' eligibility, e.g., his citizenship or, as in this case, his domicile, may take a long time to make, extending beyond the beginning of the term of the office. This is amply demonstrated in the companion case (G.R. No. 120265, Agapito A. Aquino v. COMELEC) where the determination of Aquinos residence was still pending in the COMELEC even after the elections of May 8, 1995. This is contrary to the summary character proceedings relating to certificates of candidacy. That is why the law makes the receipt of certificates of candidacy a ministerial duty of the COMELEC and its officers. The law is satisfied if candidates state in their certificates of candidacy that they are eligible for the position which they seek to fill, leaving the determination of their qualifications to be made after the election and only in the event they are elected. Only in cases involving charges of false representations made in certificates of candidacy is the COMELEC given jurisdiction.
>
> Third is the policy underlying the prohibition against pre- proclamation cases in elections for President, Vice President, Senators and members of the House of Representatives. (R.A. No. 7166, § 15) The purpose is to preserve the prerogatives of the House of Representatives Electoral Tribunal and the other Tribunals as "sole judges" under the Constitution of the election, returns and qualifications of members of Congress of the President and Vice President, as the case may be.[106]

To be sure, the authoritativeness of the Romualdez pronouncements as reiterated in Fermin, led to the amendment through COMELEC Resolution No. 9523, on 25 September 2012 of its Rule 25. This, the 15 February 1993 version of Rule 25, which states that:

> Grounds for disqualification. - Any candidate who does not possess all the qualifications of a candidate as provided for by the Constitution or by existing law or who commits any act declared by law to be grounds for disqualification may be disqualified from continuing as a candidate.[107]

was in the 2012 rendition, drastically changed to:

> Grounds. - Any candidate who, in action or protest in which he is a party, is declared by final decision of a competent court, guilty of, or found by the Commission to be suffering from any disqualification provided by law or the Constitution.
>
> A Petition to Disqualify a Candidate invoking grounds for a Petition to Deny to or Cancel a Certificate of Candidacy or Petition to Declare a Candidate as a Nuisance Candidate, or a combination thereof, shall be summarily dismissed.

Clearly, the amendment done in 2012 is an acceptance of the reality of absence of an authorized proceeding for determining before election the qualifications of candidate. Such that, as presently required, to disqualify a candidate there must be a declaration by a final judgment of a competent court that the candidate sought to be disqualified "is guilty of or found by the Commission to be suffering from any disqualification provided by law or the Constitution."

Insofar as the qualification of a candidate is concerned, Rule 25 and Rule 23 are flipsides of one to the other. Both do not allow, are not authorizations, are not vestment of jurisdiction, for the COMELEC to determine the qualification of a candidate. The facts of qualification must beforehand be established in a prior proceeding before an authority properly vested with jurisdiction. The prior determination of qualification may be by statute, by executive order or by a judgment of a competent court or tribunal.

If a candidate cannot be disqualified without a prior finding that he or she is suffering from a disqualification "provided by law or the Constitution," neither can the certificate of candidacy be cancelled or denied due course on grounds of false representations regarding his or her qualifications, without a prior authoritative finding that he or she is not qualified, such prior authority being the necessary measure by which the falsity of the representation can be found. The only exception that can be conceded are self-evident facts of unquestioned or unquestionable veracity and judicial confessions. Such are, anyway, bases equivalent to prior decisions against which the falsity of representation can be determined.

The need for a predicate finding or final pronouncement in a proceeding under Rule 23 that deals with, as in this case, alleged false representations regarding the candidate's citizenship and residence, forced the COMELEC to rule essentially that since foundlings[108] are not mentioned in the enumeration of citizens under the 1935 Constitution,[109] they then cannot be citizens. As the COMELEC stated in oral arguments, when petitioner admitted that she is a foundling, she said it all. This borders on bigotry. Oddly, in an effort at tolerance, the COMELEC, after saying that it cannot rule that herein petitioner possesses blood relationship with a Filipino citizen when "it is certain that such relationship is indemonstrable," proceeded to say that "she now has the burden to present evidence to prove her natural filiation with a Filipino parent."

The fact is that petitioner's blood relationship with a Filipino citizen is DEMONSTRABLE.

At the outset, it must be noted that presumptions regarding paternity is neither unknown nor unaccepted in Philippine Law. The Family Code of the Philippines has a whole chapter on Paternity and Filiation.[110] That

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said, there is more than sufficient evidence that petitioner has Filipino parents and is therefore a natural-born Filipino. Parenthetically, the burden of proof was on private respondents to show that petitioner is not a Filipino citizen. The private respondents should have shown that both of petitioner's parents were aliens. Her admission that she is a foundling did not shift the burden to her because such status did not exclude the possibility that her parents were Filipinos, especially as in this case where there is a high probability, if not certainty, that her parents are Filipinos.

The factual issue is not who the parents of petitioner are, as their identities are unknown, but whether such parents are Filipinos. Under Section 4, Rule 128:

> Sect. 4. Relevancy, collateral matters. - Evidence must have such a relation to the fact in issue as to induce belief in its existence or no- existence. Evidence on collateral matters shall not be allowed, except when it tends in any reasonable degree to establish the probability of improbability of the fact in issue.

The Solicitor General offered official statistics from the Philippine Statistics Authority (PSA)[111] that from 1965 to 1975, the total number of foreigners born in the Philippines was 15,986 while the total number of Filipinos born in the country was 10,558,278. The statistical probability that any child born in the Philippines in that decade is natural-born Filipino was 99.83%. For her part, petitioner presented census statistics for Iloilo Province for 1960 and 1970, also from the PSA. In 1960, there were 962,532 Filipinos and 4,734 foreigners in the province; 99.62% of the population were Filipinos. In 1970, the figures were 1,162,669 Filipinos and 5,304 foreigners, or 99.55%. Also presented were figures for the child producing ages (15-49). In 1960, there were 230,528 female Filipinos as against 730 female foreigners or 99.68%. In the same year, there were 210,349 Filipino males and 886 male aliens, or 99.58%. In 1970, there were 270,299 Filipino females versus 1,190 female aliens, or 99.56%. That same year, there were 245,740 Filipino males as against only 1,165 male aliens or 99.53%. COMELEC did not dispute these figures. Notably, Commissioner Arthur Lim admitted, during the oral arguments, that at the time petitioner was found in 1968, the majority of the population in Iloilo was Filipino.[112]

Other circumstantial evidence of the nationality of petitioner's parents are the fact that she was abandoned as an infant in a Roman Catholic Church in Iloilo City. She also has typical Filipino features: height, flat nasal bridge, straight black hair, almond shaped eyes and an oval face.

There is a disputable presumption that things have happened according to the ordinary course of nature and the ordinary habits of life.[113] All of the foregoing evidence, that a person with typical Filipino features is abandoned in Catholic Church in a municipality where the population of the Philippines is overwhelmingly Filipinos such that there would be more than a 99% chance that a child born in the province would be a Filipino, would indicate more than ample probability if not statistical certainty, that petitioner's parents are Filipinos. That probability and the evidence on which it is based are admissible under Rule 128, Section 4 of the Revised Rules on Evidence.

To assume otherwise is to accept the absurd, if not the virtually impossible, as the norm. In the words of the Solicitor General:

> Second. It is contrary to common sense because foreigners do not come to the Philippines so they can get pregnant and leave their newborn babies behind. We do not face a situation where the probability is such that every foundling would have a 50% chance of being a Filipino and a 50% chance of being a foreigner. We need to frame our questions properly. What are the chances that the parents of anyone born in the Philippines would be foreigners? Almost zero. What are the chances that the parents of anyone born in the Philippines would be Filipinos? 99.9%.
>
> According to the Philippine Statistics Authority, from 2010 to 2014, on a yearly average, there were 1,766,046

> children born in the Philippines to Filipino parents, as opposed to 1,301 children in the Philippines of foreign parents. Thus, for that sample period, the ratio of non-Filipino children to natural born Filipino children is 1:1357. This means that the statistical probability that any child born in the Philippines would be a natural born Filipino is 99.93%.
>
> From 1965 to 1975, the total number of foreigners born in the Philippines is 15,986 while the total number of Filipinos born in the Philippines is 15,558,278. For this period, the ratio of non-Filipino children is 1:661. This means that the statistical probability that any child born in the Philippines on that decade would be a natural born Filipino is 99.83%.
>
> We can invite statisticians and social anthropologists to crunch the numbers for us, but I am confident that the statistical probability that a child born in the Philippines would be a natural born Filipino will not be affected by whether or not the parents are known. If at all, the likelihood that a foundling would have a Filipino parent might even be higher than 99.9%. Filipinos abandon their children out of poverty or perhaps, shame. We do not imagine foreigners abandoning their children here in the Philippines thinking those infants would have better economic opportunities or believing that this country is a tropical paradise suitable for raising abandoned children. I certainly doubt whether a foreign couple has ever considered their child excess baggage that is best left behind.
>
> To deny full Filipino citizenship to all foundlings and render them stateless just because there may be a theoretical chance that one among the thousands of these foundlings might be the child of not just one, but two, foreigners is downright discriminatory, irrational, and unjust. It just doesn't make any sense. Given the statistical certainty 99.9% - that any child born in the Philippines would be a natural born citizen, a decision denying foundlings such status is effectively a denial of their birthright. There is no reason why this Honorable Court should use an improbable hypothetical to sacrifice the fundamental political rights of an entire class of human beings. Your Honor, constitutional interpretation and the use of common sense are not separate disciplines.

As a matter of law, foundlings are as a class, natural-born citizens. While the 1935 Constitution's enumeration is silent as to foundlings, there is no restrictive language which would definitely exclude foundlings either. Because of silence and ambiguity in the enumeration with respect to foundlings, there is a need to examine the intent of the framers. In Nitafan v. Commissioner of Internal Revenue,[114] this Court held that:

> The ascertainment of that intent is but in keeping with the fundamental principle of constitutional construction that the intent of the framers of the organic law and of the people adopting it should be given effect. The primary task in constitutional construction is to ascertain and thereafter assure the realization of the purpose of the framers and of the people in the adoption of the Constitution. It may also be safely assumed that the people in ratifying the Constitution were guided mainly by the explanation offered by the framers.[115]

As pointed out by petitioner as well as the Solicitor General, the deliberations of the 1934 Constitutional Convention show that the framers intended foundlings to be covered by the enumeration. The following exchange is recorded:

> Sr. Rafols:
>
> For an amendment. I propose that after subsection 2, the following is inserted: "The natural children of a foreign father and a Filipino mother not recognized by the father.
>
> xxxx
>
> President:
>
> [We] would like to request a clarification from the proponent of the amendment. The gentleman refers to natural children or to any kind of illegitimate children?

Sr. Rafols:

To all kinds of illegitimate children. It also includes natural children of unknown parentage, natural or illegitimate children of unknown parents.

Sr. Montinola:

For clarification. The gentleman said "of unknown parents." Current codes consider them Filipino, that is, I refer to the Spanish Code wherein all children of unknown parentage born in Spanish territory are considered Spaniards, because the presumption is that a child of unknown parentage is the son of a Spaniard. This may be applied in the Philippines in that a child of unknown parentage born in the Philippines is deemed to be Filipino, and there is no need...

Sr. Rafols:

There is a need, because we are relating the conditions that are [required] to be Filipino.

Sr. Montinola:

But that is the interpretation of the law, therefore, there is no [more] need for amendment.

Sr. Rafols:

The amendment should read thus: "Natural or illegitimate of a foreign father and a Filipino mother recognized by one, or the children of unknown parentage."

Sr. Briones:

The amendment [should] mean children born in the Philippines of unknown parentage.

Sr. Rafols:

The son of a Filipina to a Foreigner, although this [person] does not recognize the child, is not unknown.

President:

Does the gentleman accept the amendment or not?

Sr. Rafols:

I do not accept the amendment because the amendment would exclude the children of a Filipina with a foreigner who does not recognize the child. Their parentage is not unknown and I think those of overseas Filipino mother and father [whom the latter] does not recognize, should also be considered as Filipinos.

President:

The question in order is the amendment to the amendment from the Gentleman from Cebu, Mr. Briones.

Sr. Busion:

Mr. President, don't you think it would be better to leave this matter in the hands of the Legislature?

Sr. Roxas:

Mr. President, my humble opinion is that these cases are few and Jar in between, that the constitution need [not] refer to them. By international law the principle that children or people born in a country of unknown parents are citizens in this nation is recognized, and it is not necessary to include a provision on the subject exhaustively.[116]

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Though the Rafols amendment was not carried out, it was not because there was any objection to the notion that persons of "unknown parentage" are not citizens but only because their number was not enough to merit specific mention. Such was the account,[117] cited by petitioner, of delegate and constitution law author Jose Aruego who said:

> During the debates on this provision, Delegate Rafols presented an amendment to include as Filipino citizens the illegitimate children with a foreign father of a mother who was a citizen of the Philippines, and also foundlings; but this amendment was defeated primarily because the Convention believed that the cases, being too few to warrant the inclusion of a provision in the Constitution to apply to them, should be governed by statutory legislation. Moreover, it was believed that the rules of international law were already clear to the effect that illegitimate children followed the citizenship of the mother, and that foundlings followed the nationality of the place where they were found, thereby making unnecessary the inclusion in the Constitution of the proposed amendment.

This explanation was likewise the position of the Solicitor General during the 16 February 2016 Oral Arguments:

> We all know that the Rafols proposal was rejected. But note that what was declined was the proposal for a textual and explicit recognition of foundlings as Filipinos. And so, the way to explain the constitutional silence is by saying that it was the view of Montinola and Roxas which prevailed that there is no more need to expressly declare foundlings as Filipinos.
>
> Obviously, it doesn't matter whether Montinola's or Roxas' views were legally correct. Framers of a constitution can constitutionalize rules based on assumptions that are imperfect or even wrong. They can even overturn existing rules. This is basic. What matters here is that Montinola and Roxas were able to convince their colleagues in the convention that there is no more need to expressly declare foundlings as Filipinos because they are already impliedly so recognized.
>
> In other words, the constitutional silence is fully explained in terms of linguistic efficiency and the avoidance of redundancy. The policy is clear: it is to recognize foundlings, as a class, as Filipinos under Art. IV, Section 1(3) of the 1935 Constitution. This inclusive policy is carried over into the 1973 and 1987 Constitution. It is appropriate to invoke a famous scholar as he was paraphrased by Chief Justice Fernando: the constitution is not silently silent, it is silently vocal.[118]

The Solicitor General makes the further point that the framers "worked to create a just and humane society," that "they were reasonable patriots and that it would be unfair to impute upon them a discriminatory intent against foundlings." He exhorts that, given the grave implications of the argument that foundlings are not natural-born Filipinos, the Court must search the records of the 1935, 1973 and 1987 Constitutions "for an express intention to deny foundlings the status of Filipinos. The burden is on those who wish to use the constitution to discriminate against foundlings to show that the constitution really intended to take this path to the dark side and inflict this across the board marginalization."

We find no such intent or language permitting discrimination against foundlings. On the contrary, all three Constitutions guarantee the basic right to equal protection of the laws. All exhort the State to render social justice. Of special consideration are several provisions in the present charter: Article II, Section 11 which provides that the "State values the dignity of every human person and guarantees full respect for human rights," Article XIII, Section 1 which mandates Congress to "give highest priority to the enactment of measures that protect and enhance the right of all the people to human dignity, reduce social, economic, and political inequalities x x x" and Article XV, Section 3 which requires the State to defend the "right of children to assistance, including proper care and nutrition, and special protection from all forms of neglect, abuse, cruelty, exploitation, and other conditions prejudicial to their development." Certainly, these provisions contradict an intent to discriminate against foundlings on account of their unfortunate status.

Domestic laws on adoption also support the principle that foundlings are Filipinos. These laws do not provide that adoption confers citizenship upon the adoptee. Rather, the adoptee must be a Filipino in the first place to be adopted. The most basic of such laws is Article 15 of the Civil Code which provides that "[l]aws relating to family rights, duties, status, conditions, legal capacity of persons are binding on citizens of the Philippines even though living abroad." Adoption deals with status, and a Philippine adoption court will have jurisdiction only if the adoptee is a Filipino. In Ellis and Ellis v. Republic,[119] a child left by an unidentified mother was sought to be adopted by aliens. This Court said:

> In this connection, it should be noted that this is a proceedings in rem, which no court may entertain unless it has jurisdiction, not only over the subject matter of the case and over the parties, but also over the res, which is the personal status of Baby Rose as well as that of petitioners herein. Our Civil Code (Art. 15) adheres to the theory that jurisdiction over the status of a natural person is determined by the latter's nationality. Pursuant to this theory, we have jurisdiction over the status of Baby Rose, she being a citizen of the Philippines, but not over the status of the petitioners, who are foreigners.[120] (Underlining supplied)

Recent legislation is more direct. R.A. No. 8043 entitled "An Act Establishing the Rules to Govern the Inter-Country Adoption of Filipino Children and For Other Purposes" (otherwise known as the "Inter-Country Adoption Act of 1995"), R.A. No. 8552, entitled "An Act Establishing the Rules and Policies on the Adoption of Filipino Children and For Other Purposes" (otherwise known as the Domestic Adoption Act of 1998) and this Court's A.M. No. 02-6-02-SC or the "Rule on Adoption," all expressly refer to "Filipino children" and include foundlings as among Filipino children who may be adopted.

It has been argued that the process to determine that the child is a foundling leading to the issuance of a foundling certificate under these laws and the issuance of said certificate are acts to acquire or perfect Philippine citizenship which make the foundling a naturalized Filipino at best. This is erroneous. Under Article IV, Section 2 "Natural-born citizens are those who are citizens of the Philippines from birth without having to perform any act to acquire or perfect their Philippine citizenship." In the first place, "having to perform an act" means that the act must be personally done by the citizen. In this instance, the determination of foundling status is done not by the child but by the authorities.[121] Secondly, the object of the process is the determination of the whereabouts of the parents, not the citizenship of the child. Lastly, the process is certainly not analogous to naturalization proceedings to acquire Philippine citizenship, or the election of such citizenship by one born of an alien father and a Filipino mother under the 1935 Constitution, which is an act to perfect it.

In this instance, such issue is moot because there is no dispute that petitioner is a foundling, as evidenced by a Foundling Certificate issued in her favor.[122] The Decree of Adoption issued on 13 May 1974, which approved petitioner's adoption by Jesusa Sonora Poe and Ronald Allan Kelley Poe, expressly refers to Emiliano and his wife, Rosario Militar, as her "foundling parents," hence effectively affirming petitioner's status as a foundling.[123]

Foundlings are likewise citizens under international law. Under the 1987 Constitution, an international law can become part of the sphere of domestic law either by transformation or incorporation. The transformation method requires that an international law be transformed into a domestic law through a constitutional mechanism such as locallegislation.[124] On the other hand, generally accepted principles of international law, by virtue of the incorporation clause of the Constitution, form part of the laws of the land even if they do not derive from treaty obligations. Generally accepted principles of international law include international custom as evidence of a general practice accepted as law, and general principles of law recognized by civilized nations.[125] International customary rules are accepted as binding as a result from the combination of two elements: the established, widespread, and consistent practice on the part of States; and a psychological element known as the opinion juris

sive necessitates (opinion as to law or necessity). Implicit in the latter element is a belief that the practice in question is rendered obligatory by the existence of a rule of law requiring it.[126] "General principles of law recognized by civilized nations" are principles "established by a process of reasoning" or judicial logic, based on principles which are "basic to legal systems generally,"[127] such as "general principles of equity, i.e., the general principles of fairness and justice," and the "general principle against discrimination" which is embodied in the "Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention Against Discrimination in Education, the Convention (No. 111) Concerning Discrimination in Respect of Employment and Occupation."[128] These are the same core principles which underlie the Philippine Constitution itself, as embodied in the due process and equal protection clauses of the Bill of Rights.[129]

Universal Declaration of Human Rights ("UDHR") has been interpreted by this Court as part of the generally accepted principles of international law and binding on the State.[130] Article 15 thereof states:

> - Everyone has the right to a nationality.
>
> - No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

The Philippines has also ratified the UN Convention on the Rights of the Child (UNCRC). Article 7 of the UNCRC imposes the following obligations on our country:

> Article 7
>
> - The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and as far as possible, the right to know and be cared for by his or her parents.
>
> - States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless.

In 1986, the country also ratified the 1966 International Covenant on Civil and Political Rights (ICCPR). Article 24 thereof provide for the right of every child "to acquire a nationality:"

> Article 24
>
> - Every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right, to such measures of protection as are required by his status as a minor, on the part of his family, society and the State.
>
> - Every child shall be registered immediately after birth and shall have a name.
>
> - Every child has the right to acquire a nationality.

The common thread of the UDHR, UNCRC and ICCPR is to obligate the Philippines to grant nationality from birth and ensure that no child is stateless. This grant of nationality must be at the time of birth, and it cannot be accomplished by the application of our present naturalization laws, Commonwealth Act No. 473, as amended, and R.A. No. 9139, both of which require the applicant to be at least eighteen (18) years old.

The principles found in two conventions, while yet unratified by the Philippines, are generally accepted principles of international law. The first is Article 14 of the 1930 Hague Convention on Certain Questions Relating to the Conflict of Nationality Laws under which a foundling is presumed to have the "nationality of the country of birth," to wit:

> Article 14

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> A child whose parents are both unknown shall have the nationality of the country of birth. If the child's parentage is established, its nationality shall be determined by the rules applicable in cases where the parentage is known.
>
> A foundling is, until the contrary is proved, presumed to have been born on the territory of the State in which it was found. (Underlining supplied)

The second is the principle that a foundling is presumed born of citizens of the country where he is found, contained in Article 2 of the 1961 United Nations Convention on the Reduction of Statelessness:

> Article 2
>
> A foundling found in the territory of a Contracting State shall, in the absence of proof to the contrary, be considered to have been born within the territory of parents possessing the nationality of that State.

That the Philippines is not a party to the 1930 Hague Convention nor to the 1961 Convention on the Reduction of Statelessness does not mean that their principles are not binding. While the Philippines is not a party to the 1930 Hague Convention, it is a signatory to the Universal Declaration on Human Rights, Article 15(1) of which[131] effectively affirms Article 14 of the 1930 Hague Convention. Article 2 of the 1961 "United Nations Convention on the Reduction of Statelessness" merely "gives effect" to Article 15(1) of the UDHR.[132] In Razon v. Tagitis,[133] this Court noted that the Philippines had not signed or ratified the "International Convention for the Protection of All Persons from Enforced Disappearance." Yet, we ruled that the proscription against enforced disappearances in the said convention was nonetheless binding as a "generally accepted principle of international law." Razon v. Tagitis is likewise notable for declaring the ban as a generally accepted principle of international law although the convention had been ratified by only sixteen states and had not even come into force and which needed the ratification of a minimum of twenty states. Additionally, as petitioner points out, the Court was content with the practice of international and regional state organs, regional state practice in Latin America, and State Practice in the United States.

Another case where the number of ratifying countries was not determinative is Mijares v. Ranada,[134] where only four countries had "either ratified or acceded to"[135] the 1966 "Convention on the Recognition and Enforcement of Foreign Judgments in Civil and Commercial Matters" when the case was decided in 2005. The Court also pointed out that that nine member countries of the European Common Market had acceded to the Judgments Convention. The Court also cited U.S. laws and jurisprudence on recognition of foreign judgments. In all, only the practices of fourteen countries were considered and yet, there was pronouncement that recognition of foreign judgments was widespread practice.

Our approach in Razon and Mijares effectively takes into account the fact that "generally accepted principles of international law" are based not only on international custom, but also on "general principles of law recognized by civilized nations," as the phrase is understood in Article 38.1 paragraph (c) of the ICJ Statute. Justice, fairness, equity and the policy against discrimination, which are fundamental principles underlying the Bill of Rights and which are "basic to legal systems generally,"[136] support the notion that the right against enforced disappearances and the recognition of foreign judgments, were correctly considered as "generally accepted principles of international law" under the incorporation clause.

Petitioner's evidence[137] shows that at least sixty countries in Asia, North and South America, and Europe have passed legislation recognizing foundlings as its citizen. Forty-two (42) of those countries follow the jus sanguinis regime. Of the sixty, only thirty-three (33) are parties to the 1961 Convention on Statelessness; twenty-six (26) are not signatories to the Convention. Also, the Chief Justice, at the 2 February 2016 Oral Arguments pointed out that in 166 out of 189 countries surveyed (or 87.83%), foundlings are recognized as citizens. These circumstances,

including the practice of jus sanguinis countries, show that it is a generally accepted principle of international law to presume foundlings as having been born of nationals of the country in which the foundling is found.

Current legislation reveals the adherence of the Philippines to this generally accepted principle of international law. In particular, R.A. No. 8552, R.A. No. 8042 and this Court's Rules on Adoption, expressly refer to "Filipino children." In all of them, foundlings are among the Filipino children who could be adopted. Likewise, it has been pointed that the DFA issues passports to foundlings. Passports are by law, issued only to citizens. This shows that even the executive department, acting through the DFA, considers foundlings as Philippine citizens.

Adopting these legal principles from the 1930 Hague Convention and the 1961 Convention on Statelessness is rational and reasonable and consistent with the jus sanguinis regime in our Constitution. The presumption of natural-born citizenship of foundlings stems from the presumption that their parents are nationals of the Philippines. As the empirical data provided by the PSA show, that presumption is at more than 99% and is a virtual certainty.

In sum, all of the international law conventions and instruments on the matter of nationality of foundlings were designed to address the plight of a defenseless class which suffers from a misfortune not of their own making. We cannot be restrictive as to their application if we are a country which calls itself civilized and a member of the community of nations. The Solicitor General's warning in his opening statement is relevant:

> .... the total effect of those documents is to signify to this Honorable Court that those treaties and conventions were drafted because the world community is concerned that the situation of foundlings renders them legally invisible. It would be tragically ironic if this Honorable Court ended up using the international instruments which seek to protect and uplift foundlings a tool to deny them political status or to accord them second-class citizenship.[138]

The COMELEC also ruled[139] that petitioner's repatriation in July 2006 under the provisions of R.A. No. 9225 did not result in the reacquisition of natural-born citizenship. The COMELEC reasoned that since the applicant must perform an act, what is reacquired is not "natural-born" citizenship but only plain "Philippine citizenship."

The COMELEC's rule arrogantly disregards consistent jurisprudence on the matter of repatriation statutes in general and of R.A. No. 9225 in particular.

In the seminal case of Bengson III v. HRET,[140] repatriation was explained as follows:

> Moreover, repatriation results in the recovery of the original nationality. This means that a naturalized Filipino who lost his citizenship will be restored to his prior status as a naturalized Filipino citizen. On the other hand, if he was originally a natural-born citizen before he lost his Philippine citizenship, he will be restored to his former status as a natural- born Filipino.

R.A. No. 9225 is a repatriation statute and has been described as such in several cases. They include Sobejana-Condon v. COMELEC[141] where we described it as an "abbreviated repatriation process that restores one's Filipino citizenship x x x." Also included is Parreño v. Commission on Audit,[142] which cited Tabasa v. Court of Appeals,[143] where we said that "[t]he repatriation of the former Filipino will allow him to recover his natural-born citizenship. Parreño v. Commission on Audit[144] is categorical that "if petitioner reacquires his Filipino citizenship (under R.A. No. 9225), he will ... recover his natural-born citizenship."

The COMELEC construed the phrase "from birth" in the definition of natural citizens as implying "that natural-born citizenship must begin at birth and remain uninterrupted and continuous from birth." R.A. No. 9225 was obviously passed in line with Congress' sole prerogative to determine how citizenship may be lost or reacquired. Congress saw it fit to decree that natural-born citizenship may be reacquired even if it had been once

lost. It is not for the COMELEC to disagree with the Congress' determination.

More importantly, COMELEC's position that natural-born status must be continuous was already rejected in Bengson III v. HRET[145] where the phrase "from birth" was clarified to mean at the time of birth: "A person who at the time of his birth, is a citizen of a particular country, is a natural- born citizen thereof." Neither is "repatriation" an act to "acquire or perfect" one's citizenship. In Bengson III v. HRET, this Court pointed out that there are only two types of citizens under the 1987 Constitution: natural-born citizen and naturalized, and that there is no third category for repatriated citizens:

> It is apparent from the enumeration of who are citizens under the present Constitution that there are only two classes of citizens: (1) those who are natural-born and (2) those who are naturalized in accordance with law. A citizen who is not a naturalized Filipino, i.e., did not have to undergo the process of naturalization to obtain Philippine citizenship, necessarily is a natural-born Filipino. Noteworthy is the absence in said enumeration of a separate category for persons who, after losing Philippine citizenship, subsequently reacquire it. The reason therefor is clear: as to such persons, they would either be natural-born or naturalized depending on the reasons for the loss of their citizenship and the mode prescribed by the applicable law for the reacquisition thereof. As respondent Cruz was not required by law to go through naturalization proceedings in order to reacquire his citizenship, he is perforce a natural- born Filipino. As such, he possessed all the necessary qualifications to be elected as member of the House of Representatives.[146]

The COMELEC cannot reverse a judicial precedent. That is reserved to this Court. And while we may always revisit a doctrine, a new rule reversing standing doctrine cannot be retroactively applied. In Morales v. Court of Appeals and Jejomar Erwin S. Binay, Jr.,[147] where we decreed reversed the condonation doctrine, we cautioned that it "should be prospective in application for the reason that judicial decisions applying or interpreting the laws of the Constitution, until reversed, shall form part of the legal system of the Philippines." This Court also said that "while the future may ultimately uncover a doctrine's error, it should be, as a general rule, recognized as good law prior to its abandonment. Consequently, the people's reliance thereupon should be respected."[148]

Lastly, it was repeatedly pointed out during the oral arguments that petitioner committed a falsehood when she put in the spaces for "born to" in her application for repatriation under R.A. No. 9225 the names of her adoptive parents, and this misled the BI to presume that she was a natural- born Filipino. It has been contended that the data required were the names of her biological parents which are precisely unknown.

This position disregards one important fact - petitioner was legally adopted. One of the effects of adoption is "to sever all legal ties between the biological parents and the adoptee, except when the biological parent is the spouse of the adoptee."[149] Under R.A. No. 8552, petitioner was also entitled to an amended birth certificate "attesting to the fact that the adoptee is the child of the adopter(s)" and which certificate "shall not bear any notation that it is an amended issue."[150] That law also requires that "[a]ll records, books, and papers relating to the adoption cases in the files of the court, the Department [of Social Welfare and Development], or any other agency or institution participating in the adoption proceedings shall be kept strictly confidential."[151] The law therefore allows petitioner to state that her adoptive parents were her birth parents as that was what would be stated in her birth certificate anyway. And given the policy of strict confidentiality of adoption records, petitioner was not obligated to disclose that she was an adoptee.

Clearly, to avoid a direct ruling on the qualifications of petitioner, which it cannot make in the same case for cancellation of COC, it resorted to opinionatedness which is, moreover, erroneous. The whole process undertaken by COMELEC is wrapped in grave abuse of discretion.

On Residence

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The tainted process was repeated in disposing of the issue of whether or not petitioner committed false material representation when she stated in her COC that she has before and until 9 May 2016 been a resident of the Philippines for ten (10) years and eleven (11) months.

Petitioner's claim that she will have been a resident for ten (10) years and eleven (11) months on the day before the 2016 elections, is true.

The Constitution requires presidential candidates to have ten (10) years' residence in the Philippines before the day of the elections. Since the forthcoming elections will be held on 9 May 2016, petitioner must have been a resident of the Philippines prior to 9 May 2016 for ten (10) years. In answer to the requested information of "Period of Residence in the Philippines up to the day before May 09, 2016," she put in "10 years 11 months" which according to her pleadings in these cases corresponds to a beginning date of 25 May 2005 when she returned for good from the U.S.

When petitioner immigrated to the U.S. in 1991, she lost her original domicile, which is the Philippines. There are three requisites to acquire a new domicile: 1. Residence or bodily presence in a new locality; 2. an intention to remain there; and 3. an intention to abandon the old domicile.[152] To successfully effect a change of domicile, one must demonstrate an actual removal or an actual change of domicile; a bona fide intention of abandoning the former place of residence and establishing a new one and definite acts which correspond with the purpose. In other words, there must basically be animus manendi coupled with animus non revertendi. The purpose to remain in or at the domicile of choice must be for an indefinite period of time; the change of residence must be voluntary; and the residence at the place chosen for the new domicile must be actual.[153]

Petitioner presented voluminous evidence showing that she and her family abandoned their U.S. domicile and relocated to the Philippines for good. These evidence include petitioner's former U.S. passport showing her arrival on 24 May 2005 and her return to the Philippines every time she travelled abroad; e-mail correspondences starting in March 2005 to September 2006 with a freight company to arrange for the shipment of their household items weighing about 28,000 pounds to the Philippines; e-mail with the Philippine Bureau of Animal Industry inquiring how to ship their dog to the Philippines; school records of her children showing enrollment in Philippine schools starting June 2005 and for succeeding years; tax identification card for petitioner issued on July 2005; titles for condominium and parking slot issued in February 2006 and their corresponding tax declarations issued in April 2006; receipts dated 23 February 2005 from the Salvation Army in the U.S. acknowledging donation of items from petitioner's family; March 2006 e-mail to the U.S. Postal Service confirming request for change of address; final statement from the First American Title Insurance Company showing sale of their U.S. home on 27 April 2006; 12 July 2011 filled-up questionnaire submitted to the U.S. Embassy where petitioner indicated that she had been a Philippine resident since May 2005; affidavit from Jesusa Sonora Poe (attesting to the return of petitioner on 24 May 2005 and that she and her family stayed with affiant until the condominium was purchased); and Affidavit from petitioner's husband (confirming that the spouses jointly decided to relocate to the Philippines in 2005 and that he stayed behind in the U.S. only to finish some work and to sell the family home).

The foregoing evidence were undisputed and the facts were even listed by the COMELEC, particularly in its Resolution in the Tatad, Contreras and Valdez cases.

However, the COMELEC refused to consider that petitioner's domicile had been timely changed as of 24 May 2005. At the oral arguments, COMELEC Commissioner Arthur Lim conceded the presence of the first two requisites, namely, physical presence and animus manendi, but maintained there was no animus non-revertendi.[154] The COMELEC disregarded the import of all the evidence presented by petitioner on the basis of the position that the earliest date that petitioner could have started residence in the Philippines was in July

2006 when her application under R.A. No. 9225 was approved by the BI. In this regard, COMELEC relied on Coquilla v. COMELEC,[155] Japzon v. COMELEC[156] and Caballero v. COMELEC.[157] During the oral arguments, the private respondents also added Reyes v. COMELEC.[158] Respondents contend that these cases decree that the stay of an alien former Filipino cannot be counted until he/she obtains a permanent resident visa or reacquires Philippine citizenship, a visa- free entry under a balikbayan stamp being insufficient. Since petitioner was still an American (without any resident visa) until her reacquisition of citizenship under R.A. No. 9225, her stay from 24 May 2005 to 7 July 2006 cannot be counted.

But as the petitioner pointed out, the facts in these four cases are very different from her situation. In Coquilla v. COMELEC,[159] the only evidence presented was a community tax certificate secured by the candidate and his declaration that he would be running in the elections. Japzon v. COMELEC[160] did not involve a candidate who wanted to count residence prior to his reacquisition of Philippine citizenship. With the Court decreeing that residence is distinct from citizenship, the issue there was whether the candidate's acts after reacquisition sufficed to establish residence. In Caballero v. COMELEC,[161] the candidate admitted that his place of work was abroad and that he only visited during his frequent vacations. In Reyes v. COMELEC,[162] the candidate was found to be an American citizen who had not even reacquired Philippine citizenship under R.A. No. 9225 or had renounced her U.S. citizenship. She was disqualified on the citizenship issue. On residence, the only proof she offered was a seven-month stint as provincial officer. The COMELEC, quoted with approval by this Court, said that "such fact alone is not sufficient to prove her one-year residency."

It is obvious that because of the sparse evidence on residence in the four cases cited by the respondents, the Court had no choice but to hold that residence could be counted only from acquisition of a permanent resident visa or from reacquisition of Philippine citizenship. In contrast, the evidence of petitioner is overwhelming and taken together leads to no other conclusion that she decided to permanently abandon her U.S. residence (selling the house, taking the children from U.S. schools, getting quotes from the freight company, notifying the U.S. Post Office of the abandonment of their address in the U.S., donating excess items to the Salvation Army, her husband resigning from U.S. employment right after selling the U.S. house) and permanently relocate to the Philippines and actually re-established her residence here on 24 May 2005 (securing T.I.N, enrolling her children in Philippine schools, buying property here, constructing a residence here, returning to the Philippines after all trips abroad, her husband getting employed here). Indeed, coupled with her eventual application to reacquire Philippine citizenship and her family's actual continuous stay in the Philippines over the years, it is clear that when petitioner returned on 24 May 2005 it was for good.

In this connection, the COMELEC also took it against petitioner that she had entered the Philippines visa-free as a balikbayan. A closer look at R.A. No. 6768 as amended, otherwise known as the "An Act Instituting a Balikbayan Program," shows that there is no overriding intent to treat balikbayans as temporary visitors who must leave after one year. Included in the law is a former Filipino who has been naturalized abroad and "comes or returns to the Philippines."[163] The law institutes a balikbayan program "providing the opportunity to avail of the necessary training to enable the balikbayan to become economically self-reliant members of society upon their return to the country"[164] in line with the government's "reintegration program."[165] Obviously, balikbayans are not ordinary transients.

Given the law's express policy to facilitate the return of a balikbayan and help him reintegrate into society, it would be an unduly harsh conclusion to say in absolute terms that the balikbayan must leave after one year. That visa-free period is obviously granted him to allow him to re-establish his life and reintegrate himself into the community before he attends to the necessary formal and legal requirements of repatriation. And that is exactly what petitioner did - she reestablished life here by enrolling her children and buying property while awaiting the

return of her husband and then applying for repatriation shortly thereafter.

No case similar to petitioner's, where the former Filipino's evidence of change in domicile is extensive and overwhelming, has as yet been decided by the Court. Petitioner's evidence of residence is unprecedented. There is no judicial precedent that comes close to the facts of residence of petitioner. There is no indication in Coquilla v. COMELEC,[166] and the other cases cited by the respondents that the Court intended to have its rulings there apply to a situation where the facts are different. Surely, the issue of residence has been decided particularly on the facts-of-the case basis.

To avoid the logical conclusion pointed out by the evidence of residence of petitioner, the COMELEC ruled that petitioner's claim of residence of ten (10) years and eleven (11) months by 9 May 2016 in her 2015 COC was false because she put six (6) years and six (6) months as "period of residence before May 13, 2013" in her 2012 COC for Senator. Thus, according to the COMELEC, she started being a Philippine resident only in November 2006. In doing so, the COMELEC automatically assumed as true the statement in the 2012 COC and the 2015 COCas false.

As explained by petitioner in her verified pleadings, she misunderstood the date required in the 2013 COC as the period of residence as of the day she submitted that COC in 2012. She said that she reckoned residency from April-May 2006 which was the period when the U.S. house was sold and her husband returned to the Philippines. In that regard, she was advised by her lawyers in 2015 that residence could be counted from 25 May 2005.

Petitioner's explanation that she misunderstood the query in 2012 (period of residence before 13 May 2013) as inquiring about residence as of the time she submitted the COC, is bolstered by the change which the COMELEC itself introduced in the 2015 COC which is now "period of residence in the Philippines up to the day before May 09, 2016." The COMELEC would not have revised the query if it did not acknowledge that the first version was vague.

That petitioner could have reckoned residence from a date earlier than the sale of her U.S. house and the return of her husband is plausible given the evidence that she had returned a year before. Such evidence, to repeat, would include her passport and the school records of her children.

It was grave abuse of discretion for the COMELEC to treat the 2012 COC as a binding and conclusive admission against petitioner. It could be given in evidence against her, yes, but it was by no means conclusive. There is precedent after all where a candidate's mistake as to period of residence made in a COC was overcome by evidence. In Romualdez-Marcos v. COMELEC,[167] the candidate mistakenly put seven (7) months as her period of residence where the required period was a minimum of one year. We said that "[i]t is the fact of residence, not a statement in a certificate of candidacy which ought to be decisive in determining whether or not an individual has satisfied the constitution's residency qualification requirement." The COMELEC ought to have looked at the evidence presented and see if petitioner was telling the truth that she was in the Philippines from 24 May 2005. Had the COMELEC done its duty, it would have seen that the 2012 COC and the 2015 COC both correctly stated the pertinent period of residency.

The COMELEC, by its own admission, disregarded the evidence that petitioner actually and physically returned here on 24 May 2005 not because it was false, but only because COMELEC took the position that domicile could be established only from petitioner's repatriation under R.A. No. 9225 in July 2006. However, it does not take away the fact that in reality, petitioner had returned from the U.S. and was here to stay permanently, on 24 May 2005. When she claimed to have been a resident for ten (10) years and eleven (11) months, she could do so in good faith.

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For another, it could not be said that petitioner was attempting to hide anything. As already stated, a petition for quo warranto had been filed against her with the SET as early as August 2015. The event from which the COMELEC pegged the commencement of residence, petitioner's repatriation in July 2006 under R.A. No. 9225, was an established fact to repeat, for purposes of her senatorial candidacy.

Notably, on the statement of residence of six (6) years and six (6) months in the 2012 COC, petitioner recounted that this was first brought up in the media on 2 June 2015 by Rep. Tobias Tiangco of the United Nationalist Alliance. Petitioner appears to have answered the issue immediately, also in the press. Respondents have not disputed petitioner's evidence on this point. From that time therefore when Rep. Tiangco discussed it in the media, the stated period of residence in the 2012 COC and the circumstances that surrounded the statement were already matters of public record and were not hidden.

Petitioner likewise proved that the 2012 COC was also brought up in the SET petition for quo warranto. Her Verified Answer, which was filed on 1 September 2015, admitted that she made a mistake in the 2012 COC when she put in six (6) years and six (6) months as she misunderstood the question and could have truthfully indicated a longer period. Her answer in the SET case was a matter of public record. Therefore, when petitioner accomplished her COC for President on 15 October 2015, she could not be said to have been attempting to hide her erroneous statement in her 2012 COC for Senator which was expressly mentioned in her Verified Answer.

The facts now, if not stretched to distortion, do not show or even hint at an intention to hide the 2012 statement and have it covered by the 2015 representation. Petitioner, moreover, has on her side this Court's pronouncement that:

> Concededly, a candidate's disqualification to run for public office does not necessarily constitute material misrepresentation which is the sole ground for denying due course to, and for the cancellation of, a COC. Further, as already discussed, the candidate's misrepresentation in his COC must not only refer to a material fact (eligibility and qualifications for elective office), but should evince a deliberate intent to mislead, misinform or hide a fact which would otherwise render a candidate ineligible. It must be made with an intention to deceive the electorate as to one's qualifications to run for public office.[168]

In sum, the COMELEC, with the same posture of infallibilism, virtually ignored a good number of evidenced dates all of which can evince animus manendi to the Philippines and animus non revertedi to the United States of America. The veracity of the events of coming and staying home was as much as dismissed as inconsequential, the focus having been fixed at the petitioner's "sworn declaration in her COC for Senator" which the COMELEC said "amounts to a declaration and therefore an admission that her residence in the Philippines only commence sometime in November 2006"; such that "based on this declaration, [petitioner] fails to meet the residency requirement for President." This conclusion, as already shown, ignores the standing jurisprudence that it is the fact of residence, not the statement of the person that determines residence for purposes of compliance with the constitutional requirement of residency for election as President. It ignores the easily researched matter that cases on questions of residency have been decided favorably for the candidate on the basis of facts of residence far less in number, weight and substance than that presented by petitioner.[169] It ignores, above all else, what we consider as a primary reason why petitioner cannot be bound by her declaration in her COC for Senator which declaration was not even considered by the SET as an issue against her eligibility for Senator. When petitioner made the declaration in her COC for Senator that she has been a resident for a period of six (6) years and six (6) months counted up to the 13 May 2013 Elections, she naturally had as reference the residency requirements for election as Senator which was satisfied by her declared years of residence. It was uncontested during the oral arguments before us that at the time the declaration for Senator was made, petitioner did not have as yet any intention to vie for the Presidency in 2016 and that the general public was never made aware by petitioner, by

word or action, that she would run for President in 2016. Presidential candidacy has a length-of-residence different from that of a senatorial candidacy. There are facts of residence other than that which was mentioned in the COC for Senator. Such other facts of residence have never been proven to be false, and these, to repeat include:

[Petitioner] returned to the Philippines on 24 May 2005. [petitioner's] husband however stayed in the USA to finish pending projects and arrange the sale of their family home.

Meanwhile [petitioner] and her children lived with her mother in San Juan City. [Petitioner] enrolled Brian in Beacon School in Taguig City in 2005 and Hanna in Assumption College in Makati City in 2005. Anika was enrolled in Learning Connection in San Juan in 2007, when she was already old enough to go to school.

> In the second half of 2005, [petitioner] and her husband acquired Unit 7F of One Wilson Place Condominium in San Juan. [Petitioner] and her family lived in Unit 7F until the construction of their family home in Corinthian Hills was completed.
>
> Sometime in the second half of 2005, [petitioner's] mother discovered that her former lawyer who handled [petitioner's] adoption in 1974 failed to secure from the Office of the Civil Registrar of Iloilo a new Certificate of Live Birth indicating [petitioner's] new name and stating that her parents are "Ronald Allan K. Poe" and "Jesusa L. Sonora."
>
> In February 2006, [petitioner] travelled briefly to the US in order to supervise the disposal of some of the family's remaining household belongings. [Petitioner] returned to the Philippines on 11 March 2006.
>
> In late March 2006, [petitioner's] husband informed the United States Postal Service of the family's abandonment of their address in the US.
>
> The family home in the US was sole on 27 April 2006.
>
> In April 2006, [petitioner's] husband resigned from his work in the US. He returned to the Philippines on 4 May 2006 and began working for a Philippine company in July 2006.
>
> In early 2006, [petitioner] and her husband acquired a vacant lot in Corinthian Hills, where they eventually built their family home.[170]

In light of all these, it was arbitrary for the COMELEC to satisfy its intention to let the case fall under the exclusive ground of false representation, to consider no other date than that mentioned by petitioner in her COC for Senator.

All put together, in the matter of the citizenship and residence of petitioner for her candidacy as President of the Republic, the questioned Resolutions of the COMELEC in Division and En Banc are, one and all, deadly diseased with grave abuse of discretion from root to fruits.

WHEREFORE, the petition is GRANTED. The Resolutions, to wit:

1. dated 1 December 2015 rendered through the COMELEC Second Division, in SPA No. 15-001 (DC), entitled Estrella C. Elamparo, petitioner, vs. Mary Grace Natividad Sonora Poe-Llamanzares, respondent, stating that:

> [T]he Certificate of Candidacy for President of the Republic of the Philippines in the May 9, 2016 National and Local Elections filed by respondent Mary Grace Natividad Sonora Poe-Llamanzares is hereby GRANTED.

2. dated 11 December 2015, rendered through the COMELEC First Division, in the consolidated cases SPA No. 15-002 (DC) entitled Francisco S. Tatad, petitioner, vs. Mary Grace Natividad Sonora Poe-Llamanzares, respondent; SPA No. 15-007 (DC) entitled Antonio P Contreras, petitioner, vs. Mary Grace Natividad Sonora

Poe-Llamanzares, respondent; and SPA No. 15-139 (DC) entitled Amado D. Valdez, petitioner, v. Mary Grace Natividad Sonora Poe-Llamanzares, respondent; stating that:

> WHEREFORE, premises considered, the Commission RESOLVED, as it hereby RESOLVES, to GRANT the petitions and cancel the Certificate of Candidacy of MARY GRACE NATIVIDAD SONORA POE-LLAMANZARES for the elective position of President of the Republic of the Philippines in connection with the 9 May 2016 Synchronized Local and National Elections.

3. dated 23 December 2015 of the COMELEC En Banc, upholding the 1 December 2015 Resolution of the Second Division stating that:

> WHEREFORE, premises considered, the Commission RESOLVED, as it hereby RESOLVES, to DENY the Verified Motion for Reconsideration of SENATOR MARY GRACE NATIVIDAD SONORA POE-LLAMANZARES. The Resolution dated 11 December 2015 of the Commission First Division is AFFIRMED.

4. dated 23 December 2015 of the COMELEC En Banc, upholding the 11 December 2015 Resolution of the First Division.

are hereby ANNULED and SET ASIDE. Petitioner MARY GRACE NATIVIDAD SONORA POE-LLAMANZARES is DECLARED QUALIFIED to be a candidate for President in the National and Local Elections of 9 May 2016.

SO ORDERED.

Bersamin, and Mendoza, JJ., concur.
Sereno, C.J., Velasco, Jr., Jardeleza, and Caguioa, JJ., see concurring opinion.
Carpio, Brion, Del Castillo, and Perlas-Bernabe, JJ., see dissenting opinion.
Leonardo-De Castro, J., please see separate dissenting opinion.
Peralta, J., I join J. Caguioa's opinion.
Reyes, J., I concur with the dissenting opinion of J. Perlas-Bernabe.
Leonen, J., see separate concurring opinion.

NOTICE OF JUDGMENT

Sirs/Mesdames:

Please take notice that on March 8, 2016 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 March 11, 2016 at 5:33 a.m.

Very truly yours,

(SGD)
FELIPA G. BORLONGAN-ANAMA
Clerk of Court

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[1] Petition for Certiorari in G.R. Nos. 221698-700, pp. 15-16; COMELEC First Division Resolution dated 11 December 2015 in SPA No. 15-002 (DC), SPA No. 15-007 (DC) and SPA No. 15-139 (DC), p. 2.

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[2] Petition for Certiorari, id. at 16-17;

[3] COMELEC First Division Resolution, supra note 1 at 4.

[4] Petition for Certiorari, supra note 1 at 22.

[5] Id. at 17; Comment (on the Petition for Certiorari in G.R. No. 221697) filed by respondent COMELEC dated 11 January 2016, p. 6.

[6] Petition for Certiorari, id.; id. at 7.

[7] Id. at 18.

[8] Supra note 6.

[9] Id.

[10] COMELEC First Division Resolution, supra note 1 at 3.

[11] Petition for Certiorari, supra note 1 at 17.

[12] Id. at 18.

[13] Id.

[14] COMELEC First Division Resolution, supra note 10.

[15] Id.

[16] Supra note 1 at 17-18.

[17] COMELEC First Division Resolution, supra note 10.

[18] Id.

[19] Id.

[20] Petition for Certiorari, supra note 1 at 20.

[21] Id.

[22] Supra note 3.

[23] Supra note 20.

[24] Supra note 3.

[25] Supra note 20.

[26] Supra note 3.

[27] Petition for Certiorari, supra note 4.

[28] Id.

[29] Id. at 23; COMELEC First Division Resolution, supra note 3.

[30] Id.; id.

[31] Id.; id.

[32] Id.; id.

[33] Id. at 23-24; COMELEC First Division Resolution, supra note 1 at 5.

[34] Id. at 24; id.

[35] Id.

[36] Supra note 34.

[37] Petition for Certiorari, supra note 1 at 25; COMELEC First Division Resolution, supra note 1 at 5.

[38] Id. at 25-26; id.

[39] Id. at 26; id.

[40] Id.; id.

[41] Id.; id.

[42] Id. at 32; id. at 6.

[43] Supra note 39.

[44] Petition for Certiorari, supra note 1 at 26-27; COMELEC First Division Resolution, supra note 1 at 5.

[45] Section 5, R.A. No. 9225 states:

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:

> x x x x
>
> 3. Those appointed to any public office shall subscribe and swear to an oath of allegiance to the Republic of the Philippines and its duly constituted authorities prior to their assumption of office: Provided, That they renounce their oath of allegiance to the country where they took that oath;
>
> x x x x

[46] Petition for Certiorari, supra note 1 at 27.

[47] Id. at 29.

[48] Supra note 46; supra note 1 at 6.

[49] Petition for Certiorari, supra note 1 at 30; id.

[50] Id.

[51] Supra note 48.

[52] Petition for Certiorari, supra note 1 at 31; COMELEC First Division Resolution, supra note 1 at 6.

[53] Comment, supra note 5 at 9.

[54] Petition for Certiorari, supra note 1 at 31.

[55] Id. at 32; Comment, supra note 53 at 10.

[56] Id.; COMELEC First Division Resolution, supra note 1 at 6.

[57] Id.; id. at 7.

[58] Id.; id.

[59] Comment (on the Petition in G.R. No. 221697) filed by respondent Elamparo, dated January 6, 2016, p. 7.

[60] COMELEC Second Division Resolution dated December 1, 2015 in SPA No. 15-001 (DC), p. 7.

[61] Id. at 7-8.

[62] Supra note 60.

[63] Id.

[64] Id. at 8.

[65] Id.

[66] Petition for Certiorari in G.R. No. 221697, p. 7.

[67] Supra note 64.

[68] Petition for Certiorari, supra note 65 at 8; COMELEC Second Division Resolution, supra note 60 at 8-11.

[69] COMELEC Second Division Resolution, supra note 60 at 34.

[70] Comment, supra note 59 at 10.

[71] Section I of Rule 25 ofthe COMELEC Rules of Procedure, as amended, states:

Rule 25 -Disqualification of Candidates

Section 1. Grounds. -Any candidate who, in an action or protest in which he is a party, is declared by final decision of a competent court, guilty of, or found by the Commission to be suffering from any disqualification provided by law or the Constitution.

A Petition to Disqualify a Candidate invoking grounds for a Petition to Deny to or Cancel a Certificate of Candidacy or Petition to Declare a Candidate as a Nuisance Candidate, or a combination thereof, shall be summarily dismissed.

[72] Petition to Disqualify dated 19 October 2015 filed by Tatad in SPA No. 15-002 (DC), p. 9.

[73] Id. at 9 and 14.

[74] Id. at 10.

[75] Id. at 12.

[76] Id. at 11.

[77] COMELEC First Division Resolution, supra note 1 at 8.

[78] Id.

[79] Petition to Disqualify, supra note 72 at 11.

[80] Id. at 21.

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[81] Id.

[82] Id.

[83] Supra note 1 at 8.

[84] Id.

[85] Contreras' petition is a petition for cancellation of Grace Poe's COC under Section 78 of the Omnibus Election Code which states that:

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

[86] Petition for Cancellation of Grace Poe's COC dated 17 October 2015 filed by Contreras in SPA No. 15-007 (DC), pp. 2-4.

[87] Id. at 3; Petition for Certiorari, supra note 1 at 13.

[88] Id. at 3-4.

[89] Sections 12 and 68 ofthe Omnibus Election Code provide:

Sec. 12. Disqualifications. - Any person who has been declared by competent authority insane or incompetent, or has been sentenced by final judgment for subversion, insurrection, rebellion or for any offense for which he has been sentenced to a penalty of more than eighteen months or for a crime involving moral turpitude, shall be disqualified to be a candidate and to hold any office, unless he has been given plenary pardon or granted amnesty.

This disqualifications to be a candidate herein provided shall be deemed removed upon the declaration by competent authority that said insanity or incompetence had been removed or after the expiration of a period of five years from his service of sentence, unless within the same period he again becomes disqualified.

Sec. 68. Disqualifications. - Any candidate who, in an action or protest in which he is a party is declared by final decision of a competent court guilty of, or found by the Commission of having (a) given money or other material consideration to influence, induce or corrupt the voters or public officials performing electoral functions; (b) committed acts of terrorism to enhance his candidacy; (c) spent in his election campaign an amount in excess of that allowed by this Code; (d) solicited, received or made any contribution prohibited under Sections 89, 95, 96, 97 and 104; or (e) violated any of Sections 80, 83, 85, 86 and 261, paragraphs d, e, k, v, and cc, sub-paragraph 6, shall be disqualified from continuing as a candidate, or if he has been elected, from holding the office. Any person who is a permanent resident of or an immigrant to a foreign country shall not be qualified to run for any elective office under this Code, unless said person has waived his status as permanent resident or immigrant of a foreign country in accordance with the residence requirement provided for in the election laws.

[90] COMELEC First Division Resolution, supra note 1 at 12.

[91] Id. at 10.

[92] Id.

[93] Id. at 9.

[94] Id.

[95] Id.

[96] Id.

[97] Id.

[98] Id.

[99] Id. at 9-10.

[100] Id. at 10.

[101] Id.

[102] Id.

[103] The 11 December 2015 Resolution of the COMELEC First Division was concurred in by Commissioners Louie Tito F. Guia and Ma. Rowena Amelia V. Guanzon. Presiding Commissioner Christian Robert S. Lim issued a Separate Dissenting Opinion.

[104] 318 Phil. 329 (1995).

[105] 595 Phil. 449 (2008).

[106] Romualdez-Marcos v. COMELEC, supra note 104 at 396-397.

[107] Id. at 397-398; Fermin v. COMELEC, supra note 105 at 471-472.

[108] In A.M. No. 02-6-02-SC, Resolution Approving The Proposed Rule on Adoption (Domestic and Inter-Country), effective 22 August 2002, "foundling" is defined as a deserted or abandoned infant or child whose parents, guardian or relatives are unknown; or a child committed to an orphanage or charitable or similar institution with unknown facts of birth and parentage and registered in the Civil Register as a "foundling."

[109] Article IV-Citizenship.

Sec. I. The following are citizens of the Philippines:

(1) Those who are citizens of the Philippine Islands at the time of the adoption of this Constitution,

(2) Those born in the Philippine Islands of foreign parents who, before the adoption of this Constitution, had been elected to public office in the Philippine Islands.

(3) Those whose fathers are citizens of the Philippines.

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

(5) Those who are naturalized in accordance with law.

Section 2. Philippine citizenship may be lost or reacquired in the manner provided by law.

[110] Article 163 to 182, Title VI of Executive Order No. 209, otherwise known as The Family Code of the Philippines, which took effect on 4 August 1988.

[111] Statistics from the PSA or its predecessor agencies are admissible evidence. See Herrera v. COMELEC, 376 Phil. 443 (1999) and Bagabuyo v. COMELEC, 593 Phil. 678 (2008). In the latter case, the Court even took

judicial notice of the figures.

[112] Transcipt of Stenographic Notes, 9 February 2016, p. 40.

[113] Section 3 (y), Rule 131.

[114] 236 Phil. 307 (1987).

[115] Id. at 314-315.

[116] English translation of the Spanish original presented in the petitioner's pleadings before the COMELEC and this Court. The COMELEC and private respondents have not disputed the accuracy and correctness of the translation.

[117] 1 Jose M. Aruego, The Framing of the Philippine Constitution 209 (1949).

[118] TSN, 16 February 2016, pp. 20-21.

[119] 117 Phil. 976 (1963).

[120] Id. at 978-979.

[121] See Section 5 of the RA No. 8552: "Location of Unknown Parent(s). - It shall be the duty of the Department or the child-caring agency which has custody of the child to exert all efforts to locate his/her unknown biological parent(s). If such efforts fail, the child shall be registered as a foundling and subsequently be the subject of legal proceedings where he/she shall be declared abandoned." (Underlining supplied)

[122] See Exhibit "1" in SPA No. 15-001 (DC) and SPA No. 15-00 (DC).

[123] See Exhibit "2" in SPA No. 15-001 (DC) and SPA No. 15-00 (DC).

[124] Razon, Jr. v. Tagitis, 621 Phil. 536, 600 (2009) citing Pharmaceutical and Health Care Assoc. of the Philippines v. Duque III, 561 Phil. 386, 398 (2007).

[125] Article 38.1, paragraphs (b) and (c) of the Statute of the International Court of Justice.

[126] Mijares v. Raiiada, 495 Phil. 372, 395 (2005).

[127] Pharmaceutical and Health Care Assoc. of the Philippines v. Duque III, 561 Phil. 386, 400 (2007).

[128] International School Alliance of Educators v. Quisumbing, 388 Phil. 661, 672-673 (2000).

[129] CONSTITUTION, Art. III, Sec. 1.

[130] Rep. of the Philippines v. Sandiganbayan, 454 Phil. 504, 545 (2003).

[131] "Everyone has the right to a nationality."

[132] See Introductory Note to the United Nations Convention on the Reduction of Statelessness issued by the United Nations High Commissioner on Refugees.

[133] Supra note 124.

[134] Supra note 126.

[135] Id. at 392; See footnote No. 55 of said case.

[136] Pharmaceutical and Health Care Assoc. of the Philippines v. Duque III, supra note 127.

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[137] See Exhibits 38 and 39-series.

[138] Opening Statement of the Solicitor General, p. 6.

[139] First Division resolution dated 11 December 2015, upheld in toto by the COMELEC En Banc.

[140] 409 Phil. 633, 649 (2001).

[141] 692 Phil. 407, 420 (2012).

[142] 551 Phil. 368, 381 (2007).

[143] 531 Phil. 407, 417 (2006).

[144] Supra note 142.

[145] Supra note 140 at 646.

[146] Id. at 651.

[147] G.R. No. 217126-27, 10 November 2015.

[148] Id.

[149] Implementing Rules and Regulations of Republic Act No. 8552, Art. VI, Sec. 33.

[150] Republic Act No. 8552 (1998), Sec. 14.

[151] Republic Act No. 8552 (1998), Sec. 15.

[152] Fernandez v. House of Representatives Electoral Tribunal, 623 Phil. 628, 660 (2009) citing Japzon v. COMELEC, 596 Phil. 354, 370-372 (2009) further citing Papandayan, Jr. v. COMELEC, 430 Phil. 754, 768-770 (2002) further further citing Romualdez v. RTC, Br. 7, Tacloban City, G.R. No. 104960, 14 September 1993, 226 SCRA 408, 415.

[153] Domino v. COMELEC, 369 Phil. 798, 819 (1999).

[154] TSN, 16 February 2016, p. 120.

[155] 434 Phil. 861 (2002).

[156] 596 Phil. 354 (2009).

[157] G.R. No. 209835, 22 September 2015.

[158] G.R. No. 207264, 25 June 2013, 699 SCRA 522.

[159] Supra note 155.

[160] Supra note 156.

[161] Supra note 157.

[162] Supra note 158.

[163] Republic Act No. 6768 (1989), as amended, Sec. 2(a).

[164] Republic Act No. 6768 (1989), as amended, Sec. 1.

[165] Republic Act No. 6768 (1989), as amended, Sec. 6.

[166] Supra note 155.

[167] Supra note 104 at 326. (Emphasis supplied)

[168] Ugdoracion, Jr. v. COMELEC, 575 Phil. 253, 265-266 (2008).

[169] In Mitra v. COMELEC, et al., [636 PhiL 753 (2010)], It was ruled that the residence requirement can be complied with through an incremental process including acquisition of business interest in the pertinent place and lease of feedmill building as residence.

[170] COMELEC Resolution dated 11 December 2015 in SPA No. 15-002 (DC), pp. 4-5.

CONCURRING OPINION

SERENO, CJ.:

It is important for every Member of this Court to be and to remain professionally indifferent to the outcome of the 2016 presidential election. Whether it turns out to be for a candidate who best represents one's personal aspirations for the country or who raises one's fears, is a future event we must be blind to while we sit as magistrates. We are not the electorate, and at this particular juncture of history, our only role is to adjudicate as our unfettered conscience dictates. We have no master but the law, no drumbeater but reason, and in our hearts must lie only the love for truth and for justice. This is what the Constitution requires of us.

It is apropos at this point to recall the principles that Justice Angelina Sandoval-Gutierrez evoked in her concurring opinion in Tecson v. COMELEC,[1] the landmark case involving as respondent a presidential candidate for 2014, the late Ronald Allan Kelly-Poe:

x x x x

> Let it not be forgotten that the historic core of our democratic system is political liberty, which is the right and opportunity to choose those who will lead the governed with their consent. This right to choose cannot be subtly interfered with through the elimination of the electoral choice. The present bid to disqualify respondent Poe from the presidential race is a clear attempt to eliminate him as one of the choices. This Court should resist such attempt. The right to choose is the single factor that controls the ambitions of those who would impose through force or stealth their will on the majority of citizens. We should not only welcome electoral competition, we should cherish it. Disqualifying a candidate, particularly the popular one, on the basis of doubtful claims does not result to a genuine, free and fair election. It results to violence. x x x. We have seen Edsa I and Edsa II, thus, we know that when democracy operates as intended, an aroused public can replace those who govern in a manner beyond the parameters established by public consent.[2]
>
> x x x x
>
> When the people vote on May 10 and cast their ballots for President, they will be exercising a sovereign right. They may vote for respondent Poe, or they may not. When they vote, they will consider a myriad of issues, some relevant, others trivial, including the eligibility of the candidates, their qualities of leadership, their honesty and sincerity, perhaps including their legitimacy. That is their prerogative. After the election, and only after, and that is what the Constitution mandates, the election of whoever is proclaimed winner may be challenged in an election contest or a petition for quo warranto. Where the challenge is because of ineligibility, he will be ousted only if this Court exerts utmost effort to resolve the issue 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.[3]

That is what the COMELEC rulings in these cases would have precisely accomplished had they been affirmed: the illegitimate elimination of an electoral choice, a choice who appears to be one of the frontrunners in all the relevant surveys. For the reasons set forth below, I concur with Justice Jose Portugal Perez, and am herein expounding in detail the reasons for such concurrence.

With the majority of the Members of the Court declaring, by a vote of 9 as against 6, that petitioner Mary Grace Poe-Llamanzares has no legal impediment to run for the presidency, it is most unfortunate that one of the Dissenting Opinions opens with a statement that tries to cast uncertainty on an already tense situation. The dissent gives excessive weight to the fact that there are 5 Justices in the minority who believe that petitioner does not have the qualifications for presidency, while ignoring the reality that there at least 7 Justices who believe that petitioner possesses these qualifications.

Note that the fallo needed only to dispose of the grant or denial of the petitions and nothing more. Ideally, no further interpretation of the votes should have been made. Unfortunately, there are attempts to make such an interpretation. We therefore need to look to our internal rules for clarification on the matter to avoid exacerbating matters.

If we were to apply the rules on voting in the Internal Rules of the Supreme Court, it is clear that the Court decided on the matter of petitioner's intrinsic qualifications in accordance with Rule 12, Section 1 of these rules:

> Section 1. Voting requirements. - (a) All decisions and actions in Court en banc cases shall be made up upon the concurrence of the majority of the Members of the Court who actually took part in the deliberation on the issues or issues involved and voted on them.

Out of the 12 Members who voted on the substantive question on citizenship, a clear majority of 7 voted in favor of petitioner. As to residency, 7 out of 13 voted that petitioner complied with the 10-year residency requirement. These votes, as explained in the extended opinions submitted by the members of the majority, must be respected. Granting therefore that we need to address the question of substantive qualifications of petitioner, she clearly possesses the qualifications for presidency on the matter of residency and citizenship.

I.
The Proceedings Before the Court

On 28 December 2015, petitioner filed two separate Petitions for Certiorari before this Court assailing the Resolutions dated 23 December 2015 of the COMELEC En Banc, which ordered the cancellation of her Certificate of Candidacy (CoC) for the 2016 presidential elections.[4] Both petitions included a prayer for the issuance of Temporary Restraining Orders (TRO) against the COMELEC.

In the afternoon of 28 December 2015, by my authority as Chief Justice and upon the written recommendation of the Members-in-Charge, the Court issued two separate orders enjoining COMELEC and its representatives from implementing the assailed Resolutions, pursuant to Section 6(g), Rule 7 of the Supreme Court Internal Rules.[5]

The issuance of the TROs was confirmed by the Court En Banc, voting 12-3, in Resolutions dated 12 January 2016. In the same resolutions, the Court ordered the consolidation of the two petitions.

Oral arguments were then held on the following dates: January 19 and 26; February 2, 9 and 16, 2016. During these proceedings, the parties were ordered in open court to submit their Memoranda within five days from the conclusion of the oral arguments, after which the consolidated petitions would be deemed submitted for resolution.

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On 29 February 2016, the draft report of the Member-in-Charge was circulated to the Members of the Court. The Court then decided to schedule the deliberations on the case on 8 March 2016. A reserved date - 9 March 2016 - was also agreed upon, in the event that a decision is not reached during the 8 March 2016 session.

In keeping with the above schedule, the Members of the Court deliberated and voted on the case on 8 March 2016.

II
COMELEC exceeded its jurisdiction when it ruled on petitioner's qualifications under Section 78 of the Omnibus Election Code.

The brief reasons why the COMELEC exceeded its jurisdiction when it ruled on petitioner's qualifications are as follows.

First, Section 78 of Batas Pambansa Bilang 118, or the Omnibus Election Code (OEC), does not allow the COMELEC to rule on the qualifications of candidates. Its power to cancel a Certificate of Candidacy (CoC) is circumscribed within the confines of Section 78 of the OEC that provides for a summary proceeding to determine the existence of the exclusive ground that any representation made by the candidate regarding a Section 74 matter was false. Section 74 requires, among others a statement by the candidate on his eligibility for office. To authorize the COMELEC to go beyond its mandate and rule on the intrinsic qualification of petitioner, and henceforth, of every candidate, is an outcome clearly prohibited by the Constitution and by the OEC.

Second, even assuming that the COMELEC may go beyond the determination of patent falsity of the CoC, its decision to cancel petitioner's CoC must still be reversed. The factual circumstances surrounding petitioner's claims of residency and citizenship show that there was neither intent to deceive nor false representation on her part. Worse, the COMELEC's unmerited use of this Court's dissenting opinions as if they were pronouncements of the Court itself[6] misleads both the Court and the public, as it evinces a refusal to acknowledge a dissent's proper place - not as law, but as the personal views of an individual member of this Court. Most egregiously, the COMELEC blatantly disregarded a long line of decisions by this Court to come up with its conclusions.

The Power of the COMELEC Prior
to Section 78 of the Omnibus
Election Code

Prior to the OEC, the power of the COMELEC in relation to the filing of CoCs had been described as ministerial and administrative.[7] In 1985, the OEC was passed, empowering the COMELEC to grant or deny due course to a petition to cancel a CoC. The right to file a verified petition under Section 78 was given to any person on the ground of material representation of the contents of the CoC as provided for under Section 74. Among the statements a candidate is required to make in the CoC, is that he or she is eligible for the office the candidate seeks.

The fundamental requirements for electoral office are found in the Constitution. With respect to the petitions at hand, these are the natural-born Filipino citizenship and the 10-year residency requirements for President found under Section 2, Article VII in relation to Section 1, Article IV of the Constitution.

In the deliberations of the Batasang Pambansa on what would turn out to be Section 78 of the Omnibus Election Code or Batas Pambansa Bilang (BP) 881, the lawmakers emphasized that the fear of partisanship on the part of the COMELEC makes it imperative that it must only be for the strongest of reasons, i.e., material misrepresentation on the face of the CoC, that the COMELEC can reject any such certificates. Otherwise, to allow greater power than the quasi-ministerial duty of accepting facially compliant CoCs would open the door for

COMELEC to engage in partisanship; the COMELEC may target any candidate at will. The fear was so real to the lawmakers that they characterized the power to receive CoCs not only as summary, but initially as, "ministerial." Allow me to quote:

> HON. ADAZA. Why should we give the Comelec power to deny or to give due course when the acceptance of the certificate of candidacy is ministerial?
>
> HON. FERNAN. Iyon na nga ang sinasabi ko eh.
>
> THE CHAIRMAN. Baka iyong residences, this must be summary. He is not a resident of the ano, why will you wait? Automatically disqualified siya. Suppose he is not a natural born citizen.
>
> HON. ADAZA. No, but we can specify the grounds here. Kasi, they can use this power to expand.
>
> THE CHAIRMAN. Yeah, that is under this article nga.
>
> HON. ADAZA. Iyon na nga, but let's make particular reference. Remember, Nonoy, this is a new provision which gives authority to the Comelec. This was never there before. Ikansel na natin yan.
>
> HON. GONZALES. At saka the Constitution says, di ba? "The Commission on Election is the sole judge of all the contest." This merely refers to contest e. Petition fang to give due course e. You will only be declared disqualified.
>
> THE CHAIRMAN. No, no, because, clearly, he is a non-resident. Oh, why can we not file a petition? Supposing he is not a natural born citizen? Why?
>
> HON. GONZALES. This is a very very serious question. This should be declared only in proper election contest, properly litigated but never in a summary proceedings.
>
> THE CHAIRMAN. We will not use the word, the phrase "due course", "seeking the cancellation of the Certificate of Candidacy". For example, si Ading, is a resident of Cebu and he runs in Davao City.
>
> HON. ADAZA. He is a resident of Cebu but he runs in Lapu-Lapu? lkaw, you are already threatening him ah.
>
> THE CHAIRMAN. These are the cases I am sure, that are ...
>
> HON. ADAZA. I see. No, no, but let us get rid of the provision. This is dangerous.
>
> THE CHAIRMAN. No but, if you know that your opponent is not elected or suppose ...
>
> HON. ADAZA. File the proper petition like before without providing this.
>
> THE CHAIRMAN. But in the mean time, why ...
>
> HON. SITOY. My proposal is to delete the phrase "to deny due course", go direct to "seeking the cancellation of the Certificate of Candidacy."
>
> HON. ASOK. Every Certificate of Candidacy should be presumed accepted. It should be presumed accepted.
>
> THE CHAIRMAN. Suppose on the basis of. ..
>
> HON. SITOY. That's why, my proposal is, "any person seeking the cancellation of a Certificate of Candidacy".
>
> HON. FERNAN. But where are the grounds here?
>
> HON. ADAZA. Noy, let's hold this. Hold muna ito. This is dangerous e.
>
> THE CHAIRMAN. Okay, okay.

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HON. GONZALES. Ginagamit lamang ng Comelec ang "before" if it is claimed that a candidate is an official or that his Certificate of Candidacy has been filed in bad faith, iyon lang. Pero you cannot go to the intrinsic qualifications and disqualifications of candidates.

HON. DELOS REYES. Which are taken up in an ordinary protest.

HON. GONZALES. Dito ba, kasama iyong proceedings sa ... ? What I'm saying is: Kagaya iyong nabanggit kay Nonoy, natural course of margin, imagine, it will eventually reach the Supreme Court. The moment that the disqualification is pending, lalong lalo na kung may decision ng Comelec and yet pending pa before the Supreme Court, that already adversely affect a candidate, mabigat na iyan. So, what I'm saying is, on this disqualification sub-judice, alisin ito except if on the ground that he is a nuisance candidate or that his Certificate of Candidacy has been filed in bad faith. But if his Certificate of Candidacy appears to be regular and valid on the basis that his certificate has been filed on time, then it should be given due couse.[8]

The same concerns were raised when the provision was taken up again:

THE PRESIDING OFFICER. No. 10, the power of the Commission to deny due course to or cancel a certificate of candidacy. What is the specific ano, Tessie?

HON. ADAZA. Page 45.

THE PRESIDING OFFICER. Section 71.

HON. ADAZA. Kasi kay Neptali ito and it is also contained in our previous proposal, "Any person seeking to deny due course to or cancel. . . " our proposal here is that it should not be made to appear that the Commission on Elections has the authority to deny due course to or cancel the certificate of candidacy. I mean their duty should be ministerial, the acceptance, except in cases where they are nuisance candidates.

THE PRESIDING OFFICER. In case of nuisance, who will determine, hindi ba Comelec iyan?

HON. ADAZA. Iyon na nga, except in those cases, eh. Ito, this covers a provision not only in reference to nuisance candidates.

HON. CUENCO. Will you read the provision?

HON. ADAZA. "Any person seeking due course to or the cancellation ... " because our position here is that these are matters that should be contained in an election protest or in a quo warranto proceedings, eh. You know, you can be given a lot of problems in the course of the campaign.

HON. ASOK. But we already have a specific provision on this.

HON. ADAZA. (MP Adaza reading the provision.) You know, we should not have this as a provision anymore because whatever matters will be raised respecting this certificate of candidacy, these are normal issues for protest or quo warranto, eh.

HON. CUENCO. So you now want to remove this power from the Comelec?

HON. ADAZA. This power from the Comelec. This is the new provision, eh. They should not have this. All of us can be bothered, eh.

HON. CUENCO. So in that case how can the Comelec cancel the certificate of candidacy when you said. . .

HON. ADAZA. Only with respect to the nuisance candidates. There is no specific provision.

HON. ASOK. There is already a specific provision for nuisance candidates.

HON. ADAZA. This one refers to other candidates who are not nuisance candidates, but most particularly

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refers to matters that are involved in protest and quo warranto proceedings. Why should we expand their other provisions before. You know, you can get bothered.

HON. CUENCO. Everybody will be vulnerable?

HON. ADAZA. Yeah, everybody will be vulnerable, eh.

HON. CUENCO. Even if you are a serious candidate?

HON. ADAZA. Even if you are a serious candidate because, for instance, they will file a petition for quo warranto, they can file a petition to the Comelec to cancel your certificate of candidacy. These are actually grounds for protest or for quo warranto proceedings.

x x x x

HON. CUENCO. By merely alleging, for example, that you are a subversive.

HON. ADAZA. Oo, iyon na nga, eh.

x x x x

THE PRESIDING OFFICER. Suppose you are disqualified, you do not have the necessary qualifications, the Comelec can motu propio cancel it.

HON. CUENCO. On what ground, Mr. Chairman?

THE PRESIDING OFFICER. You are disqualified. Let's say, wala kang residence or kuwan ...

HON. ADAZA. Ah, that's the problem.

THE PRESIDING OFFICER. That's why.

HON. ADAZA. We should not allow that thing to crop up within the powers of the Comelec because anyone can create problem for everybody. You know, that's a proper subject for protest or quo warranto. But not to empower the Comelec to cancel. That's a very dangerous provision. It can reach all of us.

THE PRESIDING OFFICER. Hindi, if you are a resident pero iyong, let's say a new comer comes to Misamis Oriental, 3 months before and file his Certificate of Candidacy.

HON. ADAZA. Never mind, file the necessary petition.

THE PRESIDING OFFICER. These are the cases they say, that will be involved.

HON. ADAZA. I think we should kuwan that e.

THE PRESIDING OFFICER. Iyon talagang non-resident and then he goes there and file his certificate, You can, how can anybody stop him, di ba?

HON. ADAZA. No, let me cite to you cases, most people running for instance in the last Batasan, especially in the highly urbanized city, they were residence in one particular city but actually running in the province. You see, how you can be bothered if you empower the Comelec with this authority to cancel, there would have been many that would have been cancelled.

THE PRESIDING OFFICER. There were many who tried to beat the deadline.

HON. ADAZA. No, there are many who did not beat the deadline, I know.

HON. LOOD. The matter of point is the word Article 8, Article 8, provides full responsibility for ...

> HON. ADAZA. Which one? That's right.
>
> HON. LOOD. That's why it includes full ... (Unintelligible).
>
> HON. ADAZA. No, it's very dangerous. We will be all in serious trouble. Besides, that covered already by specific provisions. So, can we agree. Anyway it is this new provision which is dangerous.
>
> HON CUENCO. So, you want the entire provision?
>
> HON. LOOD. Unless we make exception.[9]

The Summary Nature of Proceedings under Section 78 Only Allow the COMELEC to Rule on Patent Material Misrepresentation of Facts on Residency and Citizenship, not of Conclusions of Law, and especially, not in the Absence of Established Legal Doctrines on the Matter

The original intent of the legislature was clear: to make the denial of due course or cancellation of certificate of candidacy before the COMELEC a summary proceeding that would not go into the intrinsic validity of the qualifications of the candidate, even to the point of making the power merely ministerial in the absence of patent defects. There was concern among some other members about giving the COMELEC the power to deny due course to or cancel outright the certificate of candidacy. As such, the proposal was to remove Section 78 entirely or to lay down specific parameters in order to limit the power of the COMELEC under the provision. Thus, in interpreting the language of Section 78 as presently crafted, those intended limitations must be kept in mind. This includes retaining the summary nature of Section 78 proceedings.

Reyes v. Commission on Elections[10] provides an insight into the summary nature of a Section 78 proceeding:

> The special action before the COMELEC which was a Petition to Cancel Certificate of Candidacy was a SUMMARY PROCEEDING or one "heard summarily." The nature of the proceedings is best indicated by the COMELEC Rule on Special Actions, Rule 23, Section 4 of which states that the Commission may designate any of its officials who are members of the Philippine Bar to hear the case and to receive evidence. COMELEC Rule 17 further provides in Section 3 that when the proceedings are authorized to be summary, in lieu of oral testimonies, the parties may, after due notice, be required to submit their position paper together with affidavits, counter-affidavits and other documentary evidence; ... and that "[t]his provision shall likewise apply to cases where the hearing and reception of evidence are delegated by the Commission or the Division to any of its officials .... "
>
> x x x x
>
> In fact, in summary proceedings like the special action of filing a petition to deny due course or to cancel a certificate of candidacy, oral testimony is dispensed with and, instead, parties are required to submit their position paper together with affidavits, counter affidavits and other pieces of documentary evidence.

The Summary nature of Section 78 proceeding implies the simplicity of subject-matter[11] as it does away with long drawn and complicated trial-type litigation. Considering its nature, the implication therefore, is that Section 78 cases contemplate simple issues only. Any issue that is complex would entail the use of discretion, the exercise of which is reserved to the appropriate election tribunal. With greater reason then, claims of candidate on a matter of opinion on unsettled questions of law, cannot be the basis for the denial of a CoC.

Section 78 Proceedings Cannot Take
the Place of a Quo Warranto
Proceeding or an Electoral Protest

The danger of the COMELEC effectively thwarting the voter's will was clearly articulated by Justice Vicente V. Mendoza in his separate opinion in the case involving Mrs. Imelda Romualdez Marcos.[12] The Court voted to grant the Rule 64 Petition of Mrs. Marcos to invalidate the COMELEC's Resolution denying her Amended CoC. Justice Mendoza wanted the Court to do so on the prior threshold issue of jurisdiction, i.e., that the COMELEC did not have even the power to assume jurisdiction over the petition of Cirilo Montejo because it was in effect a petition for disqualification. Thus, the COMELEC resolution was utterly void. Justice Mendoza explains Section 78 in relation to petitions for disqualification under the Constitution and relevant laws. The allegations in the Montejo's petition were characterized, thus:

> The petition filed by private respondent Cirilo Roy Montejo in the COMELEC, while entitled "For Cancellation and Disqualification," contained no allegation that private respondent Imelda Romualdez-Marcos made material representations in her certificate of candidacy which were false, it sought her disqualification on the ground that "on the basis of her Voter Registration Record and Certificate of Candidacy, [she] is disqualified from running for the position of Representative, considering that on election day, May 8, 1995, [she] would have resided less than ten (10) months in the district where she is seeking to be elected." For its part, the COMELEC's Second Division, in its resolution of April 24, 1995, cancelled her certificate of candidacy and corrected certificate of candidacy on the basis of its finding that petitioner is "not qualified to run for the position of Member of the House of Representatives for the First Legislative District of Leyte" and not because of any finding that she had made false representations as to material matters in her certificate of candidacy.
>
> Montejo's petition before the COMELEC was therefore not a petition for cancellation of certificate of candidacy under § 78 of the Omnibus Election Code, but essentially a petition to declare private respondent ineligible. It is important to note this, because, as will presently be explained, proceedings under § 78 have for their purpose to disqualify a person from being a candidate, whereas quo warranto proceedings have for their purpose to disqualify a person from holding public office. Jurisdiction over quo warranto proceedings involving members of the House of Representatives is vested in the Electoral Tribunal of that body.[13]

Justice Mendoza opined that the COMELEC has no power to disqualify candidates on the ground of ineligibility, elaborating thus:

> In my view the issue in this case is whether the Commission on Elections has the power to disqualify candidates on the ground that they lack eligibility for the office to which they seek to be elected. I think that it has none and that the qualifications of candidates may be questioned only in the event they are elected, by filing a petition for quo warranto or an election protest in the appropriate forum, not necessarily in the COMELEC but, as in this case, in the House of Representatives Electoral Tribunal. That the parties in this case took part in the proceedings in the COMELEC is of no moment. Such proceedings were unauthorized and were not rendered valid by their agreement to submit their dispute to that body.
>
> The various election laws will be searched in vain for authorized proceedings for determining a candidate's qualifications for an office before his election. There are none in the Omnibus Election Code (B.P. Blg. 881), in the Electoral Reforms Law of 1987 (R.A. No. 6646), or in the law providing for synchronized elections (R.A. No. 7166). There are, in other words, no provisions for pre-proclamation contests but only election protests or quo warranto proceedings against winning candidates.
>
> To be sure, there are provisions denominated for "disqualification," but they are not concerned with a declaration of the ineligibility of a candidate. These provisions are concerned with the incapacity (due to insanity, incompetence or conviction of an offense) of a person either to be a candidate or to continue as a

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> candidate for public office. There is also a provision for the denial or cancellation of certificates of candidacy, but it applies only to cases involving false representations as to certain matters required by law to be stated in the certificates.[14]

He then proceeded to cite the three reasons explaining the absence of an authorized proceeding for determining before election the qualifications of a candidate:

> First is the fact that unless a candidate wins and is proclaimed elected, there is no necessity for determining his eligibility for the office. In contrast, whether an individual should be disqualified as a candidate for acts constituting election offenses (e.g., vote buying, over spending, commission of prohibited acts) is a prejudicial question which should be determined lest he wins because of the very acts for which his disqualification is being sought. That is why it is provided that if the grounds for disqualification are established, a candidate will not be voted for; if he has been voted for, the votes in his favor will not be counted; and if for some reason he has been voted for and he has won, either he will not be proclaimed or his proclamation will be set aside.
>
> Second is the fact that the determination of a candidate's eligibility, e.g., his citizenship or, as in this case, his domicile, may take a long time to make, extending beyond the beginning of the term of the office. This is amply demonstrated in the companion case (G.R. No. 120265, Agapito A. Aquino v. COMELEC) where the determination of Aquino's residence was still pending in the COMELEC even after the elections of May 8, 1995. This is contrary to the summary character of proceedings relating to certificates of candidacy. That is why the law makes the receipt of certificates of candidacy a ministerial duty of the COMELEC and its officers. The law is satisfied if candidates state in their certificates of candidacy that they are eligible for the position which they seek to fill, leaving the determination of their qualifications to be made after the election and only in the event they are elected. Only in cases involving charges of false representations made in certificates of candidacy is the COMELEC given jurisdiction.
>
> Third is the policy underlying the prohibition against pre-proclamation cases in elections for President, Vice President, Senators and members of the House of Representatives. (R.A. No. 7166, § 15) The purpose is to preserve the prerogatives of the House of Representatives Electoral Tribunal and the other Tribunals as "sole judges" under the Constitution of the election, returns and qualifications of members of Congress or of the President and Vice President, as the case may be.[15]

The legal differentiation between Section 78 vis-a-vis quo warranto proceedings and electoral protests made by Justice Mendoza in the Romualdez Marcos case was completely adopted, and affirmed by a unanimous Court in Fermin v. COMELEC.[16] Fermin v. COMELEC has been affirmed in Munder v. Commission on Elections,[17] Agustin v. Commission on Elections[18] Talaga v. Commission on Elections,[19] Mitra v. Commission on Elections,[20] Hayundini v. Commission on Elections,[21] Aratea v. Commission on Elections[22] Gonzalez v.Commission on Elections[23] Jalosjos, Jr. v. Commission on Elections,[24] Dela Cruz v. Commission on Elections,[25] and Maruhom v. COMELEC,[26] thus the Mendoza formulation has become settled doctrine.

It is clear that what the minority herein is attempting to accomplish is to authorize the COMELEC to rule on the intrinsic qualifications of petitioner, and henceforth, of every candidate - an outcome clearly prohibited by the Constitution and by the Omnibus Election Code. That this was also the objective of the minority justices in Tecson v. COMELEC should warn us that the proposal of the minority herein will result in the direct reversal of the said case.

In Tecson, the COMELEC contended it did not have the jurisdiction to rule on the qualification of Ronald Allan Kelley Poe. The COMELEC stated that it could only rule that FPJ did not commit material misrepresentation in claiming that he was a natural-born Filipino citizen, there being substantial basis to support his belief that he was the son of a Filipino. The Court upheld this conclusion of the COMELEC, and in the dispositive conclusions portion of the Decision held:

> (4) But while the totality of the evidence may not establish conclusively that respondent FPJ is a natural-born citizen of the Philippines, the evidence on hand still would preponderate in his favor enough to hold that he cannot be held guilty of having made a material misrepresentation in his certificate of candidacy in violation of Section 78, in relation to Section 74, of the Omnibus Election Code. Petitioner has utterly failed to substantiate his case before the Court, notwithstanding the ample opportunity given to the parties to present their position and evidence, and to prove whether or not there has been material misrepresentation, which, as so ruled in Romualdez-Marcos vs. COMELEC, must not only be material, but also deliberate and willful.

The Court made two important rulings on this particular point. First, that Mr. Fornier, the petitioner in the COMELEC case to deny Mr. Poe's CoC, had the burden to prove that Mr. Poe committed material misrepresentation. Second, even assuming that the petitioner therein was able to make out a prima facie case of material misrepresentation, the evidence on Mister Poe's side preponderated in favor of the conclusion that he did not make any material misrepresentation. Thus, the COMELEC was correct in saying that there was no basis to grant Fornier's Section 78 petition. Mr. Poe, We said, did not have to conclusively establish his natural-born citizenship; preponderance of evidence was sufficient to prove his right to be a candidate for President.

It is absolutely offensive to Our concept of due process for the COMELEC to insist on its own interpretation of an area of the Constitution that this Court has yet to squarely rule upon, such as the citizenship of a foundling. It was also most unfair of COMELEC to suddenly impose a previously non-existing formal requirement on candidates-such as a permanent resident visa or citizenship itself-to begin the tolling of the required duration of residency. Neither statutes nor jurisprudence require those matters. COMELEC grossly acted beyond its jurisdiction by usurping the powers of the legislature and the judiciary.

Section 78 and Material Misrepresentation

It must be emphasized that all the decisions of the COMELEC where the Court upheld its denial of a CoC on the basis of an alleged misrepresentation pertaining to citizenship and residency, were all denials on matters of fact that were either uncontroverted, or factual matters that were proven to be false. None of them had to do with any question of law.

In the following cases, we upheld the COMELEC'S denial of the CoCs: Labo, Jr. v. COMELEC[27], (Labo's statement that he was a natural-born citizen was disproved on the ground that he failed to submit any evidence proving his reacquisition of Philippine citizenship); Abella v . COMELEC[28] (Abella, a candidate for governor of Leyte, and undisputedly a resident of Ormoc City, an independent component city, failed to establish a new domicile in Kananga, Leyte); Domino v. Commission on Elections,[29] (the lease contract over a residence in Sarangani Province failed to produce the kind of permanency necessary to establish abandonment of one's original domicile); Caballero v. Commission on Elections,[30] (petitioner, who had effectively transferred his domicile of choice in Canada, failed to present competent evidence to prove that he was able to re-establish his residence in Uyugan); Jalosjos v. Commission on Elections,[31] (Svetlana Jalosjos, whose domicile of origin was San Juan, Metro Manila, failed to acquire a domicile of choice in Baliangao, Misamis Occidental, prior to the May 2010 elections); Aquino v. Commission on Elections,[32] (Aquino, whose domicile of origin was San Jose, Concepcion, Tarlac, failed to established a new domicile in the Second District of Makati City on the mere basis of a lease agreement of a condominium unit); Reyes v. Commission on Elections[33] (where petitioner, who previously admitted that she was a holder of a U.S. passport, failed to submit proof that she reacquired her Filipino citizenship under RA 9225 or that she maintained her domicile of origin in Boac, Marinduque); Dumpit-Michelena v. Boado[34] (candidate Dumpit-Michelena was not a resident of Agoo, La Union - voter's registration at Naguilian, La Union and joint affidavit of all barangay officials of San Julian West, Agoo taken as proof that she was not a resident of the barangay); Hayudini v. Commission on Elections[35] (candidate Hayudini

was not a resident of South Ubian, Tawi-Tawi - based on a final RTC Decision ordering the deletion of Hayudini's name in Barangay Bintawlan's permanent list of voters); Velasco v. Commission on Elections[36] (court ruling that he was not a registered voter of Sasmuan, Pampanga); Bautista v. Commission on Elections[37] (admission that he was not a registered voter of Lumbangan, Nasugbu, Batangas where he was running as punong barangay); Ugdoracion, Jr. v. Commission on Elections[38] (admission that he was at the time of the filing of the CoC still a holder of a then valid green card); and Jalosjos v. Commission on Elections[39] (temporary and intermittent stay in a stranger's house does not amount to residence).

In fact, in the only case of material misrepresentation on citizenship where the Supreme Court agreed to a Section 78 denial by the COMELEC, was in the case of Mr. Ramon L. Labo, Jr. of Baguio City[40] who had previously been declared by the Supreme Court itself as not a Filipino citizen.[41] In the Labo case, there was a prior binding conclusion of law that justified the action of the COMELEC in denying the CoC. It is important to emphasize this considering the dangers of an overly broad reading of the COMELEC's power under Section 78.

A candidate commences the process of being voted into office by filing a certificate of candidacy (CoC). A candidate states in his CoC, among others, that he is eligible to run for public office, as provided under Section 74 of the Omnibus Election Code. Thus:

> Sec. 74. Contents of certificate of candidacy. - The certificate of candidacy shall state that the person filing it is announcing his candidacy for the office stated therein and that he is eligible for said office; if for Member of the Batasang Pambansa, the province, including its component cities, highly urbanized city or district or sector which he seeks to represent; the political party to which he belongs; civil status; his date of birth; residence; his post office address for all election purposes; his profession or occupation; that he will support and defend the Constitution of the Philippines and will maintain true faith and allegiance thereto; that he will obey the laws, legal orders, and decrees promulgated by the duly constituted authorities; that he is not a permanent resident or immigrant to a foreign country; that the obligation imposed by his oath is assumed voluntarily, without mental reservation or purpose of evasion; and that the facts stated in the certificate of candidacy are true to the best of his knowledge.

As used in Section 74, the word "eligible" means having the right to run for elective public office; that is, having all the qualifications and none of the ineligibilities.[42] The remedy to remove from the electoral ballot, the names of candidates who are not actually eligible, but who still state under oath in their CoCs that they are eligible to run for public office, is for any person to file a petition under Section 78, which provides:

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

How Legally Significant is the Intent
to Deceive for a Section 78 OEC
Petition to Prosper?

It was proposed by Justice Dante O. Tinga in his Dissenting Opinion in Tecson v. COMELEC that the intent to deceive was never contemplated as an essential element to prove a Section 78 petition.[43] The problem with this opinion is that it remains a proposed reversal of a doctrine that remains firmly entrenched in our jurisprudence. In a long line of cases, starting with Romualdez-Marcos v. COMELEC[44] in 1995, this Court has invariably held that intent to deceive the electorate is an essential element for a Section 78 petition to prosper.

In Romualdez-Marcos, the Court ruled that it is the fact of the qualification, not a statement in a certificate of candidacy, which ought to be decisive in determining whether or not an individual has satisfied the constitution's qualification requirements. The statement in the certificate of candidacy becomes material only when there is or appears to be a deliberate attempt to mislead, misinform, or hide a fact which would otherwise render a candidate ineligible.[45]

This ruling was adopted by the Court in a long line of cases, in which it was ruled that aside from the requirement of materiality, a petition under Section 78 must also show that there was malicious intent to deceive the electorate as to the candidate's qualifications for public office.

In Salcedo II v. COMELEC,[46] the Court affirmed the decision of the COMELEC denying the petition to cancel the CoC filed by Ermelita Cacao Salcedo, a candidate for mayor of Sara, Iloilo. Apart from finding that the use of the surname "Salcedo" was not a material qualification covered by Section 78, the Court also declared that there was no intention on the part of the candidate to mislead or deceive the public as to her identity. We concluded that, in fact, there was no showing that the voters of the municipality were deceived by Salcedo's use of such surname; consequently, the COMELEC correctly refused to cancel her CoC.

On the other hand, in Velasco v. COMELEC,[47] We upheld the cancellation of the CoC filed by Nardo Velasco because he made a material misrepresentation as to his registration as a voter. In Our discussion, We emphasized that Velasco knew that his registration as a voter had already been denied by the RTC, but he still stated under oath in his CoC that he was a voter of Sasmuan.[48] This was considered sufficient basis for the COMELEC to grant the Section 78 petition.[49]

In Justimbaste v. Commission on Elections,[50] this Court sustained the COMELEC's dismissal of the petition of cancellation filed against Rustico B. Balderian because there was no showing that he had the intent to deceive the voting public as to his identity when he used his Filipino name, instead of his Chinese name, in his CoC.

On the other hand, in Maruhom v. COMELEC,[51] We upheld the cancellation of the CoC of Jamela Salic Maruhom because she had subsisting voter registrations in both the municipalities of Marawi and Marantao in Lanao del Sur. We emphasized that Maruhom deliberately attempted to conceal this fact from the electorate as it would have rendered her ineligible to run as mayor of Marantao.

The element of intent was again required by this Court in Mitra v COMELEC.[52] In that case, We reversed the ruling of the COMELEC, which cancelled the CoC filed by Abraham Kahlil B. Mitra because the commission "failed to critically consider whether Mitra deliberately attempted to mislead, misinform or hide a fact that would otherwise render him ineligible for the position of Governor of Palawan." Upon an examination of the evidence in that case, We concluded that there was no basis for the COMELEC's conclusion that Mitra deliberately attempted to mislead the Palawan electorate.

The presence of intent to deceive the electorate was also a controlling factor in the decision of the Court in Panlaqui v. COMELEC.[53] We ruled that the decision of the Regional Trial Court to exclude Nardo Velasco as a voter did not result in the cancellation of his CoC for mayor of Sasmuan, Pampanga. Said this Court:

> It is not within the province of the RTC in a voter's inclusion/exclusion proceedings to take cognizance of and determine the presence of a false representation of a material fact. It has no jurisdiction to try the issues of whether the misrepresentation relates to material fact and whether there was an intention to deceive the electorate in terms of one's qualifications for public office. The finding that Velasco was not qualified to vote due to lack of residency requirement does not translate into a finding of a deliberate attempt to mislead, misinform, or hide a fact which would otherwise render him ineligible.

In Gonzales v COMELEC,[54] the Court distinguished between a petition for cancellation under Section 78 and a petition for cancellation under Section 68 of the OEC, in order to determine whether the petition filed against Ramon Gonzales was filed on time. We declared that a Section 78 petition must pertain to a false representation on a material matter that is made with the deliberate intent to mislead, misinform, or hide a fact which would otherwise render a candidate ineligible. Upon finding these elements in the petition filed against Fernando V. Gonzales, We ruled that the applicable period for filing the petition is that prescribed under Section 78 i.e. within twenty-five days from the filing of the COC. Since the petition was filed beyond this period, this Court declared that the COMELEC erred in giving due course to the same.

The requirement of intent was likewise reiterated in Tecson v. COMELEC,[55] Ugdoracion, Jr. v. Commission on Elections,[56] Fermin v. Commission on Elections,[57] Aratea v. Commission on Elections[58] and Talaga v. Commission on Elections.[59]

It has been claimed, however, that this Court in Tagolino v. HRET,[60] abandoned this requisite when it stated that "deliberateness of the misrepresentation, much less one's intent to defraud, is of bare significance in a Section 78 petition as it is enough that the person's declaration of a material qualification in the [certificate of candidacy] be false." In that case, the Court, using Miranda v. Abaya[61] as basis, stated that:

> In this relation, jurisprudence holds that an express finding that the person committed any deliberate misrepresentation is of little consequence in the determination of whether one's CoC should be deemed cancelled or not. What remains material is that the petition essentially seeks to deny due course to and/or cancel the CoC on the basis of one's ineligibility and that the same be granted without any qualification.[62]

It is important to note that the statement regarding intent to deceive was only an obiter dictum. The primary issue in both Tagolino and Miranda is whether a candidate whose certificate of candidacy had been denied due course or cancelled may be validly substituted in the electoral process. In other words, the cases dealt with the effect of the denial of due course or cancellation of a certificate of candidacy, and not on the validity or soundness of the denial or cancellation itself.

Furthermore, in Miranda, We clarified the COMELEC's use of the word "disqualified" when granting a petition that prays for the denial of due course or cancellation of a certificate of candidacy. This Court said:

> From a plain reading of the dispositive portion of the Comelec resolution of May 5, 1998 in SPA No. 98-019, it is sufficiently clear that the prayer specifically and particularly sought in the petition was GRANTED, there being no qualification on the matter whatsoever. The disqualification was simply ruled over and above the granting of the specific prayer for denial of due course and cancellation of the certificate of candidacy.[63]

Clearly, the phrase "no qualification" in Miranda, which was essentially echoed in Tagolino, referred to the ruling of the COMELEC to grant the petition to deny due course to or cancel the certificate of candidacy. It did not refer to the false representation made by the candidate in his certificate of candidacy.

At any rate, after Tagolino, We reiterated the requirement of deceit for a Section 78 petition to prosper in four more cases.[64] Our most recent pronouncements in Jalover v. Osmena,[65] reiterated that a petition under Section 78 cannot prosper in a situation where the intent to deceive or defraud is patently absent, or where no deception of the electorate results. Furthermore, the misrepresentation cannot be the result of a mere innocuous mistake, but must pertain to a material fact.

Said Justice Arturo D. Brion in the 2014 unanimous Jalover v. Osmena decision:

> Separate from the requirement of materiality, a false representation under Section 78 must consist of a deliberate attempt to mislead, misinform, or hide a fact, which would otherwise render a candidate ineligible.

> (citing Ugdoracion, Jr. v. Commission on Elections) In other words, it must be made with the intention to deceive the electorate as to the would be candidate's qualifications for public office. In Mitra v. COMELEC, we held that the misrepresentation that Section 78 addresses cannot be the result of a mere innocuous mistake, and cannot exist in a situation where the intent to deceive is patently absent, or where no deception of the electorate results. The deliberate character of the misrepresentation necessarily follows from a consideration of the consequences of any material falsity: a candidate who falsifies a material fact cannot run.

Thus, a petition to deny due course to or cancel a certificate of candidacy according to the prevailing decisions of this Court still requires the following essential allegations: (1) the candidate made a representation in the certificate; (2) the representation pertains to a material matter which would affect the substantive rights of the candidate (the right to run for the election); and (3) the candidate made the false representation with the intention to deceive the electorate as to his qualification for public office or deliberately attempted to mislead, misinform, or hide a fact which would otherwise render him ineligible.[6[6][]]

Romualdez- Marcos v. COMELEC is again worth recalling.[67] We ruled therein that it is the fact of the disqualification, not a statement in a certificate of candidacy which ought to be decisive in determining whether or not an individual has satisfied the constitution's qualification requirements. The statement in the certificate of candidacy becomes material only when there is or appears to be a deliberate attempt to mislead, misinform or hide a fact which would otherwise render a candidate ineligible.[68]

In Mitra v. COMELEC,[69] We gave importance to the character of a representation made by a candidate in the certificate of candidacy. This Court found grave abuse of discretion on the part of the COMELEC when it failed to take into account whether there had been a deliberate misrepresentation in Mitra's certificate of candidacy.[70] The COMELEC cannot simply assume that an error in the certificate of candidacy was necessarily a deliberate falsity in a material representation.[71]

It must be emphasized that under Section 78, it is not enough that a person lacks the relevant qualification; he must have also made a false representation of the lack of qualification in the certificate of candidacy.[72] The denial of due course to, or the cancellation of the certificate of candidacy, is not based on the lack of qualifications but on a finding that the candidate made a material representation that is false, which relates to the qualifications required of the public office the candidate is running for.[73]

Considering that intent to deceive is a material element for a successful petition under Section 78, a claim of good faith is a valid defense. Misrepresentation means the act of making a false or misleading assertion about something, usually with the intent to deceive.[74] It is not just written or spoken words, but also any other conduct that amounts to a false assertion.[75] A material misrepresentation is a false statement to which a reasonable person would attach importance in deciding how to act in the transaction in question or to which the maker knows or has reason to know that the recipient attaches some importance.[76]

In the sphere of election laws, a material misrepresentation pertains to a candidate's act with the intention to gain an advantage by deceitfully claiming possession of all the qualifications and none of the disqualifications when the contrary is true.

A material misrepresentation is incompatible with a claim of good faith. Good faith encompasses, among other things, an honest belief, the absence of malice and the absence of a design to defraud or to seek an unconscionable advantage.[77] It implies honesty of intention and honest belief in the validity of one's right, ignorance of a contrary claim, and absence of intention to deceive another.[78]

Burden of Proof in Section 78 Proceedings

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Section 1, Rule 131 of the Revised Rules on Evidence defines burden of proof as "the duty of a party to present evidence on the facts in issue necessary to establish his claim" "by the amount of evidence required by law." When it comes to a Section 78 proceeding, it is the petitioner who has the burden of establishing material misrepresentation in a CoC.[79]

Since the COMELEC is a quasi-judicial body, the petitioner must establish his case of material misrepresentation by substantial evidence.[80] Substantial evidence is that amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion.

Burden of proof never shifts.[81] It is the burden of evidence that shifts.[82] Hence, in a Section 78 proceeding, if the petitioner comes up with a prima facie case of material misrepresentation, the burden of evidence shifts to the respondent.

In this case, respondents had the burden to establish the following: (1) falsity of the representations made by petitioner with regard to her citizenship and residence; and (2) intent to deceive or mislead the electorate.

On residence

As will be further discussed below, respondents mainly relied on the representation that petitioner previously made in her 2012 CoC for the position of Senator to establish the requirements of falsity and intent to deceive. Petitioner, however, has shown by an abundance of substantial evidence that her residence in the Philippines commenced on 24 May 2005 and that the statement she made in the 2012 CoC was due to honest mistake. But respondents failed to meet head on this evidence. Hence, they failed to discharge their burden of proving material misrepresentation with respect to residency.

Furthermore, the COMELEC unreasonably shifted the burden of proof to petitioner, declaring that she had the burden to show that she possessed the qualifications to run for President. As previously discussed, respondents had the burden to establish the key elements for a Section 78 petition to prosper.

On citizenship

With respect to the issue of citizenship, respondents leaned heavily on petitioner's admission that she was a foundling. Nevertheless, this did not establish the falsity of petitioner's claim that she was a natural-born citizen. Presumptions operated profoundly in her favor to the effect that a foundling is a natural-born citizen. Further, she had a right to rely on these legal presumptions, thus negating the notion of deception on her part. Thus, respondents failed to discharge their burden of proving material misrepresentation with respect to residency.

Yet, the COMELEC unfairly placed the burden of proof on petitioner when, for reasons already discussed, the onus properly fell on respondents. This point will be more comprehensively discussed below.

III.
The COMELEC acted with grave abuse of discretion when it cancelled petitioner's 2016 Certificate of Candidacy in the absence of any material misrepresentation on residency or citizenship.

In my view, the fact that the COMELEC went beyond an examination of the patent falsity of the representations in the CoC is enough to demonstrate its grave abuse of discretion. I maintain that a Section 78 proceeding must deal solely with "patent defects in the certificates" and not the question of eligibility or ineligibility. The commission clearly exceeded the limited authority granted to it under Section 78 of the OEC when it determined petitioner's intrinsic qualifications, not on the basis of any uncontroverted fact, but on questions of law.

With this conclusion, the Court already has sufficient justification to reverse and set aside the assailed COMELEC Resolutions. Consequently, I believe that it is no longer necessary for us to decide questions pertaining to

petitioner's qualifications.

However, given the factual milieu of this case and its significance to the upcoming electoral exercise, I am likewise mindful of the duty of the Court to allay the doubts created by the COMELEC ruling in the minds of the voting public. Furthermore, the dissents have already gone to the intrinsic qualification of petitioner as to cast doubt on her viability as a candidate. These positions must be squarely addressed; hence this extended opinion is inevitable.

Grave Abuse of Discretion

In Mitra v. COMELEC,[83] this Court held that COMELEC's use of wrong or irrelevant considerations in the resolution of an issue constitutes grave abuse of discretion:

> As a concept, "grave abuse of discretion" defies exact definition; generally, it 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. We have held, too, that the use of wrong or irrelevant considerations in deciding an issue is sufficient to taint a decision-maker's action with grave abuse of discretion.
>
> Closely related with the limited focus of the present petition is 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. Substantial evidence is that degree of evidence that a reasonable mind might accept to support a conclusion.
>
> In light of our limited authority to review findings of fact, we do not ordinarily review in a certiorari case the COMELEC's appreciation and evaluation of evidence. Any misstep by the COMELEC in this regard generally involves an error of judgment, not of jurisdiction. (Emphasis supplied)

For reasons discussed below, I find that the COMELEC committed a grossly unreasonable appreciation of both the evidence presented by petitioner to prove her residency, as well the legal standards applicable to her as a foundling. For purposes of clarity, I will discuss residency and citizenship separately.

In Sabili,[84] we noted that the Court does not ordinarily review the COMELEC's appreciation and evaluation of evidence. However, when the appreciation and evaluation of evidence is so grossly unreasonable as to turn into an error of jurisdiction, the Court is duty-bound to intervene. In that case, petitioner was able to show that the COMELEC relied on wrong or irrelevant considerations - like property ownership in another municipality - in deciding the issue of whether petitioner made a material misrepresentation regarding his residence.

IV.
A. ON RESIDENCY

The COMELEC made two findings as far as petitioner's compliance with the 10-year residency requirement is concerned. First, petitioner committed a false material representation regarding her residency in her 2016 CoC for President, as shown by her declaration in her 2013 CoC for senator. Second, petitioner's alien citizenship at the time she allegedly abandoned her domicile in the US was a legal impediment which prevented her from re-establishing her domicile in the Philippines, considering her failure to obtain an authorization from the Bureau of Immigration as permanent resident in the country early enough to start the count of the 10-year residency requirement.

These conclusions reveal the failure of the COMELEC to properly appreciate and evaluate evidence, so much so

that it overstepped the limits of its discretion to the point of being grossly unreasonable.

There was no deliberate intent on the part of petitioner to make a material misrepresentation as to her residency.

In the assailed Resolutions, the COMELEC had concluded that petitioner committed a false material representation about her residency in her 2016 CoC for president on the basis of her declaration in her 2013 CoC for senator. According to the Commission, this 2012 declaration showed a deliberate intent to mislead the electorate and the public at large.

Public respondent's conclusions are unjustified. In the first place, the COMELEC misapplied the concepts of admissions and honest mistake in weighing the evidence presented by petitioner. As will be discussed below, declarations against interest are not conclusive evidence and must still be evaluated to determine their probative value. Neither does the declaration in her 2013 CoC foreclose the presentation of evidence of petitioner's good faith and honest belief that she has complied with the 10-year residency requirement for presidential candidates.

Admissions against Interest

Admissions against interest are governed by Section 26, Rule 130 of the Rules of Court, which provides:

> Sec. 26. Admissions of a party. - The act, declaration or omission of a party as to a relevant fact may be given in evidence against him.

It is well to emphasize that admissions against interest fall under the rules of admissibility.[85] Admissions against interest pass the test of relevance and competence. They, however, do not guarantee their own probative value and conclusiveness. Like all evidence, they must be weighed and calibrated by the court against all other pieces at hand. Also, a party against whom an admission against interest is offered may properly refute such declaration by adducing contrary evidence.[86]

To be admissible, an admission must (1) involve matters of fact, and not of law; (2) be categorical and definite; (3) be knowingly and voluntarily made; and (4) be adverse to the admitter' s interests, otherwise it would be self-serving and inadmissible.[87] An admission against interest must consist of a categorical statement or document pertaining to a matter of fact. If the statement or document pertains to a conclusion of law or necessitates prior settlement of questions of law, it cannot be regarded as an admission against interest.[88]

Even a judicial admission, which does not require proof, for judicial admissions under Section 4, Rule 129 of the Rules of Court[89] But even then, contrary evidence may be admitted to show that the admission was made through palpable mistake. In Bitong v. CA,[90] the Court ruled that although acts or facts admitted in a pleading do not require proof and can no longer be contradicted, evidence aliunde can be presented to show that the admission was made through palpable mistake. Said the Court:

> A party whose pleading is admitted as an admission against interest is entitled to overcome by evidence the apparent inconsistency, and it is competent for the party against whom the pleading is offered to show that the statements were inadvertently made or were made under a mistake of fact. In addition, a party against whom a single clause or paragraph of a pleading is offered may have the right to introduce other paragraphs which tend to destroy the admission in the paragraph offered by the adversary.
>
> Every alleged admission is taken as an entirety of the fact which makes for the one side with the qualifications which limit, modify or destroy its effect on the other side. The reason for this is, where part of a statement of a party is used against him as an admission, the court should weigh any other portion connected with the statement, which tends to neutralize or explain the portion which is against interest.

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> In other words, while the admission is admissible in evidence, its probative value is to be determined from the whole statement and others intimately related or connected therewith as an integrated unit.[91]

COMELEC Conclusions on Admission
against Interest

In the Resolution dated 1 December 2015 of the Second Division in SPA No. 15-001 (Elamparo v. Llamanzares), the COMELEC ruled as follows:

> Respondent ran for Senator in the May 13, 2013 Senatorial Elections. In her COC for Senator, she answered "6 years and 6 months" in the space provided for the candidate's period of residence in the Philippines. Based on her own declaration, respondent admitted under oath that she has been a resident of the country only since November 2006.
>
> Undeniably, this falls short by 6 months of the required May 2006 commencement of the residence in the Philippines in order for respondent to qualify as a candidate for President of the Philippines in the May 9, 2016 elections. If we reckon her period of residency from November 2006, as she herself declared, she will be a resident of the Philippines by May 9, 2016 only for a period of 9 years and 6 months.
>
> As correctly pointed out by petitioner, this sworn statement by respondent is an admission against her interest.
>
> Section 26, Rule 130, Rules of Court (which is of suppletory application) expressly states:
>
> Section 26. Admission of a party. - The act, declaration or omission of a party as to a relevant fact may be given in evidence against him.

The rationale for the rule was explained by the Supreme Court in Manila Electric Company v. Heirs of Spouses Dionisio Deloy:

> Being an admission against interest, the documents are the best evidence which affords the greatest certainty of the facts in dispute. The rationale for the rule is based on the presumption that no man would declare anything against himself UNLESS SUCH DECLARATION WAS TRUE. Thus, it is fair to presume that the declaration corresponds to the truth, and it is his fault if it does not.

Respondent's representation in her COC for Senator that she had been a resident of the Philippines for a period of 6 years and 6 months by May 2013 is an admission that is binding on her. After all, she should not have declared it under oath if such declaration was not true.

Respondent's convenient defense that she committed an honest mistake on a difficult question of law, when she stated in her COC for Senator that her period of residence in the Philippines before May 13, 2013 was 6 years and 6 months, is at best self-serving. It cannot overturn the weight given to the admission against interest voluntarily made by respondent.

Assuming arguendo that as now belatedly claimed the same was due to an honest mistake, no evidence has been shown that there was an attempt to rectify the so-called honest mistake. The attempt to correct it in her present COC filed only on October 15, 2015 cannot serve to outweigh the probative weight that has to be accorded to the admission against interest in her 2013 COC for Senator.

Certainly, it is beyond question that her declaration in her 2013 COC for Senator, under oath at that, that she has been a resident of the Philippines since November 2006 still stands in the record of this Commission as an official document, which may be given in evidence against her, and the probative weight and binding effect of which is neither obliterated by the passing of time nor by the belated attempt to correct it in her present COC for President of the Philippines. Respondent cannot now declare an earlier period of residence. Respondent is already stopped

from doing so. If allowed to repudiate at this late stage her prior sworn declaration, We will be opening the floodgates for candidates to commit material misrepresentations in their COCs and escape responsibility for the same through the mere expedient of conveniently changing their story in a subsequent COC. Worse, We will be allowing a candidate to run for President when the COC for Senator earlier submitted to the Commission contains a material fact or data barring her from running for the position she now seeks to be elected to. Surely, to rule otherwise would be to tolerate a cavalier attitude to the requirement of putting in the correct data in a COC. In fact, the COC filer, in that same COC, certifies under oath that the data given are indeed "true and correct".

As shown by the above-cited Resolution, the COMELEC Second Division regarded the declaration of petitioner in her 2013 certificate of candidacy for senator - that she had been a resident of the Philippines only since November 2006 - as a binding and conclusive statement that she can no longer refute. It appeared to confuse admissions against interest with judicial admissions.

However, in the Resolution dated 23 December 2015 of the En Banc, COMELEC conceded that such statement may indeed be overcome by petitioner through the presentation of competent evidence of greater weight. According to the COMELEC En Banc:

> On the allegation that the Second Division chose to rely solely on the declarations of respondent in her 2013 COC: we are not persuaded. Again, the Second Division was not constrained to mention every bit of evidence it considered in arriving at the assailed Resolution. Concededly, however, it did put ample attention on Respondent's 2013 COC, but not without good reason.
>
> To recall, Respondent, in her 2013 COC for Senator, indicated, under oath, that her period of residence in the Philippines from May 13, 2013 is "6 years and 6 months." Following this, she became a resident on November 2006. This is entirely inconsistent with her declaration in the present 2016 COC for president that immediately before the May 9, 2016 elections, she will be a resident of the country for "10 years and 11 months," following which she was a resident since May, 2005. -The Second Division struck respondent's arguments mainly on the basis of this contradiction.
>
> Respondent cannot fault the Second Division for using her statements in the 2013 COC against her. Indeed, the Second Division correctly found that this is an admission against her interest. Being such, it is "the best evidence which affords the greatest certainty of the facts in dispute. The rationale for the rule is based on the presumption that no man would declare anything against himself unless such declaration was true. Thus, it is fair to presume that the declaration corresponds with the truth, and it is his fault if it does not."
>
> Moreover, a COC, being a notarial document, has in its favor the presumption of regularity. To contradict the facts stated therein, there must be evidence that is clear, convincing and more than merely preponderant. In order for a declarant to impugn a notarial document which he himself executed, it is not enough for him to merely execute a subsequent notarial document. After executing an affidavit voluntarily wherein admissions and declarations against the affiant's own interest are made under the solemnity of an oath, the affiant cannot just be allowed to spurn them and undo what he has done.
>
> Yes, the statement in the 2013 COC, albeit an admission against interest, may later be impugned by respondent. However, she cannot do this by the mere expedient of filing her 2016 COC and claiming that the declarations in the previous one were "honest mistakes". The burden is upon her to show, by clear, convincing and more than preponderant evidence, that, indeed, it is the latter COC that is correct and that the statements made in the 2013 COC were done without bad faith. Unfortunately for respondent, she failed to discharge this heavy burden.

As shown by the foregoing, the COMELEC en banc had a proper understanding of an admission against interest - that it is one piece of evidence that should be evaluated against all other pieces presented before it.

The COMELEC was wrong, however, in ruling that petitioner attempted to overcome the alleged admission against interest merely by filing her 2016 CoC for president. Petitioner submitted severed various many and varied pieces of evidence to prove her declaration in her 2016 certificate of candidacy for president that as of May 2005, she had definitely abandoned her residence in the US and intended to reside permanently in the Philippines. They are the following:

1. Petitioner's US passport showing that she returned to the Philippines on 24 May 2005 and from then would always return to the Philippines after every trip to a foreign country.

2. Email exchanges showing that as early as March 2005, petitioner had begun the process of relocating and reestablishing her residence in the Philippines and had all of the family's valuable movable properties packed and stored for shipping to the Philippines.

3. School records of petitioner's school-aged children showing that they began attending Philippine schools starting June 2005.

4. Identification card issued by the BIR to petitioner on 22 July 2005.

5. Condominium Certificate of Title covering a unit with parking slot acquired in the second half of 2005 which petitioner's family used as residence pending the completion of their intended permanent family home.

6. Receipts dated 23 February 2006 showing that petitioner had supervised the packing and disposal of some of the family's household belongings.

7. Confirmation of receipt of the request for change of address sent by the US Postal Service on 28 March 2006;

8. Final settlement of the selling of the family home in the US as of 27 April 2006.

9. Transfer Certificate of Title dated 1 June 2006 showing the acquisition of a vacant lot where the family built their family home.

10. Questionnaire issued by the US Department of State - Bureau of Consular Affairs regarding the possible loss of US citizenship, in which petitioner answered that she had been a resident of the Philippines since May 2005.

11. Affidavits of petitioner's mother and husband attesting to the decision of the family to move to the Philippines in early 2005 shortly after the death of petitioner's father.

Unfortunately, the COMELEC En Banc found that these pieces of evidence failed to overcome the probative weight of the alleged admission against interest. According to the COMELEC, the discrepancy between petitioner's 2013 and 2016 certificates of candidacy only goes to show that she suits her declarations regarding her period of residency in the Philippines when it would be to her advantage. Hence, her deliberate attempt to mislead, misinform, or hide the fact of her ineligibility insofar as residency is concerned.

The statement that she would be a resident of the Philippines for six years and six months as of May 2013 (reckoned from November 2006) in her 2013 certificate of candidacy was admittedly made under oath. However, while notarized documents fall under the category of public documents,[92] they are not deemed prima facie evidence of the facts therein stated.[93]Section 23, Rule 132 of the Rules of Court states:

> Sec. 23. Public documents as evidence. - Documents consisting of entries in public records made in the performance of a duty by a public officer are prima facie evidence of the facts therein stated. All other public documents are evidence, even against a third person, of the fact which gave rise to their execution and of the date of the latter.

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Clearly, notarized documents are merely proof of the fact which gave rise to their execution and of the date stated therein.[94] They require no further proof to be admissible, because the certificate of acknowledgement serves as the prima facie evidence of its execution.[95]

Thus while petitioner's 2013 certificate of candidacy may be presented as proof of its regularity and due execution, it is not prima facie evidence of the facts stated therein, i.e. the declaration that she essentially became a resident of the Philippines only in November 2006. Furthermore, while a notarized document carries the evidentiary weight conferred upon it with respect to its due execution and regularity, even such presumption is not absolute as it may be rebutted by clear and convincing evidence to the contrary.[96]

Thus, where the document or its contents are in question, the person who executed the same may submit contrary evidence to establish the truth of the matter. In this case, petitioner submitted the above-cited pieces of evidence to prove that her 2016 certificate of candidacy declared the truth about her residence in the Philippines, and that her declaration in her 2013 certificate of candidacy was the result of an honest mistake.

Honest Mistake

The COMELEC gave scant consideration to petitioner's assertion that she made an honest mistake in her 2013 certificate of candidacy for senator. The Commission hypothesized that if petitioner truly believed that the period of residency would be counted backwards from the day of filing the CoC for Senator in October 2012, she should always reckon her residency from April 2006. The COMELEC observed that the period of residency indicated in the 2015 CoC for President was reckoned from May 2005. The COMELEC took the alleged unexplained inconsistency as a badge of intent to deceive the electorate.

To a malicious mind, the assertions of petitioner are nothing but sinister. Considering the contradicting and inconsistent dates alleged before the COMELEC, an indiscriminate observer may be tempted to think the worst and disbelieve a claim to the common experience of human mistake.

United States v. Ah Chong,[97] has taught generations of lawyers that the question as to whether one honestly, in good faith, and without fault or negligence fell into the mistake, is to be determined by the circumstances as they appeared to him at the time when the mistake was made, and the effect which the surrounding circumstances might reasonably be expected to have on his mind, in forming the intent upon which he acted.

In the petitions before us, petitioner explained her mistake in the following manner:

> 5.268. [Petitioner] committed an honest mistake when she stated in her COC for Senator that her "PERIOD OF RESIDENCE BEFORE MAY 13, 2013" is "6" years and "6" months.
>
> 5.268.1. Only a two-year period of residence in the Philippines is required to qualify as a member of the Senate of the Republic of the Philippines. [Petitioner] sincerely had no doubt that she had satisfied this residence requirement. She even accomplished her COC for Senator without the assistance of a lawyer. x x x
>
> 5.268.2. It is no wonder that [petitioner] did not know that the use of the phrase "Period of Residence in the Philippines before May 13, 2013" in her COC for Senator, actually referred to the period immediately preceding 13 May 2013, or to her period of residence on the day right before the 13 May 2013 elections. [Petitioner] therefore interpreted this phrase to mean her period of residence in the Philippines as of the submission of COCs in October 2012 (which is technically also a period "before May 13, 2013").
>
> 5.268.3. In terms of abandoning her domicile in the U.S.A. and permanently relocating to the Philippines, nothing significant happened in "November 2006." Moreover, private respondent was not able to present any evidence which would show that [petitioner] returned to the Philippines with the intention to reside here permanently only in November 2006. Thus, there would have been no logical reason for [petitioner] to reckon

> the start of her residence in the Philippines from this month. Even the COMELEC considered a date other than November 2006 as the reckoning point of [petitioner's] residence (i.e., August 2006). This date is, of course, not the day [petitioner] established her domicile in the Philippines. Nonetheless, that even the COMELEC had another date in mind bolsters the fact that [petitioner]'s representation in her COC for Senator regarding her period of residence was based on her honest misunderstanding of what was asked of her in Item No. 7 of her COC for Senator, and that she indeed counted backward from October 2012 (instead of from 13 May 2013).
>
> x x x x
>
> When [petitioner] accomplished her COC for Senator, she reckoned her residence in the Philippines from March-April 2006, which is when (to her recollection at the time she signed this COC) she and her family had substantially wound up their affairs in the U.S.A. in connection with their relocation to the Philippines. Specifically, March 2006 was when [petitioner] arrived in the Philippines after her last lengthy stay in the U.S.A., and April 2006 was when she and her husband were finally able to sell their house in the U.S.A. The month of April 2006 is also when [petitioner's] husband had resigned from his job in the U.S.A. The period between March-April 2006 to September 2012 is around six (6) years and six (6) months. Therefore, this is the period [petitioner] indicated (albeit, mistakenly) in her COC for Senator as her "Period of Residence in the Philippines before May 13, 2013."
>
> 5.268.7. This erroneous understanding of the commencement of her residence in the Philippines, together with the confusing question in Item No. 7 of her COC for Senator, explains why [petitioner] mistakenly indicated in that COC that her "Period of Residence in the Philippines before May 13, 2013" would be "6" years and "6" months.
>
> 5.268.8. [Petitioner] was later advised (only last year, 2015) by legal counsel that the concept of "residence," for purposes of election law, takes into account the period when she was physically present in the Philippines starting from 24 May 2005, (after having already abandoned her residence in the U.S.A., coupled with the intent to reside in the Philippines) and not just the period after her U.S.A. residence was sold and when her family was already complete in the country, after her husband's return. [Petitioner]'s period of residence in her COC for Senator should, therefore, have been counted.from 24 May 2005, and extended all the way "up to the day before" the 13 May 2013 elections. [Petitioner] realized only last year, 2015, that she should have stated "7" years and "11" months (instead of "6" years and "6" months) as her period of residence in her COC for Senator.[98] (Emphases supplied)

To an open mind, the foregoing explanation proffered by petitioner does not appear to be concocted, implausible, or the product of mere afterthought. The circumstances as they appeared to her at the time she accomplished her 2013 certificate of candidacy for senator, without the assistance of counsel, may indeed reasonably cause her to fill up the residency item with the answer "6 years and 6 months." It does not necessarily mean, however, that she had not been residing in the Philippines on a permanent basis for a period longer than that.

The fact that it was the first time that petitioner ran for public office; that only a two-year period of residence in the country is required for those running as senator; and that the item in the certificate of candidacy providing "Period of Residence in the Philippines before May 13, 2013" could be open to an interpretation different from that required, should have been taken into consideration in appreciating whether petitioner made the subject entry honestly, in good faith, and without fault or negligence.

The surrounding circumstances in this case do not exclude the possibility that petitioner made an honest mistake, both in reckoning her period of residence in the Philippines as well as determining the proper end period of such residence at the time. That petitioner is running for the highest public office in the country should not be the only standard by which we weigh her actions and ultimately her mistakes. Not all mistakes are made with evil motives, in much the same way that not all good deeds are done with pure intentions. Good faith is always presumed, and

in the face of tangible evidence presented to prove the truth of the matter, which is independent of the circumstances that caused petitioner to make that fateful statement of "6 years and 6 months," it would be difficult to dismiss her contention that such is the result of an honest mistake.

To reiterate, the COMELEC incorrectly applied the rule on admissions in order to conclude that petitioner deliberately misrepresented her qualifications-notwithstanding a reasonable explanation as to her honest mistake, and despite the numerous pieces of evidence submitted to prove her claims.

If petitioner honestly believed that she can reckon her residency in the Philippines from May 2005 because she had already relocated to the country with the intent to reside here permanently, then her statement in her 2016 certificate of candidacy for president cannot be deemed to have been made with intent to deceive the voting public. The COMELEC has clearly failed to prove the element of deliberate intent to deceive, which is necessary to cancel certificates of candidacy under Section 78.

In any case, the single declaration of petitioner in her 2013 certificate of candidacy for senator cannot be deemed to overthrow the entirety of evidence showing that her residence in the Philippines commenced in May 2005.

Petitioner was able to prove the fact of
the reestablishment of her domicile in
the Philippines since May 2005.

Section 2, Article VII of the Constitution requires that a candidate for president be "a resident of the Philippines for at least ten years immediately preceding such election." The term residence, as it is used in the 1987 Constitution and previous Constitutions, has been understood to be synonymous with domicile.[9[9][]] Domicile means not only the intention to reside in one place, but also personal presence therein coupled with conduct indicative of such intention.[100] It is the permanent home and the place to which one intends to return whenever absent for business or pleasure as shown by facts and circumstances that disclose such intent.[101]

Domicile is classified into three: (1) domicile of origin, which is acquired at birth by every person; and (2) domicile of choice, which is acquired upon abandonment of the domicile of origin; and (3) domicile by operation of law, which the law attributes to a person independently of his residence of intention.[102]

Domicile by operation of law applies to infants, incompetents, and other persons under disabilities that prevent them from acquiring a domicile of choice.[103] It also accrues by virtue of marriage when the husband and wife fix the family domicile.[104]

A person's domicile of origin is the domicile of his parents.[105] It is not easily lost and continues even if one has lived and maintained residences in different places.[106] Absence from the domicile to pursue a profession or business, to study or to do other things of a temporary or semi-permanent nature, and even travels abroad,[107] does not constitute loss of residence.[108]

In contrast, immigration to a foreign country with the intention to live there permanently constitutes an abandonment of domicile in the Philippines.[109] In order to qualify to run for public office in the Philippines, an immigrant to a foreign country must waive such status as manifested by some act or acts independent of and done prior to the filing of the certificate of candidacy.[110]

A person can have but one domicile at a time.[111] Once established, the domicile remains until a new one is acquired.[112] In order to acquire a domicile by choice, there must concur: (a) physical presence in the new place, (b) an intention to remain there (animus manendi), and (c) an intention to abandon the former domicile (animus non revertendi).[113]

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Without clear and positive proof of the concurrence of these requirements, the domicile of origin continues.[114] In Gallego v. Verra,[115] we emphasized what must be shown by the person alleging a change of domicile:

The purpose to remain in or at the domicile of choice must be for an indefinite period of time. The acts of the person must conform with his purpose. The change of residence must be voluntary; the residence at the place chosen for the domicile must be actual; and to the fact of residence there must be added the animus manendi.[116]

The question of whether COMELEC committed grave abuse of discretion in its conclusion that petitioner failed to meet the durational residency requirement of 10 years goes into the COMELEC's appreciation of evidence. In Sabili v. COMELEC,[117] we held that:

> As a general rule, the Court does not ordinarily review the COMELEC's appreciation and evaluation of evidence. However, exceptions thereto have been established, including when the COMELEC's appreciation and evaluation of evidence become so grossly unreasonable as to turn into an error of jurisdiction. In these instances, the Court is compelled by its bounden constitutional duty to intervene and correct the COMELEC's error.[118]

Sabili was an instance of grossly unreasonable appreciation in evaluation of evidence, very much like the lopsided evaluation of evidence of the COMELEC in the present case.

Further, in Mitra v. COMELEC,[119] we held that COMELEC's use of wrong or irrelevant considerations in the resolution of an issue constitutes grave abuse of discretion:

> As a concept, "grave abuse of discretion" defies exact definition; generally, it 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. We have held, too, that the use of wrong or irrelevant considerations in deciding an issue is sufficient to taint a decision-maker's action with grave abuse of discretion.
>
> Closely related with the limited focus of the present petition is 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. Substantial evidence is that degree of evidence that a reasonable mind might accept to support a conclusion.
>
> In light of our limited authority to review findings of fact, we do not ordinarily review in a certiorari case the COMELEC's appreciation and evaluation of evidence. Any misstep by the COMELEC in this regard generally involves an error of judgment, not of jurisdiction. (Emphasis supplied)

However, before going into a discussion of the evidence submitted by petitioner, a threshold issue must first be resolved: whether petitioner's status as a visa-free balikbayan affected her ability to establish her residence in the country. I believe that it did not.

The Philippines' Balikbayan Program

On 31 July 1973, President Marcos issued Letter of Instructions No. (LOI) 105[120] designating the period from 1 September 1973 to 28 February 1974 as a "Homecoming Season" for Filipinos - and/or their families and descendants - who are now residents or citizens of other countries (referred to as overseas Filipinos). Due to its overwhelming success,[121] the Balikbayan Program was extended. This was further enhanced in 197 4 under LOI 163.[122]

In 1975, professionals and scientists were targeted in the program by encouraging their return under LOI 210, and

then by PD 819. Overseas Filipino scientists and technicians were being encouraged to come home and apply their knowledge to the development programs of the country, and to take advantage of the Balikbayan Program. It was also decreed that any overseas Filipino arriving in the Philippines under the Balikbayan Program shall be authorized to remain in the country for a period of one year from the date of arrival within the extended period.

Pursuant to the stated purpose of LOI 210, P.D. 819[123] was issued on 24 October 1975 in recognition of the "need of attracting foreign-based scientists, professionals, or persons with special skill or expertise who are of Filipino descent or origin."[124] It was decreed that these persons, who are licensed to practice their profession, special skill or expertise in their host, adopted or native countries, may practice their profession, special skill or expertise while staying in the Philippines either on a temporary or permanent basis, together with their families upon approval by the Secretary of Health. They are only required to register with the Professional Regulation Commission, regardless of whether or not their special skill or expertise falls within any of the regulated professions and vocations in the Philippines, and pay the required license fee. They are entitled to all incentives, benefits and privileges granted to or being enjoyed by overseas Filipinos (balikbayans).

As a means of attracting more "returnees,"[125] LOI 1044 provided for additional incentives such as attendance in international scientific conferences, seminars, meetings along the field of expertise with the travel of the returnees funded by the program at least once per year. Also, they shall have priority to obtain housing loans from GSIS, SSS and Development Bank of the Philippines to assure their continued stay in the country.

By virtue of LOI 272-A[126], the Balikbayan Program was extended to another period beginning 1 March 1976 to 28 February 1977 featuring the same incentives and benefits provided by LOI 210. It was again extended to 28 February 1978,[127] to 28 February 1979,[128] to 29 February 1980,[129] and to 28 February 1981.[130]

On 28 February 1981, President Marcos issued Executive Order No. (EO) 657 extending the Balikbayan Program for overseas Filipinos for a period of five years beginning 1 March 1981 to 28 February 1986.

Executive Order No. (E.O.) 130[131] issued on 25 October 1993 by President Ramos institutionalized the Balik Scientist Program under the Department of Science and Technology (DOST) but with different features. It defined a Balik Scientist as a science or technology expert who is a Filipino citizen or a foreigner of Filipino descent, residing abroad and contracted by the national government to return and work in the Philippines along his/her field of expertise for a short term with a duration of at least one month (Short-Term Program) or long term with a duration of at least two years (Long-Term Program).

A Balik Scientist under the Short-Term Program may be entitled to free round-trip economy airfare originating from a foreign country to the Philippines by direct route, and grants-in-aid for research and development projects approved by the Secretary of Science and Technology.

A Balik Scientist under the Long-Term Program and returning new graduates from DOST-recognized science and technology foreign institutions may be entitled to the following incentives:

1. Free one-way economy airfare from a foreign country to the Philippines, including airfare for the spouse and two minor dependents; and free return trip economy airfare after completion of two years in the case of Balik Scientists, and three years in the case of new graduates;

2. Duty-free importation of professional instruments and implements, tools of trade, occupation or employment, wearing apparel, domestic animals, and personal and household effects in quantities and of the class suitable to the profession, rank or position of the persons importing them, for their own use and not for barter or sale, in accordance with Section 105 of the Tariff and Customs Code;

3. No-dollar importation of motor vehicles;

4. Exemption from payment of travel tax for Filipino permanent residents abroad;

5. Reimbursement of freight expenses for the shipment of a car and personal effects;

6. Reimbursement of the freight expenses for 2-1/2 tons volume weight for surface shipment of a car and personal effects, as well as excess baggage not exceeding 20 kilograms per adult and 10 kilograms per minor dependent when travelling by air;

7. Housing, which may be arranged through predetermined institutions;

8. Assistance in securing a certificate of registration without examination or an exemption from the licensure requirement of the Professional Regulation Commission to practice profession, expertise or skill in the Philippines;

9. Grants-in-aid for research and development projects approved by the Secretary of Science and Technology; and

10.Grant of special non-immigrant visas[132] under Section 47 (a) (2) of the Philippine Immigration Act of 1940, as amended, after compliance with the requirements therefor.

R.A. 6768,[133] enacted on 3 November 1989, instituted a Balikbayan Program under the administration of the Department of Tourism to attract and encourage overseas Filipinos to come and visit their motherland. Under R.A. 6768, the term balikbayan covers Filipino citizens who have been continuously out of the Philippines for a period of at least one year; Filipino overseas workers; and former Filipino citizens and their family who had been naturalized in a foreign country and comes or returns to the Philippines.

The law provided various privileges to the balikbayan:

1. Tax-free maximum purchase in the amount of US$1,000 or its equivalent in other acceptable foreign currencies at Philippine duty-free shops;

2. Access to a special promotional/incentive program provided by the national flag air carrier;

3. Visa-free entry to the Philippines for a period of one year for foreign passport holders, with the exception of restricted nationals;

4. Travel tax exemption;[134] and

5. Access to especially designated reception areas at the authorized ports of entry for the expeditious processing of documents.

It is emphasized in the law that the privileges granted thereunder shall be in addition to the benefits enjoyed by the balikbayan under existing laws, rules and regulations.

R.A. 9174[135] dated 7 November 2002 amended R.A. 6768 by extending further the privileges of a balikbayan to include:

1. Kabuhayan shopping privilege through an additional tax-exempt purchase in the maximum amount of US$2,000 or its equivalent in Philippine peso and other acceptable foreign currencies, exclusively for the purchase of livelihood tools at all government-owned and - controlled/operated duty-free shops;

2. Access to necessary entrepreneurial training and livelihood skills programs and marketing assistance, including the balikbayan's immediate family members, under the government's reintegration program; and

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3. Access to accredited transportation facilities that will ensure their safe and convenient trips upon arrival.

It was again emphasized that the privileges granted shall be in addition to the benefits enjoyed by the balikbayan under existing laws, rules and regulations.

Balikbayans are not Mere Visitors

As shown by the foregoing discussion, the Balikbayan Program, as conceptualized from the very beginning, envisioned a system not just of welcoming overseas Filipinos (Filipinos and/or their families and descendants who have become permanent residents or naturalized citizens of other countries) as short-term visitors of the country, but more importantly, one that will encourage them to come home and once again become permanent residents of the Philippines.

Notably, the program has no regard at all for the citizenship of these overseas Filipinos. To qualify for the benefits, particularly the exemptions from the payment of customs duties and taxes on personal effects brought home and tax exemptions for local purchases, all they have to do is prove their desire to become permanent residents of the Philippines. This is done through the simple expedient of the presentation of the official approval of change of residence by the authorities concerned in their respective foreign host countries.

As originally intended in the case of the balik scientists, they are also welcome to practice their profession, special skill or expertise while staying in the Philippines either on temporary or permanent bases. Again, there was no regard for their citizenship considering that the program is open to both foreign-based Filipinos and those of Filipino origin or descent, as long as they were licensed to practice their profession, special skill or expertise in their host, adopted or native countries.

Therefore, as far as our immigration laws are concerned with regard to balikbayans, they and their families may reside in the Philippines either on temporary or permanent bases even though they remain nationals of their host, adopted or native countries. The special treatment accorded to balikbayans finds its roots in recognition of their status as former Filipinos and not as mere aliens.

Further militating against the notion of balikbayans as mere visitors of the country are the privileges accorded to them under R.A. 9174, the current balikbayan law. It specifically provides for a Kabuhayan shopping privilege for the purchase of livelihood tools as well as access to the necessary entrepreneurial training and livelihood skills programs and marketing assistance in accordance with the existing rules on the government's reintegration program.

Livelihood tools have been defined as "instruments used by hand or by machine necessary to a person in the practice of his or her trade, vocation or profession, such as hand tools, power tools, precision tools, farm tools, tools for dressmaking, shoe repair, beauty parlor, barber shop and the like,"[136] as well as a computer unit and its accessories.

Access to the reintegration program is one of the social services and family welfare assistance benefits (aside from insurance and health care benefits, loan guarantee fund, education and training benefits and workers assistance and on-site services) that are available, to Overseas Workers Welfare Administration (OWWA) members.[137] It incorporates community organizing, capability-building, livelihood loans and other social preparations subject to the policies formulated by the OWWA Board.[138]

The reintegration program aims to prepare the OFW in his/her return to Philippine society.[139] It has two aspects. The first is reintegration preparedness (On-Site) which includes interventions on value formation, financial literacy, entrepreneurial development training (EDT), technological skills and capacity building.[140]

The second is reintegration proper (In-Country) which consists of job referrals for local and overseas employment, business counselling, community organizing, financial literacy seminar, networking with support institutions and social preparation programs.[141]

As the Philippine government's reintegration manager,[142] the Department of Labor and Employment National Reintegration Center for OFWs (NRCO) provides the following services:

1. Develop and support programs and projects for livelihood, entrepreneurship, savings, investments and financial literacy for returning Filipino migrant workers and their families in coordination with relevant stakeholders, service providers and international organizations;

2. Coordinate with appropriate stakeholders, service providers and relevant international organizations for the promotion, development and the full utilization of overseas Filipino worker returnees and their potentials;

3. Institute, in cooperation with other government agencies concerned, a computer-based information system on returning Filipino migrant workers which shall be accessible to all local recruitment agencies and employers, both public and private;

4. Provide a periodic study and assessment of job opportunities for returning Filipino migrant workers;

5. Develop and implement other appropriate programs to promote the welfare of returning Filipino migrant workers;

6. Maintain an internet-based communication system for on-line registration and interaction with clients, and maintain and upgrade computer-based service capabilities of the NRCO;

7. Develop capacity-building programs for returning overseas Filipino workers and their families, implementers, service providers, and stakeholders; and

8. Conduct research for policy recommendations and program development.[143]

While the reintegration program covers only OFWs,[144] non-OFW balikbayans can also avail of possible livelihood training in coordination with the Department of Tourism, the Technology and Livelihood Resource Center and other training institutions.[145]

R.A. 9174 is the government's latest thrust in its consistent efforts in attracting balikbayans to come home to the Philippines and build a new life here. Notwithstanding our immigration laws, balikbayans may continue to stay in the Philippines for the long-term even under a visafree entry, which is extendible upon request.[146]

It must be emphasized that none of the Court's previous decisions has ever looked at the very extensive privileges granted to Balikbayan entrants.

Coquilla, Japzon, Caballero, Jalosjos and the Balikbayan Program

In ruling that petitioner can only be said to have validly re-established her residency in the Philippines when she reacquired her Philippine citizenship, the COMELEC invoked the ruling in Coquilla v. COMELEC.[147]

In Coquilla, petitioner was a former natural-born citizen and who reacquired Philippine citizenship on November 10, 2000. He was not able to show by any evidence that he had been a one-year resident of Oras, Eastern Samar prior to the May 14, 2001 local elections. His argument was that he had been a resident of the said town for two years, but was not able to show actual residence one year from before the said election. Evidence shows on the contrary that his last trip to the United States, of which he was a former citizen was from July 6 to August 5, 2000. The only evidence he was able to show was a residence certificate and his bare assertion to his townmates that he

intended to have himself repatriated. He did not make much of a claim, except to advert to the fulfillment of the required residence by cumulating his visits and actual residence. We Court said:

> Second, it is not true, as petitioner contends, that he reestablished residence in this country in 1998 when he came back to prepare for the mayoralty elections of Oras by securing a Community Tax Certificate in that year and by constantly declaring to his townmates of his intention to seek repatriation and run for mayor in the May 14, 2001 elections. The status of being an alien and a non-resident can be waived either separately, when one acquires the status of a resident alien before acquiring Philippine citizenship, or at the same time when one acquires Philippine citizenship. As an alien, an individual may obtain an immigrant visa under 13 of the Philippine Immigration Act of 1948 and an Immigrant Certificate of Residence (ICR) and thus waive his status as a nonresident. On the other hand, he may acquire Philippine citizenship by naturalization under C.A. No. 473, as amended, or, if he is a former Philippine national, he may reacquire Philippine citizenship by repatriation or by an act of Congress, in which case he waives not only his status as an alien but also his status as a non-resident alien.
>
> In the case at bar, the only evidence of petitioners status when he entered the country on October 15, 1998, December 20, 1998, October 16, 1999, and June 23, 2000 is the statement Philippine Immigration Balikbayan in his 1998-2008 U.S. passport. As for his entry on August 5, 2000, the stamp bore the added inscription good for one year stay. Under 2 of R.A. No. 6768 (An Act Instituting a Balikbayan Program), the term balikbayan includes a former Filipino citizen who had been naturalized in a foreign country and comes or returns to the Philippines and, if so, he is entitled, among others, to a visa-free entry to the Philippines for a period of one (1) year (3(c)). It would appear then that when petitioner entered the country on the dates in question, he did so as a visa-free balikbayan visitor whose stay as such was valid for one year only. Hence, petitioner can only be held to have waived his status as an alien and as a non-resident only on November 10, 2000 upon taking his oath as a citizen of the Philippines under R.A. No. 8171. He lacked the requisite residency to qualify him for the mayorship of Oras, Eastern, Samar.

Note that the record is bare of any assertion, unlike in the case before Us, that Coquilla had bought a residence, relocated all his effects, established all the necessities of daily living to operationalize the concept of actual residence to show residence for the minimum period of one year. Even if in fact the period of reckoning for Coquilla were to start from his entry into the country on 5 August 2000, it would still be only nine months; thus there was not even any necessity to discuss the effect of his having been classified as a Balikbayan when he entered the country in 1998, 1999 and 2000.

The COMELEC tries to assert that its interpretation of the ruling in Coquilla was carried over in Japzon v. COMELEC[148] and Caballero v. COMELEC[149] as to bar petitioner's claims on residency. The COMELEC is dead wrong.

In Japzon, private respondent Ty was a natural-born Filipino who left to work in the US and eventually became an American citizen. On 2 October 2005, Ty reacquired his Filipino citizenship by taking his Oath of Allegiance to the Republic of the Philippines in accordance with the provisions of Republic Act No. (R.A.) 9225.[150] Immediately after reacquiring his Philippine citizenship, he performed acts (i.e. applied for a Philippine passport, paid community tax and secured Community Tax Certificates (CTC) and registered as a voter) wherein he declared that his residence was at General Macarthur, Eastern Samar. On 19 March 2007, Ty renounced his American citizenship before a notary public. Prior to this, however, Ty had been bodily present in General Macarthur, Eastern Samar for a more than a year before the May 2007 elections. As such, the Court brushed aside the contention that Ty was ineligible to run for mayor on the ground that he did not meet the one-year residency requirement. If anything, Japzon reinforces petitioner's position.

In Caballero, petitioner was a natural-born Filipino who was naturalized as a Canadian citizen. On 13 September

2012, petitioner took his Oath of Allegiance to the Republic of the Philippines in accordance with the provisions of Republic Act No. 9225. On 1 October 2012, he renounced his Canadian citizenship. He filed his certificate of candidacy for mayor of Uyugan, Batanes on 3 October 2012.

We ruled that it was incumbent upon petitioner to prove that he made Uyugan, Batanes his domicile of choice upon reacquisition of his Philippine citizenship. Aside from his failure to discharge this burden, the period reckoned from 13 September 2012 to the May 2013 elections is only nine months - clearly short of the required one-year residency requirement for mayoralty candidates. Caballero is thus clearly not applicable. Indeed, it is to be noted that it is only Justice Brion in his Separate Concurring Opinion who opines that a permanent resident visa is required for reestablishment of domicile to take place, a view not shared by the majority.

Justice Brion needed to state in his Separate Concurring Opinion that a permanent residency visa is necessary for the start of residency for election purposes is precisely because such view is not found in the Ponencia, hence, contraries to be legally inapplicable.

There are categorical rulings in U.S. state courts that are squarely as all fours with the petition before us. In Elkins v. Moreno,[151] aliens with a non-immigrant visa were considered as having the legal capacity to change their domiciles. In reaching this conclusion, the US Supreme Court took into account the intention of Congress when it enacted the terms and restrictions for specific classes of non-immigrants entering the United States:

> Although nonimmigrant aliens can generally be viewed as temporary visitors to the United States, the nonimmigrant classification is by no means homogeneous with respect to the terms on which a nonimmigrant enters the United States. For example, Congress expressly conditioned admission for some purposes on an intent not to abandon a foreign residence or, by implication, on an intent not to seek domicile in the United States. Thus, the 1952 Act defines a visitor to the United States as "an alien . . . having a residence in a foreign country which he has no intention of abandoning" and who is coming to the United States for business or pleasure. Similarly, a nonimmigrant student is defined as "an alien having a residence in a foreign country which he has no intention of abandoning. . . and who seeks to enter the United States temporarily and solely for the purpose of pursuing. . . a course of study. . . ." See also (aliens in "immediate and continuous transit"); (vessel crewman "who intends to land temporarily"); (temporary worker having residence in foreign country "which he has no intention of abandoning").
>
> By including restrictions on intent in the definition of some nonimmigrant classes, Congress must have meant aliens to be barred from these classes if their real purpose in coming to the United States was to immigrate permanently. x x x.
>
> But Congress did not restrict every nonimmigrant class. In particular, no restrictions on a nonimmigrant's intent were placed on aliens admitted under § 101(a)(15)(G)(iv). Since the 1952 Act was intended to be a comprehensive and complete code, the conclusion is therefore inescapable that, where as with the G-4 class Congress did not impose restrictions on intent, this was deliberate. Congress' silence is therefore pregnant, and we read it to mean that Congress, while anticipating that permanent immigration would normally occur through immigrant channels, was willing to allow nonrestricted nonimmigrant aliens to adopt the United States as their domicile.
>
> Under present law, therefore, were a G-4 alien to develop a subjective intent to stay indefinitely in the United States he would be able to do so without violating either the 1952 Act, the Service's regulations, or the terms of his visa. Of course, should a G-4 alien terminate his employment with an international treaty organization, both he and his family would lose their G-4 status. Nonetheless, such an alien would not necessarily be subject to deportation nor would he have to leave and re-enter the country in order to become an immigrant.[152] (Citations omitted) (Emphasis supplied)

In Toll v. Moreno,[153] the Supreme Court of Maryland applied the ruling in Elkins and held that the ordinary

legal standard for the establishment of domicile may be used even for non-immigrants:

> If under federal law a particular individual must leave this country at a certain date, or cannot remain here indefinitely, then he could not become domiciled in Maryland. Any purported intent to live here indefinitely would be inconsistent with law. It would at most be an unrealistic subjective intent, which is insufficient under Maryland law to establish domicile.
>
> x x x x
>
> In light of the Supreme Court's interpretation of federal law, it is obvious that nothing inherent in the nature of a G-4 visa would render the holder of such visa absolutely incapable of establishing a Maryland domicile. Assuming the correctness of the defendant's assertion that most G-4 visa holders will leave this country, if in a particular case one of these individuals is in a minority and, as shown by objective factors, intends for Maryland to be his fixed place of abode and intends to remain here indefinitely, he will have satisfied the Maryland standard for establishing domicile in this State.

The fact that an alien holds a non-immigrant visa is thus not controlling. What is crucial in determining whether an alien may lawfully adopt a domicile in the country is the restriction placed by Congress on a specific type of non-immigrant visa. So long as the intended stay of a nonimmigrant does not violate any of the legal restriction, sufficient animus manendi may be appreciated and domicile may be established.

In the case of balikbayans, the true intent of Congress to treat these overseas Filipinos not as mere visitors but as prospective permanent residents is evident from the letter of the law. While they are authorized to remain in the country for a period of only one year from their date of arrival, the laws, rules and regulations under the Balikbayan Program do not foreclose their options should they decide to actually settle down in the country. In fact, the Balikbayan Program envisions a situation where former Filipinos would have been legally staying in the Philippines visa-free for more than 36 months.[154] In the case of petitioner Poe, she entered the Philippines visa-free under the Balikbayan program, left for a short while and legally re-entered under the same program. This is not a case where she abused any Balikbayan privilege because shortly after reentering the country on 11 March 2006,[155] she applied for dual citizenship under R.A. 9225.

Based on the foregoing, it was most unfair for COMELEC to declare that petitioner could not have acquired domicile in the Philippines in 2005 merely because of her status as a balikbayan. Her visa (or lack thereof) should not be the sole determinant of her intention to reacquire her domicile in the Philippines.

Congress itself welcomes the return of overseas Filipinos without requiring any type of visa. Although visa-free entry is for a limited time, the period is extendible and is not conditioned upon the acquisition of a permanent resident visa. Considering that the law allows a balikbayan to stay in the Philippines for a certain period even without a visa and to settle in .the country during that period, there is no reason to reject petitioner's intent to re-establish a residence from the date she entered the country. In fact, petitioner's permanent resettlement, as one millions of Filipino who had gone abroad, is an end-goal of the Balikbayan Program.

If we were to apply the standard for determining the effect of a visa on the ability of petitioner to re-establish her domicile in the Philippines, the U.S. cases of Elkins v. Moreno and Toll v. Moreno, beg the question: Does her entry as a Balikbayan restrict her from re-establishing her domicile in the Philippines? The answer would be a resounding NO, for precisely the legislative policy of the Balikbayan Program is to assist in the reintegration of former Filipino citizen back into the country. The Court must also note that the visa-free entry is good for one year and renewable, even to the extent of authorizing the Balikbayan to stay much longer. The Balikbayan program is fully compatible and supportive of the re-establishment by a Balikbayan of her residence in her native land, her domicile of origin.

And this is not a case when petitioner abused the privileges of visa-free entry considering that, a year after her relocation, she immediately took steps to reacquire her Philippine citizenship

Petitioner was able to prove that she
reacquired her domicile in the Philippines
beginning May 2005.

As discussed, there are only three requisites for a person to acquire a new domicile by choice: (1) residence or bodily presence in the new domicile; (2) an intention to remain there; and (3) an intention to abandon the old domicile.[156] In my view, the pieces of evidence submitted by petitioner sufficiently prove that she re-established her domicile in the Philippines as early as May 2005.

I shall discuss the fulfillment of the requirements in the following order: (1) intention to remain in the new domicile; (2) intention to abandon the old domicile; and (3) bodily residence in the new domicile.

Intent to Establish a New Domicile

To prove her intent to establish a new domicile in the Philippines on 24 May 2005, petitioner presented the following evidence: (1) school records indicating that her children attended Philippine schools starting June 2005;[157] (2) Taxpayer's Identification Number (TIN) Card,[158] showing that she registered with and secured the TIN from the BIR on 22 July 2005; (3) Condominium Certificates of Title (CCTs)[159] and Tax Declarations covering Unit 7F and a parking slot at One Wilson Place Condominium, 194 Wilson Street, San Juan, Metro Manila, purchased in early 2005 and served as the family's temporary residence; (4) Transfer Certificate of Title (TCT)[160] in the name of petitioner and her husband issued on 1 June 2006, covering a residential lot in Corinthian Hills, Quezon City in 2006; and (5) registration as a voter on 31 August 2006.

Enrollment of Children in Local Schools

Whether children are enrolled in local schools is a factor considered by courts when it comes to establishing a new domicile. In Fernandez v. HRET,[[161]] we used this indicium:

> In the case at bar, there are real and substantial reasons for petitioner to establish Sta. Rosa as his domicile of choice and abandon his domicile of origin and/or any other previous domicile. To begin with, petitioner and his wife have owned and operated businesses in Sta. Rosa since 2003. Their children have attended schools in Sta. Rosa at least since 2005. x x x (Emphasis supplied)

In Blount v. Boston,[162] the Supreme Court of Maryland identified location of the school attended by a person's children as one of the factors in determining a change of domicile. The discourse is reproduced here:

> Where actual residence and/or place of voting are not so clear or there are special circumstances explaining particular place of abode or place of voting, court will look to myriad of other factors in deciding person's domicile, such as paying of taxes and statements on tax returns, ownership of property, where person's children attend school, address at which person receives mail, statements as to residency in contracts, statements on licenses or governmental documents, where personal belongings are kept, which jurisdiction's banks are utilized, and any other facts revealing contact with one or the other jurisdiction.[163] (Emphasis supplied)

The fact that petitioner's children began their schooling in the Philippines shortly after their arrival in the country in May 2005 is no longer in dispute. In its Comment, the COMELEC noted this as one of the facts "duly proven" by petitioner.[164] By "duly proven," the COMELEC explained during the oral arguments that the term meant that documentary proof substantiated the pertinent allegation:

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> All right. Let me turn your attention to page 56 of the COMELEC Comment. It says, "the COMELEC noted the following facts as duly proven by the petitioner. Petitioner's children arrived in the Philippines during the latter half of 2005. Shortly after their arrival, petitioner's children began their schooling in the country. Petitioner purchased a condominium unit in San Juan City during the second half of 2005. Petitioner and husband started the construction of their house in 2006. Petitioner and her husband informed the U.S. Postal Service in 2006 of their abandonment of their U.S. Address." What does the commission mean when it says that these facts are duly proven?
>
> COMMISSIONER LIM:
> Your Honor please, the proceeding before the commission was summary. There was a preliminary conference, submission of exhibits, stipulations, comparison between the originals and the photocopies, and offer of evidence. We considered these facts as non-controverted in the sense that they are covered by documentary proof, Your Honor. (Emphasis supplied)

Acquisition of a New Residence

The COMELEC, in its Comment, found the following facts to be duly proven: that petitioner purchased a condominium unit in San Juan City during the second half of 2005, and that petitioner and her husband started the construction of their house in Corinthian Hills in 2006.[165] That petitioner purchased the residential lot in Corinthian Hills is not up for debate. Taken together, these facts establish another indicium of petitioner's establishment of a new domicile in the Philippines.

Our very own jurisdiction treats acquisition of residential property as a factor indicating establishment of a new domicile. Take the 2012 case of Jalosjos v. COMELEC,[166] in which we held that Rommel Jalosjos acquired a new domicile in Zamboanga Sibugay:

> Jalosjos presented the affidavits of next-door neighbors, attesting to his physical presence at his residence in Ipil. These adjoining neighbors are no doubt more credible since they have a better chance of noting his presence or absence than his other neighbors, whose affidavits Erasmo presented, who just sporadically passed by the subject residence. Further, it is not disputed that Jalosjos bought a residential lot in the same village where he lived and a fish pond in San Isidro, Naga, Zamboanga Sibugay. He showed correspondences with political leaders, including local and national party-mates, from where he lived. Moreover, Jalosjos is a registered voter of Ipil by final judgment of the Regional Trial Court of Zamboanga Sibugay. (Emphasis supplied)

It has been argued that the acquisition of a temporary dwelling in Greenhills, the purchase of a residential lot in Corinthian Hills, and the eventual construction of a house in the latter place do not indicate an intent on the part of petitioner to stay in the country for good. The 2013 case of Jalosjos v. COMELEC[167] has been cited to support this conclusion, as we purportedly held in that case that ownership of a house "does not establish domicile."

This reading of Jalosjos is not accurate. By no means did Jalosjos rule out ownership of a house or some other property as a factor for establishing a new domicile. To appreciate the statement in its proper context, the relevant discussion in Jalosjos is quoted below:

> Assuming that the claim of property ownership of petitioner is true, Fernandez v. COMELEC has established that the ownership of a house or some other property does not establish domicile. This principle is especially true in this case as petitioner has failed to establish her bodily presence in the locality and her intent to stay there at least a year before the elections, to wit:
>
> To use ownership of property in the district as the determinative indicium of permanence of domicile or residence implies that the landed can establish compliance with the residency requirement. This Court would be, in effect, imposing a property requirement to the right to hold public office, which property requirement

> would be unconstitutional. (Emphasis supplied)

As can be seen from the quoted discourse, the case did not throw out ownership of a house as a factor for determining establishment of a new domicile. Rather, it discarded ownership of a house as a controlling factor for determining establishment of a new domicile.

Even US courts consider acquisition of property as a badge of fixing a new domicile.[168] In Hale v. State of Mississippi Democratic EC,[169] the Supreme Court of Mississippi used acquisition of a new residence as a factor for determining transfer of domicile. In that case, William Stone sought the Democratic Party nomination for Senate District 10, a district covering parts of Marshall County, including Stone's home in Holly Springs. Hale argued that Stone was not eligible to run for that office because he did not meet the two-year residency requirement. Specifically, Hale argued that Stone could not be a resident of Marshall County because Stone .had not abandoned his domicile in Benton County. He had moved to Holly Springs in October 2013.

The Mississippi Supreme Court ruled that Stone had proven that he established his domicile in Marshall County. It relied, among others, on acquisition of a home in the new domicile as a factor:

> To prove his position that he had changed his domicile from Benton County to Marshall County, Stone provided an abundance of evidence. In October 2013, Stone rented a house at 305 Peel Lane in Holly Springs, the county seat of Marshall County, and he obtained utility service for the home. In July 2014, he bought a home at 200 Johnson Park in Holly Springs. Furthermore, he notified the Senate comptroller about his change of address, and the comptroller sent an e-mail to every member of the Senate informing them of the change.
>
> x x x x
>
> We have held that '[t]he exercise of political rights, admissions, declarations, the acts of purchasing a home and long-continued residency are circumstances indicative of his intention to abandon his domicile of origin and to establish a new domicile.' Taking into consideration all of these factors, the circuit court did not err in determining that Stone's domicile has existed in Marshall County since October of 2013. (Emphases supplied and citations omitted)

Securing a Taxpayer's Identification Number (TIN) Card

In his Comment-Opposition to the Petition for Certiorari in G.R. No. 221698-700, private respondent Valdez posited that securing a TIN does not conclusively establish petitioner's animus manendi in the Philippines.[170] He reasons that any person, even a non resident, can secure a TIN. On this matter, I must agree with him.

Indeed, the 1997 Tax Code mandates all persons required under our tax laws to render or file a return to secure a TIN.[171] This would include a non-resident so long as he or she is mandated by our tax laws to file a return, statement or some other document.[172] It is thus correct to say that a TIN Card does not conclusively evince the notion that petitioner is a resident of the Philippines.

Nevertheless, the significance of the TIN Card lies in the fact that it lists down the address of petitioner as No. 23 Lincoln St. West Greenhills, the very same address of her mother, Jesusa Sonora Poe, as reflected in the latter's affidavit.[173] Therefore, the TIN Card, which was issued on 22 July 2005, corroborates the assertion that petitioner, upon her arrival in 2005, was then staying at her mother's home.

Registration as Voter

Petitioner registered as a voter on 31 August 2006. This speaks loudly of the intent to establish a domicile in the country. In Hale v. State of Mississippi Democratic EC,[174] the Supreme Court of Mississippi considered registering to vote as a factor indicative of the intent to acquire a new domicile. More importantly, Oglesby v.

Williams treats voter registration as one of the two most significant indicia of acquisition of a new domicile. The Oglesby discussion is informative:

> This Court's longstanding view on determining a person's domicile was stated in Roberts, where the Court wrote:
>
> The words reside or resident mean domicile unless a contrary intent is shown. A person may have several places of abode or dwelling, but he can have only one domicile at a time. Domicile has been defined as the place with which an individual has a settled connection for legal purposes and the place where a person has his true, fixed, permanent home, habitation and principal establishment, without any present intention of removing therefrom, and to which place he has, whenever he is absent, the intention of returning. The controlling factor in determining a person's domicile is his intent. One's domicile, generally, is that place where he intends to be. The determination of his intent, however, is not dependent upon what he says at a particular time, since his intent may be more satisfactorily shown by what is done than by what is said. Once a domicile is determined or established a person retains his domicile at such place unless the evidence affirmatively shows an abandonment of that domicile. In deciding whether a person has abandoned a previously established domicile and acquired a new one, courts will examine and weigh the factors relating to each place. This Court has never deemed any single circumstance conclusive. However, it has viewed certain factors as more important than others, the two most important being where a person actually lives and where he votes. Where a person lives and votes at the same place such place probably will be determined to constitute his domicile. Where these factors are not so clear, however, or where there are special circumstances explaining a particular place of abode or place of voting, the Court will look to and weigh a number of other factors in deciding a person's domicile.
>
> Furthermore, this Court has stated that the place of voting is the "highest evidence of domicile." ("the two most important elements in determining domicile are where a person actually lives and where he votes"); ("Evidence that a person registered or voted is ordinarily persuasive when the question of domicile is at issue," quoting Comptroller v. Lenderking). Furthermore, actual residence, coupled with voter registration, "clearly create[s] a presumption that [the person] was domiciled" there. ("[w]here the evidence relating to voting and the evidence concerning where a person actually lives both clearly point to the same jurisdiction, it is likely that such place will be deemed to constitute the individual's domicile"). In other words, the law presumes that where a person actually lives and votes is that person's domicile, unless special circumstances explain and rebut the presumption. (Citations omitted) (Emphases supplied)

This Court, too, shares this reverence for the place of voting as an evidence of domicile. In Templeton v. Babcock, [175] we held as follows:

> The finding of the trial court to the effect that the deceased had acquired a domicile in the State of California is in our opinion based upon facts which sufficiently support said finding. In particular, we are of the opinion that the trial court committed no error in attaching importance to the circumstance that the deceased had voted in California elections.
>
> Though not of course conclusive of acquisition of domicile, voting in a place is an important circumstance and, where the evidence is scanty, may have decisive weight. The exercise of the franchise is one of the highest prerogatives of citizenship, and in no other act of his life does the citizen identify his interests with the state in which he lives more than in the act of voting. (Emphasis supplied)

In sum, the evidence of petitioner substantiates her claim of the intent to establish a new domicile in the country. The enrollment of her children in local schools since 2005, the family's temporary stay in her mother's home followed by the purchase of the Greenhills condominium unit and the subsequent establishment of the Corinthian Hills family home, the registration of petitioner as a voter and the issuance1 of a TIN Card in her favor, collectively demonstrate the conclusion that she has established an incremental transfer of domicile in the country.

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Respondent Valdez, however, points out that petitioner currently maintains two residential properties in the US, one purchased in 1992 and the other in 2008.[176] According to him, this is inconsistent with animus manendi.

This argument disregards overwhelming evidence showing that petitioner intended to establish a new domicile in the country. Petitioner has uprooted her family from Virginia, US to Manila, enrolled her children soon after her arrival in the Philippines, acquired residential properties in the new domicile - one of which now serves as the current family home - and registered as a voter. These factors all point to one direction: petitioner is in the country and is here to stay. We cannot disregard these factors, all of which establish a nexus to the new domicile, because of a solitary fact: the retention of two residential houses in the US. To be sure, it is difficult to justify a conclusion which considers only one contact in the old domicile and ignores many significant contacts established by the removing person in the new domicile.

Moreover, petitioner only admitted[177] that she owns the two houses. She never admitted that she resides in any of them. At best, what can only be established is that petitioner owns properties classified as residential properties. Undoubtedly, we cannot make a conclusion that petitioner failed to meet the animus manendi requirement in the absence of proof that petitioner uses one of the properties as a place of abode. In fact, all the evidence points to the fact that she leaves the Philippines only for brief periods of time; obviously with no intention to reside elsewhere.

It is important to always remember that domicile is in the main a question of intent.[178] It requires fact-intensive analysis. Not a single factor is conclusive. It is the totality of the evidence that must be considered.

Even the US Supreme Court admitted that domicile is a difficult question of fact that its resolution commands a pragmatic and careful approach. In The District of Columbia v. Murphy,[179] the US High Court remarked:

> [T]he question of domicile is a difficult one of fact to be settled only by a realistic and conscientious review of the many relevant (and frequently conflicting) indicia of where a man's home is and according to the established modes of proof.[180]

It is interesting to note that the US Supreme Court appended a footnote on the term home in the above quoted statement. Footnote 10 states:

> Of course, this term does not have the magic qualities of a divining rod in locating domicile. In fact, the search for th¢ domicile of any person capable of acquiring a domicile of choice is llut a search for his "home." See Beale, Social Justice and Business Costs, 49 Harv.L.Rev. 593, 596; 1 Beale, Conflict of Laws, § 19.1.[181]

Now, if we are to adopt the view that petitioner failed to meet the animus manendi requirement on the ground that she maintains two houses in the US, I pose this question: in our search for petitioner's home, are we making a realistic and conscientious review of all the facts?

Additionally, it is not required for purposes of establishing a new domicile that a person must sever all contacts with the old domicile.[182] I therefore find nothing wrong with petitioner maintaining residential properties in the old domicile.

It has been further suggested that petitioner's invocation of acquisition of residential property as a factor showing animus manendi does not benefit her considering that she purchased in 2008 a residential property in the US, which was subsequent to her purchase of the condominium unit and the residential lot in the Philippines, and that she maintained the one she acquired in 1992. But what is considered for animus manendi purposes as a factor is acquisition of a house in the new domicile. Acquisition of a house in the old domicile is not a factor for determining animus manendi.

That petitioner still maintains two houses in the US does not negate her abandonment of her US domicile. First, it has, not been shown that petitioner actually lived in the residential house acquired in 1992. What is clear is that there was only one family home in Virginia, US, and petitioner had already reestablished her residence in the Philippines before it was even sold.

Second, the residential house acquired in 2008 has no bearing in the cases before us with regard to determining the validity of petitioner's abandonment of her US domicile, particularly because it was purchased after she had already reacquired her Filipino citizenship. In this regard, even respondent Valdez claims that "it is only upon her reacquisition of Filipino citizenship on 18 July 2006, that she can be considered to have established her domicile in the Philippines."[183] This concession already leaves no question as to petitioner's abandonment of her US domicile and intent to reside permanently in the Philippines at the time that the residential house in the US was purchased in 2008.

1. Intent to Abandon the Old Domicile

To prove her intent to abandon her old domicile in the US, petitioner presented the following evidence: (1) email exchange's between petitioner or her husband and the property movers regarding relocation of their household goods, furniture and vehicles from the US to the Bhilippines; (2) invoice document showing delivery from the US and to the Philippines of the personal properties of petitioner and her family; (3) acknowledgment of change of address by the US Postal Service; (4) sale lof the family home on 27 April 2006.

Plans to Relocate

In Oglesby v. Williams,[184] the Court of Appeals of Maryland noted that plans for removal show intent to abandon the old domicile. The Court said:

> [T]here are many citizens of Maryland who intend to change their domicile upon retirement and may make quite elaborate plans toward fulfilling that intent by building a retirement home in the place where they intend to retire. Such plans, by themselves, do not prove the abandonment of an existing domicile, although it is evidence of the intention to do so. Were such planning to be sufficient, the intent requirement would swallow the requirement of an actual removal to another habitation with the intent to reside there indefinitely. (Emphasis supplied)

In this case, petitioner submitted email exchanges showing that the family began planning to move back to the Philippines as early as March 2005. Exhibit "6-series" includes an email letter dated 17 March 2005 and sent to petitioner by Karla Murphy on 18 March 2005. Based on the email, Karla worked at Victory Van, a company engaged in moving personal belongings. Apparently, petitioner had asked for an estimate of moving personal properties from the US to the Philippines. The email reply reads:

> From: Karla Murphy MURPHY@VictoryVan.com
> To: gllamanzares gllamanzares@aol.com
> Subject: Relocation to Manila Estimate
> Date: Fri, 18 Mar 2005
> 3.17.05
>
> Hi Grace:
>
> Sorry for the delay in getting this to you. I know you are eager to get some rates for budgetary purposes.
>
> I estimate that you have approximately 28,000 lbs of household goods plus your two vehicles. This will necessitate using THREE 40' containers. You not only have a lot of furniture but many of your pieces plus the toys are very voluminous. We will load the containers from bottom to top not to waste any space but I

> sincerely believe you will need two containers just for your household goods.
>
> To provide you with door to door service which would include packing, export wrapping, custom crating for chandeliers, marble top and glass tops, loading of containers at your residence, US customs export inspection for the vehicles, transportation to Baltimore, ocean freight and documentation to arrival Manila, customs clearance, delivery, with collection of vehicles from agent in Manila unwrapping and placement of furniture, assisted unpacking, normal assembly (beds, tables, two piece dressers and china closets), container return to port and same day debris removal based on three 40' containers, with 28,000 lbs of HHG and two autos will be USD 19,295.
>
> Grace, I predict you will have some questions. I will be out of the office tomorrow and will be in the office all day on Monday. If your questions can't wait please call me on my cell number at 703 297 27 88.
>
> I'll talk to you soon.
>
> Kind regards and again, thanks for your patience.
>
> Karla (Emphases Supplied)

The email indicates that petitioner was planning to move an estimated 28,000 pounds of household goods plus two vehicles from Virginia, US to Manila. The email further shows that three forty-foot containers were estimated to be used in the movement of these items.

Twenty-eight thousand pounds of personal properties, including two vehicles, is not difficult to visualize. The exchanges during the oral arguments held by this Court for this case shows that three forty-foot containers is about the size of a three-storey house. The exchange is quoted below:

> CHIEF JUSTICE SERENO:
> Okay. Alright. Now when you come, you see you have thrown out the fact of relocation, continuous schooling, you have thrown that out. May I now ask you what you did in looking at the e-mail that they submitted dated 18 March 2005. Have you [looked] closely at that e-mail?
>
> COMMISSIONER LIM:
> Yes, Your Honor.
>
> CHIEF JUSTICE SERENO:
> Okay. Can you tell us what that e-mail said?
>
> COMMISSIONER LIM:
> These correspondences, e-mail correspondences evinced a strong desire to bring your belongings here to seemingly on the surface, Your Honor, to transfer residence here and to inquire about the cost of moving to the Philippines, Your Honor. . .
>
> CHIEF JUSTICE SERENO:
> Did you look at the, how much they were planning to move back to the Philippines?
>
> COMMISSIONER LIM:
> Well they said they sold their house there already, Your Honor. . .
>
> CHIEF JUSTICE SERENO:
> Twenty eight thousand pounds.
>
> COMMISSIONER LIM:
> Yes, Your Honor.
>
> CHIEF JUSTICE SERENO:

> And the estimate of the forwarding company is that they need three forty foot containers, correct?
>
> COMMISSIONER LIM:
> No question as to, no question as to that, Your Honor.
>
> CHIEF JUSTICE SERENO:
> Okay. Alright. Including can you look at what a forty foot container looks like. This. (image flashed on the screen) Please look at this Commissioner Lim.
>
> COMMISSIONER LIM:
> I'm quite familiar having been a maritime lawyer in the past. . .
>
> CHIEF JUSTICE SERENO:
> Alright. Thank you very much. You see one forty foot container already contains an office, and an entire residence. And then if you put three on top of the other, okay, . . . (image flashed on the screen)
>
> COMMISSIONER LIM:
> Yes, Your Honor.
>
> CHIEF JUSTICE SERENO:
> That's already the content of an entire house. And they're talking about glass tops, marble tops, chandeliers, in addition to that two cars and pets. Of course, it's not in the e-mail.

In other words, even this there is no intention, Commissioner Lim?[185]

Definitely, the email shows that as early as 18 March 2005, petitioner already had plans to relocate to Manila. It must be stressed that not only household goods would be moved to Manila, but two vehicles as well. Petitioner was certainly not planning for a short trip. The letter, therefore, shows the intent of petitioner to abandon her old domicile in the US as early as March of 2005.

Change of Postal Address

Petitioner also adduced as evidence the email of the US Postal Service acknowledging the notice of change of address made by petitioner's husband. It has been argued that the online acknowledgment merely establishes that petitioner's husband only requested a change of address and did not notify the US Postal service of the abandonment of the old US address. This reasoning fails to appreciate that a notice of change of address is already considered an indicium sufficient to establish the intent to abandon a domicile.

The already discussed Hale v. State of Mississippi Democratic EC[186]utilized change of postal address as a factor for determining the intent to abandon a domicile. In the case of Farnsworth v. Jones,[187] the Court of Appeals of North Carolina noted, among others, the failure of the candidate to change his address. It ruled out the possibility that defendant had actually abandoned his previous residence.

> To the contrary, defendant maintained the condominium at Cramer Mountain, ate dinner weekly at the Country Club there, exercised there, and spent approximately 50% of his time there. He additionally did not change his address to Ashley Arms for postal purposes, or for any other purposes. He executed a month-to-month lease for a furnished apartment because he wanted to "see what would happen" in the election. Although defendant acquired a new residence at the Ashley Arms address and expressed his intention to remain there permanently, there is little evidence in the record to indicate that he was actually residing there. x x x. (Emphasis supplied)

I do agree with the observation that the online acknowledgement never showed that the change of address was from the old US address to the new Philippine address. To my mind, however, the deficiency is not crucial considering that there are other factors (discussed elsewhere in this opinion) showing that petitioner's intent was

to relocate to the Philippines. What matters as far as the online acknowledgement is concerned is that it indicates an intent to abandon the old domicile of petitioner.

Sale of Old Residence

Another factor present in this case is the sale of petitioner's family home in the US.

In Imbraguglio v. Bernadas[188] decided by the Court of Appeals of Louisiana, Fourth Circuit, Bernard Bernadas filed a "Notice of Candidacy" for the office of Sheriff of St. Bernard Parish. Petrina Imbraguglio filed a petition objecting to the candidacy of Bernadas on the ground of failure to establish residence in the parish. It was found that Bernardas sold his home on Etienne Drive on 23 February 2006. Since 31 August 2006, Bernadas has lived with his family at a home he purchased at 7011 General Haig Street in New Orleans. The Louisiana appellate court ruled that Bernardas had abandoned his domicile in the parish by selling his home therein and had not reestablished the same. The Louisiana appellate court held that:

> We also find no error in the trial court's finding that the defendant established a new domicile for purposes of La. R.S. 18:451.3 (which took effect on June 8, 2006) by voluntarily selling his home, the only property owned in St. Bernard Parish, and moving to New Orleans without residing anywhere in St. Bernard Parish for two years preceding the date he filed his notice of candidacy to run for sheriff. (Emphasis supplied)

Location of personal belongings

Another vital piece of evidence is the invoice issued by Victory Van to petitioner indicating the actual delivery of personal property to Manila in September 2006 and the cost of shipping of the household goods. Pertinent portions of the Invoice dated 13 September 2006 are quoted below:

> Hello! As you may have heard from your agent in the Philippines, there was an overflow. Every effort was made to make it fit in the two 40's and all went except for about 1900 lbs, which will be sent in lift vans. An invoice is attached. Thank you.
>
> x x x x
>
> CUSTOMER:
> ORIGIN:
> DESTINATION: Grace Llamanzares
> Sterling, VA
> Manila, Philippines DATE:
> REFERENCE #: 9/13/2006
> EXP06020
>
> WEIGHT:
> VOLUME:
> VOLUME 25,241 lbs
> 2-40' S-SC
> 2 - Lift Vans
> Overflow LCI,
> Shipment (293 Cu
> Ft.)

The invoice proves that 25,241 pounds of personal property owned by petitioner and her family were moved from Sterling, Virginia, US to Manila, Philippines. This proves another factor: the consummation of the previously discussed plan to relocate to Manila. The location of the majority of the personal belongings matters in the determination of a change in domicile. This factor was used in the already discussed Oglesby and in Bell v.

Bell.[189]

It must be noted that Bell held that unimportant belongings are not considered in that determination. In that case, the wife sought before a Pennsylvania court the issuance of an injunction restraining the husband from obtaining a divorce in Nevada. She filed the suit on the ground that the husband failed to establish a domicile in Nevada' as he once lived in Pennsylvania. Also, he was away from Nevada most of the time since he worked in Nigeria.

The Pennsylvania Superior Court, in holding that the husband succeeded in establishing a domicile in Nevada, disregarded the fact that the husband left behind a crate of his clothing at the home in Pennsylvania.

> As for the relevancy of the clothing left behind at the Pennsylvania location by Mr. Bell after his departure, we, as did the trial court, find this element to be "of little moment. That [Mr. Bell] has done without them for so long shows that they are not of particular importance to him." (Emphasis supplied)

It is worthy to note that the case did not reject movement/ non-movement of personal belongings as a factor for determining domicile. Rather, what it rejected was unimportant personal properties. Thus, this case, combined with the Oglesby case, provides that movement of properties that are valuable/important indicates intent to abandon the previous domicile. Another take-away from this case is that when only unimportant belongings remain in the old domicile, the intent to abandon the old domicile is not diminished.

What is more, it must be emphasized that petitioner donated to the Salvation Army, as shown by Exhibit "15" and Exhibit "15-A," which are receipts showing donations to the Salvation Army of clothes, books and miscellaneous items. The receipts are dated 23 February 2006. The value of the personal effects donated was placed by petitioner's husband at USD300.00 and USD575.00,[190] certainly little personal items that were even then, fully disposed.

What can be gleaned from the above facts is that petitioner intended to bring along with her in the Philippines only those items she deemed important to her, and that those that were left behind were unimportant. It should be stressed that the items donated to charity included books and clothes, which presumably are not valuable to petitioner; hence, the donations to the Salvation Army. Accordingly, petitioner was able to establish another factor indicating the intent of petitioner to abandon her old domicile and establish a new domicile in the Philippines.

In sum, there is more than sufficient evidence indicating petitioner's intent to abandon her domicile in the US. Several factors have been established: plans to transfer to the Philippines, sale of the residence in the old domicile, change of postal address, and relocation of valuable personal belongings to the new domicile.

2. Actual removal from old domicile and relocation to new domicile

The third requirement for establishment of a new domicile is bodily presence in or the actual removal to the new domicile.

In Oglesby v. Williams,[191] the Court of Appeals of Maryland faced the issue of whether Beau H. Oglesby met the two-year residency requirement to run for State's Attorney for Worcester County in the November 2002 general election. Oglesby admitted that he had been domiciled in Wicomico County for a period of time beginning in December 1995. He argued, however, that his purchase of real property in Worcester County on 5 September 2000, more than two years before the election, coupled with his intention to be domiciled there, effectively established that he had changed his domicile to Worcester County.

> We do not question, to be sure, that the appellant intended to make Worcester County his residence, his fixed, permanent home and habitation and, thus, to abandon his Wicomico County residence. We simply do not believe that the intent was perfected before the appellant moved into the Worcester County home; the appellant's intent was not actualized until then.

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> [T]here are many citizens of Maryland who intend to change their domicile upon retirement and may make quite elaborate plans toward fulfilling that intent by building a retirement home in the place where they intend to retire. Such plans, by themselves, do not prove the abandonment of an existing domicile, although it is evidence of the intention to do so. Were such planning to be sufficient, the intent requirement would swallow the requirement of an actual removal to another habitation with the intent to reside there indefinitely.
>
> x x x x
>
> The evidence shows that the appellant established a domicile in Wicomico County in December, 1995 and remained domiciled in that county until, at the earliest, December, 2000. He voted in the November 7, 2000 election in Wicomico County and he did not move into a residence in Worcester County until December, 2000. We hold that the appellant did not become a domiciliary of Worcester County until, at the earliest, he actually moved into his new home on December 20, 2000.

Oglesby makes the date of actual transfer as the reckoning point for the change of domicile. Had the actual removal happened prior to the two-year period, Oglesby would have satisfied the residency requirement in that case.

Applying the rule to this case, it appears that the intent was actualized in 24 May 2005, the date when petitioner arrived in the Philippines, as revealed by her US passport bearing a stamp showing her entry in the Philippines. The fact that she arrived here for the purpose of moving back to the Philippines was not denied by COMELEC during the oral arguments, although it did not recognize the legal implications of such fact.

We must not lose sight of the fact that petitioner registered as a voter in this country on 31 August 2006. Thus, the implication of petitioner having registered on 31 August 2006 is that she had already been a resident in the country for at least one year as of the day of her registration. The reason is that the Voter's Registration Act of 1996[192] requires among other things that the citizen must have resided in the Philippines for at least one year.

That being said, the registration of petitioner as voter bolsters petitioner's claim that she concretized her intent to establish a domicile in the country on 24 May 2005. Take note that if we use 24 May 2005 as the reckoning date for her establishment of domicile in the Philippines, she would have indeed been a resident for roughly one year and three months as of 31 August 2006, the date she registered as a voter in the Philippines.

Besides, when we consider the other factors previously mentioned in this discussion - the enrolment of petitioner's children shortly after their arrival in the Philippines, the purchase of the condominium unit during the second half of 2005, the construction of their house in Corinthian Hills in 2006, the notification of the US Postal Service of petitioner's change of address - there can only be one conclusion: petitioner was here to stay in the Philippines for good when she arrived in May 2005.

Let me highlight the fact of enrolment of petitioner's children in 2005. This happened shortly after their arrival in the Philippines, which was in May 2005. Taking together the two facts - the arrival of the family in May and the subsequent attendance of the children in local schools the following month - the logical conclusion that we can derive from them is that petitioner arrived early in May so as to prepare her children's schooling in the Philippines. Now, given that in May, she already had in mind the attendance of her children in local schools, this indicates that petitioner, at the time of her arrival already had the intent to be in the country for the long haul.

Lastly, we must not overlook the proximity of her date of arrival in the Philippines in 24 May 2005 to the death of her father in 14 December 2004. The closeness of the dates confirms the claim of petitioner that the untimely death of her father and the need to give her mother moral support and comfort. The return to the country, it must be emphasized, happened within one year of the death of petitioner's father. It reflects the motive of petitioner for her return to the Philippines: the only child had to return to the Philippines as soon as possible so that she could,

be with her grieving mother. More important, this very same motive justifies the acts of relocation she executed, several of which occurred within a year of the death of her father.

As a result, petitioner's arrival in the Philippines on 24 May 2005 was definitely coupled with both animus manendi and animus non revertendi.

True, petitioner's transfer in this case was incremental. But this Court has already recognized the validity of incremental transfers. In Mitra v. COMELEC,[[193]] We stated:

> Mitra's feed mill dwelling cannot be considered in isolation and separately from the circumstances of his transfer of residence, specifically, his expressed intent to transfer to a residence outside of Puerto Princesa City to make him eligible to run for a provincial position; his preparatory moves starting in early 2008; his initial transfer through a leased dwelling; the purchase of a lot for his permanent home; and the construction of a house in this lot that, parenthetically, is adjacent to the premises he leased pending the completion of his house. These incremental moves do not offend reason at all, in the way that the COMELEC's highly subjective non-legal standards do. (Emphasis supplied)

Even the Superior Court of Pennsylvania in Bell v. Bell[194] recognized the notion of incremental transfers in a change of domicile:

> Intent, being purely subjective, must to a large extent be determined by the acts which are manifestations of that intent. However, it does not follow from that that the acts must all occur simultaneously with the formation of the intent. Such a conclusion would be contrary to human nature. One does not move to a new domicile and immediately change church membership, bank account, operator's license, and club memberships. Nor does he immediately select a neighborhood, purchase a home and buy furniture. All of those acts require varying degrees of consideration and as a consequence cannot be done hastily nor simultaneously. (Emphases supplied)

The foregoing considered, the COMELEC used a wrong consideration in reaching the conclusion that petitioner failed to meet the durational residency requirement of 10 years. There is no falsity to speak of in the representation made by petitioner with regard to her residence in the country. For using wrong or irrelevant considerations in deciding the issue, COMELEC tainted its cancellation of petitioner's 2016 certificate of candidacy for president with grave abuse of discretion.

Long Residence in the Philippines

We must remember that petitioner and her children would have stayed in the Philippines for 10 years and 11 months by 9 May 2016. For nearly 11 years, her children have studied and spent a substantial part of their formative years here. On this, the case of Hale is again instructive:

> We have held that '[t]he exercise of political rights, admissions, declarations, the acts of purchasing a home and long-continued residency are circumstances indicative of his intention to abandon his domicile of origin and to establish a new domicile.' Taking into consideration all of these factors, the circuit court did not err in determining that Stone's domicile has existed in Marshall County since October of 2013. (Emphasis supplied and citations omitted)

Petitioner's intention to abandon US
domicile was not negated

The COMELEC First Division and the COMELEC En Banc in SPA Nos. 15-002 (DC), 15-007 (DC) and 15-139 (DC) ruled that the fact that petitioner's husband remained and retained his employment in the US in May 2005 negated her intent to reside permanently in the Philippines. Furthermore, petitioner travelled frequently to the US using her US passport even after she reacquired her Philippine citizenship. According to the COMELEC, these

show that she has not abandoned her domicile in the US. Respondent Valdez also points to two houses in the US that petitioner maintains up to the present, and alleges that this fact also negates her alleged intent to reside permanently in the Philippines.

The fact that petitioner's husband was left in the US and retained his employment there should be viewed based on the totality of the circumstances and the reason for such separation. There is no question that the impetus for petitioner to move back to the Philippines was the death of her father in December 2004 and the desire to be back in the Philippines and comfort her grieving mother. There is also no question that by May 2005, petitioner and her children were already living in the Philippines and the children already enrolled in Philippine schools.

Petitioner and her family could not have been expected to uproot their lives completely from the US and finish all arrangements in the span of six months. One of the spouses had to remain in the US to wind up all logistical affairs. There is also no showing that petitioner is able to readily find a job in the Philippines upon their return. Again, one of the spouses has to continue earning a living for the family's upkeep and to finance the heavy cost of relocation. The conjugal decision became clear when it was the husband who kept his employment in the us and came to join his family in the Philippines only after the sale of the house in the US.

To my mind, that petitioner's husband remained in the US until April 2006 only showed that the family endured a period of separation in order to rebuild their family life together in the Philippines. The fact that the husband stayed behind should not have been considered in isolation but contemplated in light of the realities of the situation.

The COMELEC also faults petitioner for travelling to the US "frequently" using her US passport. A closer examination of the factual circumstances at the time, however, reveals that petitioner had a justifiable reason for doing so.

When petitioner came back to the Philippines in May 2005, she was admittedly still a US citizen. She reacquired her Philippine citizenship on 7 July 2006 under the auspices of Republic Act No. 9225 and became a dual citizen of the Philippines and the US. It was only on 20 October 2010 that petitioner renounced her US citizenship and became a pure Filipino citizen. Thus, petitioner was a US citizen from May 2005 to 20 October 2010.

Section 215(b) of the US Immigration and Nationality Act provides that "it shall be unlawful for any citizen of the United States to depart from or enter, or attempt to depart from or enter, the United States unless he bears a valid United States passport." This provision is echoed in Section 53.1 of the US Code of Federal Regulations, unless the US citizen falls under any of the exceptions provided therein.[195]

Petitioner, as a US citizen, was required by law to use her US passport when travelling to and from the US. Notwithstanding her dual citizenship and the abandonment of her US domicile, she could not have entered or departed from the US if she did not use her US passport.

In Maquiling v. COMELEC,[196] which I penned for the Court, while we ruled that the use of a foreign passport negates the earlier renunciation of such foreign citizenship, did not say, however, that the use of a foreign passport after reacquisition of Philippine citizenship and before the renunciation of the foreign citizenship adversely affects the residency of a candidate for purposes of running in the elections. This case cannot, therefore, be used as basis to negate petitioner's residency. This Maquiling decision involved Rommel Arnado who was elected Mayor of Kauswagan, Lanao del Norte in the 2010 elections. He ran also for the 2013 elections for the same post and won again. The Court affirmed the Maquiling doctrine in the case of Arnado v. COMELEC.[197] The doctrine was not expanded in any manner as to affect petitioner's citizenship claim. The Maquiling doctrine solely has to do with the effect of the continued use of a US passport after the renunciation of US citizenship. In the case of petitioner,

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there is absolutely no evidence, which even COMELEC admits, that she used a US passport after she renounced her US citizenship on 20 October 2010. Clearly, Maquiling and Arnado are not relevant to the petitioner's case until new proof can be adduced contradicting the present state of the evidence on record that petitioner never used her US passport after she renounced her US citizenship.

Taking into account all these pieces of evidence, it cannot be said that petitioner made a false material representation in her 2016 certificate of candidacy for president as far as her residency is concerned. The totality of these circumstances shows that indeed, she had re-established her residence in the Philippines for 10 years and 11 months until the day before the elections in May 2016, which is sufficient to qualify her to run for president in the country. At the very least, it negates a finding of deliberate intention on her part to mislead the electorate with regard to her residency. Evidently, a single statement in her 2013 certificate of candidacy for senator cannot be deemed to overthrow the entirety of the evidence on record, which shows that her residence in the Philippines commenced in May 2005.

IV.
B. ON CITIZENSHIP

In the assailed Resolutions, the COMELEC also declared that petitioner made a false material representation when she declared that she was a natural-born citizen of the Philippines. According to the commission, petitioner's inability to prove her blood relationship to a Filipino parent precluded her from ever claiming natural-born status under the 1935 Constitution. COMELEC argues, therefore, that her declaration as to her citizenship must necessarily be considered false.

I find no support whatsoever for these legal conclusions.

Petitioner did not make a false material representation regarding her citizenship in her 2016 Certificate of Candidacy for president.

Considering that there has been no definitive ruling on the citizenship of foundlings, it would be unreasonable and unfair for the COMELEC to declare that petitioner deliberately misrepresented her status as a natural-born citizen of the Philippines. In fact, the evidence she submitted in support of her claim of citizenship gives us every reason to accept her assertion of good faith.

In any event, I believe that there is sufficient legal basis to sustain a presumption of citizenship in favor of petitioner notwithstanding the absence of any physical proof of her filiation. Her natural-born status can be founded from solid interpretation of the provisions of the Constitution.

There was no deliberate attempt to mislead, misinform, or hide a fact that would otherwise render her ineligible.

Contrary to claims that petitioner committed deliberate misrepresentation when she declared that she is a natural-born Filipino citizen, the following documents support a finding of good faith on her part:

1. Adoption Decree

The adoption decree issued in favor of petitioner in 1974 allows her to legally claim to be the daughter of Ronald Allan Poe and Jesusa Sonora Poe. This proposition finds support in statutes and jurisprudence.

In Republic v. Court of Appeals, We held that upon entry of an adoption decree, the law creates a relationship in which adopted children were declared "born of' their adoptive parents.[198]

Congress confirmed this interpretation when it enacted R.A. 8552, which provides that the "adoptee shall be considered the legitimate son/daughter of the adopter for all intents and purposes and as such is entitled to all the rights and obligations provided 1 by law to legitimate sons/daughter born to them without discrimination of any kind."[199]

Apart from obtaining the status of legitimate children, adoptees are likewise entitled to maintain the strict confidentiality of their adoption proceedings. The provisions of P.D. 603,[200] R.A. 85152[201] and the Rule on Adoption[202] stipulate that all records, books, and papers relating to the adoption cases in the files of the court, the Department of Social Welfare and Development, or any other agency or institution participating in the

adoption proceedings shall be kept strictly confidential. The records are permanently sealed and may be opened only upon the court's determination that the disclosure of information to third parties if "necessary" and "for the best interest of the adoptee."[203] This grant of confidentiality would mean very little if an adoptee is required to go beyond this decree to prove her parentage.

2. Certificate of Live Birth

Upon the issuance of an adoption decree, an amended certificate of birth is issued by the civil registrar attesting to the fact that the adoptee is the child of the adopters by being registered with their surname.[204] Like all persons, petitioner has the right to rely on this birth certificate for information about her identity, status and filiation.

Article 410 of the Civil Code states that the books making up the civil register and all documents relating thereto are considered public documents and shall be prima facie evidence of the facts therein contained.[205] As a public document, a registered certificate of live birth enjoys the presumption of validity.[206]

Petitioner's birth certificate also has the imprimatur of no less than the Municipal Court of San Juan, Rizal Province.[207] In the absence of a categorical pronouncement in an appropriate proceeding that the decree of adoption is void, the birth certificate and the facts stated therein are deemed legitimate, genuine and real.[208]

Petitioner thus cannot be faulted for relying on the contents of a public document which enjoys strong presumptions of validity under the law. She is actually obliged to do so because the law does not provide her with any other reference for information regarding her parentage. It must be noted that records evidencing her former foundling status have been sealed after the issuance of the decree of adoption. In Baldos v. Court of Appeals and Pillazar,[209] We held that it is not for a person to prove the facts stated in his certificate of live birth, but for those who are assailing the certificate to prove its alleged falsity.

The issuance of an amended certificate without any notation that it is new or amended or issued pursuant to an adoption decree, should not be taken against petitioner, because it merely complies with the confidentiality provisions found in adoption laws.[210] Under Section 16 of the Rule on Adoption (A.M. No. 02-6-02-SC, 31 July 2002), it shall be the responsibility of the civil registrar where the foundling was registered to annotate the adoption decree on the foundling certificate, and to prepare and a new birth certificate without any notation that it is a new or amended certificate.

3. Voter's ID

The Voter's ID issued to petitioner likewise prove that she acted in good faith when she asserted that she was a natural-born citizen of the Philippines. Precisely because of the entries in these documents, Poe could not be expected to claim any citizenship other than that of the Philippines. Hence, she could not have committed a

material misrepresentation in making this declaration.

4. Philippine Passport

In 1996, R.A. 8239 (Philippine Passport Act of 1996) was passed. The law imposes upon the government the duty to issue passport or any travel document to any citizen of the Philippines or individual who complies with the requirements of the Act.[211] "Passport" has been defined as 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.[212]

Section 5 of R.A. 8239 states that no passport shall be issued to an applicant unless the Secretary or his duly authorized representative is satisfied that the applicant is a Filipino citizen who has complied with the requirements. Conversely, a Philippine passport holder like petitioner is presumed to be a Filipino citizen, considering the presumption of regularity accorded to acts of public officials in the course of their duties. When the claim to Philippine citizenship is doubtful, only a "travel document" is issued.[213] A travel document, in lieu of a passport, is issued to stateless persons who are likewise permanent residents, or refugees granted such status or asylum in the Philippines.[214] If the State considers foundlings to be anything else but its citizens (stateless persons, for example), it would not have given them passports. However, since the 1950s, the Department of Foreign Affairs (DFA) has been issuing passports to foundlings.[215] A quick look at the official website[216] of the DFA would show an enumeration of supporting documents required of foundlings for the issuance of a Philippine passport; to wit, certificate of foundling authenticated by the Philippine Statistics Authority, clearance from the Department of Social Work and Development (DSWD), passport of the person who found the applicant, and letter of authority or endorsement from DSWD for the issuance of passport. The only conclusion that can be made is that foundlings are considered by the State, or at least by the executive, to be Philippine citizens.

Rule 130, Section 44[217] of the Rules of Court has been cited by the Court to support the finding that entries in the passport are presumed true.[218] On its face, the Philippine passport issued to Poe on 16 March 2014 indicates her citizenship to be "Filipino." Hence, the COMELEC committed grave abuse of discretion in not even considering this as evidence in determining whether Poe intended to deceive the electorate when she indicated that she was a natural-born Filipino.

5. Bureau of Immigration Order

While findings made by Bureau of Immigration (BI) on the citizenship of petitioner is not conclusive on the COMELEC,[219] such negate any notion of bad faith or malice on the part of petitioner when she made the representation in her CoC that she was a natural-born citizen. At the time, the presumption created by the Order was in operation. In effect, petitioner had color of authority to state that she was a natural-born citizen of the Philippines.

It has been argued that petitioner had obtained the BI order only because she misrepresented herself to have been "born ... to Ronald Allan Kelley Poe and Jesusa Sonora Poe."[220] However, as previously discussed, the potent policy interests[221] embedded in the confidentiality of adoption records fully justifies her decision to write the names of her adoptive parents as indicated in her birth certificate.

6. The Decision of the Senate Electoral Tribunal in SET Case No. 001-05

The SET Decision is a prima facie finding of natural-born citizenship that petitioner can rely on. The fact that the SET Decision was issued later than the filing by petitioner of her CoC for president does not take away from its validity as another tangible basis of petitioner to validly claim that she was a natural-born Filipino. It should be borne in mind that the SET Decision is a determination of petitioner's natural-born status as of the time she was

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elected and assumed her duties as senator of the Philippines. While the Decision was later in issuance, the application of this ruling by the SET significantly predates the filing of her 2016 certificate of candidacy for president.

Taken together, the enumerated documents provide petitioner with sufficient basis for her claim of citizenship. She cannot be faulted for relying upon these pieces of evidence, particularly considering that at the time she made her declaration that she was a natural-born citizen, the presumption created by these documents has not been overturned.

At any rate, it would be absurd for petitioner to answer "foundling" in every document where her filiation and citizenship is required when her birth certificate and other official documents provide otherwise. Not only would this defeat the purpose of the degree of confidentiality prescribed by the law, she would even run the risk of causing offense to her parents whom she would deprive of actual recognition.

Petitioner's honest belief that she was a natural-born citizen is further shown by her constant assertion of her status and is corroborated by official documents and acts of government issued in her favor. I believe that these documents, at the very least, negate any deliberate intent on her part to mislead the electorate as to her citizenship qualification.

Legal Significance of Confirmation of Renunciation

It had been posited that petitioner's repatriation as a citizen of the Philippines under R.A. 9225 had been rendered doubtful by her subsequent acts in 2011, in particular her execution of an Oath/Affirmation of Renunciation of Nationality of United States before a Vice Consul of the U.S. Embassy in the Philippines;[222] her completion of a Questionnaire on Information for Determining Possible Loss of U.S. Citizenship;[223] and the issuance of a Confirmation of Loss of Nationality of the United States.[224]

Suffice it to state that these documents were; executed by petitioner only for the purpose of complying with the requirements of U.S. law. It had no relevance to petitioner's reacquisition of citizenship under Philippine law. The fact remains that she had already properly renounced her U.S. citizenship by executing the Affidavit of Renunciation required in Section 5 of R.A. 9225. Any act done thereafter served only to confirm this earlier renunciation of foreign citizenship.

Respondent validly presumed that
she is a citizen of the Philippines.

The failure of the COMELEC to properly appreciate evidence showing good faith on the part of petitioner is compounded by its narrow-minded approach to the question of citizenship. There is sufficient basis to support the presumption that foundlings are citizens of the Philippines.

Although the citizenship of foundlings is not expressly addressed by the language of Article IV of the Constitution, Philippine statutes, administrative regulations and jurisprudence support this conclusion, even in light of the absence of physical proof to establish foundlings filiation.

Moreover, a presumption of foundlings their natural-born status can be established by the deliberations of the 1935 Constitution and the history of its provisions. These legal authorities and materials serve as sufficient justification for any foundlings good faith belief that she is a natural-born citizen.

The standard proposed by the COMELEC - physical proof of blood relation to a parent who is a citizen of the Philippines - is an impossible, oppressive and discriminatory condition. To allow the imposition of this unjust and unreasonable requirement is to sanction a violation of the Constitution and our obligations under existing

international law.

In Philippine law, a foundling refers to a deserted or abandoned infant; or a child whose parents, guardian, or relatives are unknown; or a child committed to an orphanage or charitable or similar institution with unknown facts of birth and parentage, and registered as such in the Civil Register.[225]

The ruling of the COMELEC is premised solely on the admitted fact that petitioner is a foundling. As explained in the assailed Resolutions, petitioner was found abandoned in the parish church of Jaro, Iloilo, on 3 September 1968 by a certain Edgardo Militar. She was later on legally adopted by Ronald Allan Poe and Jesusa Sonora Poe. To date, however, her biological parents are unknown.

According to the COMELEC, these circumstances render the citizenship of petitioner questionable. It claims that I since she is unable to establish the identities of her parents, she is likewise incapable of proving that she is related by blood to a Filipino parent. Accordingly, she cannot be considered a natural-born Filipino citizen. These arguments are unmeritorious.

Filiation as a matter of legal fiction

Under Philippine law, the parentage of a child is a matter of legal fiction. Its determination relies not on physical proof, but on legal presumptions and circumstantial evidence. For instance, a child is disputably or conclusively presumed legitimate, i.e. born of two married individuals depending on the period that elapsed between the birth of that child and the ce1ebration[226] or termination[227] of the spouses' marriage. The presumption of the fact of legitimacy is one of the strongest known to the law, and cannot be overthrown except by stronger evidence.[228] As the Court explained in Rodolfo A. Aguilar v. Edna G. Siasat:[229]

> There is perhaps no presumption of the law more firmly established and founded on sounder morality and more convincing reason than the presumption that children born in wedlock are legitimate. This presumption indeed becomes conclusive in the absence of proof that there is physical impossibility of access between the spouses during the first 120 days of the 300 days which immediately precedes the birth of the child due to (a) the physical incapacity of the husband to have sexual intercourse with his wife; (b) the fact that the husband and wife are living separately in such a way that sexual intercourse is not possible; or (c) serious illness of the husband, which absolutely prevents sexual intercourse. Quite remarkably, upon the expiration of the periods set forth in Article 170, and in proper cases Article 171, of the Family Code (which took effect on 03 August 1988), the action to impugn the legitimacy of a child would no longer be legally feasible and the status conferred by the presumption becomes fixed and unassailable. (Emphases supplied)

The Family Code also allows paternity and filiation to be established through any of the following methods: (1) record of birth; (2) written admission of filiation; (3) open and continuous possdssion of the status of a legitimate or an illegitimate child; (4) or other means allowed by the Rules or special laws.[230] Notably, none of these methods requires physical proof of parentage:

(a) The entries in a record of birth depend only on the statements of certain persons identified by law: in general, administrator of the hospital, or in absence thereof, either of the following: the physician/nurse/midwife/hilot who attended the birth. In default of both, either or both parents shall cause the registration of the birth; and if the birth occurs in a vessel/vehicle/airplane while in transit, registration shall be the joint responsibility of the driver/captain/pilot and the parents.[231]

(b) Filiation may also be proved by an admission of legitimate filiation in a public document or a private handwritten instrument and signed by the parent concerned. In Aguilar, the Court declared that such due recognition in any authentic writing is, in itself, a consummated act of acknowledgment of the child and requires no further court action.[232]

(c) With respect to open and continuous possession of the status of children and other means allowed by the Rules of Court, the relevant sections of Rule 130 provide:

> SEC. 39. Act or declaration about pedigree. - The act or declaration of a person deceased, or unable to testify, in respect to the pedigree of another person related to him by birth or marriage, may be received in evidence where it occurred before the controversy, and the relationship between the two persons is shown by evidence other than such act or declaration. The word "pedigree" includes relationship, family genealogy, birth, marriage, death, the dates when and the places where these facts occurred, and the names of the relatives. It embraces also facts of family history intimately connected with pedigree.
>
> SEC. 40. Family reputation or tradition regarding pedigree. - The reputation or tradition existing in a family previous to the controversy, in respect to the pedigree of any one of its members, may be received in evidence if the witness testifying thereon be also a member of the family, either by consanguinity or affinity. Entries in family bibles or other family books or charts, engraving on rings, family portraits and the like, may be received as evidence of pedigree.
>
> Evidently, there is no legal basis for the standard proposed by the COMELEC and private respondents. Physical or scientific proof of a blood relationship to a putative parent is not required by law to establish filiation or any status arising therefrom such as citizenship. In fact, this Court has repeatedly emphasized that DNA evidence is not absolutely essential so long as paternity or filiation may be established by other proof.[233] There is, therefore, no reason to impose this undue burden on petitioner, particularly in light of her situation as a foundling. Instead of requiring foundlings to produce evidence of their filiation - a nearly impossible condition - administrative agencies, the courts and even Congress have instead proceeded on the assumption that these children are citizens of the Philippines.

Contemporaneous and subsequent
construction by the legislature, executive
and judicial branches of government

Although the details of their births cannot be established, foundlings are provided legal protection by the state through statutes, rules, issuances and judicial decisions allowing their adoption. As early as 1901, the Code of Civil Procedure[234] recognized that children whose parents are unknown have a right to be adopted. Failure to identify the parents of the child was not made an obstacle to adoption; instead, the rules allowed a legal guardian, or the trustees/directors of an orphan asylum, to grant the required consent on behalf of the unknown parents. Similar provisions were included in the subsequent revisions of the Rules of Court in 1940[235] and 1964.[236]

Early statutes also specifically allowed the adoption of foundlings. Act No. 1670 was enacted precisely to provide for the adoption of poor children who were in the custody of asylums and other institutions. These children included orphans or "any other child so maintained therein whose parents are unknown":[237]

> SECTION 548. Adoption of child from institution for poor children. - Upon the application of any person to the competent authorities of any asylum or institution where the poor children are maintained at public expense to adopt any child so maintained therein, it shall be the duty of such authorities, with the approval of the Secretary of the Interior, to report the fact to the provincial fiscal, or in the City of Manila to the fiscal of the city, and such official shall thereupon prepare the necessary adoption papers and present the matter to the proper court. The costs of such proceeding, in court shall be de oficio.

The provisions of Act No. 1670 were substantially included in the Administrative Code of 1916[238] and in the Revised Administrative Code of 1911.[239]

In 1995, Congress enacted Republic Act No. 8043 to establish the rules governing the "Inter-country Adoption of Filipino Children." The adoption of a foundling was similarly recognized under Section 8 of the statute, which

allowed the submission of a foundling certificate to facilitate the inter-country adoption of a child.[240] A few years later or in 1998, the law on "Domestic Adoption of Filipino Children" was amended through R.A. 8552. This time, a specific provision was included to govern the registration of foundlings for purposes of adoption:

> SECTION 5. Location of Unknown Parent(s). - It shall be the duty of the Department or the child-placing or child-caring agency which has custody of the child to exert all efforts to locate his/her unknown biological parent(s). If such efforts fail, the child shall be registered as a foundling and subsequently be the subject of legal proceedings where he/she shall be declared abandoned.

In 2009, Congress passed R.A. 9523,[241] which allowed the Department of Social Welfare and Development (DSWD) to declare a child "legally available for adoption" as a prerequisite for adoption proceedings. Under this statute, foundlings were included in the definition of abandoned children[242] and expressly allowed to be adopted, provided they were first declared by the DSWD as available for adoption.[243] Administrative Order No. 011-09 was adopted by that department in 2009 to implement the statute.[244]

These enactments and issuances on adoption are significant, because they effectively recognize foundlings as citizens of the Philippines. It must be emphasized that jurisdiction over adoption cases is determined by the citizenship of the adopter and the adoptee. As explained by this Court in Spouses Ellis v. Republic,[245] the Philippine Civil Code adheres to the theory that jurisdiction over the status of a natural person is determined by the latter's nationality. This 1uling cites Article 15 of the Civil Code:

> ARTICLE 15. Laws relating to family rights and duties, or to the status, condition and legal capacity of persons are binding upon citizens of the Philippines, even though living abroad.

The citizenship of a person is a "status" governed by this provision is clear, pursuant to our ruling in Board of Immigration Commissioners v. Callano.[246] In that case, We applied the nationality rule in Article 15 to determine whether some individuals had lost their Philippine citizenship:

> "The question, whether petitioners who are admittedly Filipino citizens at birth subsequently acquired Chinese citizenship under the Chinese Law of Nationality by reason of recognition or a prolonged stay in China, is a fit subject for the Chinese law and the Chinese court to determine, which cannot be resolved by a Philippine court without encroaching on the legal system of China. For, the settled rule of international law, affirmed by the Hague Convention on Conflict of Nationality Laws of April 12, 1930 and by the International Court of Justice, is that." Any question as to whether a person possesses the nationality of a particular state should be determined in accordance with the laws of that state. (quoted in Salonga, Private International Law, 1957 Ed., p. l 12) There was no necessity of deciding that question because so far as concern the petitioners' status, the only question in this proceeding is: Did the petitioners lose their Philippine citizenship upon the performance of certain acts or the happening of certain events in China? In deciding this question no foreign law can be applied. The petitioners are admittedly Filipino citizens at birth, and their status must be governed by Philippine law wherever they may be, in conformity with Article 15 (formerly Article 9) of the Civil Code which provides as follows: "Laws relating to family rights and duties, or to the status, conditions and legal capacity of persons are binding upon citizens of the Philippines, even though living abroad." Under Article IV, Section 2, of the Philippine Constitution, "Philippine citizenship. may be lost or reacquired m the manner provided by law," which implies that the question of whether a Filipino has lost his Philippine citizenship shall be determined by no other than the Philippine law. (Emphasis supplied)

Ellis also discredits the assertion that this Court has no power to determine the citizenship of a foundling based only on presumptions. In that case, an infant named Baby Rose was abandoned at the Heart of Mary Villa, an institution for unwed mothers. When an American couple, the Spouses Ellis, later sought to adopt Baby Rose, the Supreme Court presumed the citizenship of the infant for purposes of adoption:

> "In this connection, it should be noted that this is a proceedings in rem, which no court may entertain unless it has jurisdiction, not only over the subject matter of the case an4 over the parties, but also over the res, which is the personal status of Baby Rose as well as that of petitioners herein. Our Civil Code (Art. 15) adheres to the theory that jurisdiction over the status of a natural person is determined by the latters' nationality. Pursuant to this theory, we have jurisdiction over the status of Baby Rose, she being a citizen of the Philippines, but not over the status of the petitioners, who are foreigners. Under our political law, which is patterned after the Anglo-American legal system, we have, likewise, adopted the latter's view to the effect that personal status, in general, is determined by and/or subject to the jurisdiction of the domiciliary law (Restatement of the Law of Conflict of Laws, p. 86; The Conflict of Laws by Beale, Vol. I, p. 305, Vol. II, pp. 713-714). This, perhaps, is the reason why our Civil Code does not permit adoption by nonresident aliens, and we have consistently refused to recognize the validity of foreign decrees of divorce - regardless of the grounds upon which the same are based - involving citizens of the Philippines who are not bona fide residents of the forum, even when our laws authorized absolute divorce in the Philippines. (citations omitted and emphasis supplied)

In the 1976 case Duncan v. CFI of Rizal,[247] the Court again presumed the Philippine citizenship of a foundling for purposes of adoption. Notwithstanding the refusal of the de facto guardian o reveal the identity of the child's mother, the adoption of the abandoned child was allowed in order to prevent a "cruel sanction on an innocent child":

> Having declared that the child was an abandoned one by an unknown parent, there appears to be no m re legal need to require the written consent of such parent o the child to the adoption. xxx.
>
> The trial court in its decision had sought refuse in the ancient Roman legal maxim "Dura lexsedlex" to cleanse its hands of the hard and harsh decision it rendered. While this old adage generally finds apt application in many other legal cases, in adoption of children, however, this should be softened so as to apply the law with less severity and with compassion and humane understanding, for adoption is more or the benefit of unfortunate children, particularly those born out of wedlock, than for those born with a silver spoon in their mouths. All efforts or acts designed to provide homes, love, care and education for unfortunate children, who otherwise may grow from cynical street urchins to hardened criminal offenders and become serious social problems, should be given the widest latitude of sympathy, encouragement and assistance. The law is not, and should not be made, an instrument to impede the achievement of a salutary humane policy As often as is legally and lawfully possible, their texts and intendments should be construed so as to give all the chances for human life to exist - with a modicum promise f a useful and constructive existence.
>
> . . . If we are now to sustain the decision of the court below, this Tribunal will be doing a graver injustice to all concerned particularly to said spouses, and worse, it will be imposing a cruel sanction on this innocent child and on all other children who might be similarly situated. We consider it to be justifiable and more humane to formalize a factual relation, that of parents and son, existing between the herein petitioning spouses and the minor child baptized by them as Colin Berry Christensen Duncan, than to sustain the hard, harsh and cruel interpretation of he law that was done by the private respondent court and Judge. It is Our view that it is in consonance with the rue spirit and purpose of the law, and with the policy of the State, to uphold, encourage and give life and meaning to the existence of family relations.

Although the citizenship of the child in Duncan was not elaborated upon, the Court proceeded to assume jurisdiction over the adoption proceedings. From this act, it may be inferred that the Court presumed that the child was a Philippine citizen whose status m y be determined by a Philippine court pursuant to Article 15 of the Civil Code.

The foregoing enactments and decisions prove the contemporaneous and subsequent interpretation of the Constitution b the three branches of government. It is evident that Congress, certain administrative agencies and even the courts have always proceeded on the assumption that these children are Filipino citizens in the absence

of evidence to the contrary.

The assertion that citizenship cannot be made to rest upon a presumption is contradicted by the previous pronouncements of this Court. In Board of Commissioners et. al v. Dela Rosa,[248] the Court utilized a presumption of citizenship in favor of respondent William Gatchalian on the basis of an Order of the Bureau of Immigration admitting him as a Filipino citizen.

> On March 15, 1973, then Acting Commissioner Nituda issued an Order (Annex "6", counter-petition which affirmed the Board of Special Inquiry No. 1 decision dated July 6, 1961 admitting respondent Gatchalian and others as Filipino citizens; recalled the July 6, 1962 warrant of arrest an revalidated their Identification Certificates.
>
> The above order admitting respondent as a Filipino citizen is the last official act of the government on the basis of which respondent William Gatchalian continually exercised the rights of a Filipino citizen to the present. Consequently, the presumption of citizenship lies in favor of respondent William Gatchalian.

In 2004, a presumption was likewise made y this Court to resolve issues involving the citizenship of presidential candidate Fernando Poe, Jr. in Tecson v. COMELEC.[249] In particular, the presumption that Poe's grandfather had been a resident of San Carlos, Pangasinan, from 1898 to 1902, entitled him to benefit from the en masse Filipinization effected by the Philippine Bill of 1902. We explained:

> The death certificate of Lorenzo Pou would indicate that he died on 11 September 1954, at the age of 84 years, in San Carlos, Pangasinan. It could thus be assumed that Lorenzo Pou was born sometime in the year 1870 when the Philippines was still a colony of Spain. Petitioner would argue that Lorenzo Pou was not in the Philippine during the crucial period of from 1898 to 1902 considering that there was no existing record about such fact in the Records Management an Archives Office. Petitioner, however, likewise failed to show that Lorenzo Pou was at any other place during the same period. In his death certificate, the residence of Lorenzo Pou was stated to be San Carlos, Pangasinan. In the absence of any evidence to the contrary, it should be sound to conclude, or at least to presume, that the place of residence of a person at the time of his death was also his residence before death. It would be extremely doubtful if the Records Management and Archives Of ice would have had complete records of all residents of the Philippines from 1898 to 1902.
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> x x x x
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> (3) In ascertaining, in G.R. No. 161824, whether grave abuse of discretion has been committed by the COMELEC, it is necessary to take on the matter of whether or not private respondent FPJ is a natural-born citizen, which, in turn, depended on whether or not the father of private respondent, Allan F. Poe, would have himself been a Filipino citizen and, in the affirmative, whether or not the alleged illegitimacy of private respondent prevents him from taking after the Filipino citizenship of his putative father. Any conclusion on the Filipino citizenship of Lorenzo Pou could only be drawn from the presumption that having died in 1954 at 84 years old, Lorenzo would have been ho n sometime in the year 1870, when the Philippines was under Spanish rule, and that San Carlos, Pangasinan, his place of residence upon his death in 1954, in the absence of any other evidence, could have well been his place of residence before death, such that Lorenzo Pou would have benefited from the en masse Filipinization that the Philippine Bill had effected in 1902. That citizenship (of Lorenzo Pou), if acquired, would thereby extend to his son, Allan F. Poe, father of private respondent FPJ. The 1935 Constitution, during which regime private respondent FPJ has seen first light, confers citizenship to all persons whose fathers e Filipino citizens regardless of whether such children are legitimate or illegitimate. (Emphasis supplied)

It is reasonable to presume that petitioner is a Filipino citizen, considering that she was found abandoned in Iloilo at a time when the number of children born to foreigners in the country as but a small fraction of the total number of births in the Philippines.[250] without evidence to the contrary, this presumption must stand in accordance with

the rules on evidence.

The Place of Probability in the Rule of Law

Obedience to the rule of law is the bedrock of the Philippine justice system.[251] In order to expound and define the true meaning and operation of these laws, they must first be ascertained by judicial determination, and in order "to produce uniformity in these determinations, they ought to be submitted, in the last resort, to one supreme tribunal xxx authorized to settle and declare in the last resort a uniform rule of civil justice."[252]

The rules of evidence, authorized by the Constitution, is a means by which uniformity is instituted in the judicial system whether in courts of law or administrative agencies granted quasi-adjudicatory power. These rules govern the means of ascertaining the truth respecting a matter of fact.[253]

It must be emphasized that ascertaining evidence does not entail absolute certainty. Under Rule 128 of the Rules of Court, evidence must only induce belief in the existence of a fact in issue, thus:

> Section 4. Relevancy; collateral matters. - Evidence must have such a relation to the fact in issue as to induce belief in its existence or nonexistence. Evidence on collateral matters shall not be allowed, except when it tends in any reasonable degree to establish the probability or improbability of the fact in issue. (Emphasis supplied)

Hence, judges are not precluded from drawing conclusions from inferences based on established facts. In the case of Joaquin v. Navarro,[254] the Court proceeded to discuss this process:[255]

> In speaking of inference the rule can not mean beyond doubt, for "inference is never certainty, but it may be plain enough to justify a finding of fact."
>
> x x x x
>
> "Juries must often reason," says one author, "according to probabilities, drawing an inference that the main fact in issue existed from collateral facts not directly proving, but strongly tending to prove, its existence. The vital question in such cases is the cogency of the proof afforded by the secondary facts. How likely, according to experience, is the existence of the primary fact if certain secondary facts exist?" The same author tells us of a case where "a jury was justified in drawing the inference that the person who was caught firing a shot at an animal trespassing on his land was the person who fired a shot about an hour before at the same animal also trespassing." That In fact, the circumstances in the illustration leave greater room for another possibility than do the facts of the case at hand.[256] (Emphasis supplied and citations omitted)

This is enshrined in established legal doctrines, including that of probable cause for preliminary investigation,[257] probable cause for issuance of a warrant of arrest,[258] substantial evidence,[259] preponderance of evidence,[260] and character evidence.[261]

Jurisprudence is replete with cases decided on the basis of probability. For example, the Court affirmed an award of work-related compensation to an employee who contracted rectal cancer based on a probability, stating thus:

> The degree of proof required to establish work connection between the disabling ailment and the working conditions is merely substantial evidence, or "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion" Probability not certainty is the touchstone in testing evidence of work-connection.[262] (Emphasis in the original and citations omitted).

In criminal cases, it has also been ruled that "extrajudicial confessions, independently made without collusion, which are identical with each other in their essential details and are corroborated by other evidence on record, are admissible as circumstantial evidence against the person implicated to show the probability of the latter's actual

participation in the commission of the crime."[263]

Note that the two cases cited pertain to different quantum of evidence (substantial for administrative and beyond reasonable doubt for criminal), but both have relied upon probabilities to rule upon n issue. In that sense, it can be concluded that probabilities are considered s essential elements of the judicial determination of relevant evidence.

While it is true that administrative or quasi-judicial bodies are not bound by the technical rules of procedure in the adjudication of cases, this procedural rule should not be construed as a lice se to disregard certain fundamental evidentiary rules.[264] In the instant case COMELEC refused to consider evidence that tends to "establish the probability of a fact in issue," which in this case pertains to petitioner's citizenship, claiming that it "did not and could not show bloodline to a Filipino pare t as required under jus sanguinis."[265] This, to my mind, constitutes gross misappreciation of the facts.

First and foremost, it is admitted that petitioner has typical Filipino features, with her brown eyes, low nasal bridge, black hair, oval-shaped face and height. This by itself, does not evince belief that as to her definite citizenship, but coupled with other circumstantial evidence-that she was abandoned as an infant, that the population of Iloilo in 1968 was Filipino[266] and there were not international airports in Iloilo a that time-establishes the probability the she was born of Filipino parents.

Such probability is further enhanced by the statistics obtained from the Philippine Statistics Authority, showing that 10,558,278 children (99.03%) were born to Filipino parents while 15,98 (0.07%) were born to foreigners in the Philippines from 1965 to 1975.[267] Considering that the e1ection cases require a mere preponderance of evidence,[268] then it can be reasonably concluded that petitioner has fulfilled the requirements of citizenship under the law. In the words of Justice Tuazon in Joaquin, this conclusion is not airtight but rational; never certain but plain enough to justify a fact.

The rationale for implementing this policy is simple - to require abandoned children to prove their parentage or status before they are granted protection would compound their already dire predicament. That requirement would render these unfortunate children even more vulnerable, in contravention of the declared policy of the State to "defend the right of children to assistance, including proper care an nutrition, and special protection from all forms of neglect, abuse, cruelty exploitation, and other conditions prejudicial to their development."[269]

Respondent may he considered a natural-born
citizen under the 1935 Constitution.

Having established that foundlings may be presumed citizens of the Philippines, the question now turns to whether they may be considered natural-born. I believe that this issue may be resolved by utilizing both an originalist and a functionalist approach to the interpretation of the Constitution.

Originalist v. Functionalist Interpretation

In its Memorandum, the COMELEC asserted that foundlings cannot be considered natural-born citizens in light of the principle of inclusion unius est exclusion alterius.[270] This line of reasoning stems from an originalist reading of the Constitution, which is anchored on the principle that constitutional issues are to be resolved by looking only at the text of the Constitution and at the clear intent of the framers.[271] Intentionalism is a species of originalism. Another species is textualism, which has been described as "that [which] looks to the Constitution's original public meaning,"[272] or "read[s] the language of the Constitution as the man on the street would understand it."[273]

> It is a fallacy, however, to assert that there is only one - originalist/textualist - approach to interpret the Constitution. There are many approaches to constitutional interpretation, sub-classified into a) originalism v.

> non-originalism, and b) formalism v. functionalism, among others. In his commentary on the Philippine Constitution, Bernas enumerated and described at least five modes of constitutional interpretation, i.e. historical approach,[274] structural approach,[275] doctrinal approach,[276] ethical approach,[277] and prudential approach.[278]

In legal scholarship, the functionalist approach appears to be defined most clearly by what it is not - it is not formalism.[279] William Eskridge, a member of the Yale Law School faculty wrote a paper entitled "Relationships between Formalism and Functionalism in Separation of Powers Cases" in which he distinguished formalism from functionalism:

> There are no fewer than three different ways that constitutional formalism and functionalism can be contrasted. One is their apparently different approach to legal rules and standards. Formalism might be associated with bright-line rules that seek to place determinate, readily enforceable limits on public actors. Functionalism, at least as an antipode, might be associated with standards or balancing tests that seek to provide public actors with greater flexibility.
>
> Another way of contrasting formalism and functionalism focuses on the reasoning process by which we reach rules or standards. Formalism might be understood as deduction from authoritative constitutional text, structure, original intent, or all three working together. Functionalism might be understood as induction from constitutional policy and practice, with practice typically being examined over time. Formalist reasoning promises stability and continuity of analysis over time; functionalist reasoning promises adaptability and evolution.
>
> Finally and relatedly, formalism and functionalism could be contrasted as emphasizing different goals for law. Formalism might be understood as giving priority to rule of law values such as transparency, predictability, and continuity in law. Functionalism, in turn, might be understood as emphasizing pragmatic values like adaptability, efficacy, and justice in law.[280]

I emphasize that this Court has utilized different approaches to interpreting the Constitution. It is not mandated to fake only an originalist view of the fundamental law. On the contrary: the Court, through Justice Jose P. Laurel, considered the 1935 Constitution to be a "living constitution.[281] This concept is said to have originated from Missouri v. Holland[282] penned by Justice Oliver Wendell Holmes:

> When we are dealing with words that also are a constituent act, like the Constitution of the United States, we must realize that they have called into life a being the development of which could not have been foreseen completely by the most gifted of its begetters. It was enough for them to realize or to hope that they had created an organism; it has taken a century and has cost their successors much sweat and blood to prove that they created a nation. (Emphasis supplied)

Chief Justice William H. Rehnquist, in his Notion of Living Constitution,[283] ventured to say that the framers purposely couched the United States Constitution in general terms:

> The framers of the Constitution wisely spoke in general language and left to succeeding generations the task of applying that language to the unceasingly changing environment in which they would live. Those who framed, adopted, and ratified the Civil War amendments to the Constitution likewise used what have been aptly described as "majestic generalities" in composing the fourteenth amendment. Merely because a particular activity may not have existed when the Constitution was adopted, or because the framers could not have conceived of a particular method of transacting affairs, cannot mean that general language in the Constitution may not be applied to such a course of conduct. Where the framers of the Constitution have used general language, they have given latitude to those who would later interpret the instrument to make that language applicable to cases that the framers might not have foreseen. (Emphasis Supplied)

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Theorists utilizing the functionalist approach have likened Constitutions to animate beings that can evolve to the extent that they become hardly recognizable by their framers. In other words, they believe that the Constitution may be interpreted in a manner that goes beyond the original intent of the persons who crafted the text.

In this case, the use of both the originalist and the functionalist approaches leads to the same result - that petitioner pad sufficient reason to believe that she is a natural-born citizen despite the admitted fact that she was a foundling.

The Originalist Approach:
Interpretation in accordance with the
intent of the framers

Respondents urge the Court to resolve the citizenship issue in this case by using the originalist approach, i.e. to make an interpretation based primarily on an examination of the text and the original intent of the framers of the 1935 Constitution. They posit that there was no intent on the part of the delegates to the 1934 Constitutional Convention to consider foundlings as natural-born citizens, "for had it been so, the text of the provision would have explicitly stated it."[284] In thy opinion, this is a simplistic reading of the Constitution that disregards the intent of the framers.

Where the terms of the Constitution itself do not reveal the intent of the framers and the rest of the people, extrinsic aids may be resorted to, even when using an originalist approach. The answer may be provided by the debates or proceedings in the Constitutional Convention, the contemporaneous legislative or executive construction, history, and the effects resulting from the construction contemplated[285] Here, the records of the 1934 Constitutional Convention prove that the framers intended to accord natural-born citizenship to foundlings.

It has been argued that the non-inclusion of a provision on "natural children of a foreign father and a Filipino mother not recognized by the father" negates the intent to consider foundlings natural-born citizens (or even merely citizens). However, the Court cannot infer the absence of intent to include foundlings based on that fact alone. Indeed, the transcript of the deliberations during the 1934 Constitutional Convention shows why it was decided that foundlings were not to be expressly mentioned in Section 1, Article IV of the 1935 Constitution:

> Sr. Rafols: For an amendment, I propose that after I subsection 2, the following is inserted: 'The natural children of a foreign father and a Filipino mother not recognized by the father.'
>
> El Presidente: We would like to request a clarification from the proponent of the amendment. The gentleman refers to natural children or to any kind of illegitimate children?
>
> Sr. Rafols: To all kinds of illegitimate children. It also includes natural children of unknown parentage, natural or illegitimate children of unknown parents.
>
> Sr. Montinola: For clarification. The gentleman said 'of unknown parents.' Current codes consider them Filipino, that is, I refer to the Spanish Code wherein all children of unknown parentage born in Spanish territory are considered Spaniards, because the presumption is that - child of unknown parentage is the son of a Spaniard. This may be applied in the Philippines in that a child of unknown parentage born in the Philippines is deemed to be Filipino, and there is no need...
>
> Sr. Rafols: There is a need, because we are relating the conditions that are [required] to be Filipino.
>
> Sr. Montinola: But that is the interpretation of the law, therefore, there is no need for the amendment.
>
> Sr. Rafols: The amendment should read thus: 'Natural or illegitimate of a foreign father and a Filipino mother recognized by one, or the children of unknown parentage.'

> Sr. Briones: The amendment [should] mean children born in the Philippines of unknown parentage.
>
> Sr. Rafols: The son of a Filipina to a foreigner, although this [person] does not recognize the child, is not unknown.
>
> El Presidente: Does the gentleman accept the amendment or not?
>
> Sr. Rafols: I do not accept the amendment because the amendment would exclude the children of a Filipina with a foreigner who does not recognize the child. Their parentage is not unknown and I think those children of overseas Filipino mother and father [whom the latter] does not recognize, should also be considered as Filipinos.
>
> El Presidente: The question in order is the amendment to the amendment from the gentleman from Cebu, Mr. Briones. :
>
> Mr. Bulson: Mr. President, don't you think it would be better to leave this matter in the hands of the Legislature? :
>
> Sr. Roxas: Mr. President, my humble opinion is that these cases are few and far between, that the constitution need [not] refer to them. By international law the principle that children or people born in a country of unknown parents are citizens in this nation is recognized, and it is not necessary to include a provision on the subject exhaustively.

The delegates appeared to have been convince4 that there was no need to include a binding provision on the subject for the1 following reasons: the Spanish Civil Code already recognizes foundlings were born of Spanish citizens, and were thus Spanish (Sr. Montinola); that the citizenship of foundlings could be determined by Congress (Sr. Buslon); that the cases were so few and far between that the Constitution did not need to refer to them (Sr. Roxas); or international law already recognized children or people born in a country of unknown parents as citizens of that country (Sr. Roxas).

For these reasons, they believed that it was no long1er necessary to include foundlings among those to be expressly enumerated in the 1935 Constitution. The record is bereft of any proposal by any delegate to deny foundlings Filipino citizenship. It would even appear that those delegates who spoke could not imagine any other interpretation than that foundlings are to be considered Filipinos.

The textual silence on foundlings in Article IV, Section 1 is consistent with the principle that a good Constitution is brief, comprehensive, and definite.[286] The majority[287] of the delegates, being lawyers, must have subscribed to the accepted principle that the Constitution is unavoidably required to be couched in general language:

It did not suit the purposes of the people, in framing this great charter of our liberties, to provide for minute specifications of its powers or to declare the means by which those powers should be carried into execution. It was foreseen that this would be a perilous and difficult, if not an impracticable, task. The instrument was not intended to provide merely for the exigencies of a few years, but was to endure through a long lapse of ages, the events of which were locked up in the ins¢rutable purposes of Providence. It could not be foreseen what new changes and modifications of power might be indispensable to effectuate the general objects of the charter, and restrictions and specifications which at the present might seem salutary might in the end prove the overthrow of the system itself. Hence its powers are expressed in general terms, leaving to the legislature from time to time to adopt its own means to effectuate legitimate objects and to mould and model the exercise of its powers as its own wisdom and the public interests, should require.[288]

The understanding that the Constitution must be brief even as it is broad is evident in Sr. Roxas' statement during

the deliberations that cases of children born of unknown parentage were so "few kind far in between, that the constitution need not refer to them." Notably, no one raised a comment or an objection in response to Delegate Roxas' remark. The framers might have also accepted, regardless of its veracity, that international law regards foundlings as citizens of the country where they were found. They may have believed, as a matter of fact, that current codes already considered children of unknown parents as Filipinos.

What is clear from the deliberations is that the framers could not have intended to place foundlings in limbo, as the social justice principle embodied in Section 5, Article II of the 1935 Constitution indiscriminately covered "all of the people." Social justice has been defined as "the humanization of laws and the equalization of social and economic forces by the State so that justice in its rational and objectively secular conception may at least be approximated."[289] It means the promotion of the welfare of all the people.[290] It is founded on the recognition of the necessity of interdependence among diverse units of a society and of the protection that should be equally and evenly extended to all groups as a combined force in our social and economic life. This recognition is consistent with the state's fundamental and paramount objective of promoting the health, comfort, and quiet of all persons and bringing about the greatest good to the greatest number.[291]

The Functionalist Approach:
Interpretation consistent with natural
justice

The issue of citizenship may also be resolved using the functional approach to constitutional interpretation. Under this method, the Court should adopt an interpretation that would allow the Constitution to fulfill its purpose.

Taking historical considerations into account, it is beyond cavil that the Constitution would not function as envisioned if we give judicial imprimatur to the COMELEC's argument. It claims that the 1935 Constitution, as well as the 1973 and 1987 constitutions, excluded foundlings from being citizens merely on the ground that they could not establish a blood relationship with a Filipino father. This interpretation would likewise go against the fundamental principle of natural justice.

Mixture of jus soli and jus sanguinis

The history of citizenship laws in the Philippines shows that we have never adopted a purely jus sanguinis regime. Ours is a mixture of elements of jus soli andjus sanguinis, which we inherited from the Americans and the Spaniards, respectively. In fact, as will be elaborated in the succeeding section, the concept of "natural-born citizenship" originated from a jus soli jurisdiction.

The COMELEC however, opines that only those whose fathers are citizens of the Philippines are considered natural-born citizens under the 1935 Constitution.[292] Citing Valles v. Comelec,[293] it argues that natural-born Philippine citizenship is acquired at the moment of birth on the basis of blood relationship.[294] This is a gross misreading of the case. The Court in Valles did say that the principle of jus sanguinis, which confers citizenship by virtue of blood relationship, was subsequently retained under the 1973 and 1987 Constitutions; however, the Court never stated that jus sanguinis had ever been the exclusive regime in this jurisdiction. On the contrary, Rosalind Lopez's father, from whom she derived her Philippine citizenship, was considered by the Court as a Philippine citizen based on his birth in Daet, Camarines Norte, in 1879, a jus soli application: of citizenship rules.

Far from adhering to an exclusively jus sanguinis regime, at least four modes of acquiring citizenship have operated in the: Philippine jurisdiction since the turn of the century: jus soli, jus sanguinis, res judicata and naturalization. Jus soli used to predominate but upon the effectivity of the 1935 Constitution,jus sanguinis became the predominating regime.[295]

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Citizenship prior to the 1935 Constitution

The first Civil Code adopted in the Philippines was the Spanish Civil Code,[296] which became effective on 18 December 1889. It enumerated who were Spaniards:

> Article 17. The following are Spaniards:
>
> (a) Persons born in Spanish territory,
>
> (b) Children of a Spanish father or mother, even if they were born outside of Spain,
>
> (c) Foreigners who have obtained naturalization papers,
>
> (d) Those who, without such papers, may have become domiciled inhabitants of any town of the Monarchy. (Emphasis supplied)
>
> On 21 January 1899, the Malolos Constitution, which was framed by the national assembly of the first Philippine Republic, was promulgated. All persons born in the Philippine territory were considered as Filipinos:
>
> Article 6. The following are Filipinos:
>
> 1. All persons born in the Philippine territory. A vessel of Philippine registry is considered, for this purpose, as part of Philippine territory.
>
> 2. Children of a Filipino father or mother, although born outside of the Philippines.
>
> 3. Foreigners who have obtained certification of naturalization.
>
> 4. Those who, without such certificate, have acquired a domicile in any town within Philippine territory.
>
> It is understood that domicile is acquired by uninterrupted residence for two years in any locality within Philippine territory, with an open abode and known occupation, and contributing to all the taxes imposed by the Nation.
>
> The condition of being a Filipino is lost in accordance with law. (Emphasis supplied)

The Malolos Constitution was short-lived and was in force only in the places were the first Philippine Republic had control On 11 April 1899, the Treaty of Paris between Spain and America took effect. Justice Jose C. Vitug, in Tecson v. Comelec[297] implied that between 10 December 1898 when the parties entered into the treaty and 11 April 1899, when it took effect, Spanish civil law remained intact.[298]

The term "citizens of the Philippine Islands" was introduced a few years later through Section 4 of the Philippine Bill of 1902:

> Section 4. That all inhabitants of the Philippine Islands continuing to reside therein who were Spanish subjects on the eleventh clay of April, eighteen hundred and ninety-nine, and then resided in said Philippine Islands, and their children born subsequent thereto, shall be deemed and held to be citizens of the Philippine Islands and as such entitled to the protection of the United States, except such as shall have elected to preserve their allegiance to the Crown of Spain in accordance with the provisions of the treaty of peace between the United States and Spain signed at Paris December tenth, eighteen hundred and ninety-eight.

Under the Philippine Bill, a citizen of the Philippines was one who was an inhabitant of the Philippines and a Spanish subject on 11 April 1899. The term inhabitant was taken to include 1) a native-born inhabitant; 2) an inhabitant who was a native of Peninsular Spain; or 3) an inhabitant who obtained Spanish papers on or before 11 April 1899.[299]

Controversy arose on the status of children born in the Philippines from 11 April 1899 to 1 July 1902, during which period no citizenship law was extant in the Philippines. Weight was given to the view, articulated in jurisprudential writing at the time that the common law principle of jus soli governed those born in the Philippine Archipelago within that period.[300] Jus soli was also known as the principle of territoriality, which was operative in the United States and England.

In 1916, the Philippine Autonomy Act, also known as the Jones Law, restated virtually the provisions of the Philippine Bill: of 1902 as amended by the Act of Congress in 1912:[301]

> Section 2. That all inhabitants of the Philippine Islands who were Spanish subjects on the eleventh day of April, eighteen hundred and ninety-nine, and then resided in said Islands, and their children born ;subsequently thereto, shall be deemed and held to be citizens of the Philippine Islands, except such as shall have elected to preserve their allegiance to the Crown of Spain in accordance with the provisions of the treaty of peace between the United States and Spain, signed at Paris December tenth, eighteen hundred and ninety-eight and except such others as have since become citizens of some other country; Provided, That the Philippine Legislature, herein provided for, is hereby authorized to provide for the acquisition of Philippine citizenship by those natives of the Philippine Islands who do not come within the foregoing provisions, the natives of the insular possessions of the United States, and such other persons residing in the Philippine Islands who are citizens of the United States, or who could become citizens of the United States under the laws of the United States, if residing therein.

Under the. Jones Law, native-born inhabitants of the Philippines were deemed to be citizens of the Philippines as of 11 April 1899 if they were (1) subjects of Spain on 11 April 1899; (2) residing in the Philippines on that date; and (3) since that date, not citizens of some other country.[302]

Citizenship under the 1935, 1973 and 1987
Constitutions

Article IV, Section 1 of the 1935 Constitution provides:

Section 1. The following are citizens of the Philippines:

1. Those who are citizens of the Philippine Islands at the time of the adoption of this Constitution.

2. Those born in the Philippine Islands of foreign parents who, before the adoption of this Constitution, had been elected to public office in the Philippine Islands.

3. Those whose fathers are citizens of the Philippines.

4. Those whose mothers are citizens of the Philippines and, upon reaching the age of majority, elect Philippine citizenship.

5. Those who are naturalized in accordance with law.

Items 1 and 4 of the foregoing section show that the 1935 Constitution was not based purely on the jus sanguinis principle. Taking into account the history of our citizenship provisions, the phrase "those who were citizens of the Philippine Islands at the time of the adoption of this Constitution" clearly included those who did not have a single drop of Filipino blood in them. Moreover, "those born in the Philippine Islands of foreign parents who, before the adoption of this Constitution, had been elected to public office" were also automatically considered citizens despite the fact that they were of foreign blood.

Significantly, the provisions of Section 1 (1) of Article IV of the 1935 Constitution were carried over to the 1973 and 1987 Constitutions.[303] The only difference was the reference to the country as Philippines instead of

"Philippine Islands."

Considering the mixture of citizenship regimes currently in force, it is not correct to say that there is an exclusive jus sanguinis principle in place, and because of that principle, that petitioner is thereby required, regardless of the fact that she is a foundling, to submit proof of her blood relationship to a Filipino father. To rule otherwise would be to implement a purely jus sanguinis regime contrary to the history of the Constitution.

Functionality in accord with natural justice

As previously explained, the Constitution is meant to advance the fundamental values of the Filipino people, in particular, those articulated in the Preamble: the promotion of general welfare;[304] the creation of a just and humane society;[305] and the protection of the blessings of independence and democracy under a regime of truth, justice, freedom, love, equality, and peace in accordance with the rule of law.[306] The Constitution must be interpreted to allow it to function in accordance with these ideals. Thus, the Court should not construe the citizenship provisions of the 1935 Constitution in a manner that would unjustly deprive foundlings of citizenship and render them stateless.

To emphasize, from the time that the Supreme Court was vested with the power to interpret the law, We have exercised this power in accordance with what is right and just. Citizenship cases are no exception. In previous cases, the Court has in fact interpreted the law on citizenship in accordance with natural justice.

In Roa v. Collector,[307] We have assumed that the principle of jus soli was applicable. This assumption was affirmed in Torres v. Tan Chim[308] and Gallofin v. Ordonez,[309] in which this Court held that the principle of jus soli was followed with reference to individuals who were born of Chinese fathers and Filipino mothers.[310]

In Talaroc v. Uy,[311] We held that in making jus sanguinis the predominating principle in the determination of Philippine citizenship, the Constitution did not intend to exclude those who were citizens of the Philippines by judicial declaration at the time of its adoption. We ruled that if, on the strength of Roa, a person was considered al full-fledged Philippine citizen on the date of the adoption of the Constitution when jus soli was the prevailing doctrine, that person cannot be divested of Filipino citizenship.[312] The Court also stated that "it would be neither fair nor good policy to hold Uy an alien after he had exercised the privileges of citizenship in the face of legal principles that have the force of law."[313]

The principles of natural justice were also utilized in other cases to avoid an unfair outcome. In Sale de Porkan v. Yatco,[314] We upheld the validity of a contract over a parcel of land in favor of a "non-Christian inhabitant of the Department of Mindanao and Sulu." The contract was considered valid despite the lack of approval by the provincial governor of the province where the contract was executed as mandated by the Administrative Code of Mindanao and Sulu. The Court held:

> But if the contract, Exhibit B, is avoided, the result would be just the contrary, for the non-Christian plaintiff-appellant here would be divested of ownership over the houses which were ceded to him by C de S and which he now possesses. This would defeat the legislative aim and purpose, destroy substantial equities, and thwart the postulates of natural justice.

In Van Dorn v. Romillo,[315] We also prevented injustice by freeing a Filipino woman from her marital obligations after she had been divorced by her foreigner husband:

> To maintain, as private respondent does, that, under our laws, petitioner has to be considered still married to private respondent and still subject to a wife's obligations under Article 109, et. seq. of the Civil Code cannot be just. Petitioner should not be obliged to live together with, observe respect and fidelity, and render support to private respondent. The latter should not continue to be one of her heirs with possible rights to conjugal

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> property. She should not be discriminated against in her own country if the ends of justice are to be served.

Concept of "natural-born" citizenship

The requirement of natural-born citizenship should serve only to deny certain privileges to those who have gone through the process of naturalization in order to acquire and perfect their citizenship. The concept, originally meant to distinguish those who are "natural-born" from those who are "foreign-born" in jus soli jurisdictions, cannot: be used to justify the denial of citizenship status to foundlings because of their inability to prove a certain blood relationship.

"Natural-born" citizenship and jus soli

An examination of the origin of the term "natural-born" reveals that it was lifted by the Philippines from the United States (U.S.) Constitution, which states:

> No Person except a natural born Citizen, or a Citizen of the United States, at the time of the Adoption of this Constitution, shall be eligible to the Office of the President; neither shall any person be eligible to that Office who shall not have attained to the Age of thirty five Years, and been fourteen Years a Resident within the United States.[316] (Capitalization in the original)

The U.S. Constitution itself does not define the term. However, numerous holdings and references in federal and state cases have clearly indicated that those born in the United States and subject to its jurisdiction (i.e., not born to foreign diplomats or to occupying military forces), even if they were born to alien parents, are citizens "at birth" or "by birth," and are "natural born," as opposed to "naturalized," U.S. citizens.[317]

As a matter of inclusion, it has been held that it is beyond dispute that anyone born on American soil with an American parent is a "natural born citizen."[318] As a matter of exclusion, anyone whose citizenship is acquired after birth as a result of "naturalization" is not a "natural born citizen."[319] The meaning of the natural-born citizen clause became politically salient in the U.S. when John McCain became the Republican nominee for President in September of 2008. He was born in the Panama Canal Zone to parents who were American citizens.[320]

The phrase "natural-born citizen" found its way to America from England. While there had been no extensive usage of the phrase during the founding era of the US (1774-1797), it seems clear that it was derived from "natural born subject," which had a technical meaning in English law and constitutional theory.[321] The framers of the US Constitution would have been familiar with Blackstone's Commentaries - which James Madison (hailed as the "Father of the Constitution") described as "a book which is in every man's hand" - and would have understood that the fundamental premise of natural-born citizenship was a concept of allegiance to the sovereign at birth.[322]

Indeed, the English lexicographer Samuel Johnson defined "natural" as "native," which may mean either an "inhabitant" or an "offspring."[323] The conception of natural- born subjects under British law is tied to that of natural allegiance to a sovereign. This conception is based primarily on being born within the territory subject to the sovereign's rule, but with the addition of others (such as the children of ambassadors or of the sovereigns themselves) who have a "natural allegiance" to the sovereign.

Blackstone writes:

> The first and most obvious division of the people is into aliens and natural-born subjects. Natural-born subjects are such as are born within the dominions of the crown of England, that is, within the ligeance, or as it is generally called, the allegiance of the king; and aliens, such as are born out of it. Allegiance is the tie, or ligamen, which binds the subject to the king, in return for that protection which the king affords the subject.

> The thing itself, or substantial part of it, is founded in reason and the nature of government; the name and the form are derived to us from our Gothic ancestors.
>
> x x x x
>
> Allegiance, both express and implied, is however distinguished by the law into two sorts or species, the one natural, the other local; the former being also perpetual, the latter temporary. Natural allegiance is such as is due from all men born within the king's dominions immediately upon their birth. For, immediately upon their birth, they are under the king's protection; at a time too, when (during their infancy) they are incapable of protecting themselves.
>
> x x x x
>
> When I say, that an alien is one who is born out of the king's dominions, or allegiance, this also must be understood with some restrictions. The common law indeed stood absolutely so; with only a very few exceptions: so that a particular act of parliament became necessary after the restoration, for the naturalization of children of his majesty's English subjects, born in foreign countries during the late troubles. And this maxim of the law proceeded upon a general principle, that every man owes natural allegiance where he is born, and cannot owe two such allegiances, or serve two masters, at once. Yet the children of the king's ambassadors born abroad were always held to be natural subjects: for as the father, though in a foreign country, owes not even a local allegiance to the prince to whom he is sent; so, with regard to the son also, he was held (by a kind of postliminium) to be born under the king of England's allegiance, represented by his father, the ambassador.[324] (Emphasis supplied)
>
> Based on the foregoing, it appears that the original opposite of the term "natural-born" is not "naturalized," but "foreign-born." The term was meant to distinguish between those born within a certain territory and those born outside it. Blood or descent was irrelevant. However, because of the mixture of common law and civil law in our jurisdiction, the original concept of natural-born citizenship seems to have been diluted.

Citizens by Birth v. Citizens by Naturalization

Irrespective of the origin of the concept, the term "natural-born" was used by the framers of the 1935, 1973 and 1987 Constitutions to delineate the privileges of those who are citizens at birth, from those enjoyed by citizens who are naturalized.

The word "natural-born" appeared thrice in the 1935 Constitution as a qualification for the presidency and vice-presidency, as well as membership in the Senate and House of Representatives.[325] The framers of the 1935 Constitution, however, did not define the term.

In their commentary on the 1935 Constitution, Tañada and Fernando opined that the requirement that a person be a natural-born citizen may be interpreted to mean that at the time of birth, the candidate was a Filipino citizen; naturalized citizens are excluded.[326] Proceeding from this logic, citizens who did not acquire their Philippine citizenship through naturalization have the citizenship qualification to run for the presidency.

The statements in these commentaries are supported by the deliberations of the framers of the 1935 Constitution. During the 1934 Constitutional Convention, Delegate Alejandrino proposed to limit eligibility for the presidency and vice-presidency only to Filipino citizens born in the Philippines of parents who were not naturalized.[327] This proposal was shot down. It must be noted, though, that he referred to parents who were "not naturalized," instead of those who were "natural-born." It may be inferred that the framers of the 1935 Constitution only intended to exclude those citizens who had been naturalized from occupying certain positions. Another section of the deliberations proceeded in this manner:

> Delegate Artadi. - I am going to ask a reconsideration with respect to the matter appearing on page 22-A which treats of the interpretation of the words, 'natural-born,' because I would like to inform the Assembly that I have had a conversation with some members of the committee ... and they explained to me that the words, 'natural-born,' do not necessarily mean 'born in the Philippines;' that is to say, translated into Spanish, they mean that one who possesses all the qualifications to be President of the republic, as it is written, is not necessarily born in the Philippines. So that for purposes of the record, I would like one of the members of the committee to explain the true interpretation of the words, 'natural-born,' for the information of the Assembly.
>
> The President. - The delegate from Capiz, Mr. Roxas, may please tell what is the exact equivalent of those words.
>
> Delegate Roxas. - Mr. President, the phrase, 'natural-born citizen' appears in the Constitution of the United States; but the authors say that this phrase has never been authoritatively interpreted by the Supreme Court of the United States in view of the fact that there has never been raised the question of whether or not an elected President fulfilled this condition. The authors are uniform in the fact that the words, 'natural-born citizen,' means a citizen by birth, a person who is a citizen by reason of his birth, and not by naturalization or by a further declaration required by law for citizenship. In the Philippines, for example, under the provisions of the article on citizenship which we have approved, all those born of a father who is a Filipino citizen, be they persons born in the Philippines or outside, would be citizens by birth or natural-born.
>
> And with respect to one born of a Filipino mother but of a foreign father, the article which we approved about citizenship requires that, upon reaching the age of majority, this child needs to indicate the citizenship which he prefers, and if he elects Philippine citizenship upon reaching the age of majority, then he shall be considered a Filipino citizen. According to this interpretation, the child of a Filipino mother with a foreign father would not be a citizen by birth, because the law or the Constitution requires that he make a further declaration after his birth. Consequently, the phrase, 'natural-born citizen,' as it is used in the English text means a Filipino citizen by birth, regardless of where he was born.[328] (Emphasis supplied)

The requirement of "natural-born" citizenship was carried over to the 1973 Constitution[329] and then to the present Constitution.[330] Confirming the original vision of the framers of the 193 5 Constitution, the 1973 Constitution defined the term as "one who is a citizen of the Philippines from birth without having to perform any act to acquire or perfect his Philippine citizenship."[331] The 1973 definition was adopted in the present Constitution, with the added proviso that those who elect Philippine citizenship in accordance with paragraph (3),[332] Section 1 of Article IV, shall be deemed natural-born citizens:

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

Since the term was defined in the negative, it is evident that the term "natural-born citizens" refers to those who do not have to perform any act to acquire or perfect their Philippine citizenship. The definition excludes only those who are naturalized. From this interpretation, it may be inferred that a Filipino citizen who did not undergo the naturalization process is natural-born. As We explained in Bengson III v. House of Representatives Electoral Tribunal:[333]

A citizen who is not a naturalized Filipino, i.e., did not have to undergo the process of naturalization to obtain Philippine citizenship, necessarily is a natural-born Filipino. Noteworthy is the absence in said enumeration of a separate category for persons who, after losing Philippine citizenship, subsequently reacquire it. The reason therefor is clear: as to such persons, they would either be natural-born or naturalized depending on the reasons for the loss of their citizenship and the mode prescribed by the applicable law for the reacquisition thereof.

In Bengson, We also ruled that private respondent regained his status as a natural-born citizen the moment he

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reacquired his Filipino citizenship through repatriation. That part of the Decision will be discussed in further detail in the succeeding sections.

Not Purity of Blood

Naturalized citizens are former aliens or foreigners who had to undergo a rigid procedure, in which they had to adduce sufficient evidence to prove that they possessed all the qualifications and none of the disqualifications to become Filipino citizens as provided by law.[334] In contrast, as stated in the early case Roa v. Collector of Customs,[335] a natural-born citizen is a one who has become such at the moment of birth.

It may be observed from the exchanges during the deliberations on the qualifications of members of the Supreme Court that the concern about the natural-born requirement was not all about the questionable allegiance of those without Filipino blood, but of those born abroad of Filipino parents. Delegate Lim expressed his understanding that the requirement was for the President to be "native-born," and his reservations about installing as magistrates those who are not familiar with the "idiosyncrasies of the people:"

> How can we figure out that naturalized citizens could really interpret the purposes of this Constitution including the idiosyncrasies of the people? We have as a matter of policy adopted the principle that the President of the Commonwealth should be a native born. Our Supreme Court in some instances has the power much bigger than that of the President by declaring our laws passed by the National Assembly as unconstitutional. That power makes the Supreme Court the supreme interpreter of our laws of the land, and who else but native born persons, individuals who have been born in the country, can interpret, as I said, the customs and habits of our people?[336]

It must be emphasized that natural-born status was never intended to be a measure of the purity of blood. This Court, on reconsideration in Tan Chong,[337] explained why birth alone may not be sufficient basis for the acquisition of citizenship. Some of the important elements that would make a person living in a country its citizen: youth spent in the country; intimate and endearing association with the citizens among whom they live; knowledge and pride of the country's past; belief in the greatness and security of its institutions, in the loftiness of its ideas, and in the ability of the country's government to protect them, their children and their earthy possessions against perils from within and from without; and their readiness to defend the country against those perils.[338]

In the same manner, blood relationship alone is not controlling.[339] The following groups of people, who technically have no "Filipino blood," were effectively considered citizens by virtue of Commonwealth Act No. 473 or the "Revised Naturalization Law":

> Section 15. Effect of the Naturalization on Wife and Children. - Any woman who is now or may hereafter be married to a citizen of the Philippines, and who might herself be lawfully naturalized shall be deemed a citizen of the Philippines.
>
> Minor children of persons naturalized under this law who have been born in the Philippines shall be considered citizens thereof.
>
> A foreign-born minor child, if dwelling in the Philippines at the time of the naturalization of the parent, shall automatically become a Philippine citizen, and a foreign-born minor child, who is not in the Philippines at the time the parent is naturalized, shall be deemed a Philippine citizen only during his minority, unless he begins to reside permanently in the Philippines when still a minor, in which case, he will continue to be a Philippine citizen even after becoming of age.
>
> A child born outside of the Philippines after the naturalization of his parent, shall be considered a Philippine citizen, unless within one year after reaching the age of majority, he fails to register himself as a Philippine citizen at the American Consulate of the country where he resides, and to take the necessary oath of allegiance.

(Emphasis supplied)

A necessary implication of the above provision is that children born within the Philippines after the naturalization of their parent are unqualifiedly citizens of the country. This implication holds true even if the naturalized parent is purely of foreign blood. Moreover, because they do not need to perform any act to acquire Philippine citizenship, they must be considered natural-born citizens by definition.

Like foundlings, these groups are not expressly mentioned in the Constitution. However, by implication of law, they are considered natural-born citizens despite the absence of a single drop of Filipino blood in them. From this fact, one can draw no other conclusion: that the natural-born classification has nothing to do with bloodline or birthright.

Foundling not "naturalized in accordance with law"

It has been argued that a foundling may obtain only naturalized citizenship, because an act is supposedly required to acquire this status, i.e., the registration of the child as a foundling after an administrative proceeding. In other words, it is contended that the process of registration effectively amounts to naturalization in accordance with law. This contention is unacceptable for three reasons.

First, the phrase "naturalized in accordance with law" must be understood with reference to the naturalization process provided under naturalization statutes. In several decisions, this Court has construed the meaning of the expression "in accordance with law" as an allusion to enabling legislation.[340] Hence, naturalization in Article IV, Section 1 of the 1935 Constitution, does not refer to just any act, but to the specific procedure for naturalization prescribed by the legislature. The Court does not have the right to engage in judicial legislation on naturalization when the Constitution exclusively vests said power in Congress.

Second, registration is not an act that can be attributed to a foundling. Pursuant to Section 5 of Act No. 3752,[341] the person who finds an abandoned child shall report the place, date and hour of finding and other attendant circumstances to the local civil registrar for purposes of registration. This prescribed act is in sharp contrast to the naturalization process provided under the Revised Naturalization Law,[342] which requires the applicants to themselves personally and voluntarily perform certain acts to avail of naturalized citizenship. In particular, applicants are required to (a) file a declaration under oath their bona fide intention to become a citizen of the Philippines;[343] (b) file a petition for citizenship with a competent court;[344] (c) participate in a hearing before a competent court;[345] and (d) take an oath of allegiance to the Philippines.[346] Needless to state, foundlings do not perform acts equivalent to any of these when they are registered. More often than not, they are not aware of their circumstances when they are being registered as foundlings.

Third, it is possible to register a foundling by reporting the circumstances of the discovery to the local civil registrar without any administrative proceeding, if the registration is done prior to the surrender of the custody of the child to the DSWD or an institution.[347] It is only when the child is turned over to the DSWD without having been registered with the local civil registrar that an administrative proceeding is required prior to the issuance of a Foundling Certificate.[348] If a child is already registered by the finder, the administrative proceeding under the Rules of the DSWD[349] is followed not for the purpose of allowing that registration, but only to determine whether the child may be declared legally available for adoption.

Petitioner did not lose her natural-born
status when she reacquired Philippine
citizenship under R.A. 9225.

Respondents also question the reacquisition by petitioner of her citizenship under R.A. 9225 or the Citizenship

Retention and Re-acquisition Act of 2003. They claim that only natural-born citizens are allowed to reacquire citizenship under the law. Since petitioner is allegedly not a citizen of the Philippines, she is not entitled to this privilege.

The premise of petitioner's argument has already been extensively addressed above. For reasons previously explained, petitioner may be considered a natural-born citizen; hence, she may validly reacquire her citizenship under R.A. 9225. The other arguments raised by respondents are addressed below.

Adoption Decree and Amended Birth Certificate

In my view, petitioner was entitled to rely upon the adoption decree issued in her favor and the amended birth certificate issued pursuant thereto. These documents named Fernando Poe, Jr. and Susan Roces, and no other, as her parents for all intents and purposes. Her reliance on these documents justifies her belief that she is a natural-born citizen entitled to avail herself of the provisions of R.A. 9225.

It must be emphasized that adoption severs all legal ties between the biological parents and the adoptee and vests those rights in the adopter.[350] Section 17 of R.A. 8552, in particular, provides that the "adoptee shall be considered the legitimate son/daughter of the adopter for all intents and purposes and as such is entitled to all the rights and obligations provided by law to legitimate sons/daughter born to them without discrimination of any kind." Hence, upon the entry of an adoption decree, the law creates a relationship in which adopted children are deemed "born of" their adoptive parents:

> ... The act of adoption fixes a status, viz., that of parent and child. More technically, it is an act by which relations of paternity and affiliation are recognized as legally existing between persons not so related by nature. It has been defined as the taking into one's family of the child of another as son or daughter and heir and conferring on it a title to the rights and privileges of such. The purpose of an adoption proceeding is to effect this new status of relationship between the child and its adoptive parents, the change of name which frequently accompanies adoption being more an incident than the object of the proceeding. The welfare of the child is the primary consideration in the determination of an application for adoption. On this part, there is unanimous agreement.
>
> It is the usual effect of a decree of adoption to transfer from the natural parents to the adoptive parents the custody of the child's person, the duty of obedience owing by the child, and all other legal consequences and incidents of the natural relation, in the same manner as if the child had been born of such adoptive parents in lawful wedlock, subject, however, to such limitations and restrictions as may be by statute imposed.[351] (Emphasis supplied)

As proof of this new relationship, an adoptee's original birth certificate is cancelled and sealed in the records of the Civil Registry. Thereafter, an amended birth certificate is issued in its place "attesting to the fact that the adoptee is the child of the adopter(s)"[352] This amended certificate is issued without any notation that it is new or amended.[353] Once issued, this document has the same legal effect as any other birth certificate, and is entitled to a presumption of validity as a public document.[354]

Evidently, to require adoptees to go beyond the parentage established in their birth certificates would defeat the purpose of R.A. 8552 in requiring courts and other institutions to seal adoption records, including the child's original birth certificate, and to maintain the confidentiality of those papers.[355]

By these provisions, the legislature clearly intended to protect the privacy of the parties to the adoption, thereby allowing them to avoid the stigma resulting from the proceedings. The rationale behind these confidentiality provisions was elucidated by the U.S. Court of Appeals, Second Circuit, in Alma Society Incorporated v.

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Mellon.[356] In that decision, which was later affirmed by the U.S. Supreme Court,[357] the U.S. Court of Appeals explained:

> Judged by these standards, the New York sealed record statutes do not want constitutional validity. The statutes, we think, serve important interests. New York Domestic Relations Law s 114 and its related statutes represent a considered legislative judgment that the confidentiality statutes promote the social policy underlying adoption laws. See In re Anonymous, 89 Misc.2d 132, 133, 390 N.Y.S.2d 779, 781 (Surr.Ct.1976). Originally, sealing adoption records was discretionary with the court, 1924 N.Y. Laws, ch. 323, s 113, but in 1938 confidentiality of adoption records became mandatory. 1938 N.Y. Laws, ch. 606 s 114. As late as 1968, the legislature enacted various amendments to increase the assurance of confidentiality. 1968 N.Y. Laws, ch. 1038. Moreover, the purpose of a related statute, Section 4138 of the Public Health Laws, was to erase the stigma of illegitimacy from the adopted child's life by sealing his original birth certificate and issuing a new one under his new surname. And the major purpose of adoption legislation is to encourage natural parents to use the process when they are unwilling or unable to care for their offspring. New York has established a careful legislative scheme governing when adoption may occur and providing for judicial review, to encourage and facilitate the social policy of placing children in permanent loving homes when a natural family breaks up. As the court of appeals stated in Scarpetta v. Spence-Chapin Adoption Service, 28 N.Y.2d 185, 195, 321 N.Y.S.2d 65, 73, Cert. denied, 404 U.S. 805, 321 N.Y.S.2d 65, 269 N.E.2d 787 (1971), "(i)t cannot be doubted that the public policy of our State is contrary to the disclosure of the names and identities of the natural parents and prospective adoptive parents to each other." (Footnote omitted.) Forty-two other states, according to the State of New York, require that birth and adoption records be kept confidential, indicating the importance of the matter of confidentiality. See also Uniform Adoption Act (U.L.A.) s 16(2) (rev. 1969) (adoption records "are subject to inspection only upon consent of the Court and all interested persons; or in exceptional cases, only upon an order of the Court for good cause shown"). These significant legislative goals clearly justify the State's decision to keep the natural parents' names secret from adopted persons but not from non-adopted persons. (Emphasis supplied)

Applicability of Bengson v. HRET

As to whether petitioner also reacquired her natural-born status, the Court must apply the ruling in Bengson III v. HRET,[358] which allowed the applicant to reacquire not only his citizenship, but also his original natural-born status. In that case, the Court noted that those who reacquire Philippine citizenship must be considered natural-born or naturalized citizens, since the Constitution does not provide a separate category for them. Between the two categories, the Court found it more appropriate to consider them natural-born citizens, since they were not required to go through the tedious naturalization procedure provided under the law:

> The present Constitution, however, now considers those born of Filipino mothers before the effectivity of the 1973 Constitution and who elected Philippine citizenship upon reaching the majority age as natural-born. After defining who are natural-born citizens, Section 2 of Article IV adds a sentence: "Those who elect Philippine citizenship in accordance with paragraph (3), Section 1 hereof shall be deemed natural-born citizens." Consequently, only naturalized Filipinos are considered not natural-born citizens. It is apparent from the enumeration of who are citizens under the present Constitution that there are only two classes of citizens: (1) those who are natural-born and (2) those who are naturalized in accordance with law. A citizen who is not a naturalized Filipino, i.e., did not have to undergo the process of naturalization to obtain Philippine citizenship, necessarily is a natural-born Filipino. Noteworthy is the absence in said enumeration of a separate category for persons who, after losing Philippine citizenship, subsequently reacquire it. The reason therefor is clear: as to such persons, they would either be natural-born or naturalized depending on the reasons for the loss of their citizenship and the mode prescribed by the applicable law for the reacquisition thereof. As private respondent Cruz was not required by law to go through naturalization proceedings in order to reacquire his citizenship, he is perforce a natural-born Filipino. As such, he possessed all the necessary qualifications to be elected as member of the House of Representatives.

Although Bengson referred to R.A. 2630 or the repatriation of persons who served in the U.S. Armed Forces,[359] a similar process is undergone by those who reacquire citizenship under R.A. 9225. In previous cases, this Court has also consistently characterized R.A. 9225 as a "repatriation" statute[360] that allows former Filipino citizens to recover their natural-born status.[361]

Accordingly, the logic used by this Court in Bengson also applies to this case - the procedure provided by R.A. 9225 does not amount to naturalization; consequently, a citizen who reacquires citizenship under this statute cannot be deemed naturalized.

Determination of natural-born status at birth

When R.A. 9225 provides for the loss, reacquisition and retention of citizenship, it refers only to the fact of citizenship, not natural-born status:

> Section 2. Declaration of Policy. - It is hereby declared the policy of the State that all Philippine citizens who become citizens of another country shall be deemed not to have lost their Philippine citizenship under the conditions of this Act.
>
> 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. (Emphasis supplied)

These provisions are consistent with Article IV,[362] Section 2 of the 1935 Constitution, which indicates that what may be lost or reacquired is Philippine citizenship and not natural-born status. These terms were carried over into the 1973 and 1987 Constitutions.

The precise character of the citizenship reacquired under the law was no longer made an issue in these provisions, because natural-born status is determined at the time of birth.[363] This characteristic cannot be changed, unless an individual undergoes naturalization in any of the instances provided by law.[364] As will be explained below, the procedure for the reacquisition of citizenship under R.A. 9225 does not amount to naturalization.

Reacquisition is not naturalization

It has been argued that the taking of an oath under R.A. 9225, as petitioner has done, should be considered as an "act to acquire or perfect citizenship" under Section 2, Article IV of the present Constitution. As previously discussed, however, there are only two classes of citizens under the Constitution - those who are natural-born and those who are naturalized. The "act" adverted to in the Constitution must therefore be understood as pertaining only to the act of naturalization.

The 1935, 1973, and 1987 Constitutions conferred on Congress the power to determine who are naturalized citizens:

> 1935 CONSTITUTION

ARTICLE IV
Citizenship

Section 1. The following are citizens of the Philippines:

xxxx

(5) Those who are naturalized in accordance with law. (Emphasis supplied)

1973 CONSTITUTION
ARTICLE III
Citizenship

Section 1. The following are citizens of the Philippines:

xxxx

(4) Those who are naturalized in accordance with law. (Emphasis supplied)

1987 CONSTITUTION
ARTICLE IV
Citizenship

Section 1. The following are citizens of the Philippines:

x x x x

(4) Those who are naturalized in accordance with law. (Emphasis supplied)

In compliance with this constitutional mandate, Congress enacted the required enabling statute in 1939 when it passed Commonwealth Act No. 473 or the Revised Naturalization Law. This piece of legislation identifies those who are to be considered naturalized citizens of the country, and it is not the province of the Court to encroach upon this legislative prerogative. Accordingly, we cannot unilaterally declare those who have availed themselves of the benefits of R.A. 9225 and similar laws as naturalized citizens. To do so would violate the principle of separation of powers.

It must be emphasized that R.A. 9225 merely discusses the retention and reacquisition of citizenship, not naturalization. As early as 1936, Congress already treated naturalization as a different species apart from repatriation and other modes that may later be introduced by the national assembly:

Section. 2. How citizenship may be reacquired. - Citizenship may be reacquired:

(1) By naturalization: Provided, That the applicant possess none of the disqualification's prescribed in section two of Act Numbered Twenty-nine hundred and twenty-seven,

2) By repatriation of deserters of the Army, Navy or Air Corp: Provided, That a woman who lost her citizenship by reason of her marriage to an alien may be repatriated in accordance with the provisions of this Act after the termination of the marital status; and

(3) By direct act of the National Assembly.[365]

The reacquisition and retention of citizenship under R.A. 9225 or R.A. 2630[366] and repatriation under R.A. 8171[367] are different from naturalization under C.A. 473. Reacquisition, retention, and repatriation are effected by merely taking the necessary oath of allegiance and registering in the proper civil registry (and in the Bureau of Immigration in accordance with R.A. 8171). On the other hand, naturalization is a tedious process that begins

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with the filing of a declaration of intention one year prior to filing a petition for admission to Philippine citizenship and ends with the issuance of a certificate of naturalization.

Here, petitioner did not have to undergo the process of naturalization in order to reacquire her Philippine citizenship. She only had to follow the procedure specified in R.A. 9225. In this light, to declare her a naturalized citizen would thus be contrary to law.

To refuse to recognize foundlings as
citizens of the Philippines is to
contravene our obligations under
existing international law.

The Philippines is obligated by existing customary and conventional international law to recognize the citizenship of foundlings.

Customary International Law

Petitioner asserts that international law in the 1930s granted a foundling the right to acquire a nationality "from birth." In my opinion, she has not presented sufficient evidence to prove that in 1935, the Philippines was bound by customary international law to recognize foundlings as Philippine citizens.

It must be remembered that norms of customary international law become binding on the Philippines as part of the law of the land by virtue of the Incorporation Clause in the Constitution.[368] For incorporation to occur, however, two elements[369] must be established: (a) widespread and consistent practice on the part of states; and (b) a psychological element known as the opinio Juris sive necessitatis or a belief on the part of states that the practice in question is rendered obligatory by the existence of a rule of law requiring it.[370] For evident reasons, a statement made by one of the framers of the 1935 Constitution and the Hague Convention cannot, by themselves, prove widespread state practice or opinio Juris. Without more, We cannot declare the existence of a binding norm of customary international law granting citizenship to foundlings in 1935.

I believe, however, that this customary norm exists in international law at present. Although matters of citizenship were traditionally considered to be within the exclusive jurisdiction of states, contemporary developments indicate that their powers in this area are now "circumscribed by their obligations to ensure the full protection of human rights."[371] In particular, the right of children to acquire a nationality is enshrined in a number of international[372] and regional[373] conventions. The presumption of citizenship accorded to foundlings in a state's territory is specifically mentioned in three conventions: the 1930 Hague Convention,[374] the 1961 Convention on the Reduction of Statelessness[375] and the European Convention on Nationality.[376] These treaties, concurred in by various state parties,[377] show that on the part of the members of the international community, there is widespread recognition of the right to nationality of children in general and foundlings in particular.

As important as these international instruments are the actions of states in their own domestic spheres. The International Court of Justice itself has considered national legislation as sufficient evidence of state practice.[378] In this case, a survey of the citizenship laws of 189 countries all over the world reveals that 165 of these nations consider foundlings as citizens by operation of law. Twenty-three of these states[379] grant citizenship to foundlings in observance of the jus soli principle, or the general grant of citizenship to all individuals born within their territory. Meanwhile, one hundred forty-two countries[380] have enacted foundling statutes to grant citizenship to a child found in their territories if the parents are unknown, unless there is proof to the contrary. Depending on the rule followed by the state, the foundling is presumed either to have been born in

the territory[381] or to have been born to citizens of the state.[382]

That states have agreed to be bound by these obligations under various conventions and have even enacted domestic legislation to fulfill their responsibilities under the law of nations indicates their recognition of the binding character of this norm. These acts demonstrate the opinio Juris of those states, i.e., their recognition that the grant of nationality to foundlings is obligatory under international law.[383]

In view of the concurrence of these two elements, it is evident that a rule requiring states to accord citizenship to foundlings has crystallized into a customary norm. The Philippines is therefore bound at present to act in compliance with these obligations.

The ICCPR and the CRC

As a state party to the ICCPR[384] and the CRC,[385] the Philippines is also obligated to respect the right of every child to acquire a nationality. While these treaties ostensibly pertain only to a "right to acquire" a nationality, this right has been interpreted as the duty of a state to "grant nationality," particularly where there is a link only with the state on whose territory the child was born. As the United Nations (UN) Human Rights Committee explained:

> 64. Regardless of the general rules which govern acquisition of nationality, States should ensure that safeguards are in place to ensure that nationality is not denied to persons with relevant links to that State who would otherwise be stateless. This is of particular relevance in two situations, at birth and upon State succession. As regards the right to acquire a nationality under article 24, paragraph 3, of the International Covenant on Civil and Political Rights, the Human Rights Committee stated that "States are required to adopt every appropriate measure ... to ensure that every child has a nationality when he is born". In this context, birth on the territory of a State and birth to a national are the most important criteria used to establish the legal bond of nationality. Where there is only a link with the State on whose territory the child was born, this State must grant nationality as the person can rely on no other State to ensure his or her right to acquire a nationality and would otherwise be stateless. Indeed, if nationality is not granted in such circumstances then article 24, paragraph 3, of the International Covenant as well as article 7 of the Convention on the Rights of the Child would otherwise be meaningless. In concrete terms, the circumstance referred to above may arise, for example, where a child is born on the territory of a State to stateless parents or with respect to foundlings. Given the consequences to the children concerned, denial of nationality in such instances must be deemed arbitrary.[386] (Emphasis supplied)

In its Concluding Observations on Fiji's compliance with the CRC, the UN Committee on the Rights of the Child likewise directed states to take all measures to avoid statelessness in compliance with their obligations under Article 7 of the CRC:

> The Committee takes note of article 7 of the Citizens Decree, which stipulates that any infant found abandoned in Fiji is deemed to have been born in Fiji unless there is evidence to the contrary. However, the Committee is concerned that this stipulation might carry a risk of statelessness for children of whom it can be proven that they have not been born in Fiji, but whose nationality can nevertheless not be established. [...] The Committee recommends that the State party take all the necessary measures to avoid a child found abandoned in Fiji being stateless.[387]

Considering these international norms, it is the obligation of the Philippines not only to grant nationality to foundlings, but also to ensure that none of them are arbitrarily deprived of their nationality. Needless to state, the Court cannot interpret the Constitution in a manner contrary to these obligations. We cannot sanction a violation of international law.

A declaration that foundlings are stateless

persons would have unconscionable
consequences.

The duty of the Court to interpret the Constitution is impressed with the equally vital obligation to ensure that the fundamental law serves the ends of justice and promotes the common good. After all, the Constitution is meant to be the legal embodiment of these values, and to be the people's instrument for the protection of existing natural rights and basic human liberties. As Chief Justice Reynato Puno explained in his Separate Opinion in Republic v. Sandiganbayan:

> But while the constitution guarantees and protects the fundamental rights of the people, it should be stressed that it does not create them. As held by many of the American Revolution patriots, "liberties do not result from charters; charters rather are in the nature of declarations of pre-existing rights." John Adams, one of the patriots, claimed that natural rights are founded "in the frame of human nature, rooted in the constitution of the intellect and moral world." Thus, it is said of natural rights vis-a-vis the constitution:
>
> . . . (t)hey exist before constitutions and independently of them. Constitutions enumerate such rights and provide against their deprivation or infringement, but do not create them. It is supposed that all power, all rights, and all authority are vested in the people before they form or adopt a constitution. By such an instrument, they create a government, and define and limit the powers which the constitution is to secure and the government respect. But they do not thereby invest the citizens of the commonwealth with any natural rights that they did not before possess. (Italics supplied)
>
> A constitution is described as follows:
>
> A Constitution is not the beginning of a community, nor the origin of private rights; it is not the fountain of law, nor the incipient state of government; it is not the cause, but consequence, of personal and political freedom; it grants no rights to the people, but is the creature of their power, the instrument of their convenience. Designed for their protection in the enjoyment of the rights and powers which they possessed before the Constitution was made, it is but the framework of the political government, and necessarily based upon the preexisting condition of laws, rights, habits and modes of thought. There is nothing primitive in it; it is all derived from a known source. It presupposes an organized society, law, order, propriety, personal freedom, a love of political liberty, and enough of cultivated intelligence to know how to guard against the encroachments of tyranny.[388] (Citations omitted and emphasis supplied)

I believe that disputes involving the Constitution must be resolved with these precepts in mind. As the Constitution is no ordinary legal document, this Court should strive to give meaning to its provisions not only with reference to its text or the original intention of its framers. Behind the text are the ideals and aspirations of the Filipino people - their intent to "promote the general welfare;"[389] to "build a just and humane society;"[390] and to "secure the blessings of independence and democracy under the rule of law and a regime of truth, justice, freedom, love, equality, and peace."[391] Any construction that would derogate from these fundamental values cannot be countenanced.

In this case, a declaration that foundlings are natural-born citizens are unconscionable. First, such a declaration would effectively render all children of unknown parentage stateless and would place them in a condition of extreme vulnerability.[392] As citizenship is "nothing less than the right to have rights,"[393] its deprivation would leave foundlings without any right or measure of protection. During the proceedings of the 1st European Conference on Nationality, the Senior Legal Adviser of the United Nations High Commissioner for Refugees explained the nature of the right to citizenship:

> The Right to a Given Nationality in the Avoidance of Statelessness
>
> Citizenship, or nationality, has been described as man's basic right, as, in fact, the right to have rights.

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> Nationality is not only a right of itself, it is a necessary precursor to the exercise of other rights. Nationality provides the legal connection between an individual and a State, which serves as a basis for certain rights for both the individual and the State, including the State's entitlement to grant diplomatic protection.[394]

In the Philippines, a stateless individual is deprived of countless rights and opportunities under the Constitution, statutes and administrative regulations. These include the rights to suffrage;[395] education and training;[396] candidacy and occupation of public office and other positions in government;[397] use and enjoyment of natural resources;[398] investment;[399] ownership and control of certain types of businesses;[400] practice of rofessons;[401] engagement in certain occupations;[402]and even participation in legal proceedings involving status, condition and legal capacity.[403]

Second, a declaration that petitioner is a citizen but is not natural-born is no less odious to foundlings considering the privileges that would be deemed unavailable to them. These include certain state scholarships[404] and a number of government positions requiring natural-born citizenship as a qualification, i.e. a range of national[405] and local[406] offices, various posts in government commissions,[407] corporations,[408] banks,[409] educational institutions,[410] professional regulatory boards[411] and the military.[412]

The repercussions of such a ruling for foundlings currently holding the enumerated positions are too compelling to ignore. A declaration that individuals of unknown parentage are not Filipinos, or at best naturalized citizens, may lead to their removal from government posts; a demand to return all emoluments and benefits granted in connection with their offices; and even the end of pension benefits presently being enjoyed by affected retirees. The proposal for Congress to remedy the unjust situation that would result from an affirmance by this Court of unjust COMELEC rulings is too odious a solution to even consider. It is not the function of Congress to correct any injustice that would result from this Court's proposed unhappy ruling on foundlings. Rather, it is this Court's first and foremost duty to render justice to them, as the Constitutions requires

WHEREFORE, I vote to GRANT the consolidated petitions.

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[1] 468 Phil. 421 (2004).

[2] Id. at 490.

[3] Id. at 494.

[4] The petition docketed as G.R. No. 221697 assailed the COMELEC En Banc Resolution dated 23 December 2015 in SPA No. 15-001 (DC) denying petitioner's motion for reconsideration of the COMELEC Second Division Resolution dated 1 December 2015. On the other hand, the petition docketed as G.R. No. 221698-700 assails the COMELEC En Banc Resolution dated 23 December 2015 in the consolidated cases docketed as SPA Nos. 15-002 (DC), 15-007 (DC) and 15-139 (DC). The COMELEC En Banc denied petitioner's motion for reconsideration of the COMELEC First Division Resolution dated 11 December 2015.

[5] This provision states: "When the Court in recess and the urgency of the case requires immediate action, the Clerk of Court or the Division Clerk of Court shall personally transmit the rollo to the Chief Justice or the Division Chairperson for his or her action."

[6] For instance, see the COMELEC's use of a dissent in Tecson v. COMELEC, Omnibus Resolution dated 11 December 2015, pp. 24, 46.

[7] Sanchez v. Rosario, 111 Phil. 733 (1961), citing Abeede v. Imperial 103 Phil. 136-145 (1958).

[8] Deliberations of the Committee: Ad Hoc, Revision of Laws, 20 May 1985, pp. 65-68.

[9] Deliberations of the Committee: Revision of Laws, 30 May 1985.

[10] G.R. No. 207264, 22 October 2013.

[11] Black's Law Dictionary defines "summary proceeding" as "a nonjury proceeding that settles a controversy or disposes of a case in a relatively prompt and simple manner." (Black's Law Dictionary 1242 [8[th] ed. 2004]).

[12] 318 Phil. 329 (1995).

[13] Id. at 460-461.

[14] Id. at 457-458. Justice Mendoza then quote Section 12, 68 and 78 of the Omnibus Election Code, Sections 6 and 7 of the Electoral Reforms Law. R.A. 6646, and Section 40 of the Local Government Code, R.A. 7160).

[15] Id. at 462-463.

[16] Fermin v. COMELEC, 595 Phil. 449 (2008).

[17] G.R. No. 194076, G.R. No. 194160, [October 18, 2011]).

[18] G.R. No. 207105, [November 10, 2015]).

[19] G.R. No. 196804, 197015, [October 9, 2012], 696 PHIL 786-918).

[20] G.R. No. 191938, [July 2, 2010], 636 PHIL 753-815).

[21] G.R. No. 207900, [April 22, 2014]).

[22] G.R. No. 195229, [October 9, 2012], 696 PHIL 700-785).

[23] G.R. No. 192856, [March 8, 2011]).

[24] G.R. No, 193237, 193536, [October 9, 2012], 696 PHIL 601-700).

[25] G.R. No. 192221, [November 13, 2012]).

[26] G.R. No. 179430, [July 27, 2009], 611 PHIL 501-517).

[27] G.R. No. 105111, 105384, July 3, 1992.

[28] G.R. No. 100710, 100739, September 3, 1991, 278 PHIL 275-302.

[29] G.R. No. 134015, July 19, 1999, 369 PHIL 793-829.

[30] G.R. No. 209835, September 22, 2015.

[31] G.R. No. 193314, February 26,2013.

[32] G.R. No. 120265, September 18, 1995, 318 PHIL 467-539.

[33] G.R. No. 207264, 25 June 2013.

[34] 511 Phil. 720 (2005).

[35] G.R. No. 207900, 22 April 2014.

[36] 595 Phil. 1172 (2008).

[37] 460 Phil. 459 (2003).

[38] 575 Phil. 253 (2008).

[39] G.R. No. 193314 (Resolution), 25 June 2013.

[40] Labo, Jr. v. Commission on Elections, G.R. No. 105111, 105384, 3 July 1992.

[41] Labo, Jr. v. Commission on Elections. 257 Phil. 1-23 (1989).

[42] Aratea v. COMELEC, G.R. No. 195229, 9 October 2012.

[43] See Dissenting Opinion of Justice Dante O. Tinga in Tecson v. COMELEC, 468 Phil. 421-755 (2004).

[44] G.R. No. 119976, 18 September 1995.

[45] Id.

[46] 371 Phil. 377-393 (1999).

[47] G.R. No. 180051, 24 December 2008.

[48] Id.

[49] Id.

[50] 593 Phil. 383-397 (2008).

[51] G.R. No. 179430, 27 July 2009.

[52] 636 Phil. 753-815 (2010).

[53] G.R. No. 188671, 24 February 2010.

[54] G.R. No. 192856, 8 March 2011.

[55] 468 Phil. 421-755 (2004).

[56] 575 Phil. 253-266 (2008).

[57] 595 Phil. 449-479 (2008).

[58] 696 Phil. 700-785 (2012).

[59] 696 Phil. 786-918 (2012).

[60] G.R. No. 202202, 19 March 2013.

[61] G.R. No. 136351, 28 July 1999.

[62] Tagolino v. HRET, G.R. No. 202202, 19 March 2013.

[63] Miranda v. Abaya, G.R. No. 136351, 28 July 1999.

[64] Villafuerte v. Commission on Elections, G.R. No. 206698, 25 February 2014; Hayudini v. Commission on Elections, G.R. No. 207900, 22 April 2014; Agustin v. Commission on Elections, G.R. No. 207105, 10 November 2015.

[65] G.R. No. 209286, 23 September 2014.

[66] Fermin v. COMELEC, G.R. No. 179695 & 182369, 18 December 2008.

[67] G.R. No. 119976, 18 September 1995.

[68] Id.

[69] G.R. No. 191938, 2 July 2010.

[70] Id.

[71] Id.

[72] Tagolino v. HRET, supra.

[73] Fermin v. COMELEC, supra.

[74] Almagro v. Spouses Amaya, Sr., G.R. No. 179685, 19 June 2013.

[75] Id.

[76] Id.

[77] Heirs of Limense v. Vda. de Ramos, G.R. No. 152319, 28 October 2009.

[78] Id.

[79] See Tecson v. COMELEC, G.R. No. 161434, 161634, 161824, March 3, 2004, 468 PHIL 421-755; and Salcedo II v. COMELEC, 371 Phil. (1999).

[80] Rules of Court, Rule 133, Section.

[81] See Jison v. Court of Appeals, GR No. 124853, 24 February 1998.

[82] Id.

[83] G.R. No. 191938, 2 July 2010.

[84] 686 Phil. 649 (2012).

[85] Rule 130 ofthe Rules of Court.

[86] Rufina Patis Factory v. Alusitain, supra.

[87] Lacbayan v. Samoy, Jr., supra.

[88] Id.

[89] Sec. 4. Judicial admissions. - An admission, verbal or written, made by a party in the course of the proceedings in the same case, does not require proof. The admission may be contradicted only by showing that it was made through palpable mistake or that no such admission was made.

[90] G.R. No. 123553, 13 July 1998.

[91] Id.

[92] Rules of Court, Rule 132, Section 19 provides:

Sec. 19. Classes of Documents. - For the purpose of their presentation in evidence, documents are either public or private.

Public documents are:

(a) The written official acts, or records of the official acts of the sovereign authority, official bodies and tribunals, and public officers, whether of the Philippines, or of a foreign country;
(b) Documents acknowledged before a notary public except last wills and testaments; and
(c) Public records, kept in the Philippines, of private documents required by law to be entered therein.

All other writings are private. (Emphasis supplied)

[93] Philippine Trust Co. v. CA, G.R. No. 150318, 22 November 2010.

[94] Id.

[95] Chua v. CA, G.R. No. 88383, 19 February 1992.

[96] China Banking Corp., Inc. v. CA, G.R. No. 155299, 24 July 2007.

[97] G.R. No. 5272, 19 March 1910.

[98] Memorandum of petitioner, pp. 284-287.

[99] Cav. HRET, G.R. Nos. 92191-92 & 92202-03,30 July 1991.

[100] Nuval v. Ouray, G.R. No. 30241, 29 December 1928.

[101] Carre v. Carre, G.R. No. L-10128, 13 November 1956.

[102] Ugdaracian, Jr. v. COMELEC, G.R. No. 179851, 18 April 2008.

[103] 25 Am Jur 2d, Domicil § 13, cited in the Concurring and Dissenting Opinion of J. Puno, Macalintal v. COMELEC, G.R. No. 157013, 10 July 2003.

[104] Limbona v. COMELEC, G.R. No. 181097, 25 June 2008.

[105] Romualdez-Marcos v. COMELEC, G.R. No. 119976, 18 September 1995.

[106] Romualdez-Marcos v. COMELEC, G.R. No. 119976, 18 September 1995.

[107] Japzon v. COMELEC, G.R. No. 180088, 19 January 2009; Gayo v. Verceles, G.R. No. 150477, 28 February 2005.

[108] Sabili v. COMELEC, G.R. No. 193261, 24 April 2012; Papandayan, Jr. v. COMELEC, G.R. No. 147909, 16 April 2002; Romualdez-Marcos v. COMELEC, G.R. No. 119976, 18 September 1995; Co v. HRET, G.R. Nos. 92191-92 & 92202-03, 30 July 1991; Faypon v. Quirino, G.R. No. L-7068, 22 December 1954.

[109] Caasi v. CA, G.R. Nos. 88831 & 84508, 8 November 1990.

[110] Caasi v. CA, G.R. Nos. 88831 & 84508, 8 November 1990.

[111] Jalosjos v. COMELEC, G.R. No. 191970, 24 April 2012.

[112] Jalosjos v. COMELEC, G.R. No. 191970, 24 April 2012.

[113] Gallego v. Verra, G.R. No. 48641, 24 November 1941.

[114] Dumpit-Michelena v. Boado, G.R. Nos. 163619-20, 17 November 2005.

[115] Gallego v. Verra, G.R. No. 48641, 24 November 1941.

[116] Gallego v. Verra, G.R. No. 48641, 24 November 1941, p. 456.

[117] Id.

[118] Id. at 668.

[119] G.R. No. 191938, 2 July 2010.

[120] Designating 1 September 1973 to 28 February 1974 as a Homecoming Season for Overseas Filipinos. Pursuant to the program, the executive departments were mobilized to welcome and extend privileges to overseas Filipinos who are coming home to the Philippines. It called for the preparation of a hospitality program for overseas Filipinos, as well as the offering of promotional round-trip airline fares for foreign and domestic flights. A temporary "tax holiday" was also declared for the Homecoming Season in which all tax clearance requirements involved in the travel of overseas Filipinos to and from the Philippines shall be suspended and waived. A program of rewards was initiated for local governments which are able to invite the most number of overseas Filipinos. The presidential issuance also constituted a National Hospitality Committee for Overseas Filipinos, which shall organize and supervise the operations of local hospitality committees, especially in regard to sharing with overseas Filipinos a traditional Filipino Christmas.

[121] The introductory statement of LOI No. 163 dated 7 February 1974 provides:

While projected arrivals by February 28 was 30,000, the 35,000th Balikbayan participant has already actually arrived as of this date.

Numerous requests and petitions for the extension of the Balikbayan program have been received by the Office of the President and the Department of Tourism from individual Overseas Filipinos, from associations thereof, and from officials of the Philippine foreign service. They cite as reasons the non-coincidence of the original Homecoming season (1 September 1973 to 28 February 1974) with the school vacation period overseas, and the lack of time of Overseas Filipinos to arrange for their vacations and leave of absences from their occupations due to the suddenness of the launching of the Balikbayan program.

A common reason, moreover, is that, with the stories about the new Philippines related by Balikbayan participants who have returned to their overseas residences, our countrymen who were unable to participate in Balikbayan are now more eager than ever to observe for themselves the New Society in action and to share the pride of the new Filipino in himself and in his reborn nation.

[122] Six-month Extension of the Balikbayan Program.

[123] Declaring A Balik-Scientist Program, Allowing any Foreign-Based Scientists, Professional, Technician, or any Person with Special Skill or Expertise who is of Filipino Origin or Descent to Practice His/Her Profession or Expertise in the Philippines and Aligning Incentives for Him/Her and for Other Purposes.

[124] 5[th] "Whereas" clause of P.D. 819.

[125] "Now, therefore" clause of LOI 1044.

[126] Extension of the "BALIKBA YAN" Program dated 9 February 1976.

[127] LOI 493 entitled Extension of Effectivity of the Balikbayan Program dated 30 December 1976.

[128] LOI 652 entitled Extension of the Balikbayan Program dated 6 January 1978.

[129] LOI 811 entitled Extension of Period for Operation of the Balikbayan Program dated 14 February 1979.

[130] LOI 985 entitled Extension of the Balikbayan Program dated 21 January 1980.

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[131] Instituting the Balik Scientist Program under the Department of Science and Technology.

[132] Special non-immigrant visas are issued in accordance with Section 47 of The Philippine Immigration Act of 1940, as amended. It states:

Section 47. Notwithstanding the provisions of this Act, the President is authorized

(a) When the public interest so warrants-

(1) To waive the documentary requirements for any class of nonimmigrants, under such conditions as he may impose;

(2) To admit, as nonimmigrants, aliens not otherwise provided for by this Act, who are coming for temporary period only, under such conditions as he may prescribe;

(3) To waive the passport requirements for immigrants, under such conditions as he may prescribe;

(4) To reduce or to abolish the passport visa fees in the case of any class of nonimmigrants who are nationals of countries which grant similar concessions to Philippine citizens of a similar class visiting such countries;

(5) To suspend the entry of aliens into the Philippines from any country in which cholera or other infectious or contagious disease is prevalent;

(b) For humanitarian reasons, and when not opposed to the public interest, to admit aliens who are refugees for religious, political, or racial reasons, in such classes of cases and under such conditions as he may prescribe.

[133] An Act Instituting a Balikbayan Program.

[134] Presidential Decree No. 1183 (Amending and Consolidating the Provisions on Travel Tax of Republic Act No. 1478 as Amended and Republic Act No. 6141, Prescribing the Manner of Collection Thereof, Providing Penalties for Violations Thereof, and for Other Purposes, dated 21 August 1977) and Executive Order No. 283 (Restructuring the Travel Tax Exemptions and Restoring the Reduced Rates on Certain Individuals, Amending for this Purpose, Presidential Decree No. 1183, as Amended, dated July 25, 1987) exempted only Filipino overseas contract workers from the payment of the travel tax.

[135] An Act Amending Republic Act Numbered 6768, Entitled, "An Act Instituting A "Balikbayan Program," by Providing Additional Benefits and Privileges to Balikbayan and for Other Purposes.

[136] Republic Act No. 6768, as emended by Republic Act No. 9174, Section 2(c).

[137] OWWA Board Resolution No. 038-03 dated 19 September 2003 entitled Guidelines on OWWA Membership, Article VIII, Section 2(4)(b).

[138] Id. at Section 6(b).

[139] <http://www.owwa.gov.ph/?q=content/programs-services>
, (last visited 9 March 2016).

[140] Id.

[141] Id.

[142] <http://nrco.dole.gov.ph/index.php/about-us/who-we-are>, (last visited 9 March 2016).

[143] Republic Act No. 8042 (Migrant Workers and Overseas Filipinos Act of 1995), as amended by Republic Act No. 10022 dated 8 March 2010, Section 17.

[144] An OFW is a person who is to be engaged, is engaged or has been engaged in a remunerated activity in a state of which he or she is not a citizen or on board a vessel navigating the foreign seas other than a government ship used for military or non-commercial purposes or on an installation located offshore or on the high seas [Republic Act No. 8042, Section 3(a)]

[145] Republic Act No. 6768, as amended by Republic Act No. 9174, Section 6, par. 2.

[146] <http://www.immigration.gov.ph/faqs/visa-inquiry/balikbayan-previlege> The website of the Bureau of Immigration states:

Those who are admitted as Balikbayans are given an initial stay of one (1) year. They may extend their stay for another one (1), two (2) or six (6) months provided that they present their valid passport and filled out the visa extension form and submit it to the Visa Extension Section in the BI Main Office or any BI Offices nationwide. An additional requirement will be ask (sic) for (sic) Balikbayans who have stayed in the Philippines after thirty six (36) months.

[147] G.R. No. 151914, 31 July 2002.

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

[149] G.R. No. 209835, 22 September 2015.

[150] Citizenship Retention and Re-acquisition Act of 2003.

[151] 435 U.S. 647 (1978).

[152] Id.

[153] 284 Md. 425 (1979).

[154] The website of the Bureau of Immigration states:

> Those who are admitted as Balikbayans are given an initial stay of one (1) year. They may extend their stay for another one (1), two (2) or six (6) months provided that they present their valid passport and filled out the visa extension form and submit it to the Visa Extension Section in the 81 Main Office or any 81 Offices nationwide. An additional requirement will be ask (sic) for (sic) Balikbayans who have stayed in the Philippines after thirty six (36 months).
>
> This is available at http://www.immigration.gov.ph/faqs/visa-inquiry/balikbayan--privilege, (last visited 8 March 2016).

[155] Petition to Deny Due Course, dated 21 Oct. 2015 (Elamparo), Annex E.

[156] Jalosjos v. COMELEC, G.R. No. 193314, 26 February 2013; Mitra v. COMELEC, G.R. No. 191938, 2 July 2010; Gayo v. Verceles, G.R. No. 150477, 28 February 2005.

[157] Petitioner submitted as evidence Exhibit "7," which is Brian's official transcript of records from the Beacon School in Taguig City. It states that Brian was enrolled in Grade 8 at the Beacon School for the academic year 2005-2006. Exhibit 7-A, a Certification from Sandra Bernadette Firmalino, Registrar of the De La Salle High School Department, indicates that in 2006, Brian transferred to La Salle Greenhills, and that he studied there until he graduated from high school in 2009. Exhibits "7-B" and "7-C" are Hanna's permanent records at the Assumption College as an elementary and secondary student, respectively. They show that Hanna was enrolled in Grade 2 at Assumption College in Makati City for academic year 2005-2006.

As for Anika, petitioner alleged that Anika was just under a year old when the former and her family relocated to the Philippines in May 2005 and therefore Anika was not enrolled in any school in 2005. Petitioner presented Exhibit "7-D," which is a Certificate of Attendance dated 8 April 2015 issued by the Directress of the Learning Connection, Ms. Julie Pascual Penaloza. It states that Anika attended pre-school at the Learning Connection in San Juan City from January to March 2007. Petitioner likewise offered as evidence Exhibit "7-E," a Certification dated 14 April 2015 issued by the Directress of the Greenmeadows Learning Center, Ms. Anna Villalima-Reyes, Anika studied at the Greenmeadows Learning Center in Quezon City for academic year 2007-2008. Exhibit "7-F" is the Elementary Pupil's Permanent Record showing that Anika spent her kindergarten and grade school years at the Assumption College. The record covers the years 2007 to 2013. The same Exhibit "7-F" indicates that Anika was born on 5 June 2004.

[158] Marked as Exhibit "8."

[159] Marked as Exhibits "11" and "12."

[160] TCT No. 290260, issued by the Register of Deeds of Quezon City.

[161] G.R. No. 187478 (2009).

[162] 718 A.2d 1111 (1984).

[163] Id.

[164] COMELEC Comment dated 7 January 2016, p. 56.

[165] COMELEC Comment, page 56.

[166] G.R. No. 191970, 24 April 2012.

[167] Jalosjos v. Commission on Elections, G.R. No. 193314, 26 February 2013.

[168] Oglesby State Election Bd. v. Bayh 521 N.E. 2d 1313 (1988); Farnsworth v. Jones, 114 N.C. App. 182 (1994); Hale v. State of Mississippi Democratic Executive Committee (168 So. 3d 946 (2015).

[169] No. 2015-EC-00965--SCT(2015).

[170] See p. 47, par. 157.

[171] Section 236 (J) of the Tax Reform Act of 1997, R.A. No. 8424, 11 December 1997 provides:

(J) Supplying of Taxpayer Identification Number (TIN). Any person required under the authority of this Code to make, render or file a return, statement or other document shall be supplied with or assigned a Taxpayer Identification Number (TIN) which he shall indicate in such return, statement or document filed with the Bureau of Internal Revenue for his proper identification for tax purposes, and which he shall indicate in certain documents, such as, but not limited to the following:

[172] Id.

[173] Affidavit, p. 1.

[174] No. 2015-EC-00965-SCT(2015).

[175] G.R. No. 28328, 2 October 1928, 52 PHIL 130-138)

[176] Comment-Opposition to the Petition for Certiorari (G.R. No. 221698 700) dated 8 January 2015, p. 51, par. 174.

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[177] Petitioner's Memorandum p. 279.

[178] 372 Md. 360 (2002).

[179] 314 U.S. 441 (1941).

[180] 314 u. s. 456.

[181] Id.

[182] Superior Court of North Carolina. Wake County. Business Court. Steve W Fowler and Elizabeth P. Fowler v. North Carolina Department of Revenue. No. 13 CVS 10989. 6 August 2014, citing Hall v. Wake Cnty. Bd. of Elections, 280 N.C. 600, 187 S.E.2d 52 (1972). See also Robin Cates v. Olga Mescherskaya and Progressive Casualty Insurance Company. Civil Action No. 14-00729. / Signed 1 July 2014. United States District Court, E.D. Louisiana, citing Cox, Cox, Filo, Camel & Wilson, LLC v. Sasol North Am., Inc., No. 11-856,2012 WL 262613, at *5 (W.D.La. Jan. 30, 2012).

[183] Memorandum for respondent Amado D. Valdez, p. 25.

[184] 372 Md. 360 (2002).

[185] Transcript of Stenographic Notes taken during the Oral Arguments on 16 February 2016, pp. 85-86.

[186] No. 2015-EC-00965-SCT(2015).

[187] 114 N.C. App. 182 (1994).

[188] 968 So. 2d 745 (2007).

[189] Pa. Superior Ct. 237 (1984) 473 A.2d 1069.

[190] Receipt Nos. 827172 and 8220421, dated 23 February 2006.

[191] 372 Md. 360 (2002).

[192] Republic Act No. 8189, 11 June 1996.

[193] G.R. No. 191938, 19 October 2010.

[194] 473 A.2d 1069 (1984).

[195] § 53.2 Exceptions.

(a) U.S. citizens, as defined in § 41.0 of this chapter, are not required to bear U.S. passports when traveling directly between parts ofthe United States as defined in § 51.1 of this chapter.

(b) A U.S. citizen is not required to bear a valid U.S. passport to enter or depart the United States:

(1) When traveling as a member of the Armed Forces of the United States on active duty and when he or she is in the uniform of, or bears documents identifying him or her as a member of, such Armed Forces, when under official orders or permit of such Armed Forces, and when carrying a military identification card; or

(2) When traveling entirely within the Western Hemisphere on a cruise ship, and when the U.S. citizen boards the cruise ship at a port or place within the United States and returns on the return voyage of the same cruise ship to the same United States port or place from where he or she originally departed. That U.S. citizen may present a government-issued photo identification document in combination with either an original or a copy of his or her

birth certificate, a Consular Report: of Birth Abroad issued by the Department, or a Certificate of Naturalization issued by U.S. Citizenship and Immigration Services before entering the United States; if the U.S. citizen is under the age of 16, he or she may present either an original or a copy of his or her birth certificate, a Consular Report: of Birth Abroad issued by the Department, or a Certificate of Naturalization issued by U.S. Citizenship and Immigration Services; or

(3) When traveling as a U.S. citizen seaman, carrying an unexpired Merchant Marine Document (MMD) in conjunction with maritime business. The MMD is not sufficient to establish citizenship for purposes of issuance of a United States passport under part 51 of this chapter; or

(4) Trusted traveler programs-(i) NEXUS Program. When traveling as a participant in the NEXUS program, he or she may present a valid NEXUS program card when using a NEXUS Air kiosk or when entering the United States from contiguous territory or adjacent islands at a land or sea port-of-entry. A U.S. citizen who enters the United States by pleasure vessel from Canada under the remote inspection system may also present a NEXUS program card;

(ii) FAST program. A U.S. citizen who is traveling as a participant in the FAST program may present a valid FAST card when entering the United States from contiguous territory or adjacent islands at a land or sea port-of-entry;

(iii) SENTRI program. A U.S. citizen who is traveling as a participant in the SENTRI program may present a valid SENTRI card when entering the United States from contiguous territory or adjacent islands at a land or sea port-of-entry; The NEXUS, FAST, and SENTRI cards are not sufficient to establish citizenship for purposes of issuance of a U.S. passport under part 51 of this chapter; or

(5) When arriving at land ports of entry and sea ports of entry from contiguous territory or adjacent islands, Native American holders of American Indian Cards (Form I-872) issued by U.S. Citizenship and Immigration Services (USCIS) may present those cards; or

(6) When arriving at land or sea ports of entry from contiguous territory or adjacent islands, U.S. citizen holders of a tribal document issued by a United States qualifying tribal entity or group of United States qualifying tribal entities as provided in 8 CFR 235.1(e) may present that document. Tribal documents are not sufficient to establish citizenship for purposes of issuance of a United States passport under part 51 of this chapter; or

(7) When bearing documents or combinations of documents the Secretary of Homeland Security has determined under Section 7209(b) of Public Law 108-458 (8 U.S.C. 115 note) are sufficient to denote identity and citizenship. Such documents are not sufficient to establish citizenship for purposes of issuance of a U.S. passport underpart 51 ofthis chapter; or

(8) When the U.S. citizen is employed directly or indirectly on the construction, operation, or maintenance of work undertaken in accordance with the treaty concloded on February 3, 1944, between the United States and Mexico regarding the functions of the International Boundary and Water Commission (IBWC), TS 994, 9 Bevans 1166, 59 Stat. 1219, or other related agreements, provided that the U.S. citizen bears an official identification card issued by the IBWC and is traveling in connection with such employment; or

(9) When the Department of State waives, pursuant to EO 13323 of December 30, 2003, Section 2, the requirement with respect to the U.S. citizen because there is an unforeseen emergency; or

(10) When the Department of State waives, pursuant to EO 13323 of December 30, 2003, Sec. 2, the requirement with respect to the U.S. citizen for humanitarian or national interest reasons; or

(11) When the U.S. citizen is a child under the age of 19 arriving from contiguous territory in the following circumstances:

(i) Children under age 16. A United States citizen who is under the qge of 16 is permitted to present either an original or a copy of his or her birth certificate, a Consular Report of Birth Abroad, or a Certificate of Naturalization issued by U.S. Citizenship and Immigration Services when entering the United States from contiguous territory at land or sea ports-of-entry; or

(ii) Groups of children under age 19. A U.S. citizen who is under age 19 and who is traveling with a public or private school group, religious group, social or cultural organization, or team associated with a youth sport organization may present either an original or a copy of his or her birth certificate, a Consular Report of Birth Abroad, or a Certificate of Naturalization issued by U.S. Citizenship and Immigration Services when arriving in the United States from contiguous territory at all land or sea ports of entry, when the group, organization or team is under the supervision of an adult affiliated with the organization and when the child has parental or legal guardian consent to travel. For purposes of this paragraph, an adult is considered to be a person who is age 19 or older. The following requirements will apply:

(A) The group, organization, or team must provide to CBP upon crossing the border on organizational letterhead:

(1)The name ofthe group, organization or team, and the name ofithe supervising adult;
(2) A list of the children on the trip; and
(3) For each child, the primary address, primary phone number, date of birth, place of birth, and the name of at least one parent or legal guardian.

(B) The adult leading the group, organization, or team must demonstrate parental or legal guardian consent by certifying in the writing submitred in paragraph (b)(ll)(ii)(A) of this section that he or she has obtained for each child the consent of at least one parent or legal guardian.

(C) The procedure described in this paragraph is limited to members of the group, organization, or team who are urider age 19. Other members of the group, organization, or team must comply with other applicable document and/or inspection requirements found in 8 CFR parts 211, 212, or 235.

[196] G.R. No. 195649, 16 April 2013.

[197]

[198] Republic v. Court of Appeals G.R. No. 97906, 21 May 1992.

[199] Section 17.

[200] Child and Youth Welfare Code (1974), Article 38.

[201] Domestic Adoption Act of 1998, Sec. 15.

[202] A.M. No. 02-6-02-SC, Sec. 18.

[203] It must be noted that in the US, adoption statutes prohibit adoption files from being inspected by birth parents, the general public, and even the adult adoptees themselves, with most states providing that sealed adopted records could be opened only by court order.[203] In the case of In Re: Roger B 418 N.E.2d 751 (III.1981), the Court eventually held that the adoptee has no fundamental right to view his adoption records since the status of an adoptee does not result at birth. It is derived from legal proceedings the purpose of which is to protect the best interests of the child.

[204] Republic Act No. 8552 entitled "Domestic Adoption Act of 1998," Section 14.

[205] CIVIL CODE, Art. 410.

[206] Baldos v. Court of Appeals and Pillazar, 638 Phil. 601 (2010).

[207] Marked as Exhibit "2."

[208] Reyes v. Sotero, 517 Phil. 708 (2006).

[209] Id.

[210] The original certificate of birth shall be stamped "cancelled," annotated with the issuance of an amended birth certificate in its place, and shall be sealed in the civil registry records. With due regard to the confidential nature of the proceedings and records of adoption, the civil registrar where the foundling was registered is charged with the duty to seal the foundling certificate in the civil registry records, which can be opened only upon order ofthe eourt which issued the decree of adoption (Section 16(B)(3)(c), A.M. No. 02-6-02-SC, 31 July 2002).

[211] Section 2, Statement of Policy.

[212] Section 3(d).

[213] Section 3(e).

[214] Section 13(e)

[215] In 1950, an application for a Philippine passport was filed for a boy, who had been found by Sps. Hale in an air raid shelter. The boy was only three years old when he was found. His parents, sister and grandmother were among the dead. The DFA asked for a DOJ opinion with the regard to the status of foundlings. In 1951, the Secretary of Justice released DOJ Opinion No. 189, series of 1951 which stated that, following international conventions, a foundling is presumed to have assumed the citizenship of the place where he or she is found. Since then, the OFA has been issuing passports to foundlings.

[216]<http://www.dfa.gov.ph/index.php/consular-services/passport-information> (last accessed 8 March 2016).

[217] Section 44. Entries in official records. - Entries in official records made in the performance of his duty by a public officer of the Philippines, or by a person in the performance off duty specially enjoined by law, are prima facie evidence of the facts therein stated. (38)

[218] Lejano v. People, 652 Phil. 512 (2010).

[219] In Go, Sr. v. Ramos, G.R. Nos. 167569, 167570, 171946, 4 Septembr 2009, 614 PHIL 451-484, the Court explained that res judicata applies only when the following concur: (a) a person's citizenship is raised as a material issue in a controversy where that person is a party; (b) the Solicitor General or an authorized representative took active part in the resolution of the issue; and (c) the finding of citizenship is affirmed by this Court. These conditions do not obtain in this case.

[220] Petition for Certiorari (G.R. No. 221697) dated 28 December 2015, Annex I-series, Exhibit 20.

[221] In In Re: Roger B, the Supreme Court of Illinois explained the potent policy interests which are promoted by the sealing of adoption records. Included in those interests are the facilitation of the adoption process by maintaining the anonymity and the right to privacy of the natural parents, and the integrity of the new adoptive family:

> Confidentiality is needed to protect the right to privacy of the natural parent. The natural parents, having

> determined it is in the best interest of themselves and the child, have placed the child for adoption. This process is not done merely with the expectation of anonymity, but also with the statutory assurance that his or her identity will be shielded from public disclosure. Quite conceivably, the natural parents have established a new family unit with the expectation of confidentiality concerning the adoption that occurred several years earlier.
>
> x x x x
>
> Confidentiality also must be promoted to protect the right of the adopting parents. The adopting parents have taken into their home a child whom they will regard as their own and whom they will love, support, and raise as an integral part of the family unit. They should be given the opportunity to create a stable family relationship free from unnecessary intrusion. The Section creates a situation in which the emotional attachments are directed toward the relationship with the new parents. The adoptive parents need and deserve the child's loyalty as they grow older, and particularly in their later years.
>
> x x x x
>
> The State's concern of promoting confidentiality to prot ct the integrity of the adoption process is well expressed by the following excerpt from Klibanoff, Genealogical Information in Adoption: The Adoptees Quest and the Law:
> "The primary interest of the public is to preserve the integrity of the adoptive process. That is, the continued existence of adoption as a humane solution to the serious social problem of children who are or may become unwanted, abused or neglected. In order to maintain it, the public has an interest in assuring that changes in ilaw, policy or practice will not be made which negatively affect the supply of capable adoptive parents or the willingness of biological parents to make decisions which are best for them and their children. We should not increase the risk of neglect to any child, nor should we force parents to resort to the black market in order to surrender children ithey can't care for.
>
> x x x x
>
> No one has yet shown that decades of policy protecting the anonymity of the biological parents and the security from intrusion of the parent-child relationship after adoption have been misguided. Quite the contrary. The overwhelming success of adoption aan institution which has provided millions of children with families, and vice-versa, cannot be easily attacked.
>
> The public has a strong interest, too, in preserving the confidential non-public nature of the process. Public attitudes toward illegitimacy and parents who neglect or abuse children have not changed sufficiently to warrant careless disclosure of the circumstances leading to adoption.
>
> But the public also has an interest in the mental health of children who have been adopted-in order that they not become burdens to society. Some provision for the relatively small group of adoptees whose psychological needs are compelling would appear: necessary."

x x x x

The State certainly must protect the interest of the adoptee, as well as the rights of the natural and adopting parents. When the adoptee is a minor, there is no dispute that the sealed-record provisions serve this end. The child, in his new family environment, is insulated from intrusion from the natural parents. The child is protected from any stigma resulting from illegitimacy, neglect, or abuse. The preclusion of outside interference allows the adopted child to develop a relationship of love and cohesiveness with the new family unit. Prior to adulthood, the adoptee's interest is con istent with that of the adopting and natural parents.

Upon reaching majority, the adoptee often develops a countervailing interest that is in direct conflict with the

other parties, particularly the natural parents. The adoptee wishes to determine his natural identity, while the privacy interest of the, natural parents remain, perhaps stronger than ever. The Section recognizes that the right of privacy is not absolute. It allows the court to evaluate the needs of the adoptee as well as the nature of the relationships and choices made by all parties concerned. The statute, by providing for release of adoption records only upon issuance of a court order, does no more than allow the court to balance the interests of all the parties and make a det rmination based on the facts and circumstances of each individual case.[221] (Citations omitted)

[222] Exhibit 30, Annex I-series in G.R. No. 229697; Exhibit 30 (Tatad), Exhibit 20-22 (Contreras/Valdez), Annex M-series of Petition for Certiorari in G.R. Nos. 229688-700.

[223] Exhibit 30-A, Annex I-series in G.R. No. 229697; Exhibit 30-A (Tatad), Exhibit 23 (Contreras/Valdez), Annex M-series of Petition for Certiorari in G.R. Nos. 229688-700.

[224]Exhibit 31, Annex I-series in G.R. No. 229697; Exhibit 31 (Tatad), Exhibit 34 (Contreras/Valdez), Annex M-series of Petition for Certiorari in G.R. Nos. 229688-700.

[225] Section 3(h), Rules and Regulations to Implement the Domestic Adoptin Act of 1998, IRR-R.A. 8552 (1998); Also see Rule 26, Implementing Rules and Regulations of Act No. 3753 and Other Laws on Civil Registration, NSO Administrative Order No. 1-93 (1992); Section 3(e), Rule on Adoption, A.M. No. 02-6-02-SC (2002).

[226] Articles 255 and 258 of the Civil Code state:

> Article 255. Children born after one hundred and eighty days following the celebration of the marriage, and before three hundred days following its dissolution or the separation of the spouses shall be presumed to be legitimate.
>
> Against this presumption no evidence shall be admitted other than that of the physical impossibility of the husband's having access to his wife within the first one hundred and twenty days of the three hundred which preceded the birth of the child.
>
> Article 258. A child born within one hundred eighty qays following the celebration of the marriage is prima facie presumed to be legitimate. Such a child is conclusively presumed to be legitimate in any of these cases:
>
> (1) If the husband, before the marriage, knew of the pregnancy of the wife;
> (2) If he consented, being present, to the putting of his surname on the record of birth of the child;
> (3) If he expressly or tacitly recognized the child as his own.

A similar provision is found in the Family Code:

> Article 168. If the marriage is terminated and the mother contracted another marriage within three hundred days after such termination of the former marriage, these rules shall govern in the absence of proof to te contrary:
>
> (1) A child born before one hundred eighty days after the solemnization of the subsequent marriage is considered to have been corceived during the former marriage, provided it be born within three hundred days after the termination of the former marriage;
>
> (2) A child born after one hundred eighty days following te celebration of the subsequent marriage is considered to have been con eived during such marriage, even though it be born within the three hu dred days after the termination of the former marriage.

[227] Rule 131, Section 3 ofthe Rules of Court, states:

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Section 3. Disputable presumptions. - The following presumptions are satisfactory if uncontradicted, but may be contradicted and overcome by other eividence.

x x x x

(dd) That if the marriage is terminated and the mother contracted another marriage within three hundred days after such termination of the former marriage these rides shall govern in the absence of proof to the contrary:

(1) A child born before one hundred eighty days after the solemntzation of the subsequent marriage is considered to have been conceived during the former marriage, provided it be born within three hundred days after the termination of the former marriage;

(2) A child born after one hundred eighty days following the celebration of the subseq
546+45
56uent marriage is considered to have been conceived during such marriage, even though it be born within the three hundred days after the termination of the former marriage.

[228] Alejandro E. Sebastian, The Philippine Law on Legitimacy, 11 PHIL. L.J. 35 (1931), p. 42.

[229] G.R. No. 200169, 28 January 2015.

[230] CIVIL CODE, Art. 172.

[231] Section 5, Act No. 3753 states:

> SECTION 5. Registration and Certification of Births. - The declaration of the physician or midwife in attendance at the birth or, in default thereof, the declaration of either parent of the newborn child, shall be sufficient for the registration of a birth in the civil register. Such declaration shall be exempt from the documentary stamp tax land shall be sent to the local civil registrar not later than thirty days after the birth, by the physician, or midwife in attendance at the birth or by either parent of the newly born child.
>
> In such declaration, the persons above mentioned shall certify to fhe following facts: (a) date and hour of birth; (b) sex and nationality of infant; (c) names, citizenship, and religion of parents or, in case the father is not known, of the mothr alone; (d) civil status of parents; (e) place where the infant was born; (f) and such other data may be required in the regulation to be issued.
>
> In case of an illegitimate child, the birth certificate shall be signed nd sworn to jointly by the parents of the infant or only the mother if the father refuses. In the latter case, it shall not be permissible to state or reveal in the document the name othe father who refuses to acknowledge the child, or to give therein any information by which such father could be identified.

[232] Supra note 229.

[233] In Lucas v. Lucas (G.R. No. 190710, 665 Phil. 795-815 [2011]), the Court explained:

> Notwithstanding these, it should be stressed that the issuance of a DNA testing order remains discretionary upon the court. The court may, for example, consider whether there is absolute necessity for the DNA testing. If there is already preponderance of evidence to establish paternity and the DNA test result would only be corroborative, the court may, in its discretion, disallow a DNA testing.

This pronouncement was reiterated in Tecson v. COMELEC (G.R. Nos. 161434, 161634, 161824, 468 Phil. 421-75 [2004]), in which the Court stated: In case proof of filiation or paternity would be unlikely to satisfactorily establish or would be difficult to obtain, DNA testing, which examines genetic codes obtained from body cells of the illegitimate child and any physical residuof the long dead parent could be resorted to."

[234] Section 765 of Act 190 states:

SECTION 765. How a Child May be Adopted. — An inhabitant of the Philippine Islands, not married, or a husband and wife jointly, may petition the Court of First Instance of the province in which they reside for leave to adopt a minor child but a written consent must be given for such adoption by the child, if of the age of fourteen years, and by each of his or her living parents who is not hopelessly insane or intemperate, or has not abandoned such child, or if there are no such parents, or if the parents are unknown, or have abandoned such child, or if they are hopelessly insane or intemperate, then by the legal guardian, or if there is no such guardian, then by a discreet and suitable person appointed by the court to act in the proceedings as the next friend of such child; but when such child is an inmate of an orphan asylum or children's home, organized under the laws of the Philippine Islands, and has been previously abandoned by its parents or guardians, or voluntarily surrendered by its parents or guardians to the trustees or directors of an asylum or children's home, then the written consent of the president of the board of trustees or directors of such asylum must be given: Provided, nevertheless, That nothing herein contained shall authorize a guardian to adopt his ward before the termination of the guardianship and the final settlement and approval of his accounts as guardian by the court. (Emphases supplied)

[235] Sections 3 and 7, Rule 100 (Adoption and Custody of Minors) of the 1940 Rules of Court, state:

> SECTION 3. Consent to Adoption. - There shall be filed with the petition a written consent to the adoption signed by the child, if over fourteen years of age and not incompetent, and by each of its known living parents who is not insane or hopelessly intemperate or has not abandoned such child, or if there are no such parents by the general guardian or guardian ad litem of the child, or if the child is in the custody of an orphan asylum, children's home, or benevolent society or person, by the proper officer or officers of such asylum, home, or society, or by such person; but if the child is illegitimate and has not been recognized, the consent of its father to the adoption shall not be required.
>
> SECTION 7. Proceedings as to Vagrant or Abused Child. When the parents of any minor child are dead, or by reason of long absence or legal for physical disability have abandoned it, or cannot support it through vagrancy, negligence, or misconduct, or neglect or refuse to support it, or unlawfully beat or otherwise habitually maltreat it, or cause or allow it to engage in common begging, or to commit o fenses against the law, the proper Court of First Instance, upon petition filed by some reputable resident of the province setting forth the facts, may issue an order requiring such parents to show cause, or, if the parents are dead or cannot be found, requiring the fiscal of the province to show cause, at a time and place fixed in the order, why the child should not be taken from its parents, if living; and if upon hearing it appear that the allegations of the petition are true, and that it is for the best interest of the child, the court may make an order taking it from its parents, if living, and committing it to any suitable orphan asylum, children's home, or benevolent society or person, to be ultimately placed, by adoption or otherwise, in a home found for it by such asylum, children's home, society, or person.

[236] Sections 3 and 7, Rule 99 ofthe 1964 Rules of Court, provide:

SECTION 3. Consent to Adoption. - There shall be filed witli the petition a written consent to the adoption signed by the child, if fourteen years of age or over and not incompetent, and by the child's spouse, if any, and by each of it known living parents who is not insane or hopelessly intemperate or has not abandoned such child, or if there are no such parents by the general guardian or guardian ad litem of the child, or if the child is in the custody of an orphan asylum, children's home, or benevolent society or person, by the proper officer or officers of such asylum, home, or society, or by such person; but if the child is illegitimate and has not been recognized, the consent of its father to the adoption shall not be required.

If the person to be adopted is of age, only his or her consent and that of the spouse, if any, shall be required.

SECTION 7. Proceedings as to Vagrant or Abused Child. - When the parents of any minor child are dead, or by reason of long absence or legal or physical disability have abandoned it, or cannot support it through vagrancy, negligence, or misconduct, or neglect or refuse to support it, or treat it with excessive harshnes or give it corrupting orders, counsels, or examples, or cause or allow it to engage in egging, or to commit offenses against the law, the proper Court of First Instance, upon petition filed by some reputable resident of the province setting forth the facts, may issue an order requiring such parents to show cause, or, if the parents are dead or cannot be found, requiring the fiscal of the province to show cause, at a time and place fixed in the order, why the child should not be taken from its parents, if living; and if upon the hearing it appears that the allegations of the petition are true, and that it is for the est interest of the child, the court may make an order taking it from its parents, if living; and committing it to any suitable orphan asylum, children's home, or benevolent society or person to be ultimately placed, by adoption or otherwise, in a home found for it by such sylum, children's home, society or person.

[237] Sections 1 and 5 of Act No. 1670 provide:

> SECTION 1. The board of trustees or directors of any asylum or institution in which poor children are cared for and maintained at public expense are hereby authorized, with the consent of the Director of Health, to place any orpran or other child so maintained therein whose parents are unknown, or being known are unable or unwilling to support such child, in charge of any suitable person who may desire to take such child and shall furnish satisfactory evidence of his ability suitably to maintain, care for, and educate such child.
>
> SECTION 5. Upon the application of any person to the trustees or directors of any asylum or institution where poor children are maintained at public expense to adopt any child so maintained therein, it shall be the duty of such trustes or directors, with the approval of the Director of Health, to report the fact to the provincial fiscal, or in the city of Manila to the city attorney, and such official shall hereupon prepare the necessary adoption papers and present the matter to the proper court. The costs of such proceedings in court shall be de oficio.

[238] Administrative Code, Act No. 2657, 31 December 1916.

[239] Sections 545 and 548 of Act No. 2711 provide:

> SECTION 545. Transfer of child from institution for poor children. - The competent authorities of any asylum or institution in which poor children are cared for and maintained at public expense are authorized, subject to regul tions approved by the Secretary of the Interior, to place any orphan or other child so maintained therein whose parents are unknown, or being known are unable or unwilling to support such child, in charge of any suitable person who may desire to take such child and shall furnish satisfactory evidence of his ability suitably to maintain, care for, and educate such child.

The intrusting of a child to any person as herein provided shall not constitute a legal adoption and shall not affect the civil status of such child or pr judice the right of any person entitled to its legal custody or guardianship.

> SECTION 548. Adoption of child from institution for poor children. - Upon the application of any person to the competent authorities of anasylum or institution where the poor children are maintained at public expense tadopt any child so maintained therein, it shall be the duty of such authorities, with the approval of the Secretary of the Interior, to report the fact to the provincial fiscal, in the City of Manila to the fiscal of the city, and such official shall thereupon prepare the necessary adoption papers and present the matter to the proper court. The costs of such proceeding in court shall be de oficio.

[240] The law provides:

> SECTION 8. Who May Be Adopted. - Only a legally free child may be the subject of inter-country adoption. In order that such child may be considered for placement, the following documents must be submitted to the

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Board:

a) Child study;
b) Birth certificate/foundling certificate;
c) Deed of voluntary commitment/decree of abandonm nt/death certificate of parents;
d) Medical evaluation/history;
e) Psychological evaluation, as necessary; and
f) Recent photo of the child

[241] An Act Requiring the Certification of the Department of Social Welfae and Development (DSWD) to Declare a "Child Legally Available for Adoption" as a Prerequisite for Adoption Proceedings (2009).

[242] Pursuant to Section 2(3) of R.A. 9523, an "Abandoned Child" refer to a child who has no proper parental care or guardianship, or whose parent(s) have deserted him/her for a period of at least three (3) continuous months, and the term includes a founding.

[243] Sections 4 and 5 ofR.A. 9523 state:

Section 4. Procedure for the Filing of the Petition. - The petition shall be filed in the regional office of the DSWD where the child was found or abandred.

The Regional Director shall examine the petition and its supporting documents, if sufficient in form and substance and shall authorize the postipg of the notice of the petition conspicuous place for five (5) consecutive days in the locality where the child was found.

The Regional Director shall act on the same and shall render a rdcommendation not later than five (5) working days after the completion of its posting. He/she shall transmit a copy of his/her recommendation and records to the Office of the Secretary within forty-eight (48) hours from the date of the recommendation.

Section 5. Declaration of Availability for Adoption. - Upon finding merit in the petition, the Secretary shall issue a certification declaring the child legallavailable for adoption within seven (7) working days from receipt of the recommendation.

Said certification, by itself shall be the sole basis for the immedi te issuance by the local civil registrar of a foundling certificate. Within seven (7) working days, the local civil registrar shall transmit the founding certificate to the National Statistic Office (NSO).

[244] Guidelines on the Issuance of DSWD Certification Declaring a Child Legally Available for Adoption, DSWD Administrative Order No. 012-11 (2011).

[245] G.R. No. L-16922, 30 April 1963.

[246] 134 Phil. 901-912 (1968).

[247] G.R. No. L-30576, 10 February 1976.

[248] 274 Phil. 1157-1249 (1991).

[249] G.R. Nos. 161434, 161634, 161824, 468 Phil. 421-75 (2004).

[251] People v. Veneracion, 319 Phil. 364 (1995).

[252] Alexander Hamilton, Federalist Paper No. 22; emphasis supplied.

[253] RULES OF COURT, Rule 128, Sec. 1.

[254] 93 Phil. 257 (1953).

[255] Id. The passage cited In re Bohenko's Estate, 4 N.Y.S. 2nd. 427, which also cited Tortora vs. State of New York, 269 N.Y. 199 N.E. 44; Hart vs. Hudson River Bridge Co., 8 N.Y. 622.

[256] Id. The passage cited l Moore on Facts, Sec. 596.

[257] RULES OF COURT, Rule 112

Section 1. Preliminary Investigation Defined;When Required. - Prelim nary investigation is an inquiry or proceeding to determine whether there is sufficient ground to enge der a well-founded belief that a crime has been committed and the respondent is probably guilty thereof, and should be held for trial.

[258] Section 6. When warrant of arrest may issue. - (a) By the Regional Trial Court. Within ten (10) days from the filing of the complaint or information, the judge shall personally evaluate the resolution of the prosecutor and its supporting evidence. He may immediately dismiss the case if the evidence on record clearly fails to establish probable cause. If he finds probable cause, he shall issue a warrant of arrest, or a commitment order if the accused has already been arrested pursuant to a warrant issued by the judge who conducted the preliminary investigation or when the complaint or information was filed pursuant to Section 7 of this Rule. In case of doubt on the existence of probable cause, the judge may order the prosecutor to present additional evidence within five (5) days from notice and the issue must be resolved by the court within thirty (30) days from the filing of the complaint of information.

[259] RULES OF COURT, Rule 133

Section 5. Substantial evidence. In cases filed before administrative or quasi-judicial bodies, a fact may be deemed established if it is supported by substantial evidence, or that amount of relevant evidence which a reasonable mind might accept as adequate to justify conclusion.

[260] RULES OF COURT, Rule 133

Section 1. Preponderance of evidence, how determined. In civil cases, the party having the burden of proof must establish his case by a preponderance of evidence. In determining where the preponderance or superior weight of evidence on the issues involved, lies, the court may consider all the facts and circumstances of the case, the witnesses' manner of testifying, their intelligence, their means and opportunity of knowing the facts to which they are testlfying, the nature of the facts to which they testify, the probability or improbability of their testimony, their interest or want of interest, and also their personal credibility so far as the same may legitimate appear upon the trial. The court may also consider the number of witnesses, though the preponderance is not necessarily with the greater number.

[261] RULES OF COURT, Rule 130

Section 51. Character evidence not generally admissible; exceptions. - (a) In Criminal Cases:

(1) The accused may prove his good moral character which is pertinent to the moral trait involved in the offense charged.

(2) Unless in rebuttal, the prosecution may not prove his bad moral character which is pertinent to the moral trait involved in the offense charged.

(3) The good or bad moral character of the offended party may be proved if it tends to establish in any reasonable degree the probability or improbability of the offense charged.

[262] Mercado, Jr. v. Employees' Compensation Commission, 223 Phil. 483-493 (1985).

[263] People vs. Condemena, L-22426, May 29, 1968, 23 SCRA 910, 919.

[264] Lepanto Consolidated Mining Company v. Dumapis, G.R. No. 163110, 13 August 2008, 562 SCRA 103, 113-114.

[265] Memorandum for public respondent COMELEC, p. 21

[266] Petition for Certiorari (G.R. 221697), p. 107.

[267] Oral Arguments, TSN, 16 August 2016.

[268] Tecson v. COMELEC, 468 Phil. 421 (2004).

[269] 1987 Constitution, Article XV, Section 3(2).

[270] See p. 55

[271] Erwin Chemerinsky, Constitutional Law: Principles and Policies 17-19 (3[rd] ed. 2006).

[272] William Michael Treanor, Against Textualism, 103 Nw. U.L . Rev. 983-1006 (2009). : http://scholarship.law.georgetown.edu/facpub, Last Accessed: 8 March 2016.

[273] Joaquin Bernas, SJ, The 1987 Constitution of the Republic of the Philippines; A Commentary, p. 997 (2009).

[274] In this approach, the justice analyzes the intention of the frames of the Constitution and the circumstances of its ratification.

[275] The justice draws inferences from the "three-cornered power relation hips" found in the Constitution.

He gives as example "separation of powers." In other words, a justic relies, not on the text of the Constitution, but on structure.

[276] This relies on established precedents. For Bernas, the Supreme Court Decisions are, to a certain extent, a "second set of constitutional texts."

[277] This form of interpretation "seeks to interpret the Filipino moral commitments that are embedded in the constitutional document. The Constitution, are all, as the Preamble says, is meant to be an embodiment of 'our ideals and aspirations.' Among these may be our innate religiosity, respect for human dignity, and the celebration of cultural and ethnic diversity."

[278] The justice weighs and compares the costs to benefits that might be found in conflicting rules.

[279] Madisonian Tectonics: How Form Follows Function in Constitutional and Architectural Interpretation, Jonathan Turley, The George Washington Law Review, Vol. 83: 308.

[280] Eskridge, William N. Jr., "Relationships between Formalism and Functionalism in Separation of Powers Cases" (1998). Faculty Scholarship Series Available online at http://digitalcommons.law.yale.edu/fss_papers/3807. Last Accessed on: 8 March 2016.

[281] Angara v. Electoral Commission, 63 Phil. 139 (1936).

[282] 252 u.s. 416 (1920).

[283] Harvard Journal of Law & Public Policy, Vol. 29, pp. 401-415.

[284] Petition, p. 12.

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[285] Tañada and Fernando, Constitution of the Philippines, VoL I, 4[th] Ed., pp. 23-24 (1952).

[286] Tañada and Fernando, Constitution of the Philippines, Vol. I, 4[th] Ed. p. 13. (1952).

[287] A majority of the delegates elected - 142 out of 202 were lawyers. Of these lawyers, 10 were law professors. Likewise there were 6 other educators who were elected as delegates, 2 of them political scientists. There were also a respectable number of farmers and businessmen. Fifty-five of them can be classified under this category. Almost a majority of the total number of delegates had previously served as public officials mostly in an elective capacity. Thus there were many former senators, and representatives and assemblymen in the ranks of the delegates (Id. at 6).

[288] Martin v. Hunter's Lessee, 14 U.S. 304 (1816).

[289] Calalang v. Williams, 70 Phil. 726 (1940).

[290] Id.

[291] Id.

[292] Memorandum for public respondent COMELEC, p. 56.

[293] 392 Phil. 327 (2000).

[294] COMELEC Comment, p. 28.

[295] The following excerpts show that the Court characterized jus sanguinis the predominating regime of citizenship:

a) Roa v. Insular Collector of Customs (1912)

"A reading of article 17 of the Civil Code, above copied, is sufficient to show that the first paragraph affirms and recognizes the principle of nationality by place of birth, jus soli. The second, that of jus sanguinis; and the last two that of free selection, with the first predominating."

b) Torres v. Tan Chim (1940)

"In abrogating the doctrine laid down in the Roa case and making jus sanguinis the predominating principle in the determination of Philippine citizenship, the Constitution did not intend to exclude those who were citizens of the Philippines by judicial declaration at the time of its adoption. If on the strength of the Roa decision a person was considered a full-pledged Philippine citizen (Art. IV, sec. 1, No. 1) on the date of the adoption of the Constitution when jus soli had been the pr vailing doctrine, he cannot be divested of his Filipino citizenship."

c) Villahermosa v. Commissioner of Immigration (1948)

"After the Constitution, mere birth in the Philippines of a Chinese' father and Filipino mother does not ipso facto confer Philippine citizenship, and jus sanguinis instead of jus soli is the predominating factoron questions of citizenship, thereby rendering obsolete the decision in Roa vs. Collector of Customs, 23 Phil., and U.S. vs. Lim Bin, 36 Phil., and similar cases on which petitioner's counsel relies."

d) Talaroc v. Uy (1952)

"In abrogating the doctrine laid down in the Roa case and making jus sanguinis the predominating principle in the determination of Philippine citizenship, the Constitution did not intend to exclude those who were citizens of the Philippines by judicial declaration at the time of its adoption. If on the strength of the Roa decision a person was considered a full-pledged Philippine citizen (Art. IV, sec. 1, No. 1) on the date of the adoption of the Constitution

when jus soli had been the prevailing doctrine, he cannot be divested of his Filipino citizenship."

[296] Translated by Licenciados Cliffor S. Walton and Nestor Ponce de Leon. Published under authority of Major-General Willam Ludlow Military Governor of Havana. Edited by Major Clifford S. Walton. Available online at https://archive.org/stream/spanishcivilcode00spairich/spanishcivilcode00spairich

_djvu.txt. (last visited at 9 March 2016).

[297] Supra note 1.

[298] Justice Vitug wrote: "The year 1898 was another turning point in Philippine history. Already in the state of decline as a superpower, Spain was forced to so cede her sole colony in the East to an upcoming world power, the United States. An accepted principle of international law dictated that a change in sovereignty, while resulting in an abrogation of all political laws then in force, would have no effect on civil laws, which would remain virtually intact."

[299] Tecson v. Comelec citing Leon T. Garcia, The Problems of Citizenship in the Philippines, Rex Bookstore, 1949, at pp. 31-32, supra note 1.

[300] Id at. 23-26, cited in Tecson v. Comelec, supra note 1.

[301] Teeson v. Comelec, supra note 1.

[302] Tecson v. Comelec, supra note ___.

[303] Article III, Section 1 of the 1973 Constitution states:

Section 1. The following are citizens of the Philippines:

1. Those who are citizens of the Philippines at the time of the adoption of this Constitution.

xxxx

Article IV, Section 1 ofthe 1987 Constitution, states:

Section 1. The following are citizens of the Philippines:

1. Those who are citizens of the Philippines at the time the adoption of this Constitution;

xxxx

[304] 1987 Constitution, Preamble.

[305] Id.

[306] Id.

[307] 23 Phil. 315 (1912).

[308] 69 Phil. 518 (1940).

[309] 70 Phil. 287 (1940).

[310] Tañada and Fernando, Constitution of the Philippines, Vol. II, 4[th] Ed. (1952), p. 649.

[311] Talaroc v. Uy, 92 Phil. 52 (1952).

Facts: This is an action to contest the election of Uy to the office of Municipal Mayor on the ground that he is

Chinese, therefore, ineligible. He was born in the Philippines in 1912 of a Filipino mother and a Chinese father. His parents did not get married until 1914. His father died in 1917, while his mother died in 1949. Uy had voted in previous elections and held various positions in the government. He never went to China.

Held: On the strength of the Roa doctrine, Uy can be considered a Filipino citizen on the date of the adoption of the Constitution when jus soli has been the prevailing doctrine. The status of those persons who were considered Filipino citizens under the prevailing doctrine of jus soli would not be affected by the change of doctrine upon the effectivity of the Philippine Constitution.

[312] Id.

[313] 92 Phil. 61 (1952).

[314] 70 Phil. 161-166 (1940).

[315] 223 Phil. 357-363 (1985).

[316] U.S. Constitution, Art. II, Sec. I.

[317] Jack Maskell, "Qualifications for President and the 'Natural Born' Citizenship Eligibility Requirement", Congressional Research Service, 14 November 2011 <https://fas.org/sgp/crs/misc/R42097.pdf> (last visited 8 March 2016).

[318] Lawrence B. Solum, Commentary, "Originalism and the Natural Born Citizen Clause," 107 Mich. L. Rev First Impressions 22, 22 (2010).

[319] Id.

[320] Id.

[321] Id. at 26.

[322] See id; F.E. Edwards, Natural Born British Subjects at Common Law, 14 Journal of the Society of Comparative Legislation 314, 315 (1914) <http://www.jstor.org/stable/752349> (last visited 8 March 2016).

[323] A Dictionary Of The English Language: In Which The Words are Deduced from Their Originals, And Illustrated in Their Different Significations By Examples from the Best Writers, To Which Are Prefixed, A History of the Language, And An English Grammar (2nd ed. 1756).

[324] The Founders' Constitution, Volume 2, Article I, Section 8, Clause 4 (Citizenship), Document I, The University of Chicago Press http://press-pubs.uchicago.edu/founders/documents/a1_8_4_citizenships1.html (last visited 8 March 2016).

[325] Sections 4 and 7, Article VI of the 1935 Constitution state:

> Section 4. No person shall be a Senator unless he be a natural born citizen of the Philippines and, at the time of his election, is at least thirty-five years of age, a qualified elector, and a resident of the Philippines for not less than two years immediately prior to his election.
>
> Section 7. No person shall be a Member of the House of Representatives unless he be a natural born citizen of the Philippines, and, at the time of his election, is at least twenty- five years of age, a qualified elector, and a resident of the province in which he is chosen for not less than one year immediately prior to his election.

Section 3, Art. VII of the 1935 Constitution, states:

> Section 3. No person may be elected to the office of President or Vice-President, unless he be a natural born

> citizen of the Philippines, a qualified voter, forty years of age or over, and has been a resident of the Philippines for at least ten years immediately preceding the election.

[326] Tañada and Fernando, Constitution of the Philippines, Vol. II, 4[th] Ed. (1952), pp. 974-975.

[327] Tañada and Fernando, Constitution of the Philippines, Vol. II, 4[th] Ed. (1952), p. 975.

[328] Id. at 404-405.

[329] Sections 4 and 2, Art. VII of the 1973 Constitution, state:

> Section 4. No person may be elected President unless he is a natural-born citizen of the Philippines, a registered voter, able to read and write, at least forty years of age on the day of the election and a resident of the Philippines for at least ten years immediately preceding such election. (as amended in the January 27, 1984 Plebiscite)
>
> Section 2. There shall be a Vice-President who shall have the same qualifications and term of office as the President and may be removed from office in the same manner as the President as provided in Article XIII, Section 2 of this Constitution.

[330] Sections 2 and 3, Art. VII of the 1987 Constitution, read:

Section 2. No person may be elected President unless he is a natural-born citizen of the Philippines, a registered voter, able to read and write, at least forty years of age on the day of the election, and a resident of the Philippines for at least ten years immediately preceding such election.

Section 3. There shall be a Vice-President who shall have the same qualifications and term of office and be elected with and in the same manner as the President. He may be removed from office in the same manner as the President.

[331] Section 4, Article III.

[332] This section states:

Section 1. The following are citizens of the Philippines:

xxxx

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

xxxx

[333] 409 Phil. 633 (2001).

[334] Chief Justice (then Associate Justice) Panganiban's Concurring Opinion in Bengson III, id.

[335] 23 Phil. 315, 338 (1912).

[336] Laurel, Proceedings of the Philippine Constitutional Convention, Vol. V, p. 1032.

[337] 79 Phil. 249, 256 (1947).

[338] Id.

[339] Tañada and Fernando, supra.

[340] See: Ang Bagong Bayani-OFW v. Commission on Elections, 412 Phil. 308-374 (2001).

[341] The provision states:

SECTION 5. Registration and Certification of Births.— xxxx

In the case of an exposed child, the person who found the same shall report to the local civil registrar the place, date and hour of finding and other attendant circumstances.

[342] Commonwealth Act No. 473 (1939).

[343] Section 5 of C.A. 473 states:

> SECTION 5. Declaration of Intention. One year prior to the filing of his petition for admission to Philippine citizenship, the applicant for Philippine citizenship shall file with the Bureau of Justice a declaration under oath that it is bona fide his intention to become a citizen of the Philippines. Such declaration shall set forth the name, age, occupation, personal description, place of birth, last foreign residence and allegiance, the date of arrival, the name of the vessel or aircraft, if any, in which he came to the Philippines, and the place of residence in the Philippines at the time of making the declaration. No declaration shall be valid until lawful entry for permanent residence has been established and a certificate showing the date, place, and manner of his arrival has been issued. The declarant must also state that he has enrolled his minor children, if any, in any of the public schools or private schools recognized by the Office of Private Education of the Philippines, where Philippine history, government, and civics are taught or prescribed as part ofthe school curriculum, during the entire period of the residence in the Philippines required of him prior to the hearing of his petition for naturalization as Philippine citizen. Each declarant must furnish two photographs of himself.

[344] Section 7 of C.A. 473 states:

> SECTION 7. Petition for Citizenship. - Any person desiring to acquire Philippine citizenship shall file with the competent court, a petition in triplicate, accompanied by two photographs of the petitioner, setting forth his name and surname; his present and former places of residence; his occupation; the place and date of his birth; whether single or married and if the father of children, the name, age, birthplace and residence of the wife and of the children; the approximate date of his or her arrival in the Philippines, the name of the port of debarkation, and, if he remembers it, the name of the ship on which he came; a declaration that he has the qualifications required by this Act, specifying the same, and that he is not disqualified for naturalization under the provisions of this Act; that he has complied with the requirements of section five of this Act; and that he will reside continuously in the Philippines from the date of the filing of the petition up to the time of his admission to Philippine citizenship. The petition must be signed by the applicant in his own handwriting and be supported by the affidavit of at least two credible persons, stating that they are citizens of the Philippines and personally know the petitioner to be a resident of the Philippines for the period of time required by this Act and a person of good repute and morally irreproachable, and that said petitioner has in their opinion all the qualifications necessary to become a citizen of the Philippines and is not in any way disqualified under the provisions of this Act. The petition shall also set forth the names and post-office addresses of such witnesses as the petitioner may desire to introduce at the hearing of the case. The certificate of arrival, and the declaration of intention must be made part of the petition.

[345] Section 10 of C.A. 473 provides:

> SECTION 10. Hearing of the Petition. No petition shall be heard within the thirty days preceding any election. The hearing shall be public, and the Solicitor-General, either himself or through his delegate or the provincial fiscal concerned, shall appear on behalf of the Commonwealth of the Philippines at all the proceedings and at the hearing. If, after the hearing, the court believes, in view of the evidence taken, that the petitioner has all the qualifications required by, and none of the disqualifications specified in, this Act and has complied with all requisites herein established, it shall order the proper naturalization certificate to be issued and the registration of the said naturalization certificate in the proper civil registry as required in section ten of Act Numbered

> Three thousand seven hundred and fifty-three.

[346] Pursuant to Section 12 of C.A. 473, the petitioner shall, in open court, take the following oath before the naturalization certificate is issued:

> "I, _____, solemnly swear that I renounce absolutely and forever all allegiance and fidelity to any foreign prince, potentate, state of sovereignty, and particularly to the _____ of which at this time I am a subject or citizen; that I will support and defend the Constitution of the Philippines and that I will obey the laws, legal orders and decrees promulgated by the duly constituted authorities of the Commonwealth of the Philippines; and I hereby declare that I recognize and accept the supreme authority of the United States of America in 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.
>
> "So help me God."

[347] Rule 28 of the Implementing Rules and Regulations of Act No. 3753 and Other Laws on Civil Registration (NSO Administrative Order No. 1-93 [1992]) provides:

> Immediately after finding a foundling, the finder shall report the case to the barangay captain of the place where the foundling was found, or to the police headquarters, whichever is nearer or convenient to the finder. When the report is duly noted either by the barangay captain or by the police authority, the finder shall commit the child to the care of the Department of Social Welfare and Development or to a duly licensed orphanage or charitable or similar institution. Upon commitment, the finder shall give to the charitable institution his copy of the Certificate of Foundling, if he had registered the foundling. (emphasis supplied)

[348] Pursuant to R.A. 9523 (2009), the DSWD may declare a child legally available for adoption in accordance with the following procedure:

> SECTION 4. Procedure for the Filing of the Petition. - The petition shall be filed in the regional office ofthe DSWD where the child was found or abandoned.
>
> The Regional Director shall examine the petition and its supporting documents, if sufficient in form and substance and shall authorize the posting of the notice of the petition in conspicuous places for five (5) consecutive days in the locality where the child was found.
>
> The Regional Director shall act on the same and shall render a recommendation not later than five (5) working days after the completion of its posting. He/she shall transmit a copy of his/her recommendation and records to the Office ofthe Secretary within forty-eight (48) hours from the date of the recommendation.
>
> SECTION 5. Declaration of Availability for Adoption. - Upon finding merit in the petition, the Secretary shall issue a certification declaring the child legally available for adoption within seven (7) working days from receipt of the recommendation.
>
> Said certification, by itself, shall be the sole basis for the immediate issuance by the local civil registrar of a foundling certificate. Within seven (7) working days, the local civil registrar shall transmit the foundling certificate to the National Statistics Office (NSO).

[349] Rules and Regulations to Implement the Domestic Adoption Act of 1998, IRR-R.A. 8552, Section 5 (1998).

[350] Section 16, R.A. 8552.

[351] Republic v. Court of Appeals, G.R. No. 97906, 21 May 1992.

[352] Section 14, R.A. 8552.

[353] Id.

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[354] See Baldos v. Court of Appeals and Pillazar, 638 Phil. 601 (2010); Heirs of Cabais v. Court of Appeals, 374 Phil. 681-691 (1999).

[355] Sections 14 and 15 of R.A. 8552 state:

> Section 14. Civil Registry Record. - An amended certificate of birth shall be issued by the Civil Registry, as required by the Rules of Court, attesting to the fact that the adoptee is the child of the adopter(s) by being registered with his/her surname. The original certificate of birth shall be stamped "cancelled" with the annotation of the issuance of an amended birth certificate in its place and shall be sealed in the civil registry records. The new birth certificate to be issued to the adoptee shall not bear any notation that it is an amended issue.
>
> Section 15. Confidential Natltre of Proceedings and Records. - All hearings in adoption cases shall be confidential and shall not be open to the public. All records, books, and papers relating to the adoption cases in the files of the court, the Department, or any other agency or institution participating in the adoption proceedings shall be kept strictly confidential.
>
> If the court finds that the disclosure of the information to a third person is necessary for purposes connected with or arising out of the adoption and will be for the best interest of the adoptee, the court may merit the necessary information to be released, restricting the purposes for which it may be used.

[356] 601 F.2d 1225, 1235 (2d Cir. 1979).

[357] 444 U.S. 995, 100 S. Ct. 531,62 L. Ed. 2d 426 (1979).

[358] 409 Phil. 633-672 (2001).

[359] Reacquisition of Philippine Citizenship by Persons Who Served in US Armed Forces (1960).

[360] See Sobejana-Condon v. COMELEC, G.R. No. 198742, 692 Phil. 407-431 (2012).

[361] See Parrefio v. COA, G.R. No. 162224, 551 Phil. 368-381 (2007).

[362] Article IV, Section 2, states:

Section 2. Philippine citizenship may be lost or re-acquired in the manner provided by law.

[363] In Bengson v. HRET (409 PHIL 633-672 [2001]), the Court declared: "A person who at the time of his birth is a citizen of a particular country, is a natural-born citizen thereof." (Emphasis supplied)

[364] Sections 2 and 3 of Commonwealth Act 63 provides:

> SECTION 2. How citizenship may be reacquired. - Citizenship may be reacquired:
>
> (1) By naturalization: Provided, That the applicant possess none of the disqualifications prescribed in section two of Act Numbered Twenty-nine hundred and twenty-seven;
>
> (2) By repatriation of deserters of the Army, Navy or Air Corps Provided, That a woman who lost her citizenship by reason of her marriage to an alien may be repatriated in accordance with the provisions of this Act after the termination of the marital status; and (3) By direct act of the National Assembly.
>
> SECTION 3. Procedure incident to reacquisition of Philippine citizenship. - The procedure prescribed for naturalization under Act Numbered Twenty-nine hundred and twenty-seven, as amended; shall apply to the reacquisition of Philippine citizenship by naturalization provided for in the next preceding section: Provided, That the qualitications and special qualifications prescribed in section three and four of said Act shall not be required: And provided, further,

> (1) That the applicant be at least twenty-one years of age and shall have resided in the Philippines at least six months before he applies for naturalization;
>
> (2) That he shall have conducted himself in a proper and irreproachable manner during the entire period of his residence in the Philippines, in his relations with the constituted government as well as with the community in which he is living; and
>
> (3) That he subscribes to an oath declaring his intention to renounce absolutely and perpetually all faith and allegiance to the foreign authority, state or sovereignty of which he was a citizen or subject.

[365] Commonwealth Act No. 63, Ways in Which Philippine Citizenship May be Lost or Reacquired (1936).

[366] An Act Providing for Reacquisition of Philippine Citizenship by Persons Who Lost Such Citizenship by Rendering Service To, or Accepting Commission In, the Armed Forces of the United States (1960).

[367] Repatriation of Filipino Women and of Natural-Born Filipinos Who Lost Their Philippine Citizenship (1995).

[368] Article II, Section 2 ofthe 1987 Constitution, provides:

The Philippines xxx adopts the generally accepted principles of international law as part of the law of the land and adheres to the policy of peace, equality, justice, freedom, cooperation, and amity with all nations.

[369] Article 38(1)(b) of the Statute of the International Court of Justice states:

> 1. The Court, whose function is to decide in accordance with international law such disputes as are submitted to it, shall apply:
>
> xxx
>
> a. international custom, as evidence of a general practice accepted as law;

[370] Razon, Jr. v. Tagitis, 621 Phil. 536-635 (2009)

[371] Inter-American Court of Human Rights, Proposed Amendments to the Naturalization Provision of the Constitution of Costa Rica. Advisory Opinion OC-4/84 of January 19, 1984. Series A No. 4, para. 35.

[372] International Covenant on Civil and Political Rights, Article 24; United Nations Convention on the Rights ofthe Child, Article 7.

[373] See the 1997 European Convention on Nationality, Article 6; 1969 American Convention on Human Rights (Pact of San Jose, Costa Rica), Article 20; 1999 African Charter on the Rights and Welfare of the Child, Article 6; 2008 Revised Arab Charter on Human Rights, Article 29.

[374] Article 14 of the Convention states:

> A child whose parents are both unknown shall have the nationality of the country of birth. If the child's parentage is established, its nationality shall be determined by the rules applicable in cases where the parentage is known.
>
> A foundling is, until the contrary is proved, presumed to have been born on the territory of the State in which it was found.

[375] Article 2 of the Convention provides:

> Article 2

> A foundling found in the territory of a Contracting State shall, in the absence of proof to the contrary, be considered to have been born within that territory of parents possessing the nationality of that State.

[376] Article 6(1)(b) of the Convention states:

> Article 6 - Acquisition of nationality
>
> l. Each State Party shall provide in its internal law for its nationality to be acquired ex lege by the following persons:
>
> xxx
>
> (b) foundlings found in its territory who would otherwise be stateless.

[377] Based on the databases of the United Nations Treaty Collection (https://treaties.un.org), the number of state parties in the conventions mentioned are as follows: International Covenant on Civil and Political Rights 168; Convention on the Rights of the Child 196; Hague Convention on Certain Questions Relating to the Conflict of Nationality Laws - 13; Convention on the Reduction of Statelessness - 65; European Convention on Nationality 20.

[378] See Jurisdictional Immunities of the State (Germany v. Italy), Judgment, I.C.J. Reports 2012, p. 99; Arrest Warrant of 11 April 2000 (Democratic Republic of Congo v. Belgium), I.C.J. Reports 2002, p. 3.

[379] Argentina (See Database of European Union Democracy Observatory on Citizenship); Bolivia (Article 141, New Constitution of Bolivia); Brazil (Article 12[1], Constitution of the Federative Republic of Brazil); Chile (Article 10, Constitution); Cuba (Article 29, The Constitution of the Republic of Cuba as amended); Dominica (Article 98, Constitution of the Commonwealth of Dominica, 1978); Dominican Republic (Article 18, Constitution), Ecuador (Article 7, Ecuador Constitution); El Salvador (Article 90, Constitution of the Republic of El Salvador as amended), Equatorial Guinea (Article 10, Fundamental Law of Equatorial Guinea, 1982); Grenada (Item 96, 97, Grenada Constitution, 7 February 1974); Guatemala (Article 144, Guatemalan Constitution), Jamaica (Item 3B, Jamaican Constitution August 1962); Kiribati (Kiribati Independence Order dated July 12, 1979); Niger (Directory of Citizenship Laws compiled by the United States Office of Personnel Management Investigations Service); Pakistan (Sections 4 and 5, Pakistan Citizenship Act 1951, as amended); Palau (The Citizenship Act, 13 PNCA, 1 January 1995); Panama (Article 9, Constitution of Panama); Saint Vincent and the Grenadines (Items 90-91, Constitution of 1979); Tanzania (Sections 5 and 6, Tanzania Citizenship Act No. 6 of 1995, 10 October 1995); Thailand (Section 7, Nationality Act B.E.2508); Venezuela (Article 32, Constitution of the Bolivarian Republic of Venezuela) and Zimbabwe (Section 5, Constitution of Zimbabwe).

[380] Afghanistan (Article 3, Law of Citizenship in Afghanistan, 6 November 1936); Albania (Article 8[1], Law on Albanian Citizenship, Law No. 8389, 6 September 1998); Algeria (Article 7, Ordonnance No. 70-86 du 15 decembre 1970 portant code de Ia nationalite algerienne, 18 December 1970); Andorra (Nationality Act, 5 October 1997); Angola (Article 9, Constituicao da Republica de Angola aos, 21 Janeiro de 2010); Antigua and Barbuda (Article 3[1], Constitution of Antigua and Barbuda) Armenia (Article 12, Law of the Republic of Armenia on the Citizenship of the Republic of Armenia as amended, 27 November 2005); Australia (Section 14, Australian Citizenship Act 2007); Austria (Article 8(1), Federal Law Concerning the Austrian Nationality [Nationality Act of 1985]); Azerbaijan (Article 13, Law of the Azerbaijan Republic on Citizenship of the Azerbaijan Republic, 15 March 1994); Bahrain (Item No. 5[B], Bahraini Citizenship Act for 1963, 16 September 1963); Barbados (Cap. 186, Section 4[1], Barbados Citizenship Act); Belgium (Code of Belgian Nationality, 28 June 1984), Belize (Part III, 7, Belizean Nationality Act, Cap. 161); Benin (Article 10, Code de Ia nationalitedahomeenn, Loi No. 65-17, 23 June 1 965); Bosnia and Herzegovina (Section 7, Bosnia and

Herzegovina Nationality Law, 7 October 1992); Bulgaria (Article 11, Law on Bulgarian Citizenship, November 1998); Burkina Fasp (Zatu No. An VIA 0013/FP/PRES du 16 Novembre 1989); Burundi (Article 3, Loi No 1/013 du 18 juillet 2000 portantreforme du code de la nationalite, 18 July 2000), Cambodia (Article 4 [2] [b], Law on Nationality, 9 October 1996); Cameroon (Section 9, Law No. 1968-LF-3 of the 11th June 1968 to set up the Cameroon Nationality Code); Canada (Section 4[1], Canadian Citizenship Act); Cape Verde (Nationality law, Law No. 80/III/90, from 29th of June); Central African Republic (Article I 0, RepubliqueCentrafricaine: Loi No. 1961.212 du 1961 portant code de la nationalitecentrafricaine, 21 April 1961); Chad (Ordonnance 33/PG.-INT. du 14 aoftt 1962 code de la nationalitetchadienne as cited in the Directory of Citizenship Laws compiled by the United States Office of Personnel Management Investigations Service); China (Article 6, Nationality Law of the People's Republic of China, 10 September 1980); Comoros (Article 13, Code of Nationality, Law No. 79-12); Costa Rica (Article 13[4), Political Constitution of the Republic of Costa Rica), Croatia (Law of Croatian Citizenship, June 1991); Czech Republic, Denmark, Djibouti (Article 6, Code de la NationaliteDjiboutienne [Djibouti], Loi n°79/AN/04/5eme L, 24 October 2004); Democratic Republic of Congo (Article 2[3], LOI No. 87.010 Du ler AOUT 1987, Portant Code de la Famille); Egypt (Article 2[4], Law No. 26 of 1975 Concerning Egyptian Nationality, Official Journal No. 22, 29 May 1975), Eritrea (Item 2[3], Eritrean Nationality Proclamation No. 2111992, 6 April 1992); Estonia (Section 5[2], Citizenship Act of Estonia); Ethiopia (Article 3[2], Proclamation No. 378/2003, A Proclamation on Ethiopian Nationality, 23 December 2003); Fiji (Section 7, Citizenship of Fiji Decree 2009); Finland (Section 12, Finnish Nationality Act 359/2003 as amended); France (Article 19, Title 1, French Civil Code), G. Bissau, Gabon (Article 11[2], Code de la Nationalite Loi No. 37-1998); Georgia (Article 15, Organic Law of Georgia on Georgian Citizenship); Germany (Section 4[2], Nationality Act of 22 July 1913 as amended); Ghana (Citizenship Act, Act 591, 5 January 2001); Greece (Article 1[2][b], Greek Citizenship Code); Guinea (Directory of Citizenship Laws compiled by the United States Office of Personnel Management Investigations Service); Guinea Bissau (Article 5[2], Lei da Cidadania Lei n.o 2/92 De 6 de Abril); Guyana (Item 8[2], Guyana Citizenship Act, Cap. 14:01); Haiti (Article 4, Haiti Citizenship Act); Honduras (Article 23, Constitution of the Republic of Honduras); Hungary (Section 3[3][b], Act LV of 1993 as amended); Iceland (Article 1[1], Icelandic Nationality Act No. 100/1952, 1 January 1953); Indonesia (Article 4[9], 4[10], 4[11], Law of the Republic of Indonesia No. 12 on Citizenship of the Republic of Indonesia, 1 August 2006); Iran (Article 976[3], Iran Nationality Law); Iraq (Article 4[6], Law No. 46 of 1963); Ireland (Item 10, Irish Nationality and Citizenship Act 1956 as amended), Israel (Article 4[A], Nationality Law 5712-1952, 14 July 1953); Italy (Article 1[2], Law no. 91/1992); Jamaica, Japan (Article 2[3], Nationality Law - Law No.147 of 1950, as amended); Jordan (Article 3[4], Jordanian Nationality Law 1954, Law No. 6 of 1954 on Nationality, 1 January 1954); Kazakhstan (Article 13, Law on Citizenship of the Republic of Kazakhstan, 1 March 1992); Kenya (Article 9, Kenya Citizenship and Immigration Act No. 12 of 2011, 30 August 2011); Korea (Article 2[1][3], 2[2] Law No. 16 of 1948, Nationality Act as amended, 20 December 1948); Kosovo (Article 7, Law Nr. 03/L-034 on Citizenship of Kosovo); Kuwait (Article 3, Nationality Law of 1959); Kyrgyz Republic (Article 2[5], The Law of the Kyrgyz Republic on citizenship of the Kyrgyz Republic as amended, 21 March 2007); Lao PDR (Law on Lao Nationality, 29 November 1990); Latvia (Section 2(1)(3) and 2(1)(5), Law of Citizenship 1994 [as amended]); Lebanon (Article 1[3], Decree No.15 on Lebanese Nationality including Amendments, 19 January 1925); Lesotho (Item 38, Lesotho Constitution of 1993, 2 April 1993); Liberia (Constitution of the Republic of Liberia); Libya (Section 3, Item 3, Law Number (24) for 2010/1378 On Libyan Nationality, 24 May 2010); Liechtenstein (Section 4[a], Act of 4 January 1934 on the Acquisition and Loss of Citizenship); Lithuania (Article 16, Republic of Lithuania Law on Citizenship No. XI-1196, 2 December 2010); Luxembourg (Article 1[2], Luxembourg Nationality Law of 23 October 2008); Macedonia (Article 6, Law on Citizenship of the Republic of Macedonia); Madagascar (Directory of Citizenship Laws compiled by the United States Office of Personnel Management Investigations Service); Malawi (Item 2[5), Malawi Citizenship Act 1966); Malaysia (Second Schedule [Article

39], Part 1: Citizenship by Operation of Law of Persons Born before Malaysia Day [Article 14[l][a] Section 1, Federal Constitution of Malaysia, 31 August 1957); Mali (Article 11, Loi No. 6218 AN-RM du 3 fevrier 1962 portant Code de la nationalitemalienne); Malta (Item 17[3], Maltese Citizenship Act); Marshall Islands (Directory of Citizenship Laws compiled by the United States Office of Personnel Management Investigations Service); Mauritania (Article 11, Loi N° 1961-112, Loiportant code de la nationalitemauritanienne); Mexico (Article 7, Law of Nationality as cited in the database of European Union Democracy Observatory on Citizenship); Moldova (Article 11[2], Law on Citizenship of the Republic of Moldova); Mongolia (Article 7[4], Law of Mongolia on Citizenship, 5 June 1995); Montenegro (Article 7, Montenegrin Citizenship Act); Morocco (Article 11, Code de la nationalitemarocaine (2011), Dahir n. 1-58-250 du 21 safar 1378, 6 September 1958); Mozambique (Article 10[b], Nationality Act, 25 June 1975); Nepal (Item 3[3], Nepal Citizenship Act 2063, 2006), Netherlands (Article 3 (2), Netherlands Nationality Act as in force on 8 February 2015); New Zealand (Section 6, Citizenship Act 1977 061); Nicaragua (Article 16[4), Constitution of Nicaragua); Norway (Section 4, Act on Norwegian Nationality); Oman (Article 1 [3], Royal Decree No. 3/83 - Law on the Organization of the Omani Nationality); Papua New Guinea (Section 77, Constitution); Paraguay (Article 146[1], Constitution of Paraguay); Peru (Article 2[2], Constitution); Poland (Article 15, Law of 2 April 2009 on Polish Citizenship); Portugal (Article 1[2] Portuguese Nationality Act, Law 37/81 of 3 October as amended); Qatar (Article 1[3], Law No. 38 of 2005 on the Acquisition of Qatari nationality 3812005); Romania (Article 3(1), Law No. 21 of 1 March 1991), Russia (Article 12[2], Federal Law on the Citizenship of the Russian Federation, 15 May 2002); Rwanda (Article 9, Organic Law N° 30/2008 of 25/07/2008 relating to Rwandan Nationality 25 July 2008); Saint Kitts and Nevis (Items 95[5][c], 1983 Constitution); Saint Lucia (Article 7[2] of the Law of Nationality, Constitution of I 978 as cited in the database of European Union Democracy Observatory on Citizenship); Samoa (Part II, Item 6(3),Citizenship Act of 2004); San Marino (See Council of Europe bulletin: http://www.coe.int/t/dghl/standardsetting/nationality/Bulletin_en_files/San%20Marino%20E.pdf); Sao Tome & Principe (Article 5(1) (e) and 5(2), Law of Nationality dated September 13, 1990); Saudi Arabia (Item No. 7[2], Saudi Arabian Citizenship System (Regulation), Decision no. 4 of 25/1/1374 Hijra, 23 September 1954); Serbia (Article 13, Law on Citizenship of the Republic of Serbia); Singapore (Article 140[13], Third Schedule, Constitution of the Republic of Singapore, 9 August 1965); Slovakia (Section 5(2)(b), Act No. 40/1993 Coli. On nationality of the Slovak Republic of 19 January 1993); Slovenia (Article 9, Citizenship of the Republic of Slovenia Act); Somalia (Article 15, Law No. 28 of 22 December 1962 Somali Citizenship as amended); South Africa (Article 44, South African Citizenship Act No. 88 of 1995); South Sudan (Item 8[4], Nationality Act of 2011, 7 July 2011); Spain (Spanish Civil Code, Book One Title I, Article 17[1][d]); Sri Lanka (Item No. 7, Citizenship Act of Sri Lanka); Sudan (Section 5, Sudanese Nationality Act 1994); Suriname (Article 4, State Ordinance of24 November 1975 for the Regulation of the Surinamese Nationality and Residence in Suriname), Swaziland (Section 17, Swaziland Citizenship Act, 1992, Act 14/1992, 1 December 1992); Sweden (Section 2, Swedish Citizenship Act); Switzerland (Article 6, Federal Act on the Acquisition and Loss of Swiss Citizenship as amended); Taiwan (Article 2[3], Nationality Act as amended, 5 February 1929), Tajikistan (Article 19, 13 Constitutional Law of the Republic of Tajikistan on Nationality of the Republic of Tajikistan, 8 August 2015); Timor-Leste (Section 3[2][b], Constitution of the Democratic Republic of Timor Leste); Togo (Article 2, Nationality Act); Tunisia (Articles 9 and 10, Code of Tunisian Nationality Law No. 63-6); Turkey (Article 8, Turkish Citizenship Law of 2009); Turkmenistan (Article II [1][8], Law of 2013 on Citizenship, 22 June 2013) Uganda (Item II, Constitution of the Republic of Uganda); Ukraine (Article 7, Law on Ukrainian Citizenship); United Arab Emirates (Article 2[5], Federal Law No. 17 for 1972 Concerning Nationality, Passports and Amendments Thereof, 18 November 1972); United Kingdom (Part I, Item 1(2), British Nationality Act of 1984); United States of America (Immigration and Nationality Act 301(a), 302, 306, 307); Uruguay (Article 74, Constitution of the Oriental Republic of Uruguay); Uzbekistan (Article 16, Law on Citizenship in the Republic of

Uzbekistan, 28 July 1992); Vietnam (Article 18, Law on Vietnamese Nationality, Resolution No: 24/2008/QH12, 13 November 2008); and Yemen (Law No.6 of 1990 on Yemeni Nationality, 26 August 1990).

[381] See for instance the Law of Nationality of Mexico, Law No. 63-6.

[382] See the Portuguese Nationality Act, Law 37/81, of 3 October as amended; Spanish Civil Code, Book One: Title II; Cameroon Law No. 1968-LF-3 of the 11th June 1968; Loi n° 1961.212 du 1961 portant code de la nationalitecentrafricaine of the Central African Republic; Code of Nationality, Law No. 79-12 of Comoros; Loi No. 6218 AN-RM du 3 fevrier 1962 portant Code de la nationalitemalienne of Mali; Code de Ia nationalitemarocaine (2011), Dahir n. 1-58-250 du 21 safar 1378, 6 September 1958 of Morocco; Law of Nationality dated September 13, 1990 of Sao Tome and Principe; Law No. 28 of 22 December 1962 Somali Citizenship as amended; Code of Tunisian Nationality Law No. 63.

[383] See Delimitation of the Maritime Boundary in the Gulf of Maine Area (Canada/United States of America), Judgment, ICJ Reports 1984, p. 299.

[384] Article 24 of the ICCPR states:

- Every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State.

- Every child shall be registered immediately after birth and shall have a name.

- Every child has the right to acquire a nationality.

[385] Article 7 of the CRC states:

- The child shall be registered immediately after birth and shall have the right fi:om birth to a name, the right to acquire a nationality and. as far as possible, the right to know and be cared for by his or her parents.

- States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless.

[386] Annual Report of the United Nations High Commissioner for Human Rights and Reports of the Office of the High Commissioner and the Secretary General. Arbitrary deprivation of nationality: report of the Secretary-General, A/HRC/10/34, 26 January 2009.

[387] Committee on the Rights of the Child, Concluding observations on the combined 2-4th Periodic Reports of Fiji, adopted by the committee at its sixty-seventh session (1-19 September 2014), CRC/C/FIJ/C0/2-4.

[388] 454 Phil. 504-642 (2003).

[389] The Preamble of the 1935 Constitution states:

> The Filipino people, imploring the aid of Divine Providence, in order to establish a government that shall embody their ideals, conserve and develop the patrimony of the nation, promote the general welfare, and secure to themselves and their posterity the blessings of independence under a regime of justice, liberty, and democracy, do ordain and promulgate this Constitution.

[390] The Preamble of the 1987 Constitution provides:

> We, the sovereign Filipino people, imploring the aid of Almighty God, in order to build a just and humane society, and establish a Government that shall embody our ideals and aspirations, promote the common good,

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> conserve and develop our patrimony, and secure to ourselves and our posterity, the blessings of independence and democracy under the rule of law and a regime of truth, justice, freedom, love, equality, and peace, do ordain and promulgate this Constitution.

[391] Id.

[392] Inter-American Court of Human Rights, Proposed Amendments to the Naturalization Provision of the Constitution of Costa Rica. Advisory Opinion OC-4/84 of January 19, 1984. Series A No. 4, para. 35.

[393] See Dissenting Opinion of Chief Justice Warren in 2 356 U.S. 44, 64-65, 78 S. Ct. 568, 579-80, 2 L. Ed. 2d 603 (1958).

[394] Batchelor, Carol A. Developments in International Law: the Avoidance of Statelessness through Positive Application of the Right to a Nationality. 1[st] European Convention on Nationality. (Strasbourg, 18 and 19 October 1999).

[395] 1987 Constitution, Article V, Section 1.

[396] Id., Article XIV, Section 1 (right to quality education at all levels); Article XIV, Section 2(5) (right to be provided training in civics, vocational efficiency and other skills).

[397] Id., Section 18, Article XI.

[398] The following economic rights are restricted to Philippine citizens under the Constitution: right to the exclusive use and enjoyment of the nation's marine wealth in its archipelagic waters, territorial sea, and exclusive economic zoml (Article XII, Section 2); right to engage in small-scale utilization of natural resources (Article XII, Section 2); right to lease not more than five hundred hectares, or acquire not more than twelve hectares of public alienable land, by purchase, homestead, or grant (Article XII, Section 3); right to be a transferee of public land (Article XII, Section 7);

[399] These include the right to participate in certain areas of investments (Article XII, Section 10); right to be granted a franchise certificate, or any other form of authorization for the operation of a public utility (Article XII, Section 11);

[400] The Constitution allows only citizens to exercise the following rights: the right to be the executive and managing officers of a corporation or association engaged in any public utility enterprise (Article XII, Section 11); Right to practice a profession (Article XII, Section 14); right to own, control and administer educational institutions (Article XIV, Section [2]); Right to own and manage mass media (Article XVI, Section 11[1]); Right to become an executive and managing officer of an entity engaged in the advertising industry (Article XVI, Section 11[2]); Right to engage in the advertising industry (Article XVI, Section 11[2]).

The ownership of the following businesses are also reserved for Philippine citizens: Retail trade enterprises with paid-up capital of less than US $2,500,000 (Section 5, R.A. 8762); cooperatives (Chapter III, Article 26, R.A. 6938); private security agencies (Section 4, R.A. 5487); small-scale mining (Section 3[C], R.A. 7076); ownership, operation and management of cockpits (Section 5[a], PD 449); Manufacture of firecrackers and other pyrotechnic devices (Section 5, R.A. 7183).

[401] Article Xll, Section 14; The following professions are also restricted by statute: Aeronautical engineering (Section 14[b], R.A. 1570); Agricultural engineering (Section 13[a], R.A. 8559); Chemical engineering (Section 2, R.A. 9297); Civil engineering (Section 12[b], R.A. 544); Electrical engineering (Section 16[a], R.A. 7920); Electronics and communication engineering (Section 14[a], R.A. 9292); Geodetic engineering (Section 12[a], R.A. 8560); Mechanical engineering (Section 14[a], R.A. 8495); Metallurgical engineering (Section 17[a], R.A.

10688); Mining engineering (Section 19[a], R.A. 4274); Naval architecture and marine engineering (Section 11[b], R.A. 4565); Sanitary engineering (Section 17[b], R.A. 1364); Medicine (Section 9[1], R.A. 2382 as amended); Medical technology (Section 8[1], R.A. 5527 as amended); Dentistry (Section 14[a], R.A. 9484); Midwifery (Section 13, R.A. 7392); Nursing (Section 13[a], R.A. 9173); Nutrition and dietetics (Section 18[a], P.D. 1286); Optometry (Section 19[a], R.A. 8050); Pharmacy (Section 18[a], R.A. 5921); Physical and occupational therapy (Section 15[a], R.A. 5680); Radiologic and x-ray technology (Section 19[a], R.A. 7431); Veterinary medicine (Section 15[a], R.A. 9268); Accountancy (Section 14[a], R.A. 9298); Architecture (Section 13[a], R.A. 9266); Criminology (Section 12[a], R.A. 6506); Chemistry (Section 13[a], R.A. 754); Customs brokerage (Section 16[a], R.A. 9280); Environmental planning (Section 13[b], P.D. 1308); Forestry (Section 14[b], R.A. 6239); Geology (Section 15, R.A. 4209); Interior design (Section 13[a], R.A. 8534); Law (Art. VIII, Section 5[5], 1987 Constitution; Rule 138[2], Rules of Court); Librarianship (Section 15[a], R.A. 9246); Marine deck officers (Section 14[a], R.A. 8544); Marine engine officers (Section 14[a], R.A. 8544); Master plumbing (Section 12[b], R.A. 1378); Sugar technology (Section 14[a], R.A. 5197); Social work (Section 12[a], R.A. 4373); Teaching (Section 15[a], R.A. 7836); Agriculture (R.A. 8435); Fisheries (Section 2[b], R.A. 8550); Guidance counseling (Section 13[a], R.A. 9258); Real estate service (Section 14[a], R.A. 9646); Respiratory therapy (R.A. 10024); and Psychology (Section 12[a], R.A. 10029).

[402] Right to manufacture, repair, stockpile and/or distribute biological, chemical and radiological weapons and anti-personnel mines; and the right to manufacture, repair, stockpile and/or distribute nuclear weapons (10[th] Foreign Negative Investment List, Executive Order 184, 29 May 2015, citing Article II, Section 8 of the 1987 Constitution and Conventions and Treaties to which the Philippines is a signatory); and right to become members oflocal police agencies (Section 9[1] R.A. 4864).

[403] See Civil Code, Article 15. The next section includes a more detailed discussion of adoption and foundlings.

[404] See Section 2, R.A. 4090: Providing for State Scholarships for Poor But Deserving Students (1964); Part V(A)(1)(1.3), Amended Implementing Rules and Regulations for Republic Act No. 7687, DOST--DepED Joint Circular (2005); Section 5 (a) (i), Administrative Order No. 57, Educational Reform Assistance Package for Mindanaoan Muslims (1999).

[405] The following positions in the Executive branch must be occupied by natural-born Philippine citizens: President (Article VII, Section 2, 1987 Constitution); Vice-President (Article VII, Section 3, 1987 Constitution); Director or Assistant Director of the Bureau of Mines and Geo-Sciences (Section 2, PD 1281 as amended by PD 1654 [1979]; Undersecretary of Defense for Munitions (Section 2, R.A. 1884, Establishment of a Government Arsenal [1957]); Assistant Director of the Forest Research Institute (Section 7[a], PD 607, Creating the Forest Research Institute in the Department of Natural Resources [1974]); Officers of the Philippine Coast Guard (Section 12, R.A. 9993, Philippine Coast Guard Law of 2009 [2010]); Commissioner or Deputy Commissioners of Immigration (Section 4[b], C.A. 613, The Philippine Immigration Act of 1940 [1940]); Secretary and Undersecretary of the Department of Agrarian Reform (Section 50, R.A. 3844 as amended by R.A. 6389 [1971]); Directors, Assistant Directors of Bureaus in the Department of Agrarian Reform (Section 50-G, R.A. 3844 as amended by R.A. 6389, Agricultural Land Reform Code [1971]); Chairman and Commissioners of the Tariff Commission (Section 502, PD 1464 as amended, Harmonized Commodity Description and Coding System 2002 Tariff and Customs Code of the Philippines [2002]); Director or Assistant Directors of the Bureau of Forest Development (Section 6, PD 705, Revised Forestry Code of the Philippines [1975]); City Fiscal and Assistant City Fiscals of Manila (Section 38, R.A. 409 as amended by R.A. 4631, Revised Charter of City of Manila [1965]); and Prosecutors in the National Prosecution Service (Section 603, DOJ Department Circular No. 050-10, [2010]).

In the legislative branch, the occupants of the following posts are required to be natural-born citizens: Senator (Article VI, Section 6, 1987 Constitution); Members of the House of Representatives (Article VI, Section 3, 1987 Constitution); nominees for party-list representatives (Section 9, Party-List System Act, R.A. 7941 [1995]).

The following members of the judicial branch are required to be natural-born citizens: Members of the Supreme Court and lower collegiate courts (Article VIII, Section 7, 1987 Constitution); Regional Trial Court Judges (Section 15, BP 129 as amended by R.A. 8369, the Family Courts Act of 1997 [1997]); Judges of a Metropolitan Trial Court, Municipal Trial Court, or Municipal Circuit Trial Court (Section 26, BP 129 as amended); Presiding Judge and Associate Justices of the Sandiganbayan (Section 1, PD 1486 as amended by PD 1606, Creating the Sandiganbayan [1978]); Judges of the Shari'a Circuit Court (Art. 152, PD 1083, Code of Muslim Personal Laws of the Philippines [1977]).

Other constitutional offices are reserved to natural-born citizens: Ombudsman and his Deputies (Article XI, Section 8, 1987 Constitution); BSP Board of Governors (Article XII, Section 20, 1987 Constitution); Chairman and Commissioners of the Civil Service Commission (Article IX [B], Section I, 1987 Constitution; Book V, Title I, Subtitle A, Chapter 3, Section 10; Executive Order No. 292, Administrative Code of 1987; Article V, Section 8 (b); PD 807, Civil Service Decree of the Philippines or Civil Service Law of 1975 [1975]); Chairman and Commissioners of the Commission on Elections (Article IX[C], Section I, 1987 Constitution; Book V, Title II, Subtitle C, Chapter 2, Section 4, EO 292, Administrative Code of 1987 [1987]); Chairman and Commissioners of the Commission on Audit (Article IX [D], Section 1, 1987 Constitution); Chairman and Members of the Commission on Human Rights (Article XIII, Section 17[2], 1987 Constitution; Book V, Title II, Subtitle A, Section I, EO 292, Administrative Code of 1987 [1987]).

[406] The following positions in the local government are included: Regional Governor and Vice Governor of the ARMM (Article VII, Section 3, R.A. 9054, Strengthening and Expanding the ARMM Organic Act [2001]); Members of the Regional Assembly of the ARMM (Article VI, Section 6 [I], R.A. 9054, Strengthening and Expanding the ARMM Organic Act [2001]); Regional Secretary, Regional Undersecretaries, Assistant Regional Secretary, Assistant Secretary for Madaris, Bureau Directors, and Assistant Bureau Directors of the ARMM Department of Education (Article II, Section 22, Muslim Mindanao Autonomy Act No. 279-10, ARMM Basic Education Act of 2010 [2010]; Regional Governor and Vice Governor of the Cordillera Autonomous Region (Article V, Sections 2 and 3, R.A. 8438, Organic Act of Cordillera Autonomous Region [1997]).

[407] Members of these government commissions, boards, administrations are required to be natural-born citizens: Chairman and Members of the Energy Regulatory Commission (Section 38, R.A. 9136, Electric Power Industry Reform Act of 2001 [2001]); Commissioners of the Commission on the Filipino Language (Section 6, R.A. 7104, Commission on the Filipino Language Act [1991]); Board of the National Historical Commission of the Philippines (Section 9 [a], R.A. 10086, Strengthening Peoples' Nationalism Through Philippine History Act [2010]); Executive Director and Deputy Executive Directors of the NHCP (Section 17, R.A. 10086, Strengthening Peoples' Nationalism Through Philippine History Act [2010]); Commissioners of National Commission on Indigenous Peoples (Section 3 [a] Rules and Regulations Implementing The Indigenous Peoples' Rights Act of 1997, NCIP Administrative Order No. 01-98, [1998]); Members of Provincial, Regional and National Consultative Bodies of the NCIP (Sections 22 [a] NCIP Administrative Order No. 1-03, Guidelines for the Constitution and Operationalization ofthe Consultative Body [2003]); Chairman and Members of the Board of Agriculture (Article III, Section 6 (a] PRC Board of Agriculture Resolution No. 02-02, Rules and Regulations implementing PRC Resolution No. 2000 663 [2002]); Members of the Board of the Movie and Television Review and Classification Board (Section 2, PD 1986, Creating the Movie and Television Review and Classification Board [1985]); Chairman and Members of the Board of Fisheries (Article III, Section 7 [a] PRC Board of

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Fisheries Resolution no. 01-02, Rules and Regulations Implementing PRC Resolution No. 2000-664); Representative of Consumers at the Price Control Council (Section 2, R.A. 6124, Fixing of the Maximum Selling Price of Essential Articles or Commodities [1970]); Members of the Anti-Dummy Board (Section 1, R.A. 1130 as amended by R.A. 6082 [1969]); Chairman, Members of the Board and General Manager of the Public Estates Authority/Philippine Reclamation Authority, (Section 6, PO 1084, Charter of the Public Estates Authority [1977]); Chairman and Members of the Land Tenure Administration (Section 4, R.A. 1400, Land Reform Act of 1955 [1955]); Board of Directors of the Panay Development Authority (Section 17, R.A. 3856, Creation of Panay Development Authority [1964]; Administrator of the Agricultural Credit Administration (Section 101, R.A. 3844 as amended by R.A. 6389, Agricultural Land Reform Code [1971]); Director-General, Deputy Director-General, and Executive Directors of the National Manpower Youth Council [absorbed by TESDA pursuant to PO 850] (Article 53, PO 442 as amended by PO 850 Amendments to P.O. No. 442, Labor Code of the Philippines [1975]); Governor and Deputy Governors of the Land Authority (Section 50, R.A. 3844, Agricultural Land Reform Code, [1963]).

[408] Project Director of the Mindoro Office of the Mindoro Integrated Rural Development Office (Section 6 [a], PO 805, Implementing the Mindoro Integrated Rural Development Program and Providing Funds therefore [1975]); Project Director of the Cagayan Integrated Agricultural Development Project (Section 6 [a], PO 1189, Implementing the Cagayan Integrated Agricultural Development Project [1977]); Project Director of the Samar Office of the Samar Integrated Rural Development Project (Section 4 [a], PO 1048, Implementation of the Samar Integrated Rural Development Project [1976]); Members of the Central Luzon-Cagayan Valley Authority (Section 2 [e], R.A. 3054, Creation of Central Luzon-Cagayan Valley Authority [1961]); Project Director of the Rural Infrastructure Project Office in the DOTC (Section 3, PO 1298, Implementing the Rural Infrastructure Project [1978]); Members of the Cooperative Development Authority (Section 5 [a], R.A. 6939, Cooperative Development Authority Law [1990]); Board of Directors of the Bases Conversion and Development Authority (Section 9 [b], Bases Conversion and Development Act of 1992, R.A. 7227 [1992]); Program Director at the Cotabato-Agusan River Basin Program Office (Section 3, PO 1556, Creation of the Cotabato-Agusan River Basin Program Office [1978]); Executive Director of the River Basin Council (Section 5, EO 412, Creation of Bicol River Basin Council [1973]); Board of Directors of the Philippine National Oil Company (Section 6, Presidential Decree 334 as amended by PO 405, Creating the Philippine National Oil Company); Board of Governors of the Ospital ng Bagong Lipunan (Section 3, PO 1411, Dissolving the GSIS Hospital, Inc. [1978]); Board of Directors of the Philippine Export Credit Insurance and Guarantee Corporation (Section 8, R.A. 6424, Philippine Export Credit Insurance and Guarantee Corporation Act [1972]); President of the Philippine Export and Foreign Loan Guarantee Corporation [later Trade and Investment Development Corporation, now Phil. Export- Import Credit Agency (Section 14, PO 1080 as amended by R.A. 8494).

[409] Members of the Board of Directors of the following banks are required to be natural-born citizens: Philippine National Bank (Section 10, EO 80, The 1986 Revised Charter of the Philippine National Bank [1986]); Land Bank of the Philippines (Section 86, Republic Act No. 3844 as amended by R.A. 7907, Code of Agrarian Reform in the Phil. [1995]); Development Bank of the Philippines (Section 8, R.A. 8523, Strengthening the Development Bank of the Philippines [1998]).

[410] Presidents of State Universities imd Colleges (Section 5.1, CHED Memorandum Order 16 [2009]) and the College President of the Compostela Valley State College (Implementing Rules and Regulations of Republic Act No. 10598 [2014]).

[411] These include: Members of the Board of Examiners of Criminologists (Section 3 [1], R .A. 6506, Creation of Board of Examiners for Criminologists [1972]); Chairman and Members of the Professional Regulatory Board

of Geology (Section 8 [a], R.A. 10166, Geology Profession Act of 2012 [2012]); Chairperson and Members of the Professional Regulatory Board of Psychology (Section 5 [a], R.A. 10029, Philippine Psychology Act of 2009 [2010]); Chairperson and Members ofthe Board of Respiratory Therapy (Section 5 [a], R.A. 10024, Philippine Respiratory Therapy Act of 2009 [2010]); Chairman and Members of the Professional Regulatory Board of Dentistry (Section 7 [a], R.A. 9484, The Philippine Dental Act of 2007 [2007]); Chairperson and Members of the Professional Regulatory Board for Librarians (Section 7 [a], R.A. 9246, The Philippine Librarianship Act of 2003 [2004]); Members of the Professional Regulatory Board of Accounting (Section 6 [a], R.A. 9298, Philippine Accountancy Act of 2004 [2004]); Chairman and Members of the Board of Chemical Engineering (Section 7 [a], R.A. 9297, Chemical Engineering Law of 2004 [2004]); Members of the Philippine Landscape Architecture Board (Section 4 [a], R.A. 9053, Philippine Landscape Architecture Act of2000 [2001]); Chairperson and Members of the Board of the Professional Regulatory Board of Nursing Section 4, R.A. 9173, Philippine Nursing Act of 2002 [2002]); Member of the Professional Regulatory Board of Accountancy (Section 6 [a], R.A. 9298, Philippine Accountancy Act of 2004 [2004]); Members of the Board of Agricultural Engineering (Section 5 [a], R.A. 8559, Philippine Agricultural Engineering Act of 1998 [1998]); Members of the Board of Geodetic Engineering (Section 4 [a], R.A. 8560, Philippine Geodetic Engineering Act of 1998 [1998]); Chairperson and members of the Professional Regulatory Board for Foresters (Section 7 [a], R.A. 10690, The Forestry Profession Act [2015]); Members of the Board of Examiners for Forester (Section 6 [a], R.A. 6239, The Forestry Profession Law [1971]; Members ofthe Board of Pharmacy Section 7 [a], R.A. 5921, Pharmacy Law [1969]); Members of the Board of Medical Examiners (Section 14, R.A. 2382 as amended by R.A. 4224, The Medical Act of 1959 as amended [1965]); Members of the Board of Mechanical Engineering (Section 5 [a] R.A. 8495, Philippine Mechanical Engineering Act of 1998 [1998]); Members of the Board of Optometry, (Section 8 [a], R.A. 8050, Revised Optometry Law of 1995 [1995]); Members of the Board of Electrical Engineering (Section 5 [a], R.A. 7920, New Electrical Engineering Law [1995]).

[412] In particular, all officers of the Regular Force of the Armed Forces of the Philippines (Section 4 [b], R.A. 291, Armed Forces Officer Personnel Act of 1948 [1948]); Officers of the Women's Auxiliary Corps (Section 2, R.A. 3835, An Act to Establish the Women's Auxiliary Corps in the Armed Forces of the Philippines, to provide the Procurement of its Officers and Enlisted personnel, and for Other Purposes [1963]).

DISSENTING OPINION
CARPIO, J.:

I dissent from the majority opinion.

With the ruling of the majority today, a presidential candidate who is deemed a natural-born Filipino citizen by less than a majority of this Court, deemed not a natural-born Filipino citizen by five Justices, and with no opinion from three Justices, can now run for President of the Philippines even after having been unanimously found by the Commission on Elections En Banc (COMELEC) to be not a natural-born Filipino citizen. What is clear and undeniable is that there is no majority of this Court that holds that petitioner Mary Grace Natividad S. Poe Llamanzares (petitioner) is a natural-born Filipino citizen. This ruling of the majority will lead to absurd results, making a mockery of our national elections by allowing a presidential candidate with uncertain citizenship status to be potentially elected to the Office of the President, an office expressly reserved by the Constitution exclusively for natural-born Filipino citizens.

This means that the majority of this Court wants to resolve the citizenship status of petitioner after the elections, and only if petitioner wins the elections, despite petitioner having already presented before the COMELEC all the evidence she wanted to present to prove her citizenship status. This will make a mockery of our election process if

petitioner wins the elections but is later disqualified by this Court for not possessing a basic qualification for the Office of the President - that of being a natural-born Filipino citizen.

Those who voted for petitioner would have utterly wasted their votes. This is not how the natural-born citizenship qualification for elective office mandated by the Constitution should be applied by the highest court of the land.

There is no dispute that petitioner is a Filipino citizen, as she publicly claims to be. However, she has failed to prove that she is a natural-born Filipino citizen and a resident of the Philippines for at least ten years immediately preceding the 9 May 2016 elections. Petitioner is not eligible to run for President of the Republic of the Philippines for lack of the essential requirements of citizenship and residency under Section 2, Article VII of the 1987 Constitution.[1] Petitioner's certificate of candidacy (COC), wherein she stated that she is qualified for the position of President, contains false material representations, and thus, must be cancelled. Petitioner, not being a natural-born Filipino citizen, is also a nuisance candidate whose COC can motu proprio be cancelled by the COMELEC under Section 69 of the Omnibus Election Code.

The Case

These consolidated certiorari petitions[2] seek to nullify the Resolutions[3] of the COMELEC for allegedly being issued with grave abuse of discretion amounting to lack or excess of jurisdiction. In the assailed Resolutions, the COMELEC cancelled petitioner's COC for the position of President for the 9 May 2016 elections on the ground of "false material representations" when she stated therein that she is a "natural-born Filipino citizen" and that her "period of residence in the Philippines up to the day before May 09, 2016" is "10 years and 11 months," which is contrary to the facts as found by the COMELEC.

The Issues

The core issues in this case are (1) whether petitioner, being a foundling, is a natural-born Filipino citizen, and (2) whether she is a resident of the Philippines for ten years immediately preceding the 9 May 2016 national elections. The resolution of these issues will in turn determine whether petitioner committed false material representations in her COC warranting the cancellation of her COC. If petitioner is not a natural-born Filipino citizen, the issue arises as a necessary consequence whether she is a nuisance candidate whose COC can motu proprio be cancelled by the COMELEC.

COMELEC Jurisdiction

Section 2(1), Article IX-C of the Constitution vests in the COMELEC the power, among others, to "[e]nforce and administer all laws and regulations relative to the conduct of an election, x x x."[4] Screening initially the qualifications of all candidates lies within this specific power. In my dissent in Tecson v. COMELEC,[5] involving the issue of Fernando Poe, Jr.'s citizenship, I discussed the COMELEC's jurisdiction, to wit:

x x x. Under Section 2(1), Article IX-C of the Constitution, the Comelec has the power and function to "[E]nforce and administer all laws and regulations relative tu the conduct of an election." The initial determination of who are qualified to file certificates of candidacies with the Comelec clearly falls within this all-encompassing constitutional mandate of the Comelec. The conduct of an election necessarily includes the initial determination of who are qualified under existing laws to run for public office in an election. Otherwise, the Comelec's certified list of candidates will be cluttered with unqualified candidates making the conduct of elections unmanageable. For this reason, the Comelec weeds out every presidential election dozens of candidates for president who are deemed nuisance candidates by the Comelec.

Section 2(3), Article IX-C of the Constitution also empowers the Comelec to "[D]ecide, except those involving the right to vote, all questions affecting elections x x x. " The power to decide "all questions affecting elections" necessarily includes the power to decide whether a candidate possesses the qualifications required by law for

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election to public office. This broad constitutional power and function vested in the Comelec is designed precisely to avoid any situation where a dispute affecting elections is left without any legal remedy. If one who is obviously not a natural-born Philippine citizen, like Arnold Schwarzenneger, runs for President, the Comelec is certainly not powerless to cancel the certificate of candidacy of such candidate. There is no need to wait until after the elections before such candidate may be disqualified.[6] (Italicization in the original; boldfacing supplied)

Clearly, pursuant to its constitutional mandate, the COMELEC can initially determine the qualifications of all candidates and disqualify those found lacking any of such qualifications before the conduct of the elections. In fact, the COMELEC is empowered to motu proprio cancel COCs of nuisance candidates.[7] In Timbol v. COMELEC,[8] the Court stated thus:

> Respondent's power to motu proprio deny due course to a certificate of candidacy is subject to the candidate's opportunity to be heard.
>
> Under Article II, Section 26 of the Constitution, "[t]he State shall guarantee equal access to opportunities for public service[.]" This, however, does not guarantee "a constitutional right to run for or hold public office[.]" To run for public office is a mere "privilege subject to limitations imposed by law." Among these limitations is the prohibition on nuisance candidates.
>
> Nuisance candidates are persons who file their certificates of candidacy "to put the election process in mockery or disrepute or to cause confusion among the voters by the similarity of the names of the registered candidates or by other circumstances or acts which clearly demonstrate that the candidate has no bona fide intention to run for the office for which the certificate of candidacy has been filed and thus prevent a faithful determination of the true will of the electorate." x x x. (Emphasis supplied)

It cannot be disputed that a person, not a natural-born Filipino citizen, who files a certificate of candidacy for President, "put[s] the election process in mockery" and is therefore a nuisance candidate. Such person's certificate of candidacy can motu proprio be cancelled by the COMELEC under Section 69 of the Omnibus Election Code, which empowers the COMELEC to cancel motu proprio the COC if it "has been filed to put the election process in mockery."

In Pamatong v. COMELEC,[9] cited in Timbol,[10] the Court explained the reason why nuisance candidates are disqualified to run for public office:

> The rationale behind the prohibition against nuisance candidates and the disqualification of candidates who have not evinced a bona fide intention to run for office is easy to divine. The State has a compelling interest to ensure that its electoral exercises are rational, objective, and orderly. Towards this end, the State takes into account the practical considerations in conducting elections. Inevitably, the greater the number of candidates, the greater the opportunities for logistical confusion, not to mention the increased allocation of time and resources in preparation for the election. These practical difficulties should, of course, never exempt the State from the conduct of a mandated electoral exercise. At the same time, remedial actions should be available to alleviate these logistical hardships, whenever necessary and proper. Ultimately, a disorderly election is not merely a textbook example of inefficiency, but a rot that erodes faith in our democratic institutions. x x x.
>
> x x x x
>
> x x x. The organization of an election with bona fide candidates standing is onerous enough. To add into the mix candidates with no serious intentions or capabilities to run a viable campaign would actually impair the electoral process. This is not to mention the candidacies which are palpably ridiculous so as to constitute a one-note joke. The poll body would be bogged by irrelevant minutiae covering every step of the electoral

> process, most probably posed at the instance of these nuisance candidates. It would be a senseless sacrifice on the part of the State.

To allow a person, who is found by the COMELEC not to be a natural- born Filipino citizen, to run for President of the Philippines constitutes a mockery of the election process. Any person, who is not a natural-born Filipino citizen, running for President is obviously a nuisance candidate under Section 69 of the Omnibus Election Code. Allowing a nuisance candidate to run for President renders meaningless the COMELEC's constitutional power to "[e]nforce and administer all laws x x x relative to the conduct of an election, x x x." The election process becomes a complete mockery since the electorate is mercilessly offered choices which include patently ineligible candidates. The electorate is also needlessly misled to cast their votes, and thus waste their votes, for an ineligible candidate. The COMELEC cannot be a party to such mockery of the election process; otherwise, the COMELEC will be committing a grave abuse of discretion.

Citizens of the Philippines
It is the sovereign power and inherent right of every independent state to determine who are its nationals. The Philippines, and no other state, shall determine who are its citizens in accordance with its Constitution and laws.

In this case, the 1935 Philippine Constitution shall be applied to determine whether petitioner is a natural-born citizen of the Philippines since she was born in 1968 when the 1935 Constitution was in effect.

Section 1, Article IV of the 1935 Constitution identifies who are Filipino citizens, thus:

> Article IV.-Citizenship
>
> Section 1. The following are citizens of the Philippines:
>
> - Those who are citizens of the Philippine Islands at the time of the adoption of this Constitution.
>
> - Those born in the Philippine Islands of foreign parents who, before the adoption of this Constitution, had been elected to public office in the Philippine Islands.
>
> - Those whose fathers are citizens of the Philippines.
>
> - Those whose mothers are citizens of the Philippines and, upon reaching the age of majority, elect Philippine citizenship.
>
> - Those who are naturalized in accordance with law.

From this constitutional provision, we find that, except for those who were already considered citizens at the time of the adoption of the Constitution, there were, as there are still now, only two methods of acquiring Philippine citizenship: (1) by blood relation to the father (or the mother under the 1987 Constitution) who must be a Filipino citizen; and (2) by naturalization according to law.[11]

The Philippines adheres to the jus sanguinis principle or the "law of the blood" to determine citizenship at birth. An individual acquires Filipino citizenship at birth solely by virtue of biological descent from a Filipino father or mother. The framers of the 1935 Constitution clearly intended to make the acquisition of citizenship available on the basis of the jus sanguinis principle. This view is made evident by the suppression from the Constitution of the jus soli principle, and further, by the fact that the Constitution has made definite provisions for cases not covered by the jus sanguinis principle, such as those found in paragraph 1, Section 1 of Article IV, i.e., those who are citizens of the Philippines at the time of the adoption of the Constitution, and in paragraph 2, Section 1 of the same Article, i.e., those born in the Philippines of foreign parents who, before the adoption of the Constitution, had been elected to public office in the Philippines.[12]

In terms of jurisprudence, there was a period when the Court was uncertain regarding the application of jus soli or "law of the soil" as a principle of acquisition of Philippine citizenship at birth.[13] In Tan Chong v. Secretary of Labor,[14] decided in 1947, the Court finally abandoned the jus soli principle, and jus sanguinis has been exclusively adhered to in the Philippines since then.[15]

Based on Section 1, Article IV of the 1935 Constitution, petitioner's citizenship may be determined only under paragraphs (3), (4) and (5). Paragraph (1) of Section 1 is not applicable since petitioner is not a Filipino citizen at the time of the adoption of the 1935 Constitution as petitioner was born after the adoption of the 1935 Constitution. Paragraph (2) of Section 1 is likewise inapplicable since petitioner was not born in the Philippines of foreign parents who, before the adoption of the Constitution, had been elected to public office in the Philippines.

Of the Filipino citizens falling under paragraphs (3), (4) and (5), only those in paragraph (3) of Section 1, whose fathers are citizens of the Philippines, can be considered natural-born Filipino citizens since they are Filipino citizens from birth without having to perform any act to acquire or perfect their Philippine citizenship.[16] In short, they are Filipino citizens by the mere fact of birth.

Under paragraph (4) of Section 1, those Filipino citizens whose mothers are Filipinos and whose fathers are aliens cannot be considered natural-born Filipino citizens since they are still required to elect Philippine citizenship upon reaching the age of majority -they are not Filipino citizens by the mere fact of birth.

However, under paragraph (2), Section 1 of Article IV of the 1987 Constitution, those whose fathers are Filipino citizens and those whose mothers are Filipino citizens are treated equally. They are considered natural-born Filipino citizens.[17] Moreover, under Section 2, Article IV of the 1987 Constitution, in relation to paragraph (3), Section 1 of the same Article, those born before 17 January 1973 of Filipino mothers and who elected Philippine citizenship upon reaching the age of majority are also deemed natural-born Filipino citizens.

In Co v. Electoral Tribunal of the House of Representatives,[18] the Court held that the constitutional provision treating as natural-born Filipino citizens those born before 17 January 1973 of Filipino mothers and alien fathers, and who elected Philippine citizenship upon reaching the age of majority, has a retroactive effect. The Court declared that this constitutional provision was enacted "to correct the anomalous situation where one born of a Filipino father and an alien mother was automatically granted the status of a natural-born citizen while one born of a Filipino mother and an alien father would still have to elect Philippine citizenship. If one so elected, he was not, under earlier laws, conferred the status of a natural-born."[19] The Court explained:

> The provision in Paragraph 3 was intended to correct an unfair position which discriminates against Filipino women. There is no ambiguity in the deliberations of the Constitutional Commission, viz:
> Mr. Azcuna: With respect to the provision of section 4, would this refer only to those who elect Philippine citizenship after the effectivity of the 1973 Constitution or would it also cover those who elected it under the 1973 Constitution?
>
> Fr. Bernas: It would apply to anybody who elected Philippine citizenship by virtue of the provision of the 1935 Constitution whether the election was done before or qfter January 17, 1973. (Records of the Constitutional Commission, Vol. 1, p. 228; Emphasis supplied.)
>
> xxx xxx xxx
>
> Mr. Trenas: The Committee on Citizenship, Bill of Rights, Political Rights and Obligations and Human Rights has more or less decided to extend the interpretation of who is a natural-born citizen as provided in section 4 of the 1973 Constitution by adding that persons who have elected Philippine citizenship under the 1935 Constitution shall be natural-born? Am I right Mr. Presiding Officer?

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> Fr. Bernas: Yes.
>
> xxx xxx xxx
>
> Mr. Nolledo: And I remember very well that in the Reverend Father Bernas' well written book, he said that the decision was designed merely to accommodate former delegate Ernesto Ang and that the definition on natural-born has no retroactive effect. Now it seems that the Reverend Father Bernas is going against this intention by supporting the amendment?
>
> Fr. Bernas: As the Commissioner can see, there has been an evolution in my thinking. (Records of the Constitutional Commission, Vol. 1, p. 189)
>
> xxx xxx xxx
>
> Mr. Rodrigo: But this provision becomes very important because his election of Philippine citizenship makes him not only a Filipino citizen but a natural-born Filipino citizen entitling him to run for Congress...
>
> Fr. Bernas: Correct. We are quite aware of that and for that reason we will leave it to the body to approve that provision of section 4.
>
> Mr. Rodrigo: I think there is a good basis for the provision because it strikes me as unfair that the Filipino citizen who was born a day before January 17, 1973 cannot be a Filipino citizen or a natural-born citizen. (Records of the Constitutional Commission, Vol. 1, p. 231)
>
> xxx xxx xxx
>
> Mr. Rodrigo: The purpose of that provision is to remedy an inequitable situation. Between 1935 and 1973 when we were under the 1935 Constitution, those born of Filipino fathers but alien mothers were natural-born Filipinos. However, those born of Filipino mothers but alien fathers would have to elect Philippine citizenship upon reaching the age of majority; and if they do elect, they become Filipino citizens but not natural-born Filipino citizens. (Records ofthe Constitutional Commission, Vol. 1, p. 356)

The foregoing significantly reveals the intent of the framers. To make the provision prospective from February 3, 1987 is to give a narrow interpretation resulting in an inequitable situation. It must also be retroactive.[20]

Therefore, the following are deemed natural-born Filipino citizens: (1) those whose fathers or mothers are Filipino citizens, and (2) those whose mothers are Filipino citizens and were born before 17 January 1973 and who elected Philippine citizenship upon reaching the age of majority. Stated differently, those whose fathers or mothers are neither Filipino citizens are not natural-born Filipino citizens. If they are not natural-born Filipino citizens, they can acquire Philippine citizenship only under paragraph (5), Section 1 of Article IV of the 1935 Constitution which refers to Filipino citizens who are naturalized in accordance with law.

Intent of the Framers of the 1935 Constitution

Petitioner concedes that she does not fall under paragraphs (1) and (2) of Section 1, Article IV of the 1935 Constitution. However, petitioner claims that the mere fact that she is a foundling does not exclude her from paragraphs (3) and (4) of the same provision. Petitioner argues in her Petition that "the pertinent deliberations of the 1934 Constitutional Convention, on what eventually became Article IV of the 1935 Constitution, show that the intent of the framers was not to exclude foundlings from the term "citizens" of the Philippines."[21]

Likewise, the Solicitor General asserts in his Comment[22] that "[t]he deliberations ofthe 1934 Constitutional Convention indicate the intention to categorize foundlings as a class of persons considered as Philippine citizens. x x x. The 1935 Constitution's silence cannot simply be interpreted as indicative of an intent to entrench a disadvantaged class in their tragedy. Not only is there no evidence of such intent, but also the silence can be

explained in a compassionate light, one that is geared towards addressing a fundamental question of justice."[23]

Petitioner and the Solicitor General are gravely mistaken. The framers of the 1935 Constitution voted to categorically reject the proposal to include foundlings as citizens of the Philippines. Petitioner's Petition, and the Solicitor General's Comment, glaringly omitted that the 1934 Constitutional Convention actually voted upon, and rejected, the proposal to include foundlings as citizens of the Philippines. The following exchange during the deliberations of the Convention shows this unequivocally.

> SPANISH
>
> ENGLISH
>
> SR. RAFOLS:
> Para una enmienda. Propongo que despues del inciso 2 se inserte lo siguiente: "Los hijos naturales de un padre extranjero y de una madre filipina no reconocidos por aquel.
> xxxx
>
> MR. RAFOLS:
> For an amendment, I propose that after subsection 2, the following is inserted: "The natural children of a foreign father and a Filipino mother not recognized by the father.
> xxxx
>
> EL PRESIDENTE:
> La Mesa desea pedir una aclaracion del proponente de la enmienda. Se refiere Su Señoria a hijos naturales o a toda clase de hijos ilegitimos?
>
> PRESIDENT: [We] would like to request a clarification from the proponent of the amendment. The gentleman refers to natural children or to any kind of illegitimate children?
>
> SR. RAFOLS:
> A toda clase de hijos ilegitimos. Tambien se incluye a los hijos naturales de padres desconocidos, los hijos naturales o ilegitimos, de padres desconocidos.
>
> MR. RAFOLS: To all kinds of illegitimate children. It also includes natural children of unknown parentage, natural or illegitimate children of unknown parents.
>
> SR. MONTINOLA:
> Para una aclaracion. Alli se dice "de padres desconocidos." Los Codigos actuales consideran como filipino, es decir, i me refiero al codigo español quien I considera como espafioles a todos los hijos de padres desconocidos nacidos en territorio español, porque la presuncion es que el hijo de padres desconocidos es hijo de un español, y de esa manera se podra aplicar en Filipinas de que un hijo desconocido aqui y nacido en Filipinas se considerara que es hijo filipino y no hay necesidad ...
>
> MR. MONTINOLA:
> For clarification. The gentleman said "of unknown parents." Current codes consider them Filipino, that is, I refer to the Spanish Code wherein all children of unknown parentage born in Spanish territory are considered Spaniards, because the presumption is that a child of unknown parentage is the son of a Spaniard. This may be applied in the Philippines in that a child of unknown parentage born in the Philippines is deemed to be Filipino, and there is no need ...
>
> SR. RAFOLS:
> Hay necesidad, porque estamos relatando las condiciones de los que van a ser filipinos.
>
> MR. RAFOLS:

There is a need, because we are relating the conditions that are [required] to be Filipino.

SR. MONTINOLA:
Pero esa es la interpretacion de la ley, ahora, de manera que no hay necesidad de la enmienda.

MR. MONTINOLA:
But that is the interpretation of the law, therefore, there is no [more] need for the amendment.

SR. RAFOLS:
La enmienda debe leerse de esta manera: "Los hijos naturales o ilegitimos de un padre extranjero y de una madre filipina reconocidos por aquel o los hijos de padres desconocidos.

MR. RAFOLS:
The amendment should read thus: "Natural or illegitimate children of a foreign father and a Filipino mother recognized by the former, or the children of unknown parentage."

SR. BRIONES:
Para una enmienda con elfin de significar: The amendment [should] mean children los hijos nacidos en Filipinas de padres born in the Philippines of unknown desconocidos

MR. BRIONES: The amendment [should] mean children born in the Philippines of unknown parentage.

SR. RAFOLS:
Es que el hijo de una filipina con un extranjero, aunque este no reconozca al hijo, no es desconocido.

MR. RAFOLS:
The son of a Filipina to a foreigner, although the latter does not recognize the child, is not of unknown parentage.

EL PRESIDENTE:
Acepta Su Señoria o no la enmienda?

PRESIDENT:
Does the gentleman accept the amendment or not?

SR. RAFOLS:
No acepto la enmienda, porque la lenmienda excluiria a los hijos de una filipina con un extranjero que este no reconoce. No son desconocidos y yo creo que esos hijos de madre filipina con extranjero y el padre no reconoce, deben ser tambien considerados como filipinos.

MR.RAFOLS:
I do not accept the amendment because the amendment would exclude the children of a Filipina with a foreigner who does not recognize the child. Their parentage is not unknown and I believe that these children of a Filipino mother by a foreigner who does not recognize them should also be considered Filipinos.

EL PRESIDENTE:
La cuestion en orden es la enmienda a la enmienda del Delegado por Cebu, Sr. Briones.

PRESIDENT:
The question to be settled is the amendment to the amendment of the delegate from Cebu, Mr. Briones.

Mr. BULSON:
Mr. President, don't you think it would be better to leave the matter in the hands of the Legislature?

MR. BUSLON:
Mr. President, don't you think it would be better to leave the matter in the hands of the Legislature?

SR.ROXAS:
Senor Presidente, mi opinion humilde es que estos son casos muy pequeños y contados, para que la constitucion necesite referirse a ellos. Por leyes internacionales se reconoce el principia de que los hijo las per o as nacidas en un pais de padres desconocidos son ciudadanos de esa nacion, y no es necesario incluir una disposicion taxativa sobre el particular.

MR. ROXAS:
Mr. President, my humble opinion is that these cases are very insignificant and very few that the constitution need not make reference to them. International law recognizes the principle that the children or persons in a country of unknown parents are citizens of that nation and it is not necessary to include a restrictive provision on this subject.

LA ENMIENDA BRIONES ES RETIRADA

THE BRIONES AMENDMENT IS WITHDRAWN

EL PRESIDENTE:
Insiste el Caballero por Cebu, Sr. Briones, en su enmienda?

PRESIDENT:
Does the gentleman from Cebu, Mr. Briones, insist in his amendment?

SR. BRIONES:
No tengo especial interes, señor Presidente, en esa enmienda y la retiro.

SR. BRIONES:
I have no special interest, Mr. President, in the amendment and I withdraw.

EL PRESIDENTE:
Por retirada.

PRESIDENT:
Withdrawn.

LA ENMIENDA RAFOLS ES RECHAZADA

THE RAFOLS AMENDMENT IS REJECTED

EL PRESIDENTE:
Insiste el Caballero por Cebu, Sr. Rafols, en su enmienda?

PRESIDENT:
Does the gentleman from Cebu, Mr. Rafols, insist in his amendment?

SR. RAFOLS:
Si.

SR. RAFOLS:
Yes.

EL PRESIDENTE: La Mesa sometera a votacion dicha enmienda. Los que esten conformes con la misma, que digan si. (Una minoria: SI.) Los que no lo esten, que digan no. (Una mayoria: NO.) Queda rechazada la enmienda.[24]

PRESIDENT:
Let us submit to a vote the amendment. Those who agree with it, say yes. (a minority: YES.) Those who are

> not, say no. (a majority: NO.) The amendment is rejected. (Emphasis supplied)

During the 26 November 1934 deliberations of the Constitutional Convention, Delegate Rafols proposed an amendment to declare as Filipino citizens those natural or illegitimate children of Filipino mothers and alien fathers who do not acknowledge them. Such proposed amendment, according to Delegate Rafols, included "children of unknown parentage."

Three delegates voiced their objections to Rafols's amendment, namely Delegates Buslon, Montinola, and Roxas.

Delegate Teofilo Buslon suggested that the subject matter be left in the hands of the legislature, which meant that Congress would decide whether to categorize as Filipinos (1) natural or illegitimate children of Filipino mothers and alien fathers who do not recognize them; and (2) children of unknown parentage. If that were the case, foundlings were not and could not validly be considered as natural-born Filipino citizens as defined in the Constitution since Congress would then provide the enabling law for them to be regarded as Filipino citizens. Foundlings would be naturalized citizens since they acquire Filipino citizenship "in accordance with law" under paragraph (5), Section 1 of Article IV of the 1935 Constitution. Significantly, petitioner and the Solicitor General, who agrees with petitioner's position, conveniently left out Delegate Buslon's opinion.

Petitioner quotes the opinions of Delegates Ruperto Montinola and Manuel Roxas to support her theory. Petitioner argues that "the pertinent deliberations of the 1934 Constitutional Convention show that the intent of the framers was not to exclude foundlings from the term 'citizens of the Philippines,' but simply to avoid redundancy occasioned by explicating what to them was already a clear principle of existing domestic and international law."[25]

Petitioner is again gravely mistaken.

There was no domestic law as well as international law existing during the proceedings of the 1934 Constitutional Convention explicitly governing citizenship of foundlings, and thus, there could not have been a redundancy of any law to speak of.

Delegate Montinola applied the Spanish Civil Code provision, stating that children of unknown parentage born in Spanish territory were considered Spaniards, and opined that the same concept could be applied in the Philippines and thus children of unknown parentage born in the Philippines should be considered Filipino citizens.

However, this was an erroneous application since the provisions of the Spanish Civil Code (which Delegate Montinola was relying on) were no longer in effect as of the end of Spanish rule in the Philippines. The provisions of the Spanish Civil Code cited by Delegate Montinola ceased to have effect upon the cession by Spain of the Philippines to the United States. As early as 1912, in Roa v. Collector of Customs,[26] the Court stated:

> Articles 17 to 27, inclusive, of the Civil Code deal entirely with the subject of Spanish citizenship. When these provisions were enacted, Spain was and is now the sole and exclusive judge as to who shall and who shall not be subjects of her kingdom, including her territories. Consequently, the said articles, being political laws (laws regulating the relations sustained by the inhabitants to the former sovereign), must be held to have been abrogated upon the cession of the Philippine Islands to the United States.
> "By well-settled public law, upon the cession of territory by one nation to another, either following a conquest or otherwise, * * * those laws which are political in their nature and pertain to the prerogatives of the former government immediately cease upon the transfer of sovereignty." (Opinion, Atty. Gen., July 10, 1889.)

Thus, Delegate Montinola's opinion was based on an erroneous premise since the provisions of the Spanish Civil Code he cited had already long been repealed and could no longer be applied in the Philippines.

The same can be said of Delegate Manuel Roxas's opinion regarding the supposed international law principle

which recognizes a foundling to be a citizen of the country where the foundling is found. At that time, there was nothing in international law which automatically granted citizenship to foundlings at birth. In fact, Delegate Roxas did not cite any international law principle to that effect.

Only the 1930 Hague Convention on Certain Questions Relating to the Conflict of Nationality Laws, which articulated the presumption on the place of birth of foundlings, was in existence during the deliberations on the 1935 Constitution. As will be discussed further, the 1930 Hague Convention does not guarantee a nationality to a foundling at birth. Therefore, there was no prevailing customary international law at that time, as there is still none today, conferring automatically a nationality to foundlings at birth.

Moreover, none of the framers of the 1935 Constitution mentioned the term "natural-born" in relation to the citizenship of foundlings. Again, under the 1935 Constitution, only those whose fathers were Filipino citizens were considered natural-born Filipino citizens. Those who were born of Filipino mothers and alien fathers were still required to elect Philippine citizenship, preventing them from being natural-born Filipino citizens. If, as petitioner would like us to believe, the framers intended that foundlings be considered natural-born Filipino citizens, this would have created an absurd situation where a child with unknown parentage would be placed in a better position than a child whose mother is actually known to be a Filipino citizen. The framers of the 1935 Constitution could not have intended to create such an absurdity.

In any event, Delegate Rafols's amendment, when put to a vote, was clearly rejected by the majority of the delegates to the 1934 Constitutional Convention. To reiterate, Delegate Rafols's proposal was defeated in the voting. The rejection of the Rafols amendment not only meant the non- inclusion in the text of the Constitution of a provision that children with unknown parentage are Filipino citizens, but also signified the rejection by the delegates of the idea or proposition that foundlings are Filipino citizens at birth just like natural-hom citizens. While the framers discussed the matter of foundlings because of Delegate Rafols's amendment, they not only rejected the Rafols proposal but also clearly manifested that foundlings could not be citizens of the Philippines at birth like children of Filipino fathers. Stated differently, the framers intended to exclude foundlings from the definition of natural-born Filipino citizens.

Clearly, there is no "silence of the Constitution" on foundlings because the majority of the delegates to the 1934 Constitutional Convention expressly rejected the proposed amendment of Delegate Rafols to classify children of unknown parentage as Filipino citizens. There would have been "silence of the Constitution" if the Convention never discussed the citizenship of foundlings. There can never be "silence of the Constitution" if the Convention discussed a proposal and rejected it, and because of such rejection the subject of the proposal is not found in the Constitution. The absence of any mention in the Constitution of such rejected proposal is not "silence of the Constitution" but "express rejection in the Constitution" of such proposal.

Further, to include foundlings among those born of Filipino fathers or Filipino mothers based solely on Montinola's and Roxas's opinions during the deliberations of the Constitutional Convention is a strained construction of the Constitution which clearly runs counter to the express provisions of the Constitution and contravenes the jus sanguinis principle underlying the citizenship provisions of the Constitution.

Besides, there is nothing in the deliberations of the 1934 Constitutional Convention indicating that a majority of the delegates agreed with the opinion of either Delegate Montinola or Delegate Roxas. The opinions of Delegates Montinola and Roxas remained their personal opinions, just like the countless opinions of other delegates who aired their opinions during the deliberations of the Convention without such opinions being put to a vote. Delegate Buslon proposed that the citizenship of foundlings be addressed through legislation by Congress, a proposal that carried more weight since it falls squarely under paragraph 5, Section 1 of Article IV of the 1935 Constitution

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authorizing Congress to enact naturalization laws.

Definition of the Term "'Natural-Born Citizens"

The term "natural-born citizen" was first discussed by the framers of the 1935 Constitution in relation to the qualifications of the President and Vice-President. In particular, Delegate Roxas elaborated on this term, explaining that a natural-born citizen is a "citizen by birth" - a person who is a citizen by reason of his or her birth and not by operation of law. Delegate Roxas explained:

> Delegate Roxas. - Mr. President, the phrase, 'natural-born citizen,' appears in the Constitution of the United States; but the authors say that this phrase has never been authoritatively interpreted by the Supreme Court of the United States in view of the fact that there has never been raised the question of whether or not an elected President fulfilled this condition. The authors are uniform in the fact that the words, 'natural-born citizen,' means a citizen by birth, a person who is a citizen by reason of his birth, and not by naturalization or by a further declaration required by law for his citizenship. In the Philippines, for example, under the provisions of the article on citizenship which we have approved, all those born of a father who is a Filipino citizen, be they persons born in the Philippines or outside, would be citizens by birth or 'natural-born.'
>
> And with respect to one born of a Filipino mother but of a foreign father, the article which we approved about citizenship requires that, upon reaching the age of majority, this child needs to indicate the citizenship which he prefers, and if he elects Philippine citizenship upon reaching the age of majority, then he shall be considered a Filipino citizen. According to this interpretation, the child of a Filipino mother with a foreign father would not be a citizen by birth, because the law or the Constitution requires that he make a further declaration after his birth. Consequently, the phrase, 'natural-born citizen,' as it is used in the English text means a Filipino citizen by birth, regardless of where he was born.[27] (Emphasis supplied)

Clearly, it was the intent of the framers of the 1935 Constitution to refer to natural-born citizens as only those who were Filipino citizens by the mere fact of being born to fathers who were Filipino citizens -nothing more and nothing less. To repeat, under the 1935 Constitution, only children whose fathers were Filipino citizens were natural-born Filipino citizens. Those who were born of alien fathers and Filipino mothers were not considered natural-born Filipino citizens, despite the fact that they had a blood relation to a Filipino parent. Since a natural-born citizen is a citizen by birth who need not perform any act to acquire or perfect Philippine citizenship, then those born of Filipino mothers and alien fathers and who had to elect citizenship upon reaching the age of majority, an overt act to perfect citizenship, were not considered natural-born Filipino citizens. As a matter of course, those whose parents are neither Filipino citizens or are both unknown, such as in the case of foundlings, cannot be considered natural- born Filipino citizens.

Foundlings and International Law

A. Each State Determines its Citizens

Fundamental is the principle that every independent state has the right and prerogative to determine who are its citizens. In United States v. Wong Kim Ark,[28] decided in 1898, the United States Supreme Court enunciated this principle:

> It is the inherent right of every independent nation to determine for itself, and according to its own constitution and laws, what classes of persons shall be entitled to its citizenship.

In our jurisdiction, the Court similarly echoed in the 1912 case of Roa v. Collector of Customs[29] this incontrovertible right of each state to determine who are its citizens. Hence, every independent state cannot be denied this inherent right to determine who are its citizens according to its own constitution and laws.

Article 1, Chapter I of the 1930 Hague Convention on Certain Questions Relating to the Conflict of Nationality Laws explicitly provides:

> It is for each state to determine under its own law who are its nationals. This law shall be recognized by other States in so far as it is consistent with international conventions, international custom, and the principles oflaw generally recognized with regard to nationality.

This means that municipal law, both constitutional and statutory, determines and regulates the conditions on which citizenship is acquired.[30] There is no such thing as international citizenship or international law by which citizenship may be acquired.[31] Whether an individual possesses the citizenship of a particular state shall be determined in accordance with the constitution and statutory laws of that state.

B. Conventional International Law, Customary International Law, and Generally Accepted Principles of International Law

Petitioner invokes conventional international law, customary international law and generally accepted principles of international law to support her claim that she is a natural-born Filipino citizen. A review of these concepts is thus inevitable.

Article 38 of the Statute of the International Court of Justice sets out the following sources of international law: (1) international conventions, whether general or particular, establishing rules expressly recognized by the contesting states; (2) international custom, as evidence of a general practice accepted as law; (3) general principles of law recognized by civilized nations; and (4) judicial decisions and the teachings of the most highly qualified publicists of the various nations as subsidiary means for the determination of rules of law.[32]

Essentially, conventional international law is the body of international legal principles contained in treaties or conventions as opposed to customary international law or other sources of intemationallaw.[33]

Customary international law is defined as a general and consistent practice of states followed by them from a sense of legal obligation.[34] I had occasion to explain the concept of customary international law as used in our Constitution in this wise:

> Generally accepted principles of international law, as referred to in the Constitution, include customary international law. Customary international law is one of the primary sources of international law under Article 38 of the Statute of the International Court of Justice. Customary international law consists of acts which, by repetition of States of similar international acts for a number of years, occur out of a sense of obligation, and taken by a significant number of States. It is based on custom, which is a clear and continuous habit of doing certain actions, which has grown under the aegis of the conviction that these actions are, according to international law, obligatory or right. Thus, customary international law requires the concurrence of two elements: [1] the established, wide-spread, and consistent practice on the part of the States; and [2] a psychological element known as opinio juris sive necessitatis (opinion as to law or necessity). Implicit in the latter element is a belief that the practice in question is rendered obligatory by the existence of a rule of law requiring it.[35]

In the North Sea Continental Shelf Cases,[36] the International Court of Justice held that "[n]ot only must the acts concerned amount to a settled practice, but they must also be such, or be carried out in such a way, as to be evidence of a belief that this practice is rendered obligatory by existence of a rule of law requiring it. The need for such a belief, i.e., the existence of a subjective element is implicit in the very notion of the opinio juris sive necessitatis."

Moreover, to be considered as customary international law, a rule must apply to all, or majority of all, states. One possible exception to the universal applicability of customary international law is local or special custom. A local

or special customary international rule binds only a group of states, regional or otherwise.[37] "Regional customary international law refers to customary international law that arises from state practice and opinio juris of a discrete and limited number of states; as it departs from generally applicable customary international law, it is only binding upon and opposable against those states participating in its formation."[38]

Generally accepted principles of international law are those legal principles which are so basic and fundamental that they are found universally in the legal systems of the world. These principles apply all over the world, not only to a specific country, region or group of states. Legal principles such as laches, estoppel, good faith, equity and res judicata are examples of generally accepted principles of international law.[39] In Pharmaceutical and Health Care Association of the Philippines v. Duque III,[40] the Court further explained the concept of generally accepted principles of law, to wit:

> Some legal scholars and judges look upon certain "general principles of law" as a primary source of international law because they have the "character of jus rationale" and are "valid through all kinds of human societies." (Judge Tanaka in his dissenting opinion in the 1966 South West Africa Case, 1966 I.C.J. 296). O'Connell holds that certain principles are part of international law because they are "basic to legal systems generally" and hence part of the jus gentium. These principles, he believes, are established by a process of reasoning based on the common identity of all legal systems. If there should be doubt or disagreement, one must look to state practice and determine whether the municipal law principle provides a just and acceptable solution. x x x

C. There is No Customary International Law
Presuming a Foundling as a Citizen
of the Country Where the Foundling is Found

Petitioner claims that under customary international law and generally accepted principles of international law, she (1) has a right to a nationality from birth; (2) has a right to be protected against statelessness; and (3) is presumed to be a citizen of the Philippines where she was found.

Petitioner anchors her claims on the (1) 1989 Convention on the Rights of the Child (CRC), (2) 1966 International Covenant on Civil and Political Rights (ICCPR), (3) 1948 Universal Declaration of Human Rights (UDHR), (4) 1930 Hague Convention on Certain Questions Relating to the Conflict of Nationality Laws (1930 Hague Convention), and (5) the 1961 Convention on the Reduction of Statelessness (CRS), among others.

1. The 1989 Convention on the Rights of the Child

> Article 7
>
> 1. The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and as far as possible, the right to know and be cared for by his or her parents.
>
> 2. States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless. (Emphasis supplied)

The Philippines signed the Convention on the Rights of the Child on 26 January 1990 and ratified the same on 21 August 1990. The Convention defines a child to mean every human being below the age of eighteen years unless, under the law applicable to the child, the age of majority is attained earlier.

Since petitioner was born in 1968 or more than 20 years before the Convention came into existence, the Convention could not have applied to the status of her citizenship at the time of her birth in 1968. Petitioner's citizenship at birth could not be affected in any way by the Convention.

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The Convention guarantees a child the right to acquire a nationality, and requires the contracting states to ensure the implementation of this right, in particular where the child would otherwise be stateless. Thus, as far as nationality is concerned, the Convention guarantees the right of the child to acquire a nationality so that the child will not be stateless. The Convention does not guarantee a child a nationality at birth, much less a natural- born citizenship at birth as understood under the Philippine Constitution, but merely the right to acquire a nationality in accordance with municipal law.

2. The 1966 International Covenant on Civil and Political Rights

> Article 24
>
> 1. Every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State.
>
> x x x x
>
> 3. Every child has the right to acquire a nationality. (Emphasis supplied)

Adopted on 16 December 1966 and entered into force on 23 March 1976, the International Covenant on Civil and Political Rights recognizes "the ideal of free human beings enjoying civil and political freedom and freedom from fear and want which can only be achieved if conditions are created whereby everyone may enjoy his civil and political rights, as well as his economic, social and cultural rights."[41]

The Philippines is a signatory to this international treaty. Similar to the text of the Convention on the Rights of the Child, the ICCPR does not obligate states to automatically grant a nationality to children at birth. The Covenant merely recognizes the right of a child to acquire a nationality. In short, the Covenant does not guarantee a foundling a nationality at birth, much less natural-born citizenship at birth as understood under the Philippine Constitution.

3. The 1948 Universal Declaration of Human Rights

> Article 15.
>
> (1) Everyone has the right to a nationality.
> (2) No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality. (Emphasis supplied)

The Universal Declaration of Human Rights was adopted by the United Nations General Assembly on 10 December 1948 whereby "Member States (including the Philippines) have pledged themselves to achieve, in cooperation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms."[42] It sets out, for the first time, fundamental human rights to be universally protected.[43]

Article 15(1) of the UDHR simply affirms the right of every human being to a nationality. Being a mere declaration, such right guaranteed by the UDHR does not obligate states to automatically confer nationality to a foundling at birth, much less natural-born citizenship at birth as understood under the Philippine Constitution.

4. The 1930 Hague Convention on Certain Questions Relating to the Conflict of Nationality Laws

> Article 14.
>
> A child whose parents are both unknown shall have the nationality of the country of birth. If the child's parentage is established, its nationality shall be determined by the rules applicable in cases where the parentage

> is known.
>
> A foundling is, until the contrary is proved, presumed to have been born on the territory of the State in which it was found.
>
> Article 15.
>
> Where the nationality of a State is not acquired automatically by reason of birth on its territory, a child born on the territory of that State of parents having no nationality, or of unknown nationality, may obtain the nationality of the said State. The law of that State shall determine the conditions governing the acquisition of its nationality in such cases. (Emphasis supplied)

The Philippines is not a signatory to this Convention, and therefore, it is not bound by the Convention. Petitioner, however, claims that this Convention is evidence of "generally accepted principles of international law," which allegedly created the presumption that a foundling is a citizen at birth of the state in which the foundling is found.

Article 14 merely states that a foundling "shall have the nationality of the country of birth." It does not say that a foundling shall have the nationality at birth of the country where the foundling is found. Nowhere in Article 14 is nationality guaranteed to a foundling at birth, much less natural-born citizenship at birth as understood under the Philippine Constitution. Likewise, Article 14 merely lays down the presumption that a foundling is born in the territory of the state in which the foundling is found. This is the only presumption that Article 14 establishes.

Article 15 acknowledges the fact that acquisition of nationality by reason of birth in a state's territory is not automatic. Article 15 expressly states that municipal law shall "determine the conditions governing the acquisition of its nationality" by a foundling. Thus, to implement the Convention the contracting parties have to enact statutory legislation prescribing the conditions for the acquisition of citizenship by a foundling. This rules out any automatic acquisition of citizenship at birth by a foundling.

5. The 1961 Convention on the Reduction of Statelessness

> Article 1
>
> 1. A Contracting State shall grant its nationality to a person born in its territory who would otherwise be stateless. Such nationality shall be granted:
>
> (a) at birth, by operation of law, or
>
> (b) upon an application being lodged with the appropriate authority, by or on behalf of the person concerned, in the manner prescribed by the national law. Subject to the provisions of paragraph 2 of this Article, no such application may be rejected.
>
> A Contracting State which provides for the grant of its nationality in accordance with sub-paragraph (b) of this paragraph may also provide for the grant of its nationality by operation of law at such age and subject to such conditions as may be prescribed by the national law.
>
> x x x x
>
> Article 2
> A foundling found in the territory of a Contracting State shall, in the absence of proof to the contrary, be considered to have been born within that territory of parents possessing the nationality of that State. (Emphasis supplied)

A 1961 United Nations multilateral treaty, the primary aim of the Convention is the prevention of statelessness by requiring states to grant citizenship to children born in their territory, or born to their nationals abroad, who would

otherwise be stateless. To prevent statelessness in such cases, states have the option to grant nationality (1) at birth by operation of law, or (2) subsequently by application. In short, a contracting state to the Convention must enact an implementing law choosing one of the two options before the Convention can be implemented in that state.

The Philippines is not a signatory to this Convention, and thus, the Philippines is a non-contracting state. The Convention does not bind the Philippines. Moreover, this Convention does not provide automatically that a foundling is a citizen at birth of the country in which the foundling is found.

Article 2 of the Convention provides, "A foundling found in the territory of a Contracting State shall, in the absence of proof to the contrary, be considered to have been born of parents possessing the nationality of that state." Dr. Laura van Waas explains the meaning of Article 2 of the Convention, as follows:

> Once more, the wording of this provision is evidence of the compromise reached between jus soli and jus sanguinis countries. Rather than determining that a child found abandoned on the territory of the state will automatically acquire the nationality of that state, it declares that the child will be assumed to have both the necessary jus soli and jus sanguinis links with the state: born on the territory to parents possessing the nationality of the state. This means that the child will then simply acquire nationality ex lege under the normal operation of the state's nationality regulations - the effect being the same in both jus soli and jus sanguinis regimes. No attempt is made to further define the type of evidence that may be accepted as "proof to the contrary", this being left to the discretion of the contracting states.[44] (Emphasis supplied)

First, Article 2 applies only to a "foundling found in the territory of a Contracting State." The Philippines is not a contracting state to the Convention and thus Article 2, and the entire Convention, does not apply to the Philippines.

Second, there must be "absence of proof" that the parents of the foundling do not possess the nationality of another state. This means there must be an administrative or judicial proceeding to determine this factual issue, an act necessary to acquire the citizenship of the state where the foundling is found. This also means that the grant of citizenship under Article 2 is not automatic, as Dr. Laura van Waas explains. This factual determination prevents the foundling from acquiring natural-born citizenship at birth as understood under our Constitution, assuming Article 2 applies to the Philippines.

Third, the grant of citizenship under Article 2 is ex lege which means by operation of law - referring to municipal statutory law. Assuming Article 2 applies to the Philippines, and it does not, this grant of citizenship refers to naturalization by operation of law, the category of citizens under paragraph (5), Section 1 of Article IV of the 1935 Constitution (now Section 1(4), Article IV of the 1987 Constitution), or "[t]hose who are naturalized in accordance with law."

Nationality at birth may result because the law applicable is either jus soli or jus sanguinis. A child born in the United States to foreign parents is a citizen of the United States at birth because the United States adopts the jus soli principle. Under the jus soli principle, the place of birth determines citizenship at birth, not blood relation to the parents. In contrast, a child born in the Philippines to foreign parents is not a Philippine citizen at birth but a foreigner because the Philippines follows the jus sanguinis principle. Under the jus sanguinis principle, citizenship at birth is determined by blood relation to the parents.

Nationality at birth does not necessarily mean natural-born citizenship as prescribed under the Philippine Constitution. The Constitution recognizes natural-born citizens at birth only under the principle of jus sanguinis there must be a blood relation by the child to a Filipino father or mother. Even assuming, and there is none, that there is an international law granting a foundling citizenship, at birth, of the country where the foundling is found, it does not necessarily follow that the foundling qualifies as a natural-born citizen under the Philippine

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Constitution. In the Philippines, any citizenship granted at birth to a child with no known blood relation to a Filipino parent can only be allowed by way of naturalization as mandated by the Constitution, under paragraph 5, Section 1 of Article IV of the 1935 Constitution,[45] paragraph 4, Section 1 of Article III of the 1973 Constitution,[46] and paragraph 4, Section 1 of Article IV of the 1987 Constitution.[47] Such a child is a naturalized Filipino citizen, not a natural-born Filipino citizen.

In sum, there is no international treaty to which the Philippines is a contracting party, which provides expressly or impliedly that a foundling is deemed a natural-born citizen of the country in which the foundling is found.[48] There is also obviously no international treaty, to which the Philippines is not a party, obligating the Philippines to confer automatically Philippine citizenship to a foundling at birth.

Since the Philippines is not a signatory to the various international conventions regulating nationality,[49] we shall scrutinize whether the relevant provisions on foundlings contained in the international conventions cited by petitioner have become part of customary international law or generally accepted principles of international law on nationality.

We shall first lay down the basic premise for an international rule to be considered customary international law. Such a rule must comply with the twin elements of widespread and consistent state practice, the objective element; and opinio juris sive necessitatis, the subjective element. State practice refers to the continuous repetition of the same or similar kind of acts or norms by states. It is demonstrated upon the existence of the following elements: (1) generality or widespread practice; (2) uniformity and consistency; and (3) duration. On the other hand, opinio juris, the psychological element, requires that the state practice or norm be carried out in the belief that this practice or norm is obligatory as a matter of law.[50]

The pertinent provisions on foundlings are found in the 1930 Hague Convention and the 1961 Convention on the Reduction of Statelessness. Article 14 of the 1930 Hague Convention and Article 2 of the 1961 Convention on the Reduction of Statelessness state, respectively: (1) "A foundling is, until the contrary is proved, presumed to have been born on the territory of the State in which it was found"; and (2) "A foundling found in the territory of a Contracting State shall, in the absence of proof to the contrary, be considered to have been born within that territory of parents possessing the nationality of that State."

We shall limit our discussion to Article 2 of the Convention on the Reduction of Statelessness since the presumption in Article 14 of the 1930 Hague Convention concerns merely the place of birth of foundlings. In this case, the parties admit that petitioner was born in Jaro, Iloilo in the Philippines, which is the same place where she was found. Therefore, it is no longer presumed that petitioner was born in the territory of the Philippines since it is already an admitted fact that she was born in the Philippines.

There are only 64 States which have ratified the Convention on the Reduction of Statelessness as of February 2016.[51] Out ofthe 193 Member- States of the United Nations,[52] far less than a majority signified their agreement to the Convention.

One of the essential elements of customary international law is the widespread and consistent practice by states of a specific international principle, in this case, that foundlings are presumed to be born to parents who are citizens of the state where the foundling is found. Petitioner failed to prove this objective element. Prof. Malcolm N. Shaw, in his widely used textbook International Law, explains the meaning of widespread and consistent practice in this way:

> One particular analogy that has been used to illustrate the general nature of customary law as considered by de Visscher. He likened the growth of custom to the gradual formation of a road across vacant land. After an initial uncertainty as to direction, the majority of users begin to follow the same line which becomes a single

> path. Not long elapses before that path is transformed into a road accepted as the only regular way, even though it is not possible to state at which precise moment this latter change occurs. And so it is with the formation of a custom. De Visscher develops this idea by reflecting that just as some make heavier footprints than others due to their greater weight, the more influential states of the world mark the way with more vigour and tend to become the guarantors and defenders ofthe way forward.[53] (Emphasis supplied)

Prof. Shaw concludes, "Accordingly, custom should to some extent mirror the perceptions of the majority of states, since it is based upon usages which are practiced by nations as they express their power and their hopes and fears."[54]

Petitioner manifestly failed to show that Article 2 of the Convention on the Reduction of Statelessness is an "established, widespread and consistent practice" of a majority of sovereign states. There is no showing that this Convention was in fact enforced or practiced by at least a majority of the members of the United Nations. Petitioner claims that "ratification by a majority of states is not essential for a principle contained in an international treaty or convention to be 'customary international law.'"[55] On the other hand, it is generally accepted by international law writers that the Convention on the Reduction of Statelessness does not constitute customary international law precisely because of the small number of states that have ratified the Convention. Dr. Laura van Waas summarizes the state of the law on this issue:

> In order to contend that a rule of customary international law has thereby been established, we must also prove that states are legislating in this way due to the conviction that they are legally compelled to do so - the opinio juris sive necessitatis. The codification of the obligation to grant nationality to foundlings in the 1930 Hague Convention and the 1961 Statelessness Convention cannot be taken as sufficient evidence due, mainly, to the low number of state parties to both instruments.[56] (Emphasis supplied)

It is hornbook law that there is no general international law, whether customary international law or generally accepted principle of international law, obligating the Philippines, or any state for that matter, to automatically confer citizenship to foundlings at birth. As Prof. Serena Forlati writes: "It is thus not possible to conclude that every child who would otherwise be stateless is automatically entitled to the nationality of her or his country of birth under the ICCPR, the CRC or general internationallaw."[57]

Out of the 64 parties to the Convention on the Reduction of Statelessness, only 13 states provide for the automatic and unconditional acquisition of nationality by foundlings.[58] This means that the majority of the contracting states to the Convention do not automatically confer nationality to foundlings at birth. In fact, the majority of the contracting states impose various conditions for the acquisition of nationality to prevent statelessness, such as proof of unknown parentage, the specific place where the foundling is found, and whether the foundling is a newborn infant or a child of a certain age, among others. These conditions must necessarily be established in the appropriate proceeding before the foundling can acquire citizenship. These conditions for the acquisition of citizenship effectively prevent a foundling from being automatically considered a citizen at birth. In the Philippines, such conditions will prevent a foundling from being considered a natural-born citizen as defined under the Philippine Constitution.

Since the first essential element for an international rule to be considered a customary international law is missing in this case, the second essential element of opinio juris is logically lacking as well. In fact, petitioner failed to demonstrate that any compliance by member states with the Convention on the Reduction of Statelessness was obligatory in nature. In Bayan Muna v. Romulo,[59] the Court held:

> Absent the widespread/consistent-practice-of-states factor, the second or the psychological element must be deemed non-existent, for an inquiry on why states behave the way they do presupposes, in the first place, that they are actually behaving, as a matter of settled and consistent practice, in a certain manner. This implicitly

> requires belief that the practice in question is rendered obligatory by the existence of a rule of law requiring it. Like the first element, the second element has likewise not been shown to be present.

Moreover, aside from the fact that the Philippines is not a contracting party to the Convention on the Reduction of Statelessness, Article 2 of the Convention is inapplicable to this case because the Convention, which took effect after the birth of petitioner, does not have retroactive effect. Paragraph 3, Article 12 of the Convention explicitly states:

> 3. The provisions of Article 2 of this Convention shall apply only to foundlings found in the territory of a Contracting State after the entry into force of the Convention for that State. (Emphasis supplied)

In short, even if the Philippines were to ratify the Convention today, the Convention would still not benefit petitioner who was born in 1968.

D. Applicable Customary International Law on
Citizenship of Foundlings

While there is no customary international law conferring nationality to foundlings at birth, there is no dispute that petitioner has the right to a nationality and the corollary right to be protected against statelessness.

The Philippines is not a signatory to the 1930 Hague Convention or to the Convention on the Reduction of Statelessness. However, the Philippines is a signatory to the Convention on the Rights of the Child and to the International Covenant on Civil and Political Rights. The Philippines also adheres to the Universal Declaration of Human Rights.

The salient provisions of the CRC, the ICCPR and the UDHR on nationality establish principles that are considered customary international law because of the widespread and consistent practice of states and their obligatory nature among states. Generally, most states recognize the following core nationality provisions: (1) every human being has a right to a nationality; (2) states have the obligation to avoid statelessness; and (3) states have the obligation to facilitate the naturalization of stateless persons, including foundlings living within such states.

Right to a Nationality

Article 15 of the Universal Declaration of Human Rights affirms that "everyone has the right to a nationality." With these words, the international community recognizes that every individual, everywhere in the world, should hold a legal bond of nationality with a state.[60]

The right to a nationality is a fundamental human right[61] from which springs the realization of other cardinal human rights. Possession of a nationality carries with it the diplomatic protection of the country of nationality and is also often a legal or practical requirement for the exercise of political and civil rights. Consequently, the right to a nationality has been described as the "right to have rights."[62]

Obligation to Avoid Statelessness

Closely linked to the right of the individual to a nationality is every state's obligation to avoid statelessness since the non-fulfillment of such right results in statelessness.[63] In determining who are its nationals, every state has an obligation to avoid cases of statelessness.

Obligation to Facilitate the Naturalization of Stateless Persons, Including Foundlings

The right to confer nationality, being an inherent right of every independent state, carries with it the obligation to grant nationality to individuals who would otherwise be stateless. To do this, states must facilitate the

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naturalization of stateless persons, including foundlings. Therefore, states must institute the appropriate processes and mechanisms, through the passage of appropriate statutes or guidelines, to comply with this obligation.

Most states recognize as customary international law the right of every human being to a nationality which in tum, requires those states to avoid statelessness, and to facilitate the naturalization of stateless persons, including foundlings. However, there is no customary international law conferring automatically citizenship at birth to foundlings, much less natural-born citizenship at birth as understood under the Philippine Constitution.

E. General Principle of International Law Applicable to Foundlings

Considering that there is no conventional or customary international law automatically conferring nationality to foundlings at birth, there are only two general principles of international law applicable to foundlings. First is that a foundling is deemed domiciled in the country where the foundling is found. A foundling is merely considered to have a domicile at birth, not a nationality at birth. Stated otherwise, a foundling receives at birth a domicile of origin which is the country in which the foundling is found.[64]

Second, in the absence of proof to the contrary, a foundling is deemed born in the country where the foundling is found.[65] These two general principles of international law have nothing to do with conferment of nationality.

F. Status of International Law Principles in the Philippines

Under Section 3, Article II of the 1935 Constitution,[66] Section 3, Article II of the 1973 Constitution,[67] and Section 2, Article II of the 1987 Constitution,[68] the Philippines adopts the generally accepted principles of international law as part of the law of the land. International law can become part of domestic law either by transformation or incorporation.[69] The transformation method requires that an international law be transformed into a domestic law through a constitutional mechanism such as domestic legislation.[70] The incorporation method applies when, by mere constitutional declaration, international law is deemed to have the force of domestic law.[71]

The Philippine Constitution adheres to the incorporation method.

Any treaty, customary international law, or generally accepted international law principle has the status of municipal statutory law. As such, it must conform to our Constitution in order to be valid in the Philippines. If a treaty, customary international law or generally accepted international law principle does not contravene the Constitution and statutory laws, then it becomes part of the law of the land. If a treaty, customary international law or generally accepted international law principle conforms to the Constitution but conflicts with statutory law, what prevails is the later law in point of time as international law has the same standing as municipal statutory law.[72] However, if a treaty, customary international law or generally accepted international law principle conflicts with the Constitution, it is the Constitution that prevails. The Constitution remains supreme and prevails over any international legal instrument or principle in case of conflict. In explaining Section 2, Article II of the 1987 Constitution, the constitutionalist Father Joaquin Bernas, S.J. narrated:

> When Commissioner Guingona asked whether "generally accepted principles of international law" were adopted by this provision as part of statutory law or of constitutional law, Nolledo's answer was unclear. He seemed to suggest that at least the provisions of the United Nations Charter would form part of both constitutional and statutory law. Nobody adverted to the fact that Nolledo's interpretation was a departure from what had hitherto been the accepted meaning of the provision. Later, however, during the period of amendment, Commissioner Azcuna clarified this by saying that generally accepted principles of international law were made part only of statutory law and not of constitutionallaw.[73] (Emphasis supplied)

Treaties, customary international law and the generally accepted principles of international law concerning citizenship cannot prevail over the provisions of the Constitution on citizenship in case of conflict with the

latter.[74] Treaties, customary international law or generally accepted international law principles on acquisition of citizenship that contravene the language and intent of the Constitution cannot be given effect in the Philippines for being unconstitutional.

Assuming arguendo that there was in 1935 and thereafter a customary international law conferring nationality to foundlings at birth, still foundlings could not be considered as natural-born Filipino citizens since to treat them as such would conflict with the concept of jus sanguinis under the 1935 Constitution. As stated, in case of conflict between customary international law and the Constitution, it is the Constitution that prevails. The 1935 Constitution clearly required blood relation to the father to establish the natural-born citizenship of a child. The 1935 Constitution did not contain any provision expressly or impliedly granting Filipino citizenship to foundlings on the basis of birth in the Philippines (jus soli or law of the soil),[75] with the presumption of Filipino parentage so as to make them natural-born citizens.

Even assuming there was in 1935 and thereafter a customary international law granting to foundlings citizenship at birth, such citizenship at birth is not identical to the citizenship of a child who is biologically born to Filipino parents. The citizenship of a foundling can be granted at birth by operation of law, but the foundling is considered "naturalized in accordance with law" and not a natural-born citizen. Since a foundling's nationality is merely granted by operation of statutory law, specifically customary international law (which has the status of statutory law) assuming such exists, a foundling can only be deemed a Filipino citizen under paragraph 5, Section 1 of Article IV of the 1935 Constitution which refers to naturalized Filipino citizens. To add another category of natural-born Filipino citizens, particularly foundlings born in the Philippines whose parents are unknown, conflicts with the express language and intent of the 1935 Constitution to limit natural-born Filipino citizens to those whose fathers are Filipino citizens.

In short, there is a difference between citizenship at birth because of jus soli, and citizenship at birth because of jus sanguinis. The former may be granted to foundlings under Philippine statutory law pursuant to paragraph (5), Section 1 of Article IV of the 1935 Constitution but the Philippine citizenship thus granted is not that of a natural-born citizen but that of a naturalized citizen. Only those citizens at birth because of jus sanguinis, which requires blood relation to a parent, are natural-born Filipino citizens under the 1935, 1973 and 1987 Constitutions.

Foundlings as Naturalized Filipino Citizens

If a child's parents are neither Filipino citizens, the only way that the child may be considered a Filipino citizen is through the process of naturalization in accordance with statutory law under paragraph (5), Section 1 of Article IV of the 1935 Constitution. If a child's parents are unknown, as in the case of a foundling, there is no basis to consider the child as a natural- born Filipino citizen since there is no proof that either the child's father or mother is a Filipino citizen. Thus, the only way that a foundling can be considered a Filipino citizen under the 1935 Constitution, as well as under the 1973 and 1987 Constitutions, is for the foundling to be naturalized in accordance with law.

In the Philippines, there are laws which provide for the naturalization of foreigners. These are Commonwealth Act No. 473,[76] as amended by Republic Act No. 530, known as the Revised Naturalization Law, which refers to judicial naturalization, and Republic Act No. 9139,[77] which pertains to administrative naturalization.

Significantly, there is no Philippine statute which provides for the grant of Filipino citizenship specifically to foundlings who are found in the Philippines. The absence of a domestic law on the naturalization of foundlings can be sufficiently addressed by customary international law, which recognizes the right of every human being to a nationality and obligates states to grant nationality to avoid statelessness. Customary international law can fill the gap in our municipal statutory law on naturalization of foundlings in order to prevent foundlings from being

stateless. Otherwise, a foundling found in the Philippines with no known parents will be stateless on the sole ground that there is no domestic law providing for the grant of nationality. This not only violates the right of every human being to a nationality but also derogates from the Philippines' obligation to grant nationality to persons to avoid statelessness.

Customary international law has the same status as a statute enacted by Congress. Thus, it must not run afoul with the Constitution. Customary international law cannot validly amend the Constitution by adding another category of natural-born Filipino citizens, specifically by considering foundlings with no known parents as natural-born citizens. Again, under paragraphs (3) and (4) of Section 1, Article IVofthe 1935 Constitution, in relation to Sections 1 and 2, Article IV of the 1987 Constitution, only those born of Filipino fathers or Filipino mothers are considered natural-born Filipino citizens.

Applying customary international law to the present case, specifically the right of every human being to a nationality and the Philippines' obligation to grant citizenship to persons who would otherwise be stateless, a foundling may be naturalized as a Filipino citizen upon proper application for citizenship. This application should not be interpreted in the strictest sense of the word. On the contrary, the term "application" for purposes of acquiring citizenship must be construed liberally in order to facilitate the naturalization of foundlings. The application for citizenship may be any overt act which involves recognition by the Philippines that the foundling is indeed its citizen. Thus, the application for citizenship may be as simple as applying for a Philippine passport, which serves as evidence of citizenship.[78] An application for a passport is an application for recognition that the holder is a citizen of the state issuing such passport. In the case of petitioner, she applied for, and was issued a Philippine passport on the following dates: (1) 4 April 1988;[79] (2) 5 April 1993;[80] (3) 19 May 1998;[81] (4) 13 October 2009;[82] (5) 19 December 2013;[83] and (6) 18 March 2014.[84]

In any event, for a foundling to be granted citizenship, it is necessary that the child's status as a foundling be first established. It must be proven that the child has no known parentage before the state can grant citizenship on account of the child being a foundling. In the Philippines, a child is determined to be a foundling after an administrative investigation verifying that the child is of unknown parentage. The Implementing Rules and Regulations (IRR) of Act No. 3753[85] and Other Laws on Civil Registration provide that the barangay captain or police authority shall certify that no one has claimed the child or no one has reported a missing child with the description of the foundling.[86] Rule 29 of the said IRR provides:

> RULE 29. Requirements for Registration of Foundling. - No foundling shall be recorded in the civil registrar unless the following requirements are complied with:
>
> a) Certificate of Foundling (OCRG Form No. 101, Revised January 1993) accomplished correctly and completely;
>
> b) Affidavit of the finder stating the facts and circumstances surrounding the finding of the child, and the fact that the foundling has been reported to the barangay captain or to the police authority, as the case may be; and
>
> c) Certification of the barangay captain or police authority regarding the report made by the finder, stating among other things, that no one has claimed the child or no one has reported a missing child whose description may be the same as the foundling as of the date of the certification. (Emphasis supplied)

Before a foundling is conferred Philippine citizenship, there must first be a factual determination of the child's status as a foundling after an administrative investigation. Once factually determined that a child is a foundling, that child through its guardian may thereafter initiate proceedings to apply for Philippine citizenship, e.g., apply for a Philippine passport.

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This need for a factual determination prevents the foundling from automatically acquiring Philippine citizenship at birth. The fact of unknown parentage must first be proven in an administrative proceeding before a foundling is granted citizenship on account of the child's foundling status. Such factual determination is a necessary act to acquire Philippine citizenship, preventing the foundling from being a natural-born Filipino citizen. In contrast, for natural-born Filipino citizens, no factual determination in an administrative proceeding is required to grant citizenship since the certificate of live birth speaks for itself- it establishes natural-born citizenship.

Erroneous Interpretation of Statistics
During the Oral Arguments, the Solicitor General insisted that petitioner is a natural-born Filipino citizen based on the 99.93% statistical probability that any child born in the Philippines from 2010 to 2014 would be a natural-born Filipino citizen. From 1965 to 1975, there is a 99.83% statistical probability that a child born in the Philippines would be a natural- born Filipino citizen. To buttress his position, the Solicitor General presented a certification from the Philippine Statistics Authority showing the "number of foreign and Filipino children born in the Philippines: 1965-1975 and 2010-2014."

This is grave error.

There is no law or jurisprudence which supports the Solicitor General's contention that natural-born citizenship can be conferred on a foundling based alone on statistical probability. Absent any legal foundation for such argument, the Solicitor General cannot validly conclude that a 99.93% (or 99.83%) statistical probability that a foundling born in the Philippines is a natural-born Filipino citizen legally confers on such foundling natural-born citizenship. There is no constitutional provision or statute that confers natural-born citizenship based on statistical probability.

The Solicitor General's data speak of foreign and Filipino births in the Philippines. The data collected show the number of foreign and Filipino children born in the Philippines during the periods covered. This means that the figures reflect the total number of children born in the Philippines with known parents, either Filipino or foreigner. The data do not show the number of foundlings (those with unknown parentage) born in the Philippines from 1965 to 1975 and from 2010 to 2014. The data also do not show the number of foundlings who were later determined to have Filipino parentage. This is precisely because foundlings have unknown parents. A foundling's unknown parentage renders it quite difficult, if not impossible, to collect data on "the number of foreign and Filipino foundlings."

For the Solicitor General's proposition to be correct, he should have presented statistics specifically based on the number of foundlings born in the Philippines, and not on the number of children born in the Philippines with known foreign or Filipino parents. Children with known parents constitute a class entirely different from foundlings with unknown parents. Gathering data from the number of children born in the Philippines with known parents to determine the number of foundlings born in the Philippines to confer natural-born citizenship on foundlings resembles comparing apples with oranges and avocados. Since the figures were collected from the universe of children with known parents, either Filipinos or foreigners, and not from the universe of foundlings, the Solicitor General's proposition is fallacious in concluding that foundlings in the Philippines are natural-born Filipino citizens.

Further, if there is a 99.93% (or 99.83%) probability that a child born in the Philippines is a natural-born Filipino citizen, it does not automatically follow that there is a 99.93% (or 99.83%) probability that a foundling born in the Philippines is a natural-born Filipino citizen. The data, if any, on the universe of foundlings may show a different statistical probability. There is evidently no such statistical data. Therefore, the Solicitor General's argument that the probability that a foundling born in the Philippines would be a natural-born Filipino is 99.93% (or 99.83%)

based on the number of children born in the Philippines with known parents is glaringly non-sequitur.

The following exchange between Justice Carpio and the Solicitor General illustrates the fallacy of the so-called 99.93% (99.83%) statistical probability advanced by the Solicitor General. Such statistical probability would result in patent absurdities.

> JUSTICE CARPIO:
> Now, how does the Constitution define natural-born citizen?
>
> xxxx
>
> SOLICITOR GENERAL HILBAY:
> Natural-born citizens of the Philippines from birth without having to perform any act to acquire or perfect their citizenship.
>
> JUSTICE CARPIO:
> Okay. Let us assume that an infant is found, a three day infant is found today in front of the Manila Cathedral. The infant has blue eyes, blonde hair, milky white skin. The parish priest looks around and doesn't find any one claiming the child. So, the parish priest goes to the DSWD, turns over the child to the DSWD. The DSWD conducts an investigation, a formal investigation, to find out if the biological parents are around if they can be found. Nobody comes out, so the DSWD issues a foundling certificate, okay. What is the nationality of the child? Is the child a natural-born citizen of the Philippines?
>
> SOLICITOR GENERAL HILBAY:
> I would consider the child a natural-born citizen of the Philippines because 99.9 percent of the time, that child will be a natural born citizen.
>
> JUSTICE CARPIO:
> So even if the child has blue eyes, blonde hair, Caucasian skin...
>
> SOLICITOR GENERAL HILBAY:
> It's possible for Filipinos to have blue eyes, Your Honor.
>
> JUSTICE CARPIO: Blonde hair?
>
> SOLICITOR GENERAL HILBAY:
> It's possible Your Honor.
>
> JUSTICE CARPIO:
> How many percent?
>
> SOLICITOR GENERAL HILBAY:
> Again, Your Honor, if we are looking at percentage....
>
> JUSTICE CARPIO:
> How many percent of Filipinos, natural-born, have blue eyes, blonde hair, white skin, 99.9 percent?
>
> SOLICITOR GENERAL HILBAY:
> I don't know about the specific numbers.....
>
> x x x x
>
> JUSTICE CARPIO:
> You don't have the statistics.
>
> x x x x

SOLICITOR GENERAL HILBAY:
I don't, Your Honor, I don't.

x x x x

JUSTICE CARPIO:
So, you would say that every child born in the Philippines who has blue eyes, blonde hair, white skin, whose parents cannot be found, and there is a certificate by the DSWD that's a foundling, they are all natural- born citizens of the Philippines. If Filipino....

SOLICITOR GENERAL HILBAY:
Your Honor, I am not threatened by people with blue eyes and, you know, blonde...

JUSTICE CARPIO:
Yes, but my question is, what is the nationality of those children, of those infants?

SOLICITOR GENERAL HILBAY:
Natural-born Filipinos still, Your Honor.

x x x x

JUSTICE CARPIO:
Supposing now, there is a DNA taken from the child[ren], you say they are natural-born citizens. The DNA shows that they have Caucasian genes, no Asian genes at all, would you say they are natural-born citizens of the Philippines?

SOLICITOR GENERAL HILBAY:
Well, it's possible for Caucasians to be Filipinos, Your Honor, and natural-born Filipinos.

JUSTICE CARPIO:
If their parents are Filipinos.

SOLICITOR GENERAL HILBAY:
Yes, exactly, Your Honor.

JUSTICE CARPIO:
But if you don't know who their parents....

SOLICITOR GENERAL HILBAY:
Then I, again, would go back to 99.9 percent, which is a rather comfortable number for me.

JUSTICE CARPIO:
Yes, but how many percent of Filipinos have blue eyes, blonde hair and white skin?

SOLICITOR GENERAL HILBAY:
That is an irrelevant fact for me, Your Honor. I'm not looking at the class of citizens....

x x x x

JUSTICE CARPIO:
You have to look at the statistics also.

SOLICITOR GENERAL HILBAY:
Yes, Your Honor, ofcourse.[87] (Emphasis supplied)

For the Solicitor General to assert that a foundling with blond hair, blue eyes, and milky white Caucasian skin, with no Asian gene in the foundling's DNA, is a natural-born Filipino citizen, is the height of absurdity. The

Solicitor General's position amends the Constitution and makes jus soli the governing principle for foundlings, contrary to the jus sanguinis principle enshrined in the 1935, 1973, and 1987 Constitutions.

Philippine Laws and Jurisprudence on Adoption
Not Determinative of Natural-Born Citizenship
During the Oral Arguments, the Chief Justice cited Republic Act No. 8552 (RA 8552) or the Domestic Adoption Act of 1998 and Republic Act No. 8043 (RA 8043) or the Inter-Country Adoption Act of 1995 in arguing that there are domestic laws which govern the citizenship of foundlings.

This is an obvious mistake.

The term "natural-born Filipino citizen" does not appear in these statutes describing qualified adoptees. In fact, while the term "Filipino" is mentioned, it is found only in the title of RA 8552 and RA 8043. The texts of these adoption laws do not contain the term "Filipino." Specifically, the provisions on the qualified adoptees read:

> RA 8552, Section 8
>
> Section 8. Who May Be Adopted. - The following may be adopted:
>
> (a) Any person below eighteen (18) years of age who has been administratively or judicially declared available for adoption;
>
> (b) The legitimate son/daughter of one spouse by the other spouse;
>
> (c) An illegitimate son/daughter by a qualified adopter to improve his/her status to that of legitimacy;
>
> (d) A person of legal age if, prior to the adoption, said person has been consistently considered and treated by the adopter(s) as his/her own child since minority;
>
> (e) A child whose adoption has been previously rescinded; or
>
> (f) A child whose biological or adoptive parent(s) has died: Provided, That no proceedings shall be initiated within six (6) months from the time of death of said parent(s).
>
> RA 8053, Section 8
>
> Sec. 8. Who May be Adopted. - Only a legally free child may be the subject of inter-country adoption. x x x.

Clearly, there is no specific provision in these adoption laws requiring that adoptees must be Filipinos, much less natural-born Filipinos. These adoption laws do not distinguish between a Filipino child and an alien child found in the Philippines, and thus these adoption laws apply to both Filipino and alien children found in the Philippines. In other words, either Filipino or alien children found in the Philippines, over which the Philippine government exercises jurisdiction as they are presumed domiciled in the Philippines, may be subject to adoption under RA 8552 or RA 8043.

However, the Implementing Rules and Regulations of RA 8552, issued by the Department of Social Welfare and Development, provide that they shall "apply to the adoption in the Philippines of a Filipino child by a Filipino or alien qualified to adopt under Article III, Section 7 of RA 8552."[88] The IRR, in effect, restricted the scope of RA 8552 when the IRR expressly limited its applicability to the adoption of a Filipino child when the law itself, RA 8552, does not distinguish between a Filipino and an alien child. In such a case, the IRR must yield to the clear terms of RA 8552. Basic is the rule that the letter of the law is controlling and cannot be amended by an administrative rule. In Perez v. Phil. Telegraph and Telephone Co.,[89] the Court declared:

> At the outset, we reaffirm the time-honored doctrine that, in case of conflict, the law prevails over the

> administrative regulations implementing it. The authority to promulgate implementing rules proceeds from the law itself. To be valid, a rule or regulation must conform to and be consistent with the provisions of the enabling statute. As such, it cannot amend the law either by abridging or expanding its scope. (Emphasis supplied)

In Hijo Plantation, Inc. v. Central Bank of the Philippines,[90] the Court ruled:

> x x x [I]n case of discrepancy between the basic law and a rule or regulation issued to implement said law, the basic law prevails because said rule or regulation cannot go beyond the terms and provisions of the basic law. Rules that subvert the statute cannot be sanctioned.

In Cebu Oxygen & Acetylene Co., Inc. v. Drilon,[91] the Court stated:

> x x x [I]t is a fundamental rule that implementing rules cannot add or detract from the provisions of law it is designed to implement. The provisions of Republic Act No. 6640, do not prohibit the crediting of CBA anniversary wage increases for purposes of compliance with Republic Act No. 6640. The implementing rules cannot provide for such a prohibition not contemplated by the law.
>
> Administrative regulations adopted under legislative authority by a particular department must be in harmony with the provisions of the law, and should be for the sole purpose of carrying into effect its general provisions. The law itself cannot be expanded by such regulations. An administrative agency cannot amend an act of Congress. (Emphasis supplied)

The following exchange during the Oral Arguments highlights the Chief Justice's glaringly erroneous interpretation of RA 8552 and RA 8043, thus:

> JUSTICE CARPIO:
> Okay, Let's go to x x x adoption laws. x x x [W]e have an adoption law, correct?
>
> COMMISSIONER LIM:
> Yes, Your Honor.
>
> JUSTICE CARPIO:
> x x x Republic Act...8552?
>
> COMMISSIONER LIM:
> Yes, Your Honor.
>
> JUSTICE CARPIO:
> It says who can be adopted, correct? Who may be adopted? Section 8, correct?
>
> COMMISSIONER LIM:
> Yes, Your Honor.
>
> JUSTICE CARPIO:
> Does it say there that the adoptee must be a citizen of the Philippines?
>
> COMMISSIONER LIM:
> Yes, Your Honor.
>
> JUSTICE CARPIO:
> x x x Can you read Section 8.
>
> COMMISSIONER LIM:
> I stand corrected, Your Honor, it does not require citizenship.

JUSTICE CARPIO:
There is no requirement.

COMMISSIONER LIM:
Yes, Your Honor.

JUSTICE CARPIO:
Because the law covers citizens of the Philippines and children not citizens of Philippines but found here.

COMMISSIONER LIM:
Yes, Your Honor.

JUSTICE CARPIO:
If a foundling cannot be shown to be a citizen of the Philippines, can we exercise jurisdiction and have that child adopted?

COMMISSIONER LIM:
Yes, Your Honor.

JUSTICE CARPIO:
Do we have the power, the State has the power? Yes, because a foundling is deemed to be domiciled where?

COMMISSIONER LIM:
In the place ofhis birth.

JUSTICE CARPIO:
If his place [of] birth is unknown, where is he presumed to be domiciled?

COMMISSIONER LIM:
He is presumed to be domiciled in the territory of the State where the foundling is found.

JUSTICE CARPIO:
Yes, because the domicile of a foundling is presumed to be where he is found.

COMMISSIONER LIM:
Yes, Your Honor.

JUSTICE CARPIO:
That's why the State has jurisdiction over him for adoption purposes. And if no other State will claim him with more reason, we will have jurisdiction over a foundling, correct?

COMMISSIONER LIM:
Yes, Your Honor.

JUSTICE CARPIO:
Okay. So, the law does not distinguish whether Philippine citizen or non-Philippine citizen, whether natural born-Filipinos or naturalized, none. There's no distinction?

COMMISSIONER LIM:
That's correct, Your Honor.

JUSTICE CARPIO:
Okay. Let's go to the Supreme Court x x x rule on adoption. We adopted this in 2002. What does it say? Who may be adopted?

COMMISSIONER LIM:

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Any person below 18 years of age...

JUSTICE CARPIO:
Does it say that only citizens of the Philippines?

COMMISSIONER LIM:
No, Your Honor.

JUSTICE CARPIO:
There's no...

COMMISSIONER LIM:
Yes, Your Honor.

JUSTICE CARPIO:
...nothing there which says only citizens of the Philippines can be adopted.

COMMISSIONER LIM:
Yes, Your Honor.

JUSTICE CARPIO:
Precisely because we don't know the citizenship of a foundling.

COMMISSIONER LIM:
That's right, Your Honor.

JUSTICE CARPIO:
That's why it's not required that he would be a Filipino, correct?

COMMISSIOl'JER LIM:
Yes, Your Honor.

JUSTICE CARPIO:
Okay. Let's go to the implementing rule and regulation of R.A. 8552. x x x. It says here, this is an implementing rule and regulation to implement Republic Act 8552. So this was promulgated by the administrative agency, by DSWD, correct?

COMMISSIONER LIM:
Correct, Your Honor.

JUSTICE CARPIO:
Okay. It says here applicability, Section 2, the Rule shall apply to the adoption in the Philippines of a Filipino child by a Filipino or alien qualified to adopt. So it limits adoption to Philippines citizens, to a Filipino child?

COMMISSIONER LIM:
Yes, Your Honor.

JUSTICE CARPIO:
Okay, This is supposed to implement the law. Can the implementing rules restrict the law?

COMMISSIONER LIM:
Water cannot rise higher than its source, Your Honor...

JUSTICE CARPIO:
Okay.

COMMISSIONER LIM:

> The IRR....
>
> JUSTICE CARPIO:
> Do you have a decision, jurisprudence for that, that an Implementing Rule cannot expand and cannot deduct from what the law provides?
>
> COMMISSIONER LIM:
> I cannot cite one now, Your Honor.
>
> JUSTICE CARPIO:
> Okay. Cebu Oxygen v. Drilon, x x x. It says here it is a fundamental rule that Implementing Rules cannot add or detract from the provisions of law it is designed to implement. x x x. But this implementing rule says only Filipinos can be adopted. That cannot be done, correct?
>
> COMMISSIONER LIM:
> Yes, Your Honor.
>
> JUSTICE CARPIO:
> Fundamental rule, if the Court says fundamental rule, all practicing lawyers must know that, correct?
>
> COMMISSIONER LIM:
> Yes, Your Honor.[92]

Moreover, contrary to the opinion of the Chief Justice during the Oral Arguments, the cases of Ellis v. Republic of the Philippines[93] and Duncan v. CFI Rizal[94] do not apply in this case since the Ellis and Duncan cases do not involve foundlings or their citizenship. These two cases are about adoption, not about citizenship or foundlings.

In Ellis, the only issue before the Court was whether petitioners, not being permanent residents in the Philippines, were qualified to adopt Baby Rose. The citizenship of the abandoned Baby Rose was not put in issue. Baby Rose's mother was known since she delivered Baby Rose at the Caloocan Maternity Hospital but left Baby Rose four days later to the Heart of Mary Villa, an institution for unwed mothers and their babies. The Court in Ellis stated:

> Baby Rose was born on September 26, 1959, at the Caloocan Maternity Hospital. Four or five days later, the mother of Rose left her with the Heart of Mary Villa - an institution for unwed mothers and their babies - stating that she (the mother) could not take of Rose without bringing disgrace upon her (the mother's family.).[95]

In short, Baby Rose was not a foundling because her mother was known. The Court merely mentioned in the decision that Baby Rose was a "citizen of the Philippines," thus, the local courts have jurisdiction over her status. The term "natural-born Filipino citizen" is not found in the decision.

On the other hand, the case of Duncan involved solely the issue of whether or not the person who gave the consent for adoption, Atty. Corazon de Leon Velasquez, was the proper person required by law to give such consent. The unwed mother entrusted the baby to Atty. Velasquez who knew the mother. The Court in Duncan stated:

> Sometime in May of 1967, the child subject of this adoption petition, undisputedly declared as only three days old then, was turned over by its mother to witness Atty. Corazon de Leon Velasquez. The natural and unwedded mother, from that date on to the time of the adoption proceedings in court which started in mid- year of said 1967, and up to the present, has not bothered to inquire into the condition of the child, much less to contribute to the livelihood, maintenance and care of the same. x x x.We are convinced that in fact said mother had completely and absolutely abandoned her child.[96]

In short, the baby was not a foundling because the mother was known. Again, the Court did not mention the term

"natural-born Filipino citizen." Neither did the Court classify the abandoned infant as a Filipino citizen.

Burden of Proof

Any person who claims to be a citizen of the Philippines has the burden of proving his or her Philippine citizenship.[97] Any person who claims to be qualified to run for the position of President of the Philippines because he or she is, among others, a natural-born Filipino citizen, has the burden of proving he or she is a natural-born Filipino citizen. Any doubt whether or not he or she is natural-born Filipino citizen is resolved against him or her. The constitutional requirement of a natural-born citizen, being an express qualification for election as President, must be complied with strictly. As the Court ruled in Paa v. Chan:[98

> It is incumbent upon the respondent, who claims Philippine citizenship, to prove to the satisfaction of the court that he is really a Filipino. No presumption can be indulged in favor of the claimant of Philippine citizenship, and any doubt regarding citizenship must be resolved in favor of the State.[99] (Emphasis supplied)

This statement in Paa was reiterated in the 2009 case of Go, Sr. v. Ramos.[100] Paa and Go lay down three doctrines: First, a person claiming Philippine citizenship has the burden of proving his claim. Second, there can be no presumption in favor of Philippine citizenship. This negates petitioner's claim to any presumption that she is a natural-born Filipino Citizen. Third, any doubt on citizenship is resolved against the person claiming Philippine citizenship. Therefore, a person claiming to be a Filipino citizen, whether natural-born or naturalized, cannot invoke any presumption of citizenship but must establish such citizenship as a matter of fact and not by presumptions, with any doubt resolved against him or her.

While it is the burden of the private respondents to first prove the fact of disqualification before the petitioner is called upon to defend herself with countervailing evidence,[101] in this case, there is no dispute that petitioner is a foundling with unknown biological parents. Since petitioner's parentage is unknown as shown in her Certificate of Live Birth, such birth certificate does not show on its face that she is a natural-born Filipino citizen. This shifted the burden of evidence to petitioner to prove that she is a natural-born Filipino citizen eligible to run as President of the Philippines.

Since the Constitution requires that the President of the Philippines shall be a natural-born citizen of the Philippines, it is imperative that petitioner prove that she is a natural-born Filipino citizen, despite the fact that she is a foundling. The burden of evidence shifted to her when she admitted her status as a foundling with no known biological parents. At that moment, it became her duty to prove that she is a natural-born Filipino citizen.[102]

DNA Evidence

As the burden of evidence has shifted to petitioner, it is her duty to present evidence to support her claim that she is a natural-born Filipino citizen, and thus eligible to run for President. The issue of parentage may be resolved by conventional methods or by using available modem and scientific means.[103] One of the evidence that she could have presented is deoxyribonucleic acid (DNA) evidence[104] which could conclusively show that she is biologically (maternally or paternally) related to a Filipino citizen, which in tum would determine whether she is a natural-born Filipino citizen.

The probative value of such DNA evidence, however, would still have to be examined by the Court. In assessing the probative value of DNA evidence, the Court would consider, among others things, the following data: how the samples were collected, how they were handled, the possibility of contamination of the samples, the procedure followed in analyzing the samples, whether the proper standards and procedures were followed in conducting the tests, and the qualification of the analyst who conducted the tests.[105] More specifically, they must be evaluated in accordance with A.M. No. 06-11-5-SC or the Rule on DNA Evidence:[106]

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> Sec. 9. Evaluation of DNA Testing Results. - In evaluating the results of DNA testing, the court shall consider the following:
>
> (a) The evaluation of the weight of matching DNA evidence or the relevance of mismatching DNA evidence;
>
> (b) The results of the DNA testing in the light of the totality of the other evidence presented in the case; and that
>
> (c) DNA results that exclude the putative parent from paternity shall be conclusive proof of non-paternity. If the value of the Probability of Paternity[107] is less than 99.9% the results of the DNA testing shall be considered as corroborative evidence. If the value of the Probability of Paternity is 99.9% or higher, there shall be a disputable presumption of paternity.

Petitioner is Not a Natural-Born Filipino Citizen

The 1987 Philippine Constitution is clear: "No person may be elected President unless he is a natural-born citizen of the Philippines, x x x, and a resident of the Philippines for at least ten years immediately preceding such election." Is petitioner, being a foundling, a natural-born Filipino citizen?

The answer is clearly no. First, there is no Philippine law automatically conferring Philippine citizenship to a foundling at birth. Even if there were, such a law would only result in the foundling being a naturalized Filipino citizen, not a natural-born Filipino citizen.

Second, there is no legal presumption in favor of Philippine citizenship, whether natural-born or naturalized. Citizenship must be established as a matter of fact and any doubt is resolved against the person claiming Philippine citizenship.

Third, the letter and intent of the 1935 Constitution clearly excluded foundlings from being considered natural-born Filipino citizens. The Constitution adopts the jus sanguinis principle, and identifies natural-born Filipino citizens as only those whose fathers or mothers are Filipino citizens. Petitioner failed to prove that either her father or mother is a Filipino citizen.

Fourth, there is no treaty, customary international law or a general principle of international law granting automatically Philippine citizenship to a foundling at birth. Petitioner failed to prove that there is such a customary international law. At best, there exists a presumption that a foundling is domiciled, and born, in the country where the foundling is found.

Fifth, even assuming that there is a customary international law presuming that a foundling is a citizen of the country where the foundling is found, or is born to parents possessing the nationality of that country, such presumption cannot prevail over our Constitution since customary international law has the status merely of municipal statutory law. This means that customary international law is inferior to the Constitution, and must yield to the Constitution in case of conflict. Since the Constitution adopts the jus sanguinis principle, and identifies natural-born Filipino citizens as only those whose fathers or mothers are Filipino citizens, then petitioner must prove that either her father or mother is a Filipino citizen for her to be considered a natural-born Filipino citizen. Any international law which contravenes the jus sanguinis principle in the Constitution must of course be rejected.

Sixth, petitioner failed to discharge her burden to prove that she is a natural-born Filipino citizen. Being a foundling, she admitted that she does not know her biological parents, and therefore she cannot trace blood relation to a Filipino father or mother. Without credible and convincing evidence that petitioner's biological father or mother is a Filipino citizen, petitioner cannot be considered a natural-born Filipino citizen.

Seventh, a foundling has to perform an act, that is, prove his or her status as a foundling, to acquire Philippine

citizenship. This being so, a foundling can only be deemed a naturalized Filipino citizen because the foundling has to perform an act to acquire Philippine citizenship. Since there is no Philippine law specifically governing the citizenship of foundlings, their citizenship is addressed by customary international law, namely: the right of every human being to a nationality, and the State's obligations to avoid statelessness and to facilitate the naturalization of foundlings.

During the Oral Arguments, the purportedly sad and depressing plight of foundlings if found not to be natural-born Filipino citizens, particularly their disqualification from being elected to high public office and appointed to high government positions, had been pointed out once again. As I have stated, this appeals plainly to human emotions.[108] This emotional plea, however, conveniently forgets the express language of the Constitution reserving those high positions, particularly the Presidency, exclusively to natural-born Filipino citizens. Even naturalized Filipino citizens, whose numbers are far more than foundlings, are not qualified to run for President. The natural-born citizenship requirement under the Constitution to qualify as a candidate for President must be complied with strictly. To rule otherwise amounts to a patent violation of the Constitution. It is basic in Constitutional Law that the qualification requirements prescribed by the Constitution must be complied with by all presidential candidates, regardless of popularity or circumstances. Being sworn to uphold and defend the Constitution, the Members of this Court have no other choice but to apply the clear letter and intent of the Constitution.

However, a decision denying natural-born citizenship to a foundling on the ground of absence of proof of blood relation to a Filipino parent never becomes final.[109] Res judicata does not apply to questions of citizenship. In Moy Ya Lim Yao v. Commissioner of Immigration,[110] cited in Lee v. Commissioner of Immigration,[111] this Court declared that:

> [e]very time 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. x x x.

Likewise, in Go, Sr. v. Ramos,[112] which involved the citizenship of Jimmy T. Go, as well as his father Carlos, who was alleged to be an illegal and undesirable alien in our country and thus was subjected to deportation proceedings, the Court stated that citizenship cases are sui generis and res judicata does not apply in such cases:

> x x x Cases involving issues on citizenship are sui generis. Once the citizenship of an individual is put into question, it necessarily has to be threshed out and decided upon. In the case of Frivaldo v. Commission on Elections, we said that decisions declaring the acquisition or denial of citizenship cannot govern a person's future status with finality. This is because a person may subsequently reacquire, or for that matter, lose his citizenship under any of the modes recognized by law for the purpose. Indeed, if the issue of one's citizenship, after it has been passed upon by the courts, leaves it still open to future adjudication, then there is more reason why the government should not be precluded from questioning one's claim to Philippine citizenship, especially so when the same has never been threshed out by any tribunal.
>
> x x x x
>
> Citizenship proceedings, as aforestated, are a class of its own, in that, unlike other cases, res judicata does not obtain as a matter of course. In a long line of decisions, this Court said that every time 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 judicata; hence, it has to be threshed out again and again as the occasion may demand. Res judicata may be applied in cases of citizenship only if the following concur:

1. a person's citizenship must be raised as a material issue in a controversy where said person is a party;

2. the Solicitor General or his authorized representative took active part in the resolution thereof; and

3. the finding or citizenship is affirmed by this Court.

Consequently, if in the future, petitioner can find a DNA match to a Filipino parent, or any other credible and convincing evidence showing her Filipino parentage, then petitioner can still be declared a natural-born Filipino citizen.

Not being a natural-born Filipino citizen, petitioner is a nuisance candidate whose certificate of candidacy for President can motu proprio be cancelled by the COMELEC. In fact, the COMELEC is duty-bound to cancel petitioner's COC because to allow a person who, as found by the COMELEC is not a natural-born Filipino citizen, to run for President makes a mockery of the election process. Since petitioner is not a natural-born Filipino citizen, I deem it irrelevant to discuss the issue of whether petitioner complied with the ten-year residency requirement to run for President. At any rate, assuming petitioner is a natural-born Filipino citizen, which she is not, I concur with Justice Mariano C. Del Castillo's Dissenting Opinion on the residency issue.

A final word. The Constitution defines natural-born citizens as "those who are citizens of the Philippines from birth without having to perform any act to acquire or perfect their Philippine citizenship." "From birth" means that the possession of natural-born citizenship starts at birth and continues to the present without interruption. The phrase "without having to perform any act to acquire or perfect their Philippine citizenship" means that a person is not a natural-born Filipino citizen if he or she has to take an oath of allegiance before a public official to acquire or reacquire Philippine citizenship. This precludes the reacquisition of natural-born citizenship that has been lost through renunciation of Philippine citizenship. The fact that the reacquisition of citizenship is made possible only through legislation by Congress - Republic Act No. 9225[113]means that Philippine citizenship is acquired pursuant to paragraph (4), Section 1 of Article IV of the 1987 Constitution, referring to "[t]hose who are naturalized in accordance with law."

In short, natural-born Filipino citizens who have renounced Philippine citizenship and pledged allegiance to a foreign country have become aliens, and can reacquire Philippine citizenship, just like other aliens, only if "naturalized in accordance with law." Otherwise, a natural-born Filipino citizen who has absolutely renounced and abjured allegiance to the Philippines and pledged sole allegiance to the United States, undertaking to bear arms against any foreign country, including the Philippines, when required by U.S. law,[114] could still become the Commander-in Chief of the Armed Forces of the Philippines by performing a simple act taking an oath of allegiance before a Philippine public official to reacquire natural-born Philippine citizenship. The framers of the Constitution, and the Filipino people who ratified the Constitution, could not have intended such an anomalous situation. For this reason, this Court should one day revisit the doctrine laid down in Bengson III v. HRET.[115]

ACCORDINGLY, there being no grave abuse of discretion on the part of the Commission on Elections En Banc, I vote to DISMISS the petitions.

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[1] This provision reads:

SECTION 2. No person may be elected President unless he is a natural-born citizen of the Philippines, a registered voter, able to read and write, at least forty years of age on the day of the election, and a resident of the Philippines for at least ten years immediately preceding such election. (Emphasis supplied)

[2] Under Rule 65, in relation to Rule 64, of the Rules of Civil Procedure.

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[3] In G.R. Nos. 221698-700, petitioner assails the COMELEC Resolutions dated 11 December 2015 (issued by the COMELEC's First Division) and 23 December 2015 (issued by the COMELEC En Banc).

In G.R. No. 221697, petitioner assails the COMELEC Resolutions dated 1 December 2015 (issued by the COMELEC's Second Division) and 23 December 2015 (issued by the COMELEC En Banc).

[4] This provision pertinently reads:

SECTION 2. The Commission on Elections shall exercise the following powers and functions:

(1) Enforce and administer all laws and regulations relative to the conduct of an election, plebiscite, initiative, referendum, and recall

[5] 468 Phil. 421, 624-642 (2004).

[6] Id. at 625-626.

[7] Section 69 of the Omnibus Election Code provides:

Sec. 69. Nuisance candidates. - The Commission may motu proprio or upon a verified petition of an interested party, refuse to give due course to or cancel a certificate of candidacy if it is shown that said certificate has been filed to put the election process in mockery or disrepute or to cause confusion among the voters by the similarity of the names of the registered candidates or by other circumstances or acts which clearly demonstrate that the candidate has no bona fide intention to run for the office for which the certificate of candidacy has been filed and thus prevent a faithful determination of the true will of the electorate. (Emphasis supplied)

[8] G.R. No. 206004, 24 February 2015.

[9] G.R. No. 161872, 13 April 2004, 427 SCRA 96, 104, 105.

[10] Supra note 8.

[11] Eduardo Abaya, A Critical Study on the Effect of Adoption on Citizenship Status in the Philippines, Philippine Law Journal, Vol. XXIII, No. 1, February 1948, p. 444 (http://plj.upd.edu.ph/wp-content/uploads/plj/PLJ%20volume%2023/PLJ%20volume%2023%20number%201/PLJ%20volume%2023%20number%201%20-04-%20Eduardo%20Abaya%20-%20A%20Critical%20Study%20on%20the%20effect%20of%20adoption%20on%20citizenship%20status%20in%20the%20Philippines.pdf; last accessed on 2 March 2016).

[12] Eduardo Abaya, A Critical Study on the Effect of Adoption on Citizenship Status in the Philippines, Philippine Law Journal, Vol. XXIII, No. 1, February 1948, p. 448, http://plj.upd.edu.ph/wp-content/uploads/plj/PLJ%20volume%2023/PLJ%20volume%2023%20number%201/PLJ%20volume%2023%20number%201%20-04-%20Eduardo%20Abaya%20-%20A%20Critical%20Study%20on%20the%20effect%20of%20adoption%20on%20citizenship%20status%20in%20the%20Philippines.pdf; last accessed on 2 March 2016).

[13] Some of the cases applying the jus soli principle:

Roa v. Collector of Customs, 23 Phil. 315 (1912)
Vaño v. Collector of Customs, 23 Phil. 480 (1912)
US v. Ang, 36 Phil. 858 (1917)
US v. Lim Bin, 36 Phil. 924 (1917)
Go Julian v. Government of the Philippines, 45 Phil. 289 (1923)

[14] 79 Phil. 249 (1947).

[15] See Irene R. Cortes and Raphael Perpetuo M. Lotilla, Nationality and International Law from the Philippine Perspective, Philippine Law Journal, Vol. 60, No. 1, Supplemental Issue, 1985, p. 18 (http://plj.upd.edu.ph/wp-content/uploads/plj/PLJ%20volume%2060/PLJ%20volume%2060%20supplemental%20issue/PLJ%20Volume%2060%20supplemental%20issue%20-01-%20Irene%20R.%20Cortez%20&%20Rapael%20Perpetuo%20M.%20Lotilla%20-%20Nationality%20and%201nternational%20Law.pdf; last accessed on 2 March 2016).

[16] Section 2, Article IV of the 1987 Constitution reads:

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

[17] Sections l and 2, Article IV of the 1987 Constitution provide:

SECTION 1. The following are citizens of the Philippines:

(1) Those who are citizens of the Philippines at the time of the adoption of this Constitution;
(2) Those whose fathers or mothers are citizens of the Philippines;
(3) Those born before January 17, 1973, of Filipino mothers, who elect Philippine citizenship upon reaching the age of majority; and
(4) Those who are naturalized in accordance with law.

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

[18] 276 Phil. 758 (1991).

[19] Id. at 784.

[20] Id. at 782-783.

[21] Petitioner's Petition, p. 112. Underscoring in the original and boldfacing supplied.

[22] Manifestation dated 4 January 2016, adopting the Solicitor General's Comment in G.R. No. 221538, Rizalito Y. David v. Senate Electoral Tribunal. Emphasis supplied.

[23] Comment in G.R. No. 221538, pp. 6, 9, 10.

[24] Proceedings of the Philippine Constitutional Convention, Vol. IV, 26 November 1934, pp. 186-188.

[25] Petitioner's Memorandum, pp. 103-104.

[26] 23 Phil. 315, 330-331 (1912).

[27] This is the English translation of the explanation given by Delegate Roxas during the deliberations. Jose M. Aruego, THE FRAMING oF THE PHILIPPINE CONSTITUTION, 1949, Vol. 1, pp. 404-405.

The portions of the records read:

SR. ROXAS. Señor Presidente, Ia frase natural born citizen aparece en la Constitucion de los Estados Unidos; pero los autores dicen que esta frase nunca ha sido interpretada autoritativamente por la Corte Suprema de los

Estados Unidos, en vista de que nunca se habia suscitado la cuestion de si un Presidente elegido, reunia o no esta condicion. Los autores estan uniformes en que las palabras natural born citizen, quiere decir un ciudadano por nacimiento, una persona que es ciudadano por razon de su nacimiento y no por naturalizacion o por cualquiera declaracion ulterior exigida por la ley para su ciudadania. En Filipinas, por ejemplo, bajo las disposiciones de los articulos sabre ciudadania que hemos aprobado, seria ciudadano por nacimiento, o sea natural born todos aquellos nacidos de un padre que es ciudadano filipino, ya sea una persona nacida en Filipinas o fuera de elias.

Y con respeto de uno nacido de madre filipina, pero de padre extranjero, el articulo que aprobamos sobre ciudadania, requiere de que al llegar a la mayoria de edad, este hijo necesita escoger la ciudadania por la cual opta, y si opta por la ciudadania filipina al llegar a la mayoria de edad, entonces sera considerado ciudadano filipino. Bajo esta interpretacion el hijo de una madre filipina con padre extranjero, no seria un ciudadano por nacimiento, por aquello de que la ley o la Constitucion requiere que haga una declaracion ulterior a su nacimiento. Porlo tanto, la frase a natural born citizen, tal como se emplea en el texto ingles, quiere decir un ciudadano filipino por nacimiento, sin tener en cuenta donde ha nacido. (Proceedings of the Philippine Constitutional Convention, Vol. V, 18 December 1934, pp. 307-308).

[28] 169 U.S. 649 (1898).

[29] Supra note 26.

[30] Eduardo Abaya, A Critical Study on the Effect of Adoption on Citizenship Status in the Philippines, Philippine Law Journal, Vol. XXIII, No. 1, February 1948, p. 443 (http://plj.upd.edu.ph/wp-content/uploads/plj/PLJ%20volume%2023/PLJ%20volume%2023%20number%201/PLJ%20volume%2023%20number201%20-04-%20Eduardo%20Abaya%20-%20A%20Critical%20Study%20on%20the%20effect%20ot%20adoption%20on%20citizenship%20status%20in%20the%20Philippines.pdf; last accessed on 2 March 2016).

[31] Eduardo Abaya, A Critical Study on the Effect of Adoption on Citizenship Status in the Philippines, Philippine Law Journal, Vol. XXIII, No. 1, February 1948, p. 443 (http://plj.upd.edu.ph/wp-content/uploads/plj/PLJ%20volume%2023/PLJ%20volume%2023%20number%201/PLJ%20volume%2023%20number%201%20-04-%20Eduardo%20Abaya%20-%20A%20Critical%20Study%20on%20the%20effect%20of%20adoption%20on%20citizenship%20status%20in%20the%20Philippines.pdf; last accessed on 2 March 2016).

[32] http://www.icj-cij.org/documents/?p1=4&p2=2; last accessed on 2 March 2016.

[33] https://www.law.cornell.edu/wex/conventional_international_law; last accessed on 2 March 2016.

[34] Pharmaceutical and Health Care Association of the Philippines v. Duque III, 561 Phil. 386 (2007).

[35] Dissenting Opinion, Bayan Muna v. Romulo, 656 Phil. 246, 326 (2011).

[36] Judgment of 20 February 1969, at 77 (http://www.icj-cij.org/docket/files/5l/556l.pdf; last accessed on 1 March 2016).

[37] Formation and Evidence of Customary International Law, International Law Commission, UFRGS Model United Nations Journal, p. 192 (http://www.ufrgs.br/ufrgsmun/2013/wp--content/uploads/2013110/Formation-and-Evidence-of-Customary-International-Law.pdf; last accessed on 1 March 2016).

[38] John H. Currie, PUBLIC INTERNATIONAL LAW, Second Edition, 2008

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(https://www.irwinlaw.com/cold/regional_customary_international_law; last accessed on 1 March 2016).

[39] See Malcolm N. Shaw, INTERNATIONAL LAW, Seventh Edition, 2014, pp. 69-77.

[40] Supra note 34, at 400, citing Louis Henkin, Richard C. Pugh, Oscar Schachter, Hans Smith, International Law, Cases and Materials, 2[nd] Ed., p. 96. Emphasis omitted.

[41] http://www.ohchr.org/en/professional/interestlpages/ccpr.aspx; last accessed on 2 March 2016.

[42] http://www.un.org/en/documents/udhr/; last accessed on 2 March 2016.

[43] http://www.ohchr.org/EN/UDHR/Pages/UDHRIndex.aspx; last accessed on 2 March 2016.

[44] Laura van Waas, Nationality Matters: Statelessness under International Law, pp. 69-70, Volume 29, School of Human Rights Research Series, Intersentia, 2008 (http://www.stichtingros.nl/site/kennis/files/Onderzoek%20statenloosheid%20Laura%20van%20Waas.pdf; last accessed on 2 March 2016).

[45] Section 1, Article IV of the 1935 Constitution reads in part:

Section 1. The following are citizens of the Philippines:

xxxx

(5) Those who are naturalized in accordance with law.

[46] Section 1, Article III of the 1973 Constitution reads in part:

Section 1. The following are citizens of the Philippines:

xxxx

(4) Those who are naturalized in accordance with law.

[47] Section 1, Article IV of the 1987 Constitution reads in part:

Section 1. The following are citizens of the Philippines:

xxxx

(4) Those who are naturalized in accordance with law.

[48] See Jaime S. Bautista, No customary international law automatically confers nationality to foundlings, The Manila Times Online (http://www.manilatimes.net/no-customary-intemational-law-automatically-confers-nationality-to-foundlings/221126; last accessed on 2 March 2016).

[49] See Irene R. Cortes and Raphael Perpetuo M. Lotilla, Nationality and International Law from the Philippine Perspective, Philippine Law Journal, Vol. 60, No. 1, Supplemental Issue, 1985, p. 16 (http://plj.upd.edu.ph/wp-contentluploads/plj/PLJ%20volume%2060/PLJ%20volume%2060%20supplemental%20issue/PLJ%20Volume%2060%20supplemental%20issue%20-01-%20Irene%20R.%20Cortez%20&%20Rapael%20Perpetuo%20M.%20Lotilla%20-%20Nationality%20and%20International%20Law.pdf; last accessed on 2 March 2016).

[50] Bayan Muna v. Romulo, 656 Phil. 246, 303 (2011).

[51] See Dean Ralph A. Sanniento, The Right to Nationality of Foundlings in International Law,

(http://attyralph.com/2015/12/03/foundlingsnationality/; last accessed on 1 March 2016).

[52] http://www.un.org/en/members/index.shtml, last accessed on 7 March 2016.

[53] Malcolm N. Shaw, INTERNATIONAL LAW, Seventh Edition, 2014, p. 56, citing De Visscher, Theory and Reality, p. 149. See also Hersch Lauterpacht, THE DEVELOPMENT OF INTERNATIONAL LAW, p. 368; Pitt Cobbett, LEADING CASES ON INTERNATIONAL LAW, 4[th] Edition, London, 1922, p. 5, and Michael Akehurst, Custom as a Source of International Law, British Yearbook of International Law, 1975, Vol. 47, pp. 22-3.

[54] Id.

[55] Petitioner's Memorandum, p. 174, citing Mijares v. Rañada (495 Phil. 372 [2005]) and Razon v. Tagitis (621 Phil. 536 [2009]).

[56] Laura van Waas, Nationality Matters: Statelessness under International Law, pp. 70-71, Volume 29, School of Human Rights Research Series, Intersentia, 2008 (http://www.stichtingros.nl/site/kennis/files/Onderzoek%20statenloosheid%20Laura%20van%20Waas.pdf; last accessed on 2 March 2016).

[57] Prof. Serena Forlati, Nationality as a Human Right, pp. 22-23, The Changing Role of Nationality in International Law, edited by Alessandra Annoni and Serena Forlati, Routledge Research International Law, 2015 Kindle Edition; emphasis supplied.

[58] http://eudo-citizenship.eu/databases/protection-against-statelessness?p=dataEUCIT&application=modesProtectionStatelessness&search=1&modeby=idmode&idmode=S02; last accessed on 2 March 2016.

These countries are:
1. Belgium
2. Bulgaria
3. Croatia
4. Finland
5. France
6. Germany
7. Hungary
8. Lithuania
9. Montenegro
10. Netherlands
11. Romania
12. Serbia
13. Sweden

[59] 656 Phil. 246, 306 (2011).

[60] https://www.unhcr.it/sites/53a16111Ob80eeaac7000002/assets/53a164ab0b80eeaac70001fe/preventing_and_reducing_statelessness.pdf; last accessed on 2 March 2016.

[61] http://www.ohchr.org/EN/Issues/Pages/Nationality.aspx; last accessed on 2 March 2016.

[62] See http://www.ijrcenter.org/thematic-research-guides/nationality-citizenship/; last accessed on 2 March

2016.

[63] http://eudo-citizenship.eu/Internationa1DB/docs/Explanatory%20report%20Convention%20avoidance%20statelessness%20in%20relation%20to%20State%20succession%20CETS%20200%20PDF.pdf; last accessed on 1 March 2016.

[64] See The Law Commission and the Scottish Law Commission, Private International Law, The Law of Domicile, p. 4 (http://www.scotlawcom.gov.uk/files/321217989/6557/repl07.pdf; last accessed on 3 March 2016). See also M.W. Jacobs, A Treatise on the Law of Domicil, 1887, p. 167 (http://famguardian.org/Publications/TreatOnLawOfDomicile/A_Treatise_on_the_Law_of_Domicil_Nation.pdf, citing Savigny, System, etc. § 359 (Guthrie's trans. p. 132), citing Linde, Lehrbuch, § 89; Felix, Droit Int. Priv. no. 28; Calvo, Manuel, § 198; Id. Dict. verb. Dom.; Westlake, Priv. Int. L. 1[st] ed. no. 35, rule 2; Id. 2d ed. § 236; Dicey, Dom. p. 69, rule 6; Foote, Priv. Int. Jur. p. 9; Wharton, Confl. of L. § 39, citing Heffter, pp. 108, 109, last accessed on 3 March 2016).

[65] John Bassett Moore, A DIGEST OF INTERNATIONAL LAW, Vol. III, 1906, p. 281 (http://www.unz.org/Pub/MooreJohn-1906v03:289; last accessed on 3 March 2016).

[66] Section 3, Article II of the 1935 Constitution provides:

The Philippines renounces war as an instrument of national policy, and adopts the generally accepted principles of international law as a part of the law of the Nation.

[67] Section 3, Article II of the 1973 Constitution provides:

The Philippines renounces war as an instrument of national policy, adopts the generally accepted principles of international law as part of the law of the land, and adheres to the policy of peace, equality, justice, freedom, cooperation, and amity with all nations.

[68] Section 2, Article II of the 1987 Constitution provides:

The Philippines renounces war as an instrument of national policy, adopts the generally accepted principles of international law as part of the law of the land and adheres to the policy of peace, equality, justice, freedom, cooperation, and amity with all nations.

[69] Pharmaceutical and Health Care Association of the Philippines v. Duque III, supra note 34, citing Joaquin G. Bernas, S.J., CONSTITUTIONAL STRUCTURE AND POWERS OF GOVERNMENT (NOTES AND CASES), Part I (2005).

[70] Id.

[71] Id.

[72] Secretary of Justice v. Lantion, 379 Phil. 165 (2000).

[73] Joaquin Bernas, S.J., THE INTENT or THE 1986 CoNSTITUTION WRITERS, 1995, pp. 75-76.

[74] See Irene R. Cortes and Raphael Perpetuo M. Lotilla, Nationality and International Law from the Philippine Perspective, Philippine Law Journal, Vol. 60, No. 1, Supplemental Issue, 1985, p. 1. (http://plj.upd.edu.ph/wp-content/uploads/plj/PLJ%20volume%2060/PLJ%20volume%2060%20supplemental%20issue/PLJ%20Volume%2060%20supplemental%20issue%20-01-%20Irene%20R.%20Cortez%20&%20Rapael%20Perpetuo%20M.%20Lotilla%20-%20Nationality%20and%20Intemational%20Law.pdf; last accessed on 2

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March 2016).

[75] See Jaime S. Bautista, No customary international law automatically confers nationality to foundlings, The Manila Times, 28 September 2015 (http://www.manilatimes.net/no-customary-international-law-automatically-confers-nationality-to-foundlings/221126/, last accessed on 2 March 2016). See also Joel Ruiz Butuyan, Legal and emotional entanglements in Poe issue, 6 October 2015, Philippine Daily Inquirer (http://opinion.inquirer.net/89141/legal-and-emotional-entanglements-in-poe-issue, last accessed on 2 March 2016).

[76] 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.

[77] An Act Providing for the Acquisition of Philippine Citizenship for Certain Aliens by Administrative Naturalization and for Other Purposes.

[78] See Francis Wharton, LL.D., A DIGEST OF THE INTERNATIONAL LAw oF THE UNITED STATES, Vol. II, 1886, p. 465, § 192 (Mr. Fish, Secretary of State, to Mr. Davis, January 14, 1875, MSS. Inst., Germ. XVI 6). See also Paul Weis, NATIONALITY AND STATELESSNESS IN INTERNATIONAL LAW, Second Edition, 1979, p. 228 (https://books.google.com.ph/books?id=hSLGDXqXeegC&printsec=frontcover&dq=paul+weis+nationality&hl=en&sa=X&redir_esc=y#v=onepage&q=paul%20weis%20nationality&f=false; last accessed on 2 March 2016).

[79] Philippine Passport No. F927287.

[80] Philippine Passport No. L881511.

[81] Philippine Passport No. DO156616.

[82] Philippine Passport No. XX4731999.

[83] Philippine Passport No. DE0004530.

[84] Philippine Passport No. EC0588861.

[85] Civil Registry Law, 27 February 1931.

[86] See Rules 26-30, IRR of Act No. 3753 and Other Laws on Civil Registration, 18 December 1992.

[87] TSN, 16 February 2016, pp. 152-157.

[88] Section 2 of the Implementing Rules and Regulations pertinently reads:

SECTION 2. Applicability. These Rules shall apply to the adoption in the Philippines of a Filipino child by a Filipino or alien qualified to adopt under Article III, Section 7 of RA 8552.

x x x x

[89] 602 Phil. 522, 537 (2009).

[90] 247 Phil. 154, 162 (1988). Citations omitted.

[91] 257 Phil. 23, 29 (1989).

[92] TSN, 2 February 2016, pp. 135-141.

[93] 117 Phil. 976 (1963).

[94] 161 Phil. 397 (1976).

[95] Supra note 93, at 978.

[96] Supra note 94, at 407.

[97] Carpio, J., Dissenting Opinion, Tecson v. Comelec, 468 Phil. 421, 634 (2004).

[98] 128 Phil. 815 (1967).

[99] Id. at 825.

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

[101] Fernandez v. HRET, 623 Phil. 628 (2009).

[102] See Reyes v. Commission on Elections, G.R. No. 207264, 25 June 2013, 699 SCRA 522.

[103] Tijing v. Court of Appeals, 406 Phil. 449 (2001).

[104] In Tijing v. Court of Appeals, 406 Phil. 449 (2001), the Court held that to establish parentage, the DNA from the mother, alleged father and child are analyzed since the DNA of a child, which has two copies, will have one copy from the mother and another copy from the father.

[105] See People v. Vallejo, 431 Phil. 798 (2002).

[106] Dated 2 October 2007.

[107] Section 3(f) of the Rule on DNA Evidence defines "Probability of Parentage" as the numerical estimate for the likelihood of parentage of a putative parent compared with the probability of a random match of two unrelated individuals in a given population.

[108] See Joel Ruiz Butuyan, Legal and emotional entanglements in Poe issue, 6 October 2015, Philippine Daily Inquirer (http://opinion.inquirer.net/89141/legal-and-emotional-entanglements-in-poe-issue; last accessed on 2 March 2016).

[109] See Kilosbayan Foundation v. Ermita, 553 Phil. 331, 343-344 (2007), where the Court stated in the dispositive portion of the Decision that "respondent Gregory S. Ong x x x is hereby ENJOINED from accepting an appointment to the position of Associate Justice of the Supreme Court or assuming the position and discharging the functions of that office, until he shall have successfully completed all necessary steps, through the appropriate adversarial proceedings in court, to show that he is a natural- born Filipino citizen and correct the records of his birth and citizenship."

[110] 148-B Phil. 773, 855 (1971).

[111] 149 Phil. 661, 665 (1971).

[112] Supra note 100, at 288, 290-291.

[113] Citizenship Retention and Re-acquisition Act of 2003.

[114] The oath of allegiance to the United States that naturalized Am ricans take states:

> I hereby declare, on oath, that I absolutely and entirely renounce and abjure all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty, of whom or which I have heretofore been a subject or citizen;

> that I will support and defend the Constitution and laws of the United States of America against all enemies, foreign and domestic; that Iwill bear true faith and allegiance to the same; that I will bear arms on behalf of the United States when required by the law; that I will perform noncombatant service in the Armed Forces of the United States when required by the law; that Iwill perform work of national importance under civilian direction when required by the Jaw; and that I take this obligation freely, without any mental reservation or purpose of evasion; so help me God.

(https://www.uscis.gov/us-citizenship/naturalization-test/naturalization-oath-allegiance-united-states-america; last accessed on 7 March 2016). Emphasis supplied.

[115] 409 Phil. 633 (2001).

CONCURRING OPINION
VELASCO, JR., J.:

I concur with the ponencia and will add the following only for emphasis.

On Residency
It is established that to acquire a new domicile one must demonstrate three things: (1) residence or bodily presence in the new locality; (2) an intention to remain there (animus manendi); and (3) an intention to abandon the old domicile (animus non revertendi).

There is no issue as to Sen. Poe's actual bodily presence in the Philippines since May 24, 2005, whence she, per her 2015 Certificate of Candidacy, reckons her residency in the country. What has been questioned is the animus to stay in the Philippins and to abandon the domicile in the United States of America (US) since then. As the ponencia explained, the facts recited, and the evidence presented by Sen. Poe sufficiently portrays her intent to stay in the Philippines and to abandon the US since May 2005, to wit:

> 35. As a result of the untimely demise of her father, and her desire to be with and to comfort her grieving mother, Petitioner and her husband, sometime in the first quarter of 2005, decided to return to the Philippines for good. They consulted their children, who likewise expressed their wish to relocate permanently to the Philippines. The children also wanted to support their grandmother and Petitioner.
>
> 36. In 2004, petitioner had already resigned from her work in the U.S.A. and she never again sought employment there. In early 2005 Brian (Poe's son) and Hanna's (Poe's eldest daughter) schools in Virginia, U.S.A., were likewise notified that they would be transferring to Philippine schools for the next semester.
>
> 37. As early as March 2005, Petitioner and her husband began obtaining quotations and estimates from property movers regarding the total cost of relocating to Manila all of their household goods, furniture, and cars then in Virginia, U.S.A. One of these property movers was Victory Van International, a private freight forwarding company, with whom Petitioner and her husband had a series of email correspondence from 2005 to 2006. The spouses also intended to bring along their pet dog and they inquired with Philippine authorities on the procedure to accomplish this in August 2005.
>
> 38. On 24 May 2005, or shortly before the start ofthe academic year in the Philippines, Petitioner returned to the country. Her three (3) children also arrived in the country in the first half of 2005. Petitioner's husband, on the other hand, stayed in the U.S.A. to finish pending projects, and to arrange for the sale of the family home there.
>
> 39. After their arrival in the Philippines from the U.S.A., Petitioner and her children initially lived with Petitioner's mother in x x x San Juan City. The existing living arrangements at the house of Petitioner's mother even had to be modified to accommodate Petitioner and her children, Petitioner's mother also assigned to

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> Petitioner her father's long-time driver, because Petitioner and her family would henceforth be based in the Philippines. Meanwhile, Petitioner and her children prepared for the start of the school year, with Brian and Hanna attending Philippine schools starting June 2005. x x x
>
> 40. Shortly after arriving in the Philippines, Petitioner immediately submitted hers lf to the local tax jurisdiction by registering and securing a TIN from the BIR.
>
> x x x x
>
> 42. In the meantime, in the second half of 2005, Petitioner and her husband had acquired Unit 7F of One Wilson Place Condominium (and its corresponding parking slot), located at x x x San Juan, Metro Manila, to be used as the family's temporary residence.
> 42.1 On 20 February 2006, the Register of Deeds for San Juan City issued to Petitioner and her husband CCT No. x x x covering Unit 7F of One Wilson Place, and CCT No. x x x covering the parking slot for Unit 7F.
>
> 42.2 On 25 April 2006, Unit 7F of One Wilson Place and its corresponding parking slot were declared, for real estate tax purposes, in Petitioner's and her husband's names.
>
> 42.3 Petitioner and her family lived at One Wilson Place until the completion of their family home at Corinthian Hills, Quezon City. x x x

43. On 14 February 2006, Petitioner briefly travelled to the U.S.A. for the purpose of supervising the disposal of some of the family's remaining household belongings. Around this time, Petitioner's and her family's furniture and other household goods were still in the process of being packed for collection, storage and eventual transport to the Philippines. Petitioner donated to the Salvation Army some of the family's personal properties which could no longer be shipped to the Philippines. Petitioner returned to the Philippines shortly after, or on 11 March 2006.

44. In late March 2006, petitioner's husband officially informed the United States Postal Service of the family's change, and abandonment, of their former address in the U.S.A. The family home in the U.S.A. was eventually sold on 27 April 2006.

45. In April 2006, Petitioner's husband resigned from his work in the U.S.A., and on 4 May 2006, he returned to the Philippines. Beginning July 2006, he worked in the Philippines for a major Philippine company.

46. Meanwhile, in early 2006, Petitioner and her husband acquired a vacant 509-square meter lot at x x x Corinthian Hills, Bagong Ugong Norte, Quezon City (the "Corinthian Hills Lot") where her family could finally establish their new family home.

46.1 On 1 June 2006, the Register of Deeds for Quezon City issued to Petitioner and her husband Transfer Certificate of Title ("TCT") No. 290260 covering the Corinthian Hills Lot.

46.2 Petitioner and her husband eventually built a house on the Corinthian Hills Lot. To this day, this house is their family home.

47. After Petitioner and her family settled themselves, she turned her attention to regaining her natural-born Filipino citizenship. She was advised that she could legally reacquire her natural-born Philippine citizenship by taking an oath of allegiance to the Republic of the Philippines, pursuant to the provision of R.A. No. 9225, otherwise known as the "Citizenship Retention and Re-Acquisition Act of 2003."

48. On July 7, 2006, Petitioner took her Oath of Allegiance to the Republic of the Philippines, as required under Section 3 of R.A. No. 9225, to wit: x x x

49. On 10 July 2006, petitioner filed with the B.I. a sworn petition to reacquire her natural-born Philippine

citizenship pursuant to R.A. No. 9225 and its implementing rules and regulations. Upon advice, and simultaneous with her own petition, petitioner filed petitions for derivative citizenship on behalf of her three children who were all below eighteen (18) years of age at that time. x x x

50. On 18 July 2006, the B.I. issued an Order granting Petitioner's applications x x x.

51. On 31 July 2006, the B.L issued Identification Certificates ("I.C.") in Petitioner's name and in the name of her three children x x x.

52. On 31 August 2006, the COMELEC registered Petitioner as a voter at Barangay Santa Lucia, San Juan City.

53. On 13 October 2009, or over two (2) years before her U.S.A. Passport was set to expire (on 18 December 2011), Petitioner secured from the DFA her new Philippine Passport with No. x x x (which was valid until 12 October 2014).

54. On 6 October 2010, President Benigno S. Aquino III appointed Petitioner as Chairperson of the MTRCB, a post which requires natural-born Philippine citizenship. Petitioner did not accept the appointment immediately, because she was advised that before assuming any appointive public office, Section 5(3), R.A. No. 9225 required her to: (a) take an Oath of Allegiance to the Republic of the Philippines; and (b) renounce her U.S.A. citizenship. She complied with the requirements before assuming her posts as MTRCB Chairperson on 26 October 2010.

55. On 20 October 2010, Petitioner executed before a notary public in Pasig City an "Affidavit of Renunciation of Allegiance to the United States of America and Renunciation of American Citizenship" of even date. x x x

56. On 21 October 2010, in accordance with Presidential Decree No. 1986 and Section 5 (3) of R.A. No. 9225, Petitioner took her oath of office as Chairperson of the MTRCB, before President Benigno S. Aquino III. x x x

57. To ensure that even under the laws of the U.S.A., she would no longer be considered its citizen, Petitioner likewise renounced her U.S.A. citizenship in accordance with the laws of that country. However, Petitioner was not legally required under Philippine law to make another renunciation, as her earlier renunciation of U.S.A. citizenship on October 20, 2010 was sufficient to qualify her for public office.

57.1 On 12 July 2011, Petitioner executed before the Vice Consul at the U.S.A. Embassy in Manila, an Oath/Affirmation of Renunciation ofNationality ofthe United States.

57.2. On the same day, Petitioner accomplished a sworn "Questionnaire" before the U.S. Vice Consul, wherein she stated that she had taken her oath as MTRCB Chairperson on 21 October 2010, with the intent, among others, of relinquishing her U.S.A. citizenship.

57.3 In the same Questionnaire, Petitioner stated that she had resided "Outside of the United States," i.e., in the "Philippines," from 3 September 1968 to 29 July 1991 and from "05 2005" to "Present.": On page 4 of the Questionnaire, Petitioner stated:

> I became a resident of the Philippine once again since 2005. My mother still resides in the Philippines. My husband and I are both employed and own roperties in the Philippines. As a dual citizen (Filipino-American) since 2006, I've voted in two Philippine national elections. My three children study and reside in the Philippines at the time I performed the act as described in Part I item 6.

58. On 9 December 2011, the U.S.A. Vice Consul issued to petitioner a "Certificate of Loss of Nationality of the United States." Said Certificate attests that under U.S.A. laws, Petitioner lost her U.S.A. citizenship effective 21 October 2010, which is when she took her oath of office as MTRCB Chairperson. This fact is likewise reflected on the last page ofPetit oner:s former U.S.A. Passport.

59. On 27 September 2012, Petitioner accomplished her COC for Senator, which she filed with the COMELEC on 2 October 2012. Section 12 of the COC was, agam, an affirmation of the Oath of

Allegiance to the Republic of the Philippines which Petitioner had taken on 7 July 2006 (and which she had reaffirmed on 2.1 October 2010 when she took her oath of office as MTRCB Chairperson). x x x

60. During the 13 May 2013 National Elections, petitioner ran for and was overwhelmingly elected as Senator. She garnered over 20 million votes, the highest among her fellow Senatorial candidates, and a record in Philippine election history. On 16 May 2013, Petitioner was proclaimed Senator of the Republic of the Philippines.

61. On 19 December 2013, the DFA issued to Sen. Poe Diplomatic Passport No. x x x (valid until December 2018), and on 18 March 2014, the DFA issued in her favor Philippine Passport No. x x x. Like her earlier Philippine passports, these two (2) most recent passports uniformly state that Sen. Poe is a "citizen of the Philippines."

62. On 15 October 2015, Sen. Poe filed with COMELEC her COC as President ("COC for President") in the 9 May 2016 national and local elections. In her COC, she stated that she is a "NATURAL-BORN FILIPINO CITIZEN" and that her "RESIDENCE IN THE PHILIPPINES UP TO THE DAY BEFORE MAY 09, 2016" would be "10" years and "11" months (counted from 24 May 2005).

As "intent" is basically a "state of mind" that exists only in idea;[1] its existence can only be determined by the overt acts that translate it to fact. The realization of such intent need not be made in one fell swoop by the execution of a single formal act. Rather, the fulfillment of the intent to change domicile can be made via a series of steps through what the Court adverts in Mitra v. COMELEC[2] and Sabili v. COMELEC[3] as an "incremental process" or the execution of"incremental transfer moves."

The facts of the case suggest that Sen. Poe's change of domicile and repatriation from the US to the Philippines was, to borrow from Mitra, "accomplished, not in a single key move but, through an incremental process"[4] that started in early 2005. Specifically, Sen Poe took definite albeit incremental moves to reacquire her domicile of origin as shown by the repatriation of her children and their pet, if I may add, from the US to the Philippines; the enrollment of her children in Philippine schools; the sale of their family home in the US; the repatriation of her husband and his employment in the Philippines; the transfer of their household goods, furniture, cars and personal belongings from the US to the Philippines; the purchase of a residential condominium in the Philippines; the purchase of a residential lot; the construction of her family home in the country; her oath of allegiance under RA 9225; her children's acquisition of derivative Philippine citizenship; the renunciation of her US citizenship; her service as chairperson of the MTRCB; and her candidacy and service as a senator of the Philippines. All these acts are indicative of the intent to stay and serve in the country permanently, and not simply to make a "temporary" sojourn.

Indeed, the foreknowledge of Sen. Poe's repatriation and her desire for it, i.e., her intent to go back to and reestablish her domicile the Philippines, is readily discernible from her acts executed even before her return to the country in May 2005.

The foregoing indicia of Sen. Poe's intent to reestablish her domicile in the country cannot be frivolously dismissed as insufficient on the pretext that "this case involves relocation of national domicile from the US to the Philippines by an alien, which requires much stronger proof, both as to fact and intent."[5]

The suggestion that Sen. Poe's animus manendi only existed at the time she took her oath of allegiance under RA 9225 in July 2006 and that her animus non revertendi existed only in October 2010 when she renounced her US citizen is simply illogical. The fact that what is involved is a change of national domicile from one country to

another, separated as it were by oceans, and not merely from one neighboring municipality to another like in Mitra and Sabili, it is with more reason that the teachings in Mitra and Sabili are applicable.

It should be of judicial cognizance that even a temporary travel from one country to another is no easy feat. It takes weeks or even months to plan and execute. By no means is the permanent transfer of residence in one country to another an easier undertaking. Like in petitioner's case, it would be a long process that will take months, if not years, to accomplish from the initial inquiry with the movers and the concerned government agencies in both countries, to the actual packing and transportation of one's belongings, the travel of the children and the pet,. their enrollment in schools, the acquisition of a new family home, and the reintegration to Philippine society. The intent to reestablish national domicile cannot be plausibly determined by one isolated formal act or event but by a series of acts that reveal the preceding desire and intent to return to one's country of origin.

Sen. Poe is not an ordinary "alien" trying to establish her domicile in a "foreign country." She was born and raised in the Philippines, who went through the tedious motions of, and succeeded in, reestablishing her home in the country. She is, by no means, foreign to the Philippines nor its people. She maintained close ties to the country and has frequently visited it even during the time she was still recognized as a US citizen. Her parents lived in the country, her friends she grew up with stayed here. In a manner of speaking, her past, her roots were in the Philippines so that it should not be rendered more burdensome for her to establish her future in the country.

After all, the residence requirement was in context intended to prevent a stranger from holding office on the assumption that she would be insufficiently acquainted with the conditions and needs of her prospective constituents.[6] Having helped her father during his presidential campaign and having served as a senator and before that an MTRCB chairperson, it cannot be contested that she has more than enough knowledge of the country, its people, and the many issues and problems that beset them. The mischief that the residency requirement was designed to prevent is clearly not present in this case.

The Court's pronouncements in Coquilla v. Commission on Elections,[7] Caballero v. Commission on Elections[8] and Japzon v. Commission and Elections and Jaime S. Ty[9] did not establish an absolute rule that a Filipino who became naturalized under the laws of a foreign country can only re-establish his or her domicile in the Philippines from the moment he or she swears allegiance to the country under RA 9225. Instead, the Court considered the acquisition of dual-citizenship under RA 9225 or the application for a residency permit as one of many possible, not the only, evidence of animus manendi. The Court did not state that any evidence of residence before the acquisition of a residence visa or the reacquisition of citizenship must be ignored.

Unfortunately, in these three cases, the concerned candidates had presented negligible or no evidence of reestablishment of domicile in the Philippines before their repatriation. As Sen. Poe pointed out, the only pieces of evidence in Coquilla showing that he might had had the intent to reside in the Philippines were: (a) his Community Tax Certificate; and (b) his verbal declarations that he intended to run for office. In Japzon, there was absolutely no evidence of the candidate's residence before he reacquired his citizenship and all the evidence pertained to events after his repatriation. Finally, in Caballero, the candidate failed to show that his residence had been for more than a year prior to the May 2013 elections. On the contrary, he admitted that he had only 9 months "actual stay" in Uyugan, Batanes.

Thus, the Court had no choice but to reckon the residency of the concerned candidates in Coquilla, Jopzon, and Caballero either from the time they reacquired their citizenship or the time they procured a resident visa because there was simply insufficient proof offered by the candidates before such event. The same cannot be said of Sen. Poe in the instant case.

As previously discussed, Sen. Poe presented overwhelming evidence of her permanent relocation to the

Philippines, her actual residence, and intent to stay in the Philippines since May 2005, i.e., even before she took her oath of allegiance under RA 9225 in July 2006. Hence, Jalosjos v. Commission on Elections[10] is the better precedent. In Jalosjos, the Court reckoned the candidate's domicile in the Philippines even before he reacquired his citizenship under RA 9225, without mentioning the need for a residence visa, because he was able to satisfactorily prove that he had lived with his brother prior to taking his oath of allegiance. The Court held, thus:

> But it is clear from the facts that Quezon City was Jalosjos' domicile of origin, the place of his birth. It may be taken for granted that he effectively changed his domicile from Quezon City to Australia when he migrated there at the age of eight, acquired Australian citizenship, and lived in that country for 26 years. Australia became his domicile by operation of law and by choice.
>
> On the other hand, when he came to the Philippines in November 2008 to live with his brother in Zamboanga Sibugay, it is evident that Jalosjos did so with intent to change his domicile for good. He left Australia, gave up his Australian citizenship, and renounced his allegiance to that country. In addition, he reacquired his old citizenship by taking an oath of allegiance to the Republic of the Philippines, resulting in his being issued a Certificate of Reacquisition of Philippine Citizenship by the Bureau of Immigration. By his acts, Jalosjos forfeited his legal right to live in Australia, clearly proving that he gave up his domicile there. And he has since lived nowhere else except in Ipil, Zamboanga Sibugay.
>
> To hold that Jalosjos has not establish a new domicile in Zamboanga Sibugay despite the loss of his domicile of origin (Quezon City) and his domicile of choice and by operation of law (Australia) would violate the settled maxim that a man must have a domicile or residence somewhere.[11]

Yet, it has also been advanced that Sen. Poe has not positively shown an intent to abandon the US, or animus non revertendi, prior to her formal renunciation of her American citizenship in October 2010. To this is added that she even acquired a house in the US in 2008 as proof of her alleged intent not to abandon that country. Proponents of this argument cite Reyes v. Commission on Elections.[12] However, Reyes was on a starkly different factual milieu. Unlike Sen. Poe, the petitioner therein had not reacquired her Philippine citizenship under RA 9225 or renounced her American citizenship.[13] In fact, the only proof she offered of her residency was her service as a provincial officer for seven (7) months.

The alleged fact that Sen. Poe acquired a house in the US in 2008, cannot be taken as an argument against her animus non revertendi vis-a-vis the evidence of her manifest intent to stay, and actual stay, in the Philippines. Certainly, the element of intent to abandon an old domicile does not require a complete and absolute severance of all physical links to that country, or any other country for that matter. It is simply too archaic to state, at a time where air travel is the norm, that ownership of a secondary abode for a temporary visit or holiday negates an intent to abandon a foreign country as a legal domicile.

On Citizenship

There is no question that Sen. Poe has no known biological parents and was found on September 3, 1968 in Jaro, Iloilo when she was but a newborn. She was then adopted by spouses Ronald Allan Kelly and Jesusa Sonora Poe in May 1974. The nagging question is: Is Sen. Poe a natural- born Filipino citizen?

Article IV, Section 1 of the 1935 Constitution merely provides:

> Section 1. The following are citizens of the Philippines:
>
> - Those who are citizens of the Philippine Islands at the time of the adoption of this Constitution.
>
> - Those born in the Philippine Islands of foreign parents who, before the adoption of this Constitution, had been elected to public office in the Philippine Islands.

- Those whose fathers are citizens of the Philippines.

- Those whose mothers are citizens of the Philippines and, upon reaching the age of majority, elect Philippine citizenship.

- Those who are naturalized in accordance with law.

The term "natural-born" Filipino does not even appear in the above- quoted provision. This Court, however, has construed the term to refer to those falling under items one to four of the section, as opposed to those who underwent naturalization under item number 5. But Sen. Poe was not born before the adoption of the 1935 Constitution so that the first item is inapplicable. That being said, her status as a foundling does not foreclose the likelihood that either or both of her biological parents were Filipinos rendering her a natural-born Filipino under items 3 and/or 4 of Section 1, Article IV ofthe 1935 Constitution.

Indeed, while it is not denied that Sen. Poe was abandoned by her biological parents, her abandonment on the date and specific place above indicated does not obliterate the fact that she had biological parents and the private respondents had not shown any proof that they were not Filipino citizens.

Section 1, Rule 131 of the Rules of Court provides that the burden of proof is the duty of a party to prove the truth of his claim or defense, or any fact in issue by the amount of evidence required by law. The private respondents had not presented even an iota of proof to show that Sen. Poe was not born to Filipino parents. Thus, it was grave abuse of discretion for the COMELEC to conclude that Sen. Poe was not a natural-born Filipino and had deliberately misrepresented such fact.

To shift the burden of proof to foundlings like, Sen. Poe, to prove the citizenship of their parents who had abandoned them is as preposterous as rubbing salt on an open bleeding wound; it adds insult to injury. The State cannot allow such unconscionable interpretation of our laws. Instead, the judiciary, as the instrumentality of the State in its role of parens patriae, must ensure that the abandoned children, the foundlings, those who were forced into an unfavorable position are duly protected.

As pointed out by petitioner, the same view was shared by the framers of the 1935 Constitution. A delegate to the 1934 Constitutional Convention, Sr. Nicolas Rafols, proposed to explicitly include "children of unknown parentage" in the enumeration of jus sanguinis Philippine Citizens in Section 1, Article IV of the 1935 Constitution. The suggestion, however, was not accepted but not on the ground that these children are not Philippine citizens. Rather, that the cases of foundlings are "few and far in between," as pointed out by delegate Manuel Roxas, and that citing a similar Spanish Law, they are already presumed to have been born to Filipinos.[14]

An alternative construction of the 1935, not to say the present Constitution, presents dire consequences. In such a scenario, abandoned children with no known parents will be considered stateless. This violates the rights of a child to immediate registration and nationality after birth, as recognized in the United Nation's Convention on the Rights of a Child. Thus, I cannot subscribe to the proposal that foundlings, like Sen. Poe, are not natural-born Filipino citizens.

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[1] Black's Law Dictionary, 9[th] Ed., for the iPhone/iPad/iPod touch. Version 2.1.2 (B13195), p. 883 citing John Salmond, Jurisprudence 378 (Glanville L. Williams ed., 10[th] ed. 1947).

[2] G.R. No. 191938, July 2, 2010 and October 19,2010.

[3] G.R. No. 193261, April 24, 2012.

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[4] Mitra, supra.

[5] Justice Del Castillo's Opinion.

[6] Gallego v. Vera, 73 Phil. 453, 459 (1941); cited in Fernandez v. HRET, G.R. No. 187478, December 21, 2009.

[7] G.R. No. 151914, July 31,2002.385 SCRA 607.

[8] G.R. No. 209835, September 22, 2015.

[9] G.R. No. 180088, January 19, 2009, 596 SCRA 354.

[10] G.R. No. 191970, April24, 2012.

[11] Emphasis supplied.

[12] G.R. No. 207264, June 25,2013,699 SCRA 522.

[13] Regina 0. Reyes- admitted in her submissions under oath before the COMELEC in SPA 13-053 that RA 9225 does not apply to her as she claims to be a dual citizen of the United States of America and the Philippines by virtue of her marriage to a US citizen. Belatedly, Reyes attempted to show that she availed of RA 9225, in a volte face, before the Court in G.R. No. 207264, entitled Reyes v. COMELEC, by presenting a questionable Identification Certificate allegedly issued by the Bureau of Immigration.

[14] Per the interpellation of Delegate Ruperto Montinola.

SEPARATE DISSENTING OPINION
LEONARDO-DE CASTRO, J.:

I begin this Dissenting Opinion by outrightly expressing my view that the opinion of Honorable Justice Jose P. Perez on the issue of natural-born citizenship which was joined by six (6) other Justices including the Honorable Chief Justice Ma. Lourdes P.A. Sereno, if not overturned, will wreak havoc on our constitutional 'system of government.

By their opinion, the seven (7) Justices would amend the 1935 Constitution which was in effect when petitioner was born, to add "foundlings found in the Philippines whose parents are unknown" in the enumeration of natural-born citizen, as follows:

> ARTICLE IV
> CITIZENSHIP
> (1935 Constitution)
>
> Section 1. The following are citizens of the Philippines .
>
> (1) Those who are citizens of the Philippine Islands at the time of the adoption of this Constitution.
>
> (2) Those born in the Philippine Islands of foreign parents who, before the adoption of this Constitution, had been elected to public office in the Philippine Islands.
>
> (3) Those whose fathers are citizens of the Philippines [and foundlings found in the Philippines whose parents are unknown].
>
> (4) Those whose mothers are citizens of the Philippines and upon reaching the age of majority, elect Philippine citizenship.

(5) Those who are naturalized in accordance with the law. (Emphases supplied.)

This amendment of the Constitution by the judicial opinion put forth by the seven (7) Justices is based mainly on extralegal grounds and a misreading of existing laws, which will have unimaginable grave and far- reaching dire consequences in our constitutional and legal system and national interest which this Dissenting Opinion will explain below.

For the above reason and other reasons, I dissent to the Ponencia of Mr. Justice Jose P. Perez that the four consolidated petitions seeking the annulment and setting aside of the Commission on Elections (COMELEC) December 1, 2015 and December 23, 2015 Resolutions in SPA Nos. 15-001 (DC); and, the December 11, 2015 and December 23, 2015 Resolutions in 15-002 (DC), 15-007 (DC), and 15-139 (DC) should be granted.

It is my humble submission that petitioner Senator Mary Grace Natividad S. Poe-Llamanzares (Poe for brevity) failed to show that the COMELEC En banc gravely abused its discretion in affirming its Second Division's December 1, 2015 and its First Division's December 11, 2015 Resolutions, both denying due course to and/or cancelling her Certificate of Candidacy (COC) for the position of President of the Republic of the Philippines, particularly with respect to the finding that she made therein material representations that were false relating to her natural-born citizenship and ten-year period of residence in the Philippines that warrant the cancellation ofher COC.

In gist, the bases for my dissent in the disposition of the cases, which will be discussed in seriatim, are as follows - contrary to the findings in the Ponencia:

On the Procedural/Technical Issues

- The review power of this Court relative to the present petitions filed under Rule 64 vis-a-vis Rule 65 both of the Rules of Court, as amended, is limited to the jurisdictional issue of whether or not the COMELEC acted without or in excess of its jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction;

- Petitioner Poe failed to satisfactorily show that the COMELEC was so grossly unreasonable in its appreciation and evaluation of the pieces of evidence submitted by the parties as to transgress the limits of its jurisdiction;

- All the four petitions filed, inclusive of the Tatad Petition, subject of the assailed resolutions of the COMELEC, adduced ultimate facts establishing the cause of action for a petition based on Section 78 of the Omnibus Election Code (OEC);

- The COMELEC correctly considered the allegations contained in the Tatad Petition as one filed under Section 78 of the OEC;

- The COMELEC did not encroach upon the jurisdiction of the Presidential Electoral Tribunal when it took cognizance of the petitions to deny due course to or cancel the COC of petitioner Poe; the distinction between jurisdictions of the two tribunals has already been settled in Tecson v. COMELEC, the jurisdiction of the PET can only be invoked after the election and proclamation of a President or Vice President and the question of qualifications of candidates for President or Vice-President properly belongs to the COMELEC;

- Section 8, Rule 23 of the COMELEC Rules of Procedure is a valid exercise of the rule-making powers of the COMELEC, which is not inconsistent and can be harmonized with its constitutional mandate to promulgate rules of procedure to expedite the dispositions of election cases;

- The COMELEC has the power to determine petitioner Poe's citizenship notwithstanding the decision of the Senate Electoral Tribunal which is still pending appeal and which deals with different issues; and

On the Substantive/Focal Issues

- Sections 1 and 2, Article IV of the 1987 Constitution clearly and categorically define who are natural-born citizens: they are citizens from birth with blood relationship to a Filipino father or mother, following the "jus sanguinis" principle;

- Salient Rules of Interpretation and/or Construction of the Constitution dictate that the clear and unambiguous letter of the Constitution must be obeyed;

- Statutes, Treaties and International Covenants or Instruments must conform to the provisions of the Constitution;

- Pursuant to the Constitution, natural-born citizenship is an indispensable requirement for eligibility to constitutionally identified elective positions like the Presidency;

- Republic Act No. 9225, otherwise known as the "Citizenship Retention and Re-acquisition Act of 2003," makes natural-born citizenship an indispensable requirement for the retention and/or re-acquisition of Philippine citizenship; in other words, the right to avail of dual citizenship is only available to natural-born citizens who have earlier lost their Philippine citizenship by reason of acquisition of foreign citizenship;

- Petitioner Poe obtained dual citizenship under Republic Act No. 9225 by misrepresenting tCJ the Bureau of Immigration that she is the biological child of a Filipino father and Filipino mother such that the Bureau was misled into believing that "[petitioner Poe] was a former citizen of the Republic of the Philippines being born to Filipino parents," which is a false factual averment not an erroneous legal conclusion; and (it) the said order was not signed by the Commissioner of the BI as required by Department of Justice (DOJ) Regulation;

- As a consequence of petitioner Poe's above-stated misrepresentations, the July 18, 2006 Order of the Bureau of Immigration granting petitioner Poe's application for dual citizenship or the re-acquisition of Philippine citizenship was clearly invalid and her taking of an oath of allegiance to the Republic did not result in her re-acquisition of Philippine citizenship; and

- Not having validly reacquired natural-born citizenship, she is not eligible to run for the Presidency pursuant to Section 2, Article VII of the 1987 Constitution; and even assuming arguendo that she has re-acquired natural-born citizenship under Republic Act No. 9225, petitioner Poe has failed to establish her change of domicile from the United States, her domicile of choice to the Philippines through clear and unmistakable evidence.

The Procedural Issues
Petitioner Poe seeks the annulment of the December 1, 2015 Resolution of the COMELEC Second Division and December 23, 2015 Resolution ofthe COMELEC En banc, in SPA Nos. 15-001 (DC); and the December 11, 2015 Resolution of the COMELEC First Division and December 23,2015 Resolution of the COMELEC En banc, in SPA Nos. 15-002 (DC), 15-007 (DC) and 15-139 (DC) via the instant consolidated petitions for certiorari under Rule 64, in relation to Rule 65 of the Rules of Court.[1] This mode of review is based on the limited ground of whether the COMELEC acted without or in excess of jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction. The Court held in Jalover v. Osmeña[2] that:

> "Grave abuse of discretion" defies exact definition; generally, it 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. We have held, too, that the use of wrong or irrelevant considerations in deciding an issue is sufficient to taint a decisionwmaker's action with grave abuse of discretion.

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> Closely related with the limited focus of the present petition is 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. Substantial evidence is that degree of evidence that a reasonable mind might accept to support a conclusion. In light of our limited authority to review findings of fact, we do not ordinarily review in a certiorari case the COMELEC's appreciation and evaluation of evidence. Any misstep by the COMELEC in this regard generally involves an error of judgment, not of jurisdiction.
>
> In exceptional cases, however, when the COMELEC's action on the appreciation and evaluation of evidence oversteps the limits of its discretion to the point of being grossly unreasonable, the Court is not only obliged, but has the constitutional duty to intervene. When grave abuse of discretion is present, resulting errors arising from the grave abuse mutate from error of judgment to one of jurisdiction. (Citations omitted.)

The COMELEC's appreciation and evaluation of the evidence adduced by petitioner Poe is said to be tainted with grave abuse of discretion.

Petitioner Poe failed to hurdle the bar set by this Court in Mitra v. Commission on Elections[3] and Sabili v. Commission on Elections,[4] which is to prove that the COMELEC was so grossly unreasonable in its appreciation and evaluation of evidence as to amount to an error of jurisdiction. Petitioner

Poe's insistence that the COMELEC utterly disregarded her "overwhelming and unrefuted evidence" is baseless. As stated in Mitra, substantial evidence is not a simple question of number. The emphasis must be on what the pieces of evidence are able to substantiate and what they cannot. I find that the COMELEC's assessment of the evidence is logical and well-founded. The conclusions it reached are adequately supported by evidence and are well in accord with the applicable laws and settled jurisprudence on the matter.

The petitions filed by respondents Elamparo, Contreras, and Valdez sufficiently alleged the ultimate facts constituting the cause(s) of action for a petition under Section 78 of the OEC, that petitioner Poe falsely represented in her COC that she is a natural-born Filipino citizen and that she complied with the ten-year residency requirement. Also, they averred that such false representations were made with intent to deceive the electorate.

With respect to the petition of private respondent Tatad, the COMELEC properly relied on the allegation of said petition instead of its caption as a petition for disqualification under Rule 25 of the COMELEC Rules of Procedure. Clearly, private respondent Tatad squarely put in issue the truthfulness of the declarations of petitioner Poe in her COC. Specifically, he alleged that petitioner Poe lacked natural-born citizenship and failed to meet the ten-year residency requirement, which are grounds for the cancellation of her COC under Section 78.

As to the jurisdiction of the COMELEC vis-a-vis that of the Presidential Electoral Tribunal's (PET), I strongly disagree in the conclusion that the COMELEC, in ruling on the four Section 78-petitions, usurped the jurisdiction of the PET. Petitioner Poe espouses that due to the absence of a false material misrepresentation in her COC, the COMELEC should have dismissed the petitions outright for being premature as they are in the nature of petitions for quo warranto, which is within the sole and exclusive jurisdiction of the PET. This is plain error. The jurisdiction of the PET over election contests attaches only after the President or the Vice-President concerned had been elected and proclaimed. Tecson v. Commission on Elections[5] clearly laid out that:

> Ordinary usage would characterize a "contest" in reference to a post-election scenario. Election contests consist of either an election protest or a quo warranto which, although two distinct remedies, would have one objective in view, i.e., to dislodge the winning candidate from office. x x x.
>
> xxxx
>
> The rules [Rules of the Presidential Electoral Tribunal] categorically speak of the jurisdiction of the tribunal

> over contests relating to the election, returns and qualifications of the "President" or "Vice- President," of the Philippines, and not of "candidates" for President or Vice-President. A quo warranto proceeding is generally defined as being an action against a person who usurps, intrudes into, or unlawfully holds or exercises a public office. In such context, the election contest can only contemplate a post-election scenario. In Rule 14, only a registered candidate who would have received either the second or third highest number of votes could file an election protest. This rule again presupposes a post-election scenario.
>
> It is fair to conclude that the jurisdiction of the Supreme Court, defined by Section 4, paragraph 7, of the 1987 Constitution, would not include cases directly brought before it, questioning the qualifications of a candidate for the presidency or vice-presidency before the elections are held. (Emphases supplied, citation omitted.)

Section 4, Article VII of the 1987 Constitution sustains this above- quoted ruling. The grant of jurisdiction to the PET follows the provisions on the preparations of the returns and certificates of canvass for every election for President and Vice-President and the proclamation of the person who obtained the highest number of votes.

> SECTION 4. The President and the Vice-President shall be elected by direct vote of the people for a term of six years which shall begin at noon on the thirtieth day of June next following the day of the election and shall end at noon of the same date six years thereafter. The President shall not be eligible for any reelection. No person who has succeeded as President and has served as such for more than four years shall be qualified for election to the same office at any time.
>
> No Vice-President shall serve for more than two successive terms. Voluntary renunciation of the office for any length of time shall not be considered as an interruption in the continuity of the service for the full term for which he was elected.
>
> Unless otherwise provided by law, the regular election for President and Vice-President shall be held on the second Monday of May.
>
> The returns of every election for President and Vice-President, duly certified by the board of canvassers of each province or city, shall be transmitted to the Congress, directed to the President of the Senate. Upon receipt of the certificates of canvass, the President of the Senate shall, not later than thirty days after the day of the election, open all the certificates in the presence of the Senate and the House of Representatives in joint public session, and the Congress, upon determination of the authenticity and due execution thereof in the manner provided by law, canvass the votes.
>
> The person having the highest number of votes shall be proclaimed elected, but in case two or more shall have an equal and highest number of votes, one of them shall forthwith be chosen by the vote of a majority of all the Members of both Houses of the Congress, voting separately.
>
> The Congress shall promulgate its rules for the canvassing of the certificates.
>
> The Supreme Court, sitting en banc, shall be the sole judge of all contests relating to the election, returns, and qualifications of the President or Vice-President, and may promulgate its rules for the purpose. (Emphasis, supplied.)

In his separate opinion in Tecson, retired Chief Justice Reynato S. Puno was uncompromising about the jurisdiction of the PET, to wit:

> The word "contest" in the provision means that the jurisdiction of this Court can only be invoked after the election and proclamation of a President or Vice President. There can be no "contest" before a winner is proclaimed.[6] (Emphasis supplied.)

And likewise in a separate opinion in the same case, retired Justice Alicia Austria-Martinez emphasized that -

> The Supreme Court, as a Presidential Electoral Tribunal (PET), the Senate Electoral Tribunal (SET) and House

> of Representatives Electoral Tribunal (HRET) are electoral tribunals, each specifically and exclusively clothed with jurisdiction by the Constitution to act respectively as "sole judge of all contests relating to the election, returns, and qualifications" of the President and Vice-President, Senators, and, Representatives. In a litany of cases, this Court has long recognized that these electoral tribunals exercise jurisdiction over election contests only after a candidate has already been proclaimed winner in an election. Rules 14 and 15 ofthe Rules ofthe Presidential Electoral Tribunal provide that, for President or Vice-President, election protest or quo warranto may be filed after the proclamation of the winner.[7] (Emphasis supplied, citations omitted.)

Section 2(2), Article IX of the 1987 Constitution which expressly vests upon the COMELEC exclusive original jurisdiction and appellate jurisdiction over election "contests" involving local officials is consistent with this doctrine. Election "contests" has a definite meaning under the Constitution, which involve the qualification of proclaimed winning candidates in an election.

On the other hand, Section 2, Article IX(C) of the 1987 Constitution providing that the COMELEC shall have the power to:

> (1) Enforce and administer all laws and regulations relative to the conduct of an election, plebiscite, initiative, referendum, and recall. (Emphasis supplied.)

is sufficient basis to entrust to the COMELEC all issues relative to the qualifications of all "candidates" to run in National or Local Elections. Implementing the aforementioned provision is Batas Pambansa Bilang 881, or the "Omnibus Election Code of the Philippines" (OEC), which provides for the cancellation of a candidate's Certificate of Candidacy on grounds stated in Section 78 thereof. A contrary construction of the Constitution will result in emasculating the Constitutional mandate of the COMELEC to ensure fair, honest and credible elections. The overbroad interpretation of the power of the PET under the Constitution will prohibit the COMELEC from even disqualifying nuisance candidates for President.

Hence, it is beyond cavil that it is the COMELEC, not the PET, which has jurisdiction over the petitions for the cancellation of the COC of petitioner Poe who is still a candidate at this time.

With the foregoing, I cannot but register my strong dissent to the opinion in the Ponencia that "[t]he exclusivity of the ground (that petitioner Poe made in the certificate a false material representation) should hedge in the discretion of the COMELEC and restrain it from going into the issues of the qualifications of the candidate for the position, if, as in this case, such issue is yet undecided or undetermined by the proper authority. The COMELEC cannot itself, in the same cancellation case, decide the qualification of lack thereof of the candidate." This opinion is contrary to the ruling penned by Justice Perez himself in Reyes v. COMELEC.[8]

According to the Ponencia, the COMELEC cannot, in a Section 78- petition, look into the qualification of the candidate (for Representative, Senator, Vice-President and President) simply because per its perusal of the 1987 Constitution, the latter failed to categorically state that the COMELEC was granted the power to look into the qualifications of candidates for President, Vice-President, Senator and Representatives. It is insisted that the specific provisions of the same giving the PET, SET and HRET jurisdiction over the "election, returns, and qualifications" of the President, Vice-President, Senator and Representatives are sure fire evidence that the COMELEC does not have the authority to look into the qualification of said candidates prior to a determination in a prior proceeding by an authority with proper jurisdiction to look in to the same. Simply put, the Ponencia would have the fact of a Presidential, Vice-Presidential, Senatorial or Congressional candidate's qualification established in a prior proceeding that may be by statute, executive order, or judgment by a competent court or tribunal, before her/his COC can be cancelled or denied due course on grounds of false material representations as to her/his qualifications.

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The Ponencia's analysis is utterly incorrect. As shown above, such analysis disregards existing jurisprudence stating that these electoral tribunals exercise jurisdiction over election contests only after a candidate has already been proclaimed winner in an election.

If the Ponencia's analysis is allowed to become the leading jurisprudence on the matter, the Court is as good as amending the OEC by deleting the Section 78 thereof- there can no longer be a petition for denial of due course to or cancellation of COC because the COMELEC has now been disallowed to look into the whether or not a candidate has made a false claim as to her/his material qualifications for the elective office that she/he aspires for. That a Section 78-petition would naturally look into the candidate's qualification is expected of the nature of such petition. As elucidated in Fermin v. COMELEC,[9] to wit:

> After studying the said petition in detail, the Court finds that the same is in the nature of a petition to deny due course to or cancel a CoC under Section 78 of the OEC. The petition contains the essential allegations of a "Section 78" petition, namely: (1) the candidate made a representation in his certificate; (2) the representation pertains to a material matter which would affect the substantive rights of the candidate (the right to run for the election for which he filed his certificate); and (3) the candidate made the false representation with the intention to deceive the electorate as to his qualification for public office or deliberately attempted to mislead, misinform, or hide a fact which would otherwise render him ineligible. It likewise appropriately raises a question on a candidate's eliaibilitv for public office, in this case, his possession of the one-year residency requirement under the law.
>
> Lest it be misunderstood, the denial of due course to or the cancellation of the CoC is not based on the lack of qualifications but on a finding that the candidate made a material representation that is false, which may relate to the qualifications required of the public office he/she is running for. It is noted that the candidate states in his/her CoC that he/she is eligible for the office he/she seeks. Section 78 of the OEC, therefore, is to be read in relation to the constitutional and statutory provisions on qualifications or eligibility for public office. If the candidate subsequently states a material representation in the CoC that is false, the COMELEC, following the law, is empowered to deny due course to or cancel such certificate. Indeed, the Court has already likened a proceeding under Section 78 to a quo warranto proceeding under Section 253 of the OEC since they both deal with the eligibility or qualification of a candidate, with the distinction mainly. in the fact that a "Section 78" petition is filed before proclamation, while a petition for quo warranto is filed after proclamation of the winning candidate.
>
> At this point, we must stress that a "Section 78" petition ought not to be interchanged or confused with a "Section 68" petition. They are different remedies, based on different grounds, and resulting in different eventualities. Private respondent's insistence, therefore, that the petition it filed before the COMELEC in SPA No. 07-372 is in the nature of a disqualification case under Section 68, as it is in fact captioned a "Petition for Disqualification," does not persuade the Court.

But the Ponencia misconstrues the above clear import of Fermin. It uses the latter case as its authority to push its erroneous view that the COMELEC has no jurisdiction or power to look into the eligibility of candidates in the absence of a specific law to that effect.

Further, with all due respect to the Ponente, I submit that his position that it is only the PET/SETIHRET that has jurisdiction over the qualifications of candidates for President, Vice-President, Senator, or Representative runs counter to this Court's pronouncement in its Resolution in G.R. No. 20724, Reyes v. Commission on Elections and Joseph Socorro B. Tan[10], of which he was also the Ponente, that -

> Contrary to petitioner's claim, however, the COMELEC retains jurisdiction for the following reasons:
>
> First, the HRET does not acquire jurisdiction over the issue of petitioner's qualifications, as well as over the assailed COMELEC Resolutions, unless a petition is duly filed with said tribunaL Petitioner has not averred

> that she has filed such action.
>
> Second, the jurisdiction of the HRET begins only after the candidate is considered a Member of the House of Representatives, as stated in Section 17, Article VI of the 1987 Constitution:
> Section 17. The Senate and the House of Representatives shall each have an Electoral Tribunal which shall be the sole judge of all contests relating to the election, returns, and qualifications of their respective Members x x x.

As held in Marcos v. COMELEC, the HRET does not have jurisdiction over a candidate who is not a member of the House of Representatives, to wit:

> As to the House of Representatives Electoral -Tribunal's supposed assumption of jurisdiction over the issue of petitioner's qualifications after the May 8, 1995 elections, suffice it to say that HRET's jurisdiction as the sole judge of all contests relating to the elections, returns and qualifications of members of Congress begins only after a candidate has become a member of the House of Representatives. Petitioner not being a member of the House of Representatives, it is obvious that the HRET at this point has no jurisdiction over the question. (Emphasis supplied.)

And, interestingly, it was held that -

> As to the issue of whether petitioner failed to prove her Filipino citizenship, as well as her one-year residency in Marinduque, suffice it to say that the COMELEC committed no grave abuse of discretion in finding her ineligible for the position of Member of the House of Representatives.

With the indulgence of my colleagues, to emphasize the incongruity of the position taken by the majority in this case led by the Ponente, allow me to quote verbatim the relevant facts and findings of the Court in Reyes as written by the Ponente of this case, to wit:

> Let us look into the events that led to this petition: In moving for the cancellation of petitioner's COC, respondent submitted records of the Bureau of Immigration showing that petitioner is a holder of a US passport, and that her status is that of a "balikbayan." At this point, the burden of proof shifted to petitioner, imposing upon her the duty to prove that she is a natural-born Filipino citizen and has not lost the same, or that she has re-acquired such status in accordance with the provisions of R.A. No. 9225. Aside from the bare allegation that she is a natural-born citizen, however, petitioner submitted no proof to support such contention. Neither did she submit any proof as to the inapplicability ofR.A. No. 9225 to her.
>
> x x x x
>
> These circumstances, taken together, show that a doubt was clearly cast on petitioner's citizenship. Petitioner, however, failed to clear such doubt.
>
> x x x x
>
> All in all, considering that the petition for denial and cancellation of the COC is summary in nature, the COMELEC is given much discretion in the evaluation and admission of evidence pursuant to its principal objective of determining of whether or not the COC should be cancelled x x x.
>
> Here, this Court finds that petitioner failed to adequately and substantially show that grave abuse of discretion exists.

With the above, I am at a loss how the Court, through the majority, could rule the way it did in this case when not so long ago it took the opposite position and dismissed the petition of Reyes.

Section 8, Rule 23 of the COMELEC Rules of Procedure, as amended, which reads:

> SEC. 8. Effect if Petition Unresolved. - If a Petition to Deny Due Course to or Cancel a Certificate of Candidacy is unresolved by final judgment on the day of elections, the petitioner may file a motion with the Division or Commission En Banc, as may be applicable, to suspend the proclamation of the candidate concerned, provided that the evidence for the grounds for denial to or cancel certificate of candidacy is strong. For this purpose, at least three (3) days prior to any election, the Clerk of the Commission shall prepare a list of pending cases and furnish all Commissioners copies of the said list.
>
> A Decision or Resolution is deemed final and executory if, in case of a Division ruling, no motion for reconsideration is filed within the reglementary period, or in cases of rulings of the Commission En Banc, no restraining order is issued by the Supreme Court within five (5) days from receipt of the decision or resolution. (Emphasis supplied.)

does not violate Section 7, Article IX-A of the 1987 Constitution, which states that -

> SEC. 7. Each Commission shall decide by a majority vote of all its Members any case or matter brought before it within sixty days from the date of its submission for decision or resolution. A case or matter is deemed submitted for decision or resolution upon the filing of the last pleading, brief, or memorandum required by the rules of the Commission or by the Commission itself. Unless otherwise provided by this Constitution or by law, any decision, order, or ruling of each Commission may be brought to the Supreme Court on certiorari by the aggrieved party within thirty days from receipt of a copy thereof. (Emphasis supplied.)

Section 8, Rule 23 of the COMELEC Rules is a valid exercise of the rule- making powers of the COMELEC notwithstanding Section 7, Article IX of the 1987 Constitution. The condition "[u]nless otherwise provided by this Constitution or by law" that is mentioned in the latter provision gives the COMELEC the flexibility to fix a shorter period for the finality of its decision and its immediate execution in consonance with the necessity to speedily dispose of election cases, but without prejudice to the continuation of the review proceedings before this Court. Certainly, this is not inconsistent with Commission's constitutional mandate to promulgate its own rules of procedure to expedite the dispositions of election cases, viz.:

> ARTICLE IX
> CONSTITUTIONAL COMMISSION
> C. THE COMMISSION ON ELECTIONS
> SEC. 3. The Commission on Elections may sit en banc or in two divisions, and shall promulgate its rules of procedure in order to expedite disposition of election cases, including pre-proclamation controversies. All such election cases shall be heard and decided in division, provided that motions for reconsideration of decisions shall be decided by the Commission en banc.

The Substantive Issues

The issue is whether or not the COMELEC En banc acted with grave abuse of discretion amounting to lack or excess of jurisdiction when it cancelled the COC for Presidency of Petitioner Poe on the substantive grounds of lack of citizenship and residency qualifications.

I hold that it did not.

Ground for Petition for
Cancellation of COC under
Section 78 of the OEC

Section 78 of the OEC provides that -

> SECTION 78. Petition to deny due course to or cancel a certificate of candidacy. - A verified petition seeking to deny .due course or to cancel a certificate of candidacy may be filed by the person exclusively on the ground that any material representation contained therein as required under Section 74 hereof is false. The petition

> may be filed at any time not later than twenty-five days from the time of the filing of the certificate of candidacy and shall be decided, after due notice and hearing, not later than fifteen days before the election. (Emphasis supplied.)

In relation thereto, Section 74 also of the OEC requires:

> SECTION 74. Contents of certificate of candidacy. - The certificate of candidacy shall state that the person filing it is announcing his candidacy for the office stated therein and that he is eligible for said office; if for Member of the Batasang Pambansa, the province, including its component cities, highly urbanized city or district or sector which he seeks to represent; the political party to which he belongs; civil status; his date of birth; residence; his post office address for all election purposes; his profession or occupation; that he will support and defend the Constitution of the Philippines and will maintain true faith and allegiance thereto; that he will obey the laws, legal orders, and decrees promulgated by the duly constituted authorities; that he is not a permanent resident or immigrant to a foreign country; that the obligation imposed by his oath is assumed voluntarily, without mental reservation or purpose of evasion; and that the facts stated in the certificate of candidacy are true to the best of his knowledge.
>
> Unless a candidate has officially changed his name through a court approved proceeding, a certificate shall use in a certificate of candidacy the name by which he has been baptized, or if has not been baptized in any church or religion, the name registered in the office of the local civil registrar or any other name allowed under the provisions of existing law or, in the case of a Muslim, his Hadji name after performing the prescribed religious pilgrimage: Provided, That when there are two or more candidates for an office with the same name and surname, each candidate, upon being made aware of such fact, shall state his paternal and maternal surname, except the incumbent who may continue to use the name and surname stated in his certificate of candidacy when he was elected. He may also include one nickname or stage name by which he is generally or popularly known in the locality.
>
> The person filing a certificate of candidacy shall also affix his latest photograph, passport size; a statement in duplicate containing his bio-data and program of government not exceeding one hundred words, if he so desires.

In her 2016 COC for President, much like in her 2013 COC for

Senator, petitioner Poe made the following verified representations, viz.:

> - PERIOD OF RESIDENCE IN THE PHILIPPINES UP TO THE DAY BEFORE MAY 09, 2016:
>
> 10 No. of Years 11 No. of Months
>
> - I AM A NATURAL-BORN FILIPINO CITIZEN.
>
> x x x x
>
> - I AM ELIGIBLE FOR THE OFFICE I SEEK TO BE ELECTED TO.[11]

Materiality of the Representation

With respect to the issue of materiality of the representation, as above discussed, Mitra has settled that "critical material facts are those that refer to a candidate's qualifications for elective office, such as his or her citizenship and residence"; thus, the materiality of the representations on citizenship, residence and/or eligibility is no longer in issue.

Falsity of the Representation

But the truthfulness of the material representation remains an issue to be resolved.

Citizenship Requirement

In the present case, I submit that petitioner Poe's representation that she is a natural-born Filipino citizen, hence, eligible to run for and hold the position of President, is false. My position is anchored on the following reasons:

Under the Constitution, natural-born Filipino citizenship is based on blood relationship to a Filipino father or mother following the "jus sanguinis" principle

Petitioner Poe being a foundling, does not come within the purview of this constitutionally ordained principle.

During the effectivity of the Spanish Civil Code in the Philippines on December 8, 1889, the doctrines of jus soli and jus sanguinis were adopted as the principles of attribution of nationality at birth.[12]

Upon approval of the Tydings-McDuffie Act (Public Act No. 127), a Constitutional Convention was organized in 1934. The Constitution proposed for adoption by the said Convention was ratified by the Philippine electorate in 1935 after its approval by the President of the United States.[13]

It was in the 1935 Constitution that the Philippines adopted the doctrine of jus sanguinis, literally translated to right by blood, or the acquisition of citizenship by birth to parents who are citizens of the Philippines. The doctrine of jus sanguinis considers blood relationship to one's parents as a sounder guarantee of loyalty to the country than the doctrine of jus soli, or the attainment of a citizenship by the place of one's birth.[14] The case of Tecson v. Commission on Elections traced the history, significance, and evolution of the doctrine of jus sanguinis in our jurisdiction as follows:

> While there was, at one brief time, divergent views on whether or not jus soli was a mode of acquiring citizenship, the 1935 Constitution brought to an end to any such link with common law, by adopting, once and for all, jus sanguinis or blood relationship as being the basis of Filipino citizenship —"Section 1, Article III, 1935 Constitution. The following are citizens of the Philippines -
>
> (1) Those who are citizens of the Philippine Islands at the time of the adoption of this Constitution
>
> (2) Those born in the Philippine Islands of foreign parents who, before the adoption of this Constitution, had been elected to public office in the Philippine Islands.
>
> (3) Those whose fathers [or mothers] are citizens ofthe Philippines.
>
> (4) Those whose mothers are citizens of the Philippines and upon reaching the age of majority, elect Philippine citizenship.
>
> (5) Those who are naturalized in accordance with law."

Subsection (4), Article III, of the 1935 Constitution, taken together with existing civil law provisions at the time, which provided that women would automatically lose their Filipino citizenship and acquire that of their foreign husbands, resulted in discriminatory situations that effectively incapacitated the women from transmitting their Filipino citizenship to their legitimate children and required illegitimate children of Filipino mothers to still elect Filipino citizenship upon reaching the age of majority. Seeking to correct this anomaly, as well as fully cognizant of the newly found status of Filipino women as equals to men, the framers of the 1973 Constitution crafted the provisions of the new Constitution on citizenship to reflect such concerns -

> "Section 1, Article III, 1973 Constitution - The following are citizens of the Philippines:
>
> (1) Those who are citizens of the Philippines at the time of the adoption of this Constitution.

> (2) Those whose fathers or mothers are citizens of the Philippines.
>
> (3) Those who elect Philippine citizenship pursuant to the provisions of the Constitution of nineteen hundred and thirty-five.
>
> (4) Those who are naturalized m accordance with law."

For good measure, Section 2 of the same article also further provided that -

> "A female citizen of the Philippines who marries an alien retains her Philippine citizenship, unless by her act or omission she is deemed, under the law to have renounced her citizenship."

The 1987 Constitution generally adopted the provlSlons of the 1973 Constitution, except for subsection (3) thereof that aimed to correct the irregular situation generated by the questionable proviso in the 1935 Constitution.

> "Section 1, Article IV, 1987 Constitution now provides:
>
> The following are citizens of the Philippines:
>
> (1) Those who are citizens of the Philippines at the time of the adoption ofthis Constitution.
>
> (2) Those whose fathers or mothers are citizens ofthe Philippines.
>
> (3) Those born before January 17, 1973 of Filipino mothers, who elect Philippine citizenship upon reaching the age of majority; and
>
> (4) Those who are naturalized m accordance with law."

The Case Of FPJ

Section 2, Article VII, of the 1987 Constitution expresses:

> No person may be elected President unless he is a natural-born citizen of the Philippines, a registered voter, able to read and write, at least forty years of age on the day of the election, and a resident of the Philippines for at least ten years immediately preceding such election.

The term "natural-born citizens," is defined to include 'those who are citizens of the Philippines from birth without having to perform any act to acquire or perfect their Philippine citizenship.'

The date, month and year of birth of FPJ appeared to be 20 August 1939 during the regime of the 1935 Constitution. Through its history, four modes of acquiring citizenship -naturalization, jus soli, res judicata and jus sanguinis had been in vogue. Only two, i.e., jus soli and jus sanguinis, could qualify a person to being a "natural-born" citizen of the Philippines. Jus soli, per Roa vs. Collector of Customs (1912), did not last long. With the adoption of the 1935 Constitution and the reversal of Roa in Tan Chong vs. Secretary of Labor (1947), jus sanguinis or blood relationship would now become the primary basis of citizenship bybirth.[15] (Emphasis supplied.)

The changes in the provisions on citizenship was done to harmonize the Article on Citizenship with the State policy of ensuring the fundamental equality before the law of women and men under Section 14, Article II of the 1987 Constitution.

Thus, contrary to the insistence of petitioner Poe that there is nothing in our Constitutions that enjoin our adherence to the principle of "jus sanguinis" or "by right of blood," said principle is, in reality, well- entrenched in our constitutional system. One needs only to read the 1935, 1973 and 1987 Constitutions and the jurisprudence detailing the history of the well deliberated adoption of the jus sanguinis principle as the basis for natural-born

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Filipino citizenship, to understand that its significance cannot be lightly ignored, misconstrued, and trivialized.

Natural-born Citizenship by Legal Fiction or Presumption of Law is Contrary to the Constitution under Salient Rules of Interpretation of the Constitution

In this case, petitioner Poe's original birth certificate stated that she was a foundling, or a child of unknown father or mother, found in Jaro, Iloilo, on September 3, 1968. The Constitution in effect then was the 1935 Constitution. To reiterate, it enumerated the "citizens of the Philippines" in Section 1, Article IV, which included the following:

> (3) Those whose fathers are citizens of the Philippines.
>
> (4) Those whose mothers are citizens of the Philippines and, upon reaching the age of majority, elect Philippine citizenship.

Petitioner Poe would want this Court to look beyond the above-quoted enumeration and apply the disputable or rebuttable presumption brought about by the principles of international law and/or customary international law. However, the above-quoted paragraphs (3) and (4) of Article IV are clear, unequivocal and leave no room for any exception.

Rule of Verba Legis

Basic in statutory construction is the principle that when words and phrases of a statute are clear and unequivocal, their meaning must be determined from the language employed and the statute must be taken to mean exactly what it says. This plain-meaning or verba legis rule, expressed in the Latin maxim "verba legis non est recedendum," dictates that "from the words of a statute there should be no departure."[16]

Undeniably, petitioner Poe does not come within the scope of Filipino citizens covered by paragraphs (3) and (4). From a literal meaning of the said provisions, she cannot be considered a natural-born citizen. Paragraphs 3 and 4, Section 1, Article IV of the 1935 Constitution, the organic law in effect during the birth of petitioner Poe, were clear and unambiguous, it did not provide for any exception to the application of the principle of "jus sanguinis" or blood relationship between parents and child, such that natural-born citizenship cannot be presumed by law nor even be legislated by Congress where no blood ties exist.

Function of Extrinsic Aid Such as the Deliberations of the 1934 Constitutional Convention

Petitioner Poe claims that "foundlings" were intended by the delegates of the 1934 Constitutional Commission to be considered natural-born citizens. Specifically, she maintains that during the debates on this provision, Delegate Rafols proposed an amendment to include foundlings as among those who are to be considered natural-born citizens; that the only reason that there was no specific reference to foundlings in the 1935 Philippine Constitution was because a delegate mentioned that foundlings were too few to warrant inclusion in a provision of the Constitution and their citizenship is dealt with by international law.

The above inference or conclusion drawn from the debates adverted to is not accurate.

Firstly, the deliberations did not evince the collective intent of the members of the 1934 Constitutional Convention to include "foundlings" in the list of Filipino citizens in the Article on Citizenship. Moreover, there was no mention at all of granting them natural-born citizenship.

A review of the transcript of the deliberations of the 1934 Constitutional Convention actually proved prejudicial to petitioner Poe's cause. The suggestion of Delegate Rafols to include in the list of Filipino citizens children of unknown parentage was voted down by the delegates when the amendment and/or suggestion was put to a vote. In other words, the majority thereof voted not to approve Delegate Rafol's amendment.

Secondly. Petitioner Poe's use of the deliberations of the 1934 Constitutional Convention to expand or amend the provision of the Constitution is unwarranted.

The Constitution is the basis of government. It is established by the people, in their original sovereign capacity, to promote their own happiness, and permanently to secure their rights, property, independence, and common welfare. When the people associate, and enter into a compact, for the purpose of establishing government, that compact, whatever may be its provisions, or in whatever language it may be written, is the Constitution of the state, revocable only by people, or in the manner they prescribe. It is by this instrument that government is instituted, its departments created, and the powers to be exercised by it conferred.[17]

Thus, in the construction of the Constitution, the Court is guided by the principle that it (constitution) is the fundamental and paramount law of the nation, and it is supreme, imperious, absolute, and unalterable except by the authority from which it emanates.[18]

In Civil Liberties Union v. Executive Secretary,[19] this Court enunciated that -

> While it is permissible in this jurisdiction to consult the debates and proceedings of the constitutional convention in order to arrive at the reason and purpose of the resulting Constitution, resort thereto may be had only when other guides fail as said proceedings are powerless to vary the terms of the Constitution when the meaning is clear. Debates in the constitutional convention "are of value as showing the views of the individual members, and as indicating the reasons for their votes, but they give us no light as to the views of the large majority who did not talk, much less of the mass of our fellow citizens whose votes at the polls gave that instrument the force of fundamental law. We think it safer to construe the constitution from what appears upon its face." The proper interpretation therefore depends more on how it was understood by the people adopting it than in the framer's understanding thereof. (Emphases supplied, citations omitted.)

And as eloquently observed by Charles P. Curtis, Jr.-

The intention of the framers of the Constitution, even assuming we could discover what it was, when it is not adequately expressed in the Constitution, that is to say, what they meant when they did not say it, surely that has no binding force upon us. If we look behind or beyond what they set down in the document, prying into what else they wrote and what they said, anything we may find is only advisory. They may sit in at our councils. There is no reason why we should eavesdrop on theirs.[20]

Synthesized from the aforequoted, it is apparent that debates and proceedings of constitutional conventions lack binding force. Hence

> If at all, they only have persuasive value as they may throw a useful light upon the purpose sought to be accomplished or upon the meaning attached to the words employed, or they may not. And the courts are at liberty to avail themselves of any light derivable from such sources, but are not bound to adopt it as the sole ground of their decision.[21]

Moreover, while the opinions of the members of the constitutional convention on the article on citizenship of the 1935 Philippine Constitution may have a persuasive value, it is, to repeat, not expressive of the people's intent. To recap:

> The proceedings of the Convention are less conclusive on the proper construction of the fundamental law than

> are legislative proceedings of the proper construction of a statute, for in the latter case it is the intent of the legislature the courts seek, while in the former, courts seek to arrive at the intent of the people through the discussions and deliberations of their representatives. The conventional wisdom is that the Constitution does not derive its force from the convention which framed it, but from the people who ratified it, the intent to be arrived at is that of the people.[22]

In the present case, given that the language of the third and fourth paragraphs of the article on citizenship of the 1935 Philippine Constitution clearly follow only the doctrine of jus sanguinis, it is, therefore, neither necessary nor permissible to resort to extrinsic aids, like the records of the constitutional convention. A foundling, whose parentage and/or place of birth is obviously unknown, does not come within the letter or scope of the said paragraphs of the Constitution. Considering the silence of the Constitution on foundlings, the people who approved the Constitution in the plebiscite had absolutely no idea about the debate on the citizenship of foundlings and therefore, they could not be bound by it.

Rule that Specific Provisions of
Law Prevails Over General
Provisions

The specific provision of Article IV of the Constitution prevails over the general provisions of Section 21, Article III of the Constitution. General international law principles cannot overturn specifically ordained principles in the Constitution.

Section 2, Article II of the 1987 Constitution provides:

> SECTION 2. The Philippines renounces war as an instrument of national policy, adopts the generally accepted principles of international law as part of the law of the land and adheres to the policy of peace, equality, justice, freedom, cooperation, and amity with all nations. (Emphasis supplied.)

Generally accepted principles of international law "may refer to rules of customary law, to general principles of law x x x, or to logical propositions resulting from judicial reasoning on the basis of existing international law and municipal analogies."[23] And it has been observed that, certainly, it is this judicial reasoning that has been the anchor of Philippine jurisprudence on the determination of generally accepted principles of international law and consequent application of the incorporation clause.[24]

Petitioner Poe would like to apply to her situation several international law conventions that supposedly point to her entitlement to a natural-born Filipino citizenship, notwithstanding her lack of biological ties to a Filipino father or mother. In effect, she wants to carve an exception to the "jus sanguinis" principle through that generally accepted principles of international law which, under the theory of incorporation, is considered by the Constitution as part of the law of the land.[25]

Basic is the principle in statutory construction that specific provisions must prevail over general ones, to wit:

> A special and specific provision prevails over a general provision irrespective of their relative positions in the statute. Generalia specialibus non derogant. Where there is in the same statute a particular enactment and also a general one which in its most comprehensive sense would include what is embraced in the former, the particular enactment must be operative, and the general enactment must be taken to affect only such cases within its general language as are not within the provisions of the particular enactment.

Hence, the general provision of Section 2, Article II of the Constitution on "Declaration of Principles and State Policies" cannot supersede, amend or supplement the clear provisions of Article IV on "Citizenship."

International Law Instruments/

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Conventions are not self-executing

Petitioner Poe cannot find succor in the provisions of the 1930 Hague Convention on Certain Questions Relating to the Conflict of Nationality Laws and the 1961 Convention on the Reduction of Statelessness, in claiming natural-born Filipino citizenship primarily for the following reasons: firstly, the Philippines has not ratified said International Conventions; secondly, they espouse a presumption by fiction of law which is disputable and not based on the physical fact of biological ties to a Filipino parent; thirdly, said conventions are not self-executing as the Contracting State is granted the discretion to determine by enacting a domestic or national law the conditions and manner by which citizenship is to be granted; and fourthly, the citizenship, if acquired by virtue of such conventions will be akin to a citizenship falling under Section 1(4), Article IV of the 1987 Constitution, recognizing citizenship by naturalization in accordance with law or by a special act of Congress.

The cited international conventions are as follows:

> (a) 1930 Hague Convention on Certain Questions Relating to the Conflict ofNationality Laws;
>
> (b) 1961 Convention on the Reduction of Statelessness; (c) 1989 UN Convention on the Rights of the Child;
>
> (d) 1966 International Covenant on Civil and Political Rights; and
>
> (e) 1947 UN Declaration on Human Rights

Notice must be made of the fact that the treaties, conventions, covenants, or declarations invoked by petitioner Poe are not self-executing, i.e., the international instruments invoked must comply with the "transformation method" whereby "an international law [must first] be transformed into a domestic law through a constitutional mechanism such as locallegislation."[26]

Each of the aforementioned recognizes the need for its respective provisions to be transformed or embodied through an enactment of Congress before it forms part of the domestic or municipal law, viz.:

(a) The 1930 Hague Convention on Certain Questions Relating to the Conflict of Nationality Laws, which provides:

> Article 14.
>
> A child whose parents are both unknown shall have the nationality of the country of birth. If the child's parentage is established, its nationality shall be determined by the rules applicable in cases where the parentage is known.
>
> A foundling is, until the contrary is proved, presumed to have been born on the territory of the State in which it was found.
>
> Article 15.
>
> Where the nationality of a State is not acquired automatically by reason of birth on its territory, a child born on the territory of that State of parents having no nationality, or of unknown nationality, may obtain the nationality of the said State. The law of that State shall determine the conditions governing the acquisition of its nationality in such cases.

(b) The 1961 Convention on the Reduction of Statelessness, provides:

> Article 1
>
> 1. A Contracting State shall grant its nationality to a person born in its territory who would otherwise be stateless. Such nationality shall be granted:

(a) At birth, by operation of law, or

(b) Upon an application being lodged with the appropriate authority, by or on behalf of the person concerned, in the manner prescribed by the national law. Subject to the provisions of paragraph 2 of this article, no such application may be rejected.

A Contracting State which provides for the grant of its nationality in accordance with subparagraph (b) of this paragraph may also provide for the grant of its nationality by operation of law at such age and subject to such conditions as may be prescribed by the national law.

xxxx

Article 2

A foundling found in the territory of a Contracting State shall, in the absence of proof to the contrary, be considered to have been born within that territory of parents possessing the nationality of that State.

Conspicuously, the Philippines has neither acceded nor ratified any of the above conventions.

The other international instruments to which the Philippines has acceded, require initially conversion to domestic law via the transformation method of implementing international instruments. They are:

(a) The 1989 UN Convention on the Rights ofthe Child, ratified by the Philippines on August 21, 1990, providing that:

Article 7

1. The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and as far as possible, the right to know and be cared for by his or her parents.

2. States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless.

(b) The 1966 International Covenant on Civil and Political Rights, which the Philippines ratified on October 23, 1986 providing that:

Article 24

1. Every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State.

2. Every child shall be registered immediately after birth and shall have a name.

3. Every child has the right to acquire a nationality.

(c) The 1947 Universal Declaration on Human Rights.

Article 15

(1) Everyone has the right to a nationality.

(2) No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

The foregoing international conventions or instruments, reqmrmg implementing national laws to comply with their terms, adhere to the concept of statehood and sovereignty of the State, which are inviolable principles

observed in the community of independent States. The primary objective of said conventions or instruments is to avoid statelessness without impairing State sovereignty. Hence, the Contracting State has the discretion to determine the conditions and manner by which the nationality or citizenship of a stateless person, like a foundling, may be acquired. Neither do they impose a particular type of citizenship or nationality. The child of unknown parentage may acquire the status of a mere "national." Nowhere in the identified international rules or principles is there an obligation to accord the stateless child a citizenship that is of a "natural-born" character. Moreover, even if it so provided, it cannot be enforced in our jurisdiction because it would go against the provisions of the Constitution.

Statutes and Treaties or
International Agreements or
Conventions are accorded the
Same Status in Relation to
the Constitution

In case of conflict between the Constitution and a statute, the former always prevails because the Constitution is the basic law to which all other laws, whether domestic or international, must conform to. The duty of the Court under Section 4(2), Article VIII is to uphold the Constitution and to declare void all laws, and by express provisions of said Section treaties or international agreements that do not conform to it.[27] In a catena of cases, the Supreme ourt further instructed that:

> In Social Justice Society v. Dangerous Drugs Board, the Court held that, "It is basic that if a law or an administrative rule violates any norm of the Constitution, that issuance is null and void and has no effect. The Constitution is the basic law to which all laws must conform; no act shall be valid if it conflicts with the Constitution." In Sabia v. Gordon, the Court held that, "the Constitution is the highest law of the land. It is the 'basic and paramount law to which all other laws must conform." In Atty. Macalintal v. Commission on Elections, the Court held that, "The Constitution is the fundamental and paramount law of the nation to which all other laws must conform and in accordance with which all private rights must be determined and all public authority administered. Laws that do not conform to the Constitution shall be stricken down for being unconstitutional." In Manila Prince Hotel v. Government Service Insurance System, the Court held that:
> Under the doctrine of constitutional supremacy, if a law or contract violates any norm of the constitution that law or contract whether promulgated by the legislative or by the executive branch or entered into by private persons for private purposes is null and void and without any force and effect. Thus, since the Constitution is the fundamental, paramount and supreme law of the nation, it is deemed written in every statute and contract.[28] (Emphases supplied; citations omitted.)

Citizenship by "Naturalization"
under International Law

Citizenship is not automatically conferred under the international conventions cited but will entail an affirmative action of the State, by a national law or legislative enactment, so that the nature of citizenship, if ever acquired pursuant thereto, is citizenship by naturalization. There must be a law by which citizenship can be acquired by a foundling. By no means will this citizenship can be considered that of a natural-born under the principle of jus sanguinis, which is based on the physical existence of blood ties to a Filipino father or Filipino mother. It will be akin to citizenship by naturalization if conferred by fiction created by an international convention, which is of legal status equal to a statute or law enacted by Congress.

Probabilities/Possibilities Based on Statistics

The Solicitor General argues for Petitioner Poe citing the ratio of children born in the Philippines of Filipino

parents to children born in the Philippines of foreign parents during specific periods. He claims that based on statistics, the statistical probability that any child born in the Philippines would be a natural-born Filipino is either 99.93% or 99.83%, respectively, during the period between 2010 to 2014 and 1965 to 1975. This argument, to say the least, is fallacious.

Firstly, we are determining blood ties between a child and her/his parents. Statistics have never been used to prove paternity or filiation. With more reason, it should not be used to determine natural-born citizenship, as a qualification to hold public office, which is of paramount importance to national interest. The issue here is the biological ties between a specific or named foundling and her parents, which must be supported by credible and competent evidence. We are not dealing with the entire population of our country that will justify a generalized approach that fails to take into account that the circumstances under which a foundling is found may vary in each case.

Secondly, the place of birth of the foundling is unknown but the argument is based on the wrong premise that a foundling was born in the place where he/she was found. The age of the foundling may indicate if its place of birth is the place where he or she is found. If the foundling is a newly born baby, the assumption may have solid basis. But this may not always be the case. It does not appear from the documents on record that petitioner Poe was a newborn baby when she was found. There is no evidence as to her place of birth. The Solicitor General cannot, therefore, use his statistics of the number of children born to Filipino parents and to alien parents in the Philippines since the places of birth of foundlings are unknown.

Natural-born citizenship, as a qualification for public office, must be an established fact in view of the jus sanguinis principle enshrined in the Constitution, which should not be subjected to uncertainty nor be based in statistical probabilities. A disputable presumption can be overcome anytime by evidence to the contrary during the tenure of an elective official. Resort to this interpretation has a great potential to prejudice the electorate who may vote a candidate in danger of being disqualified in the future and to cause instability in public service.

A Foundling does not Meet the
Definition of a Natural-born
Filipino Citizen under Section 2,
Article IV of the 1987 Constitution

Other than those whose fathers or mothers are Filipinos, Section 2, Article IV of the Constitution further defines "natural-born citizens" to cover "those who are citizens of the Philippines from birth without having to perform an act to acquire or perfect their Philippine citizenship."

A foundling is one who must first go through a legal process to obtain an official or formal declaration proclaiming him/her to be a foundling in order to be granted certain rights reserved to Filipino citizens. This will somehow prevent opening the floodgates to the danger foreseen by Justice del Castillo that non-Filipinos may misuse a favorable ruling on foundlings to the detriment of national interest and security. Stated otherwise, the fact of being a foundling must first be officially established before a foundling can claim the rights of a Filipino citizen. This being the case, a foundling does not meet the above-quoted definition of a natural-born citizen who is such "from birth".

To illustrate, Republic Act Nos. 8552 and 9523, provide, respectively:

Section 5 of Republic Act No. 8552

> SECTION 5. Location of Unknown Parent(s). -It shall be the duty of the Department or the child-placing or child-caring agency which has custody of the child to exert all efforts to locate his/her unknown biological

> parent(s). If such efforts fail, the child shall be registered as a foundling and subsequently be the subject of legal proceedings where he/she shall be declared abandoned.

Section 2 of Republic Act No. 9523:

> SECTION 2. Definition of Terms. - As used in this Act, the following terms shall mean:
>
> x x x x
>
> (3) Abandoned Child refers to a child who has no proper parental care or guardianship, or whose parent(s) have deserted him/her for a period of at least three (3) continuous months, which includes a foundling.
>
> x x x x
>
> SECTION 4. Procedure for the Filing of the Petition. - The petition shall be filed in the regional office of the DSWD where the child was found or abandoned.
>
> The Regional Director shall examine the petition and its supporting documents, if sufficient in form and substance and shall authorize the posting of the notice of the petition in conspicuous places for five (5) consecutive days in the locality where the child was found.
>
> The Regional Director shall act on the same and shall render a recommendation not later than five (5) working days after the completion of its posting. He/she shall transmit a copy of his/her recommendation and records to the Office of the Secretary within forty-eight (48) hours from the date of the recommendation.
>
> SECTION 5. Declaration of Availability for Adoption. -Upon finding merit in the petition, the Secretary shall issue a certification declaring the child legally available for adoption within seven (7) working days from receipt of the recommendation.
>
> Said certification, by itself, shall be the sole basis for the immediate issuance by the local civil registrar of a foundling certificate. Within seven (7) working days, the local civil registrar shall transmit the foundling certificate to the National Statistics Office (NSO).
>
> SECTION 8. -The certification that a child is legally available for adoption shall be issued by the DSWD in lieu of a judicial order, thus, making the entire process administrative in nature.
>
> The certification, shall be, for all intents and purposes, the primary evidence that the child is legally available in domestic adoption proceeding, as provided in Republic Act No. 8552 and in an inter-country adoption proceeding, as provided in Republic Act No. 8043.

The above laws, though pertaining to adoption of a Filipino child, clearly demonstrate that a foundling first undergoes a legal process to be considered as one before he/she is accorded rights to be adopted available only to Filipino citizens. When the foundling is a minor, it is the State under the concept of "parens patriae" which acts for or on behalf of the minor, but when the latter reaches majority age, she/he must, by herself/himself, take the necessary step to be officially recognized as a foundling. Prior to this, the error of out-rightly invoking the "disputable presumption" of alleged "natural-born citizenship" is evident as there can be no presumption of citizenship before there is an official determination of the fact that a child or person is a foundling. It is only after this factual premise is established that the inference or presumption can arise.[29]

That being so, a foundling will not come within the definition of a natural-born citizen who by birth right, being the biological child of a Filipino father or mother, does not need to perform any act to acquire or perfect his/her citizenship.

It should also be emphasized that our adoption laws do not confer "natural-born citizenship" to foundlings who are allowed to be adopted. To read that qualification into the adoption laws would amount to judicial legislation.

The said laws of limited application which allows the adoption of a foundling, cannot also be used as a basis to justify the natural-born citizenship of a foundling who has reached majority age like petitioner Poe who applied to reacquire her citizenship under R.A. No. 9225. The opinion of the seven (7) Justices if pursued, there will be no need for a foundling to misrepresent himself or herself as a biological child of her adoptive parents like what petitioner Poe did, and instead, a foundling can be truthful and just submit a Foundling Certificate to be entitled to the benefits of R.A. No. 9225. Since from their point of view a foundling need not perform any act to be considered a natural-born citizen, said foundling need not prove the veracity of the Foundling Certificate. This will include a Foundling Certificate in the Bureau of Immigration (BI) prepared list of evidence of natural-born citizenship. This is pure and simple judicial legislation. Foundlings are not even mentioned at all in R.A. No. 9225.

Pursuing this logic further, will one who wish to take the Bar Examinations or to be appointed to the Judiciary need to submit only a Foundling Certificate to the Supreme Court and the Judicial Bar Council to prove his/her qualification as a natural-born citizen? The same question can be raised in other situations where natural-born citizenship is required, not only by law, but most especially by the Constitution. Do the seven (7) Justices intend that the question be answered in the affirmative? If so, my humble submission is that, apart from violating the Constitution, it will be a reckless position to take as a Foundling Certificate should not automatically confer natural-born citizenship as it can easily be obtained by impostors who pretend to have found a child of unknown parents.

The July 18, 2006 Order of the
Bureau of Immigration approving
petitioner Poe's application for
dual citizenship was not valid.

First, petitioner Poe's claim to a dual citizenship by virtue of R.A. No. 9225 is invalid for the simple reason that the said law limits its application to natural-born Filipino citizens only. In other words, the right to avail of dual citizenship is only available to natural-born citizens who have earlier lost their Philippine citizenship by reason of acquisition of foreign citizenship. Second, petitioner Poe obtained dual citizenship under Republic Act No. 9225 by misrepresenting to the BI that she is the biological child of a Filipino father and Filipino mother such that the Bureau was misled in to believing that "[petitioner Poe] was a former citizen of the Republic of the Philippines being born to Filipino parents. Third, the said order was not signed by the Commissioner of the BI as required by implementing regulations. And her re-acquisition of Philippine citizenship being clearly invalid, petitioner Poe's acceptance and assumption to public office requiring natural-born citizenship as condition sine qua non is likewise invalid.

Republic Act No. 9225 (the Citizenship Retention and Reacquisition Act of 2003)[30] governs the reacquisition or retention of Philippine citizenship by a natural-born Filipino who acquired citizenship in a foreign country. Under Section 3 thereof, natural-born citizens of the Philippines who have lost their Philippine citizenship by reason of their naturalization as citizens of a foreign country are deemed to have re-acquired Philippine citizenship upon taking the oath of allegiance to the Republic of the Philippines specifically stated therein.[31] The foregoing point is reiterated under the Bureau of Immigration's Memorandum Circular No. AFF. 05-002 (Revised Rules Governing Philippine Citizenship under Republic Act No. 9225 and Administrative Order No. 91, Series of 2004), particularly Section 1 thereof, it is categorically provided that

> Section 1. Coverage. These rules shall apply to natural-born citizens of the Philippines as defined by Philippine law and jurisprudence, who have lost their Philippine citizenship by reason of their naturalization as citizens of a foreign country.

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Hence, given my preceding discussion on the citizenship of petitioner Poe, I submit that she could not have validly repatriated herself under the provisions of Republic Act No. 9225 for purposes of "reacquiring" natural-born Filipino citizenship.

Another point that I wish to emphasize is the fact that in her Petition for Retention and/or Re-acquisition of Philippine Citizenship filed before the BI on July 10, 2006, petitioner Poe knowingly committed a false representation when she declared under oath that she was "a former natural-born Philippine citizen, born on Sept. 3, 1968 at Iloilo City to Ronald Allan Kelly Poe, a Filipino citizen and Jesusa Sonora Poe, a Filipino citizen[.]" [Emphasis supplied.]

In so answering the blank form of the petition, petitioner Poe plainly represented that she is the biological child of the spouses Ronald Allan Kelly Poe and Jesusa Sonora Poe; thereby effectively concealing the fact that she was a foundling who was subsequently adopted by the said spouses.

This false representation paved the way for the issuance by the BI of the Order dated July 18, 2006 that granted Poe's petition, which declared that she "was a former citizen of the Republic of the Philippines, being born to Filipino parents and is presumed to be a natural-born Philippine citizen[.]"

Another point worthy of note is the fact that the said Order was not signed by the Commissioner of the BI as required under the aforementioned Memorandum Circular No. AFF. 05-002, to wit:

> Section 10. Compliance and approval procedures. - All petitions must strictly comply with the preceding requirements prior to filing at the Office of the Commissioner or at nearest Philippine Foreign Post, as the case may be x x x.
>
> If the petition is found to be sufficient in form and in substance, the evaluating officer shall submit the findings and recommendation to the Commissioner of Immigration or Consul General, as the case may be x x x.
>
> [T]he Commissioner of Immigration, x x x, or the Consul General, x x x, shall issue, within five (5) days from receipt thereof, an Order of Approval indicating that the petition complies with the provisions of R.A. 9225 and its IRR, and the corresponding IC, as the case may be. (Emphasis supplied.)

A perusal of the said order will show that an indecipherable signature or autograph is written above the type written name of then Commissioner Alipio F. Fernandez, Jr. (Fernandez). The said writing was not made by Commissioner Fernandez as the word "for" was similarly written beside the name of the latter indicating that the said signature/autograph was made in lieu of the named person's own signature/autograph. Whose signature/autograph it was, and under whose authority it was made, are not evident from the document.

On the basis of the above undisputed facts, I submit that the July 18, 2006 Order of the BI granting petitioner Poe's application for the reacquisition of her supposedly lost natural-born citizenship was not only improvidently issued, but more importantly, it was null and void. The nullity stemmed from her concealment or misrepresentation of a material fact, not an error of law, regarding the identity of her biological parents. The unlawful product of this concealment was carried over in her pursuit of high government positions requiring natural-born citizenship as a qualification. Therefore, the same could not be the source of her reacquisition of all the attendant civil and political rights, including the rights and responsibilities under existing laws of the Philippines, granted to natural-born Filipino citizens.

Petitioner Poe's re-acquisition of Philippine citizenship was not validly approved as it was based on an erroneous finding of fact based on the false representation by petitioner Poe as to her parentage.

The Residency Requirement

The assailed COMELEC resolutions uniformly held that petitioner Poe falsely claimed in her COC that she had

been a resident of the Philippines for ten years and eleven months up to the day before the May 9, 2016 elections. Assuming petitioner Poe may be validly repatriated under Republic Act No. 9225, the COMELEC ruled that it was only when she reacquired her Filipino citizenship on July 18, 2006 that she could have re-established her domicile in the Philippines.

Before this Court, petitioner Poe primarily argues that the COMELEC "acted whimsically and capriciously, ignored settled jurisprudence and disregarded the evidence on record in ruling that she made a false material representation in her COC for President when she stated therein that her 'period of residence in the Philippines up to the day before May 09, 2016' would be '10' years and '11' months."[32] Petitioner Poe contends that she re-established her domicile of choice in the Philippines as early as May 24, 2005, even before she reacquired her Filipino citizenship under Republic Act No. 9225.

Section 2, Article VII of the 1987 Constitution provides for the qualifications for the position of President, to wit:

> ARTICLE VII
> EXECUTIVE DEPARTMENT
>
> SECTION 2. No person may be elected President unless he is a natural-born citizen of the Philippines, a registered voter, able to read and write, at least forty years of age on the day of the election, and a resident of the Philippines for at least ten years immediately preceding such election. (Emphasis supplied.)

For election purposes, the term residence is to be understood not in its common acceptation as referring to dwelling or habitation.[33] In contemplation of election laws, residence is synonymous with domicile. Domicile is the place where a person actually or constructively has his permanent home, where he, no matter where he may be found at any given time, eventually intends to return and remain. It consists not only in the intention to reside in a fixed place but also personal presence in that place, coupled with conduct indicative of such intention.[34]

In Domino v. Commission on Elections,[35] the Court stressed that domicile denotes a fixed permanent residence to which, whenever absent for business, pleasure, or some other reasons, one intends to return. It is a question of intention and circumstances. In the consideration of circumstances, three rules must be borne in mind, namely: (1) that a man must have a residence or domicile somewhere; (2) when once established it remains until a new one is acquired; and (3) a man can have but one residence or domicile at a time.

Domicile is classified into: (1) domicile of origin, which is acquired by every person at birth; (2) domicile of choice, which is acquired upon abandonment of the domicile of origin; and (3) domicile by operation of law, which the law attributes to a person independently of his residence or intention.[36] To acquire a new domicile of choice, the following requirements must concur: (1) residence or bodily presence in the new locality; (2) an intention to remain there; and (3) an intention to abandon the old domicile. There must be animus manendi coupled with animus non revertendi. The purpose to remain in or at the domicile of choice must be for an indefinite period of time; the change of residence must be voluntary; and the residence at the place chosen for the new domicile must be actual.[37]

In Coquilla v. Commission on Elections,[38] the Court held in no uncertain terms that naturalization in a foreign country results in the abandonment of domicile in the Philippines.

Thereafter, in Japzon v. Commission on Elections,[39] the Court construed the requirement of residence under election laws vis-a-vis the provisions of Republic Act No. 9225. The respondent in said case, JaimeS. Ty, was a natural-born Filipino who became an American citizen. He later reacquired his Philippine citizenship under Republic Act No. 9225 and ran for Mayor of the Municipality of General Macarthur, Eastern Samar. Manuel B. Japzon, a rival candidate, questioned Ty's residency in said place. The Court ruled that -

> It bears to point out that Republic Act No. 9225 governs the manner in which a natural-born Filipino may reacquire or retain his Philippine citizenship despite acquiring a foreign citizenship, and provides for his rights and liabilities under such circumstances. A close scrutiny of said statute would reveal that it does not at all touch on the matter of residence of the natural-born Filipino taking advantage of its provisions. Republic Act No. 9225 imposes no residency requirement for the reacquisition or retention of Philippine citizenship; nor does it mention any effect of such reacquisition or retention of Philippine citizenship on the current residence of the concerned natural-born Filipino. Clearly, Republic Act No. 9225 treats citizenship independently of residence. This is only logical and consistent with the general intent of the law to allow for dual citizenship. Since a natural- born Filipino may hold, at the same time, both Philippine and foreign citizenships, he may establish residence either in the Philippines or in the foreign country of which he is also a citizen.
>
> Residency in the Philippines only becomes relevant when the natural-born Filipino with dual citizenship decides to run for public office.
>
> Section 5(2) of Republic Act No. 9225 reads:
> SEC. 5. Civil and Political Rights and Liabilities. - Those who retain or reacquire Philippine citizenship under this Act shall enjoy full civil and political rights and be subject to all attendant liabilities and responsibilities under existing laws of the Philippines and the following conditions:
>
> x x x x
>
> (2) Those seeking elective public office in the Philippines shall meet the qualifications for holding such public office as required by the Constitution and existing laws and, at the time of the filing of the certificate of candidacy, make a personal and sworn renunciation of any and all foreign citizenship before any public officer authorized to administer an oath.

Breaking down the aforequoted provision, for a natural-born Filipino, who reacquired or retained his Philippine citizenship under Republic Act No. 9225, to run for public office, he must: (1) meet the qualifications for holding such public office as required by the Constitution and existing laws; and (2) make a personal and sworn renunciation of any and all foreign citizenships before any public officer authorized to administer an oath.

x x x x

As has already been previously discussed by this Court herein, Ty's reacquisition of his Philippine citizenship under Republic Act No. 9225 had no automatic impact or effect on his residence/domicile. He could still retain his domicile in the USA, and he did not necessarily regain his domicile in the Municipality of General Macarthur, Eastern Samar, Philippines. Ty merely had the option to again establish his domicile in the Municipality of General Macarthur, Eastern Samar, Philippines, said place becoming his new domicile of choice. The length of his residence therein shall be determined from the time he made it his domicile of choice, and it shall not retroact to the time of his birth.[40] (Citations omitted; emphasis supplied.)

Applying the foregoing disquisition to the instant cases, it is beyond question that petitioner Poe lost her domicile in the Philippines when she became a naturalized American citizen on October 18, 2001. From then on, she established her new domicile of choice in the U.S. Thereafter, on July 7, 2006, petitioner Poe took her oath of allegiance to the Republic of the Philippines under Republic Act No. 9225. Again, on the assumption that petitioner Poe can validly avail herself of the provisions of said law, she was deemed to have reacquired her Philippine citizenship under the latter date. Subsequently, on October 20, 2010, petitioner Poe executed an Affidavit of Renunciation of Allegiance to the United States of America and Renunciation of American Citizenship (Affidavit of Renunciation).

Following Japzon, petitioner Poe's reacquisition of her Philippine citizenship did riot automatically make her

regain her residence in the Philippines. She merely had the option to again establish her domicile here. The length of petitioner Poe's residence herein shall be determined from the time she made the Philippines her domicile of choice. Whether petitioner Poe complied with the ten-year residency requirement for running for the position of the President of the Philippines is essentially a question of fact that indeed requires the review and evaluation of the probative value of the evidence presented by the parties before the COMELEC.

On this note, I concur with the ruling in Justice Del Castillo's Dissenting Opinion that the evidence[41] submitted by petitioner Poe was insufficient to establish her claim that when she arrived in the Philippines on May 24, 2005, her physical presence was imbued with animus manendi. At that point in time, petitioner Poe's status was merely that of a non-resident alien.

Notably, when petitioner arrived in the Philippines on May 24, 2005, the same was through a visa-free entry under the Balikbayan Program.[42] Under Republic Act No. 6768 (An Act Instituting a Balikbayan Program),[43] as amended by Republic Act No. 9174,[44] the said program was instituted "to attract and encourage overseas Filipinos to come and visit their motherland."[45]

Under Section 3 of the above-mentioned law, petitioner Poe was merely entitled to a visa-free entry to the Philippines for a period of one (1) year.[46] Thus, her stay then in the Philippines was certainly not for an indefinite period of time.[47] This only proves that petitioner Poe's stay was not impressed with animus manendi, i.e., the intent to remain in or at the domicile of choice for an indefinite period of time.

In Coquilla v. Commission on Elections,[48] We disregarded the period of a candidate's physical presence in the Philippines at the time when he was still a non-resident alien. In this case, Teodulo M. Coquilla lost his domicile of origin in Oras, Eastern Samar when he joined the U.S. Navy in 1965 and he was subsequently naturalized as a U.S. citizen. On October 15, 1998, he came to the Philippines and took out a resident certificate. Afterwards, he still made several trips to the U.S. Coquilla later applied for repatriation and took his oath as a citizen of the Philippines on November 10, 2000. Coquilla thereafter filed his COC for the mayorship of Oras, Eastern Samar. A rival candidate sought the cancellation of Coquilla's COCas the latter had been a resident of Oras for only six months after he took his oath as a Filipino citizen.

The Court ruled that Coquilla indeed lacked the requisite period of residency. While he entered the Philippines in 1998 and took out a residence certificate, he did so as a visa-free balikbayan visitor whose stay as such was valid for only one year. He then entered the country at least four more times using the same visa-free balikbayan entry. From 1965 until his reacquisition of Philippine citizenship on November 10, 2000, Coquilla's status was held to be that of "an alien without any right to reside in the Philippines save as our immigration laws may have allowed him to stay as a visitor or as a resident alien." The Court also explained that:

> The status of being an alien and a non-resident can be waived either separately, when one acquires the status of a resident alien before acquiring Philippine citizenship, or at the same time when one acquires Philippine citizenship. As an alien, an individual may obtain an immigrant visa under § 13[49] of the Philippine Immigration Act of 1948 and an Immigrant Certificate of Residence (ICR) and thus waive his status as a non-resident. On the other hand, he may acquire Philippine citizenship by naturalization under C.A. No. 473, as amended, or, if he is a former Philippine national, he may reacquire Philippine citizenship by repatriation or by an act of Congress, in which case he waives not only his status as an alien but also his status as a non-resident alien.[50] (Citations omitted.)

The Court, thus, found that Coquilla can only be held to have waived his status as an alien and as a non-resident only on November 10, 2000 upon taking his oath as a citizen of the Philippines. The Court arrived at the same ruling in the earlier case of Ujano v. Republic[51] and Caasi v. Court of Appeals.[52]

In the cases at bar, petitioner Poe similarly failed to prove that she waived her status as a non-resident alien when she entered the Philippines on May 24, 2005 as a visa-free balikbayan visitor. Her status only changed when she ostensibly took her oath of allegiance to the Republic under Republic Act No. 9225 on July 7, 2006.

Under Section 5 of Republic Act No. 9225,[53] the entitlement to the full civil and political rights concomitant with the reacquired citizenship shall commence only when the requirements in the said law have been completed and the Philippine citizenship has been acquired. It is only then that that Filipinos who have reacquired their citizenship can be said to gain the right to exercise their right of suffrage or to seek elective public office, subject to the compliance with the requirements laid down in the Constitution and existing laws.

Thus, it is the taking of the oath of allegiance to the Republic on July 7, 2006 presumably conferred upon petitioner Poe not only Philippine citizenship but also the right to stay in the Philippines for an unlimited period of time. It was only then that she can claim subject to proof, that her physical presence in the Philippines was coupled with animus manendi. Any temporary stay in the Philippines prior to the aforesaid date cannot fall under the concept of residence for purposes of elections. The animus manendi must be proven by clear and unmistakable evidence since a dual citizen can still freely enjoy permanent resident status in her/his domicile of choice if said status is not given up or officially waived.

Anent the pieces of evidence[54] that petitioner Poe submitted to prove her animus non revertendi to her domicile in the U.S., I agree with the dissent of Justice Del Castillo that little weight can likewise be properly ascribed to the same, given that they referred to acts or events that took place after May 24, 2005. As such, they were also insufficient to establish petitioner's claim that she changed her domicile as of May 24, 2005. Petitioner Poe's evidence was insufficient to prove animus non revertendi prior to her renunciation of her U.S. citizenship on October 20, 2010. Before the renunciation, it cannot be said that there was a clear and unmistakable intent on the part of petitioner Poe to abandon her U.S. domicile. To be clear, one cannot have two domiciles at any given time. It was thus incumbent upon the petitioner Poe to prove by positive acts that her physical presence in the Philippines was coupled with the intent to relinquish her domicile in the U.S.

As pointed out by Justice Del Castillo, the continued use of her American passport in her travels to the U.S., as well as her ownership and maintenance of two residential houses in the said country until the present time, only served to weaken her stance that she actually and deliberately abandoned her domicile in the U.S. when she came here on May 24, 2005. This is because she continued to represent herself as an American citizen who was free to return to the said country whenever she wished. Moreover, although petitioner Poe supposedly reacquired her Philippine citizenship on July 7, 2006, she was issued a Philippine passport only three years thereafter on October 13, 2009. Thus, I concur with the finding of the Ponencia that petitioner Poe's affidavit of renunciation of U.S. citizenship was the only clear and positive proof of her abandonment of her U.S. domicile.

Given the above findings, the petitioner's evidence fails to substantiate her claim that she had established her domicile of choice in the Philippines starting on May 24, 2005.

By stating in her COC that she had complied with the required ten- year residency when she actually did not, petitioner made a false material representation that justified the COMELEC's cancellation ofher COC.

The majority opinion, however, reached a dissimilar conclusion and ruled that Coquilla, Japzon, Caballero and Reyes are inapplicable to the case at bar. The maj?rity posited that, unlike in the aforesaid cases where the evidence presented on residency was sparse, petitioner Poe's evidence is overwhelming and unprecedented. The majority furthermore asserted that there is no indication in the said cases that the Court intended to have its ruling therein apply to a situation where the facts are different

I strongly beg to differ.

But of course, the factual milieu of these cases is different from those of Coquilla, Japzon, Caballero and Reyes. No two cases are exactly the same. However, there are no substantial differences that would prevent the application here of the principles enunciated in the said decided cases. Moreover, absolutely nowhere in the said cases did the Court expressly say that the rulings therein only apply pro hac vice (meaning, "for this one particular occasion").[55] On the contrary, the doctrines laid down in said cases are cited in a catena of election cases, which similarly involve the residency requirement for elective positions. Simply put, the jurisprudential doctrines and guidelines set out in said cases, along with other cases dealing with the same subject matter, serve as the standards by which the pieces of evidence of a party in a specific case are to be measured. Even petitioner Poe herself adverts to our ruling in Jafzon, Coquilla and Caballero, albeit in a manner that tends to suit her cause.[56]

In relation to the application of Coquilla to these cases relative to petitioner Poe's utilisation of the visa-free balikbayan entry, the majority opines that under Republic Act No. 6768, as amended, balikbayans are not ordinary transients in view of the law's aim of "providing the opportunity to avail of the necessary training enable the balikbayan to become economically self-reliant members of society upon their return to the country" in line with the government's "reintegration program." The majority, thus, concluded that the visa-free period is obviously granted to allow a balikbayan to re-establish his life and reintegrate himself into the community before he attends to the necessary formal and legal requirements of repatriation.

On this point, the majority apparently lost sight of the fact that the training program envisioned in Republic Act No. 6768, as amended, that is to be pursued in line with the government's reintegration program does not apply to petitioner Poe. It applies to another set of balikbayans who are Filipino overseas workers. Section 6 of the law expressly states that:

> SEC. 6. Training Programs. - The Department of Labor and Employment (DOLE) through the OWWA, in coordination with the Technology and Livelihood Resource Center (TLRC), Technical Education and Skills Development Authority (TESDA), livelihood corporation and other concerned government agencies, shall provide the necessary entrepreneurial training and livelihood skills programs and marketing assistance to a balikbayan, including his or her immediate family members, who shall avail of the kabuhayan program in accordance with the existing rules on the government's reintegration program.
>
> In the case of non-OFW balikbayan, the Department of Tourism shall make the necessary arrangement with the TLRC and other training institutions for possible livelihood training. (Emphasis supplied.)

Indeed, the Overseas Workers Welfare Administration (OWWA) is a government agency that is primarily tasked to protect the interest and promote the welfare of overseas Filipino workers (OFWs).[57] Among the benefits and services it renders is a Reintegration Program, which defines reintegration as "a way of preparing for the return of OFWs into the Philippine society."[58] Not being an OFW, petitioner Poe is not the balikbayan that is envisioned to be the recipient of the above reintegration program.

If she indeed wanted to reestablish her life here, petitioner Poe should have applied for a Returning Former Filipino Visa, instead availing herself of a visa-free balikbayan entry. This visa may be applied for by a natural born citizen of the Philippines, who has been naturalized in a foreign country, and is returning to the Philippines for permanent residence, including his/her spouse and minor children. By this visa, she would be allowed, inter alia, to stay in the Philippines indefinitely, establish a business, and allowed to work without securing an alien employment permit. This would have definitely established her intent to remain in the Philippines permanently. Unfortunately for petitioner Poe, she did not apply for this visa.

The majority opinion also ascribes grave abuse of discretion on the part of the COMELEC for giving more weight

to the 2013 COC of petitioner Poe instead of looking into the many pieces of evidence she presented in order to see if she was telling the truth that she already established her domicile in the Philippines from May 24, 2005. The majority points out that when petitioner Poe made the declaration in her 2013 COC that she has been a resident for a period of six (6) years and six (6) months counted up to the May 13, 2013 elections, she naturally had as reference the residency requirements for election as Senator, which was satisfied by her declared years of residence. The majority even belabors the obvious fact that the length of residence required of a presidential candidate is different from that of a senatorial candidate.

To this I likewise take exception.

It bears pointing out that the COMELEC did not tum a blind eye and deliberately refused to look at the evidence of petitioner Poe. A reading of the assailed COMELEC resolutions reveals that the pieces of evidence of the petitioner were indeed considered, piece by piece, but the same were adjudged insufficient to prove the purpose for which they were offered. To repeat, the emphasis must be on the weight of the pieces of evidence, not the number thereof. The COMELEC, perforce, arrived at an unfavorable conclusion. In other words, petitioner Poe's evidence had actually been weighed and measured by the COMELEC, but same was found wanting.

Moreover, I do not find significant the distinction made on the residency requirement for a presidential candidate and that of a senatorial candidate for purposes of these cases. The truth of a candidate's statement on the fact of her residency must be consistent and unwavering. Changes in a candidate's assertion of the period of residency in the Philippines shall not inspire belief or will not be credible.

Deceit

As to the view that the material representation that is false should be "made with an intention to deceive the electorate as to one's qualifications for public office,"[59] I cannot but deviate therefrom.

Again, Section 78 of the OEC, provides that

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

In Tagolino v. House of Representatives Electoral Tribunal,[60] the Court had the occasion to enlighten that "the deliberateness of the misrepresentation, much less one's intent to defraud, is of bare significance in a Section 78 petition as it is enough that the person's declaration of a material qualification in the CoC he false." The Court therein further acknowledged that "an express finding that the person committed any deliberate misrepresentation is of little consequence in the determination of whether one's CoC should be deemed cancelled or not"[61]; and concluded that "[w]hat remains material is that the petition essentially seeks to den due course to and/or cancel the CoC on the basis o ineligibility and that the same he granted without any qualification."[62]

The above standard is in keeping with the tenor of Section 78 of the OEC. The said law used the phrase material representation qualified by the term false; and not misrepresentation per se. This distinction, I believe, is quite significant.

A deeper analysis and research on the import and meaning of the language of Section 78, led to the conclusion that as opposed to the use of the term "misrepresentation" which, colloquially is understood to mean a statement made to deceive or mislead,[63] the qualifying term "false" referring to the phrase "material representation" is

said to have "two distinct and well-recognized meanings. It signifies (1) intentionally or knowingly, or negligently untrue, and (2) untrue by mistake, accident, or honestly after the exercise of reasonable care."[64] Thus, the word "false" does not necessarily imply an intention to deceive. What is important is that an untrue material representation is made.

Relating to the disqualification under Section 78 of the OEC, the requirement of the said law (that a cancellation of a candidate's COC be exclusively grounded on the presence of any VS. contained therein that is required under Section 74 of the same is false) should only pivot on the candidate's declaration of a material qualification that is false, and not on the deliberate intent to defraud. With this, good faith on the part of the candidate would be inconsequential.

In these present cases, there is no need to go into the matter of questioning petitioner Poe's intent in making a material representation that is falseIt is enough that she signified that she is eligible to run for the Presidency notwithstanding the fact that she appeared to know the legal impediment to her claim of natural-born Filipino citizenship, as borne out by her concealment of her true personal circumstances, and that she is likewise aware of the fact that she has not fulfilled the ten-year residency requirement as shown by her inconsistent and ambivalent stand as to the start of her domicile in the Philippines. Apparently, she is cognizant of the fact that she is actually ineligible for the position.

However, that while an intent to deceive in petitioner Poe's actions is not an indispensable element under a Section 78 Petition, the COMELEC's affirmative finding on the existence of deceit is not without basis. The COMELEC observed, and I quote:

> The simplicity and clarity of the terms used in our Constitution and laws on citizenship, the fact that [petitioner Poe] is a highly educated woman and all other circumstances found by the Honorable Second Division to be present in this case, would leave little doubt as to the intention of [petitioner Poe] when she made the false representations in the Certificates x x x that is, to mislead [the] people into thinking that she was then a Filipino.
>
> The Commission is especially bothered by [petitioner Poe's] representation in the Petition for Retention and/or Reacquisition of Philippine Citizenship that she was BORN TO her adoptive parents. To recall, it was this Petition, granted by the BID, that led to [petitioner Poe] supposed acquisition of Filipino citizenship in July 2006 under RA 9225 - a law which limits its application only to natural-born Filipinos who lost their citizenships. The design to mislead in order to satisfy the requirements of the law is evident, reminiscent of the intent to mislead in the 2016 COC, put in issue in the present case.
>
> All told, the foregoing misrepresentations may be for different purposes, but all seems to have been deliberately done. It is, therefore, hard to think, given the aforementioned pattern of behavior, that the representation in [petitioner Poe's] 2016 COC for President that she was a natural-born citizen was not a deliberate attempt to mislead, misinform, or hide a fact that would otherwise render her ineligible for the office that she seeks to be elected to.[65]

On the matter of her residency requirement, petitioner Poe concedes that she indicated in her 2013 COC that her "period of residence in the Philippines before May 13, 2013" was "6 years and 6 months." Consequently, her residence in the Philippines could have only begun on November 2006, such that by May 9, 2016, her aggregate period of residence in the Philippines was approximately only 9 years and 6 months, which is short ofthe period of residence required for presidential candidates.

Petitioner Poe explains, however, that she made the above statement as an "honest misunderstanding" of what was being asked of her.[66] She contends that she did not fully comprehend that the phrase "Period of Residence in the Philippines before May 13, 2013" in her 2013 COC actually referred to the period of residence on the day

right before the May 13, 2013 elections. She allegedly construed it to mean her "period of residence in the Philippines as of the submission of COCs in October 2012 (which is technically also a period 'before May 13, 2013')."[67] Thus, she counted backwards from October 2012, instead from May 13, 2013 and in so doing she brought herself back to "March-April 2006," which was the period when her house in the U.S. was sold and when her husband resigned from his job in the U.S.[68] She argues that that was the period she indicated, albeit it was a mistake again on her part as it should have been May 24, 2005.

Petitioner Poe's ambivalent or varying accounts do not inspire beliefs of the truthfulness of her latest allegation of the period of her residence in the Philippines.

It is indeed incredible of someone of her stature to gravely misinterpret the phrase "Period of Residence in the Philippines before the May 13, 2013" in the 2012 COC. At any rate, having been informed as early as June 2015 of this supposedly honest mistake, it is quite perplexing that the same was not immediately rectified. As it were, the above- mentioned explanations that were belatedly given even muddled the issue further. Petitioner Poe can hardly blame the COMELEC for casting a suspicious and skeptic eye on her contentions regarding her residency.

Petitioner Poe's claim of good faith, thus, stands on very shaky grounds. As found by the COMELEC En banc:

> x x x worthy of note are certain arguments raised such as [petitioner Poe's] claim that she never hid from the public her supposed mistake in the 2013 COC, as evinced by the following: 1.) she publicly acknowledged the same in an interview in June 2015, after the issue of compliance with the residency requirement for President was raised by Navotas City Representative and then United Nationalist Alliance Secretary General Tobias Tiangco; and 2.) that as early as September 1, 2015, in her Verified Answer filed before the Senate Electoral Tribunal (hereinafter "SET") in SET Case No. 001-15, she already made it of record that as of May 13, 2013, she had been residing in the Philippines "for more than six (6) years and six (6) months."
>
> While the two statements were indeed made before respondent filed her 2016 COC, it was nonetheless delivered at a time when, at the very least, the possibility of [petitioner Poe] running for President of the country in 2016, was already a matter of public knowledge. By then, [petitioner Poe could have already been aware that she cannot maintain her declaration in the 2013 COC as it would be insufficient to meet the 10- year residency requirement for President.
>
> Indeed, the Commission finds it hard to believe that a woman as educated as [petitioner Poe], who was then already a high-ranking public official with, no doubt, a competent staff and a band of legal advisers, and who is not herself entirely unacquainted with Philippine politics being the daughter of a former high-profile presidential aspirant, would not know how to correctly fill-up a pro-forma COC in 2013. We are not convinced that the subject entry therein was an honest mistake.

Conclusion

The foregoing discussion points to the failure of petitioner Poe to prove her cases. Therefore, I submit that the two assailed COMELEC En banc Resolutions dated December 23, 2015, separately affirming the December 1, 2015 Resolution of the Second Division and the December 11, 2015 Resolution of the First Division are not tainted with grave abuse of discretion amounting to lack or excess of jurisdiction.

Petitioner Poe implores this Court not to allow the supposed disenfranchisement of the sovereign people by depriving them of "of something rightfully theirs: the consideration of petitioner as a viable and valid choice for President in the next elections."[69]

But the Constitution itself is the true embodiment of the supreme will of the people. It was the people's decision to require in the Constitution, which they approved in a plebiscite, that their President be a natural-born Filipino citizen. The people did not choose to disenfranchise themselves but rather to disqualify those persons, who did not

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descend by blood from Filipino parents, from running in an election for the Presidency.

The will of the electorate will never cure the vice of ineligibility. As so eloquently reminded by then Justice Isagani A. Cruz in Frivaldo v. Commission on Elections[70]:

> The qualifications prescribed for elective office cannot be erased by the electorate alone. The will of the people as expressed through the ballot cannot cure the vice of ineligibility, especially if they mistakenly believed, as in this case, that the candidate was qualified. Obviously, this rule requires strict application when the deficiency is lack of citizenship.

WHEREFORE, I vote to (i) DISMISS the four petitions for certiorari filed by petitioner Mary Grace Natividad S. Poe-Llamanzares; and (ii) LIFT the temporary restraining order issued by this Court on December 28, 2015.

---

[1] Section 2, Rule 64 ofthe Rules of Court states:

SEC. 2. Mode of review. A judgment or final order or resolution of the Commission on Elections and the Commission on Audit may be brought by the aggrieved party to the Supreme Court on certiorari under Rule 65, except as hereinafter provided.

[2] G.R. No. 209286, September 23, 2014, 736 SCRA 267, 279-280.

[3] 636 Phil. 753 (2010).

[4] 686 Phil. 649 (2012).

[5] 468 Phil. 421,461-462 (2004).

[6] Id. at 518.

[7] Id. at 562-563.

[8] G.R. No. 20724, June 25, 2013.

[9] 595 Phil. 449 (2008).

[10] June 25, 2013.

[11] Annex "B" ofthe Petition in G.R. No. 221697.

[12] Irene R. Cortes and Raphael Perpetuo M. Lotilla, Nationality and International Law from the Philippine Perspective, published in the Philippine Law Journal, Volume LX, March 1985, University of the Philippines (UP) College of Law, p. 7.; citing Art. 17 (1 and 2) Spanish Civil Code.

[13] Id. at 10.

[14] Id.

[15] Tecson v. Commission on Elections, supra note 5 at 469-471.

[16] Garcia v. Commission on Elections, G.R. No. 216691, July 21, 2015.

[17] Words and Phrases, Vol. 2, p. 1462; Citing McKoan vs. Devries, 3 Barb., 196, 198 [quoting 1 Story, Const., Sees. 338, 339]; Church vs. Kelsey, 7 Sup. Ct., 897, 898; 121 U.S., 282; 30 L. ed., 960, and Bates vs. Kimball [Vt.], 2 D. Chip., 77, 84.

[18] Manila Prince Hotel v. Government Service Insurance System, 335 Phil. 82, 101 (1997).

[19] 272 Phil. 147, 169-170 (1991).

[20] Charles P. Curtis, LIONS UNDER THE THRONE 2, Houghton Mifflin, 1947.

[21] Dennis B. Funa, Cannons of Statutory Construction (2012 Edition); Citing Henry Campbell Black, Handbook on the Construction and Interpretation of the Laws, p. 30, quoting City of Springfield v. Edwards, 84 IlL 626.

[22] Retired Chief Justice Reynato S. Puno's Separate Opinion in Integrated Bar of the Philippines v. Zamora, 392 Phil. 618, 668-669 (2000).

[23] Separate Opinion of J. Carpio-Morales in Rubrico v. Macapagal-Arroyo, 627 Phil. 37, 80 (2010); citing IAN BROWNLIE, Principles of Public International Law, Sixth Ed., 18 (2003).

[24] Id.

[25] 1987 Constitution, Article II, Section 2.

[26] Pharmaceutical and Health Care Association of the Philippines v. Duque III, 561 Phil. 386, 398 (2007).

[27] Tawang Multi-Purpose Coopetative v. La Trinidad Water District, 661 Phil. 390 (2011).

[28] Id. at 402-403.

[29] Martin v. Court of Appeals, supra.

[30] Approved on August 29, 2003.

[31] Section 3 of Republic Act No. 9225 states:

SEC. 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.

[32] Petitioner's Memorandum, p. 241.

[33] Coquilla v. Commission on Elections, 434 Phil. 861, 871 (2002).

[34] Ugdoracion, Jr. v. Commission on Elections, 575 Phil. 253, 263 (2008).

[35] 369 Phil. 798, 818 (1999).

[36] Ugdoracion, Jr. v. Commission on Elections, supra. at 263.

[37] Papandayan, Jr. v. Commission on Elections, 430 Phil. 754, 770 (2002).

[38] Supra at 872.

[39] 596 Phil. 354 (2009).

[40] Id. at 367-370.

[41] In petitioner's Memorandum, she cited the following pieces of evidence to prove her animus manendi, or intent to stay permanently in the Philippines, among others:

(a) Petitioner's travel records, which show that whenever she was absent for a trip abroad, she would consistently return to the Philippines;

(b) Affidavit of Ms. Jesusa Sonora Poe, attesting to, inter alia, the fact that after their arrival in the Philippines in early 2005, petitioner and her children first lived with her at 23 Lincoln St., Greenhills West, San Juan City, which even necessitated a modification of the living arrangements at her house to accommodate petitioner's family;

(c) School records of petitioner's·children, which show that they had been attending Philippine schools continuously since June 2005;

(d) Petitioner's TIN I.D., which shows that shortly after her return in May 2005, she considered herself a taxable resident and submitted herself to the Philippines' tax jurisdiction; and

(e) CCT for Unit 7F and a parking slot at One Wilson Place, purchased in early 2005, and its corresponding Declarations of Real Property for real property tax purposes, which clearly establish intent to reside permanently in the Philippines.

[42] Petitioner's Memorandum, pp. 249-250.

[43] Approved on November 3, 1989.

[44] Approved on November 7, 2002.

[45] The relevant portion of Section l of Republic Act No. 9174 states:

SEC. 1. Section 1 of Republic Act No. 6768 is hereby amended to read as follows:

"Section 1. Balikbayan Program. - A Balikbayan Program is hereby instituted under the administration of the Department of Tourism to attract and encourage overseas Filipinos to come and visit their motherland. This is in recognition of their contribution to the economy of the country through the foreign exchange inflow and revenues that they generate."

[46] Section 3 of Republic Act No. 9174 states:

SEC. 3. Section 3 of the [Republic Act No. 6768] is hereby amended to read as follows:

"Sec. 3 Benefits and Privileges of the Balikbayan. - The balikbayan and his or her family shall be entitled to the following benefits and privileges:

x x x x

(c) Visa-free entry to the Philippines for a period of one (1) year for foreign passport holders, with the exception of restricted nationals[.]"

[47] The one year period may be extended for another one (1), two (2) or six (6) months, subject to specific requirements. [http://www.immigration.gov.ph/faqs/visa-inquiry/balikbayan-previlege. Last accessed: February 27, 2016.]

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[48] Supra note 33.

[49] The pertinent portions of this provision states:

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

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

x x x x

(g) A natural-born citizen of the Philippines, who has been naturalized in a foreign country, and is returning to the Philippines for permanent residence, including the spouse and minor children, shall be considered a non-quota immigrant for purposes of entering the Philippines (As amended by Rep. Act No. 4376, approved June 19, 1965)."

[50] Coquilla v. Commission on Elections, supra note 33 at 873-875.

[51] 17 SCRA 147.

[52] 191 SCRA 229.

[53] Section 5 of Republic Act No. 9225 states:

SECTION 5. Civil and Political Rights and Liabilities. Those who retain or reacquire Philippine citizenship under this Act shall enjoy full civil and political rights and be subject to all attendant liabilities and responsibilities under existing laws of the Philippines and the following conditions:

(1) Those intending to exercise their right of suffrage must meet the requirements under Section 1, Article V of the Constitution, Republic Act No. 9189, otherwise known as "The Overseas Absentee Voting Act of 2003" and other existing laws;

(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;

(3) Those appointed to any public office shall subscribe and swear to an oath of allegiance to the Republic of the Philippines and its duly constituted authorities prior to their assumption of office: Provided, That they renounce their oath of allegiance to the country where they took that oath;

(4) Those intending to practice their profession in the Philippines shall apply with the proper authority for a license or permit to engage in such practice; and

(5) That right to vote or be elected or appointed to any public office in the Philippines cannot be exercised by, or extended to, those who:

(a) are candidates for or are occupying any public office in the country of which they are naturalized citizens;

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and/or

(b) are in active service as commissioned or noncommissioned officers in the armed forces ofthe country which they are naturalized citizens.

[54] In petitioner's Memorandum, she cited the following pieces of evidence to prove her animus non revertendi, or intent to abandon her U.S.A. domicile, among others:

(a) Affidavit of Ms. Jesusa Sonora Poe, attesting to, among others, the reasons which prompted the petitioner to leave the U.S.A. and return permanently to the Philippines;

(b) Affidavit of petitioner's husband, Mr. Teodoro V. Llamanzares, corroborating the petitioner's statement and explaining how he and the petitioner had been actively attending to the logistics of their permanent relocation to the Philippines since March 2005;

(c) The petitioner and her husband's documented conversations with property movers regarding the relocation of their household goods, furniture, and cars, then in Virginia, U.S.A., to the Philippines, which show that they intended to leave the U.S.A. for good as early as March 2005;

(d) Relocation of their household goods, furniture, cars, and other personal property then in Virginia, U.S.A., to the Philippines, which were packed and collected for storage and transport to the Philippines on February and April 2006;

(e) Petitioner's husband's act of informing the U.S.A. Postal Service of their abandonment of their former U.S.A. address on March 2006;

(f) Petitioner and her husband's act of selling their family home in the U.S.A. on April 27, 2006;

(g) Petitioner's husband's resignation from his work in the U.S.A. in April 2006; and

(h) The return to the Philippine's of petitioner's husband on May 4, 2006.

[55] Partido Ng Manggagawa v. Commission on Elections, 519 Phil. 644, 671 (2006).

[56] See Petitioner's Memorandum, pp. 268, 271, 272.

[57] Overseas Workers Welfare Administration v. Chavez, 551 Phil. 890, 896 (2007).

[58] http://www.owwa.gov.ph/?q=node/23/#reintegration. Last accessed on March 11, 2016 at 1:52 p.m.

[59] Salcedo v. Commission on Elections. 371 Phil. 377, 390 (1999).

[60] G.R. No. 202202, March 19, 2013.

[61] Tagolino v. House of Representatives Electoral Tribunal, citing Miranda v. Abaya, 370 Phil. 642.

[62] Id.

[63] Black's Law Dictionary, 6[th] Ed.

[64] Metropolitan Life Ins. Co. v. Adams, D.C. Mun. App., 37 A.2d 345, 350.

[65] COMELEC Decision in SPA No. 15-001 (DC), pp. 30-31.

[66] Petitioner's Memorandum, p. 285.

[67] Petitioner's Memorandum, p. 285.

[68] Petitioner's Memorandum, pp. 286-287.

[69] Petition in G.R. No. 221697, p.1; rollo, p. 1.

[70] G.R. No. 87193, [June 23, 1989], 255 PHIL 934-947.

DISSENTING OPINION
BRION, J.:

I write this DISSENTING OPINION to express my disagreements with the ponencia of my esteemed colleague, Mr. Justice JOSE P. PEREZ, who wrote the majority opinion of this Court.

The ponencia is based on the exclusive ground that the COMELEC committed "grave abuse of discretion" in "denying due course to and/or cancelling her Certificate of Candidacy for the President for the May 9, 2016 elections for false material representation as to her citizenship and residency."

I write as well to offer help to the general public so that they may be enlightened on the issues already darkened by political and self-interested claims and counterclaims, all aired by the media, paid and unpaid, that only resulted in confusing what would otherwise be fairly simple and clear-cut issues.

I respond most especially to the appeal of our President Benigno C. Aquino for this Court to rule with clarity for the sake of the voting public. Even a Dissent can contribute to this endeavor. Thus, I write with utmost frankness so that everyone may know what really transpired within the Court's veiled chambers.

For a systematic and orderly approach in presenting my Dissent, I shall:

- First summarize the ponencia and the votes of the ruling majority (Part A);

- Then proceed to my more specific objections to the ponencia's egregious claims; (Part B) and

- quote the portions of my original Separate Concurring Opinion that specifically dispute the majority's ruling (Part C).

In this manner, I can show how mistaken and misplaced the majority's ruling had been, and how it dishonored our Constitution through its slanted reading that allows one who does not qualify to serve as President, to be a candidate for this office.

Shorn of the glamor and puffery that paid advertising and media can provide, this case is about an expatriate - a popular one - who now wants to run for the presidency after her return to the country. Her situation is not new as our jurisprudence is replete with rulings on similar situations. As early as 1995, a great jurist - Justice Isagani Cruz[1] - (now deceased but whose reputation for the energetic defense of and respect and love for the Constitution still lives on) gave his "take" on this situation in his article Return of the Renegade. He wrote:

> "... Several years ago a permanent resident of the United States came back to the Philippines and was elected to a local office. A protest was lodged against him on the ground of lack of residence. The evidence submitted was his green card, and it was irrefutable. The Supreme Court ruled that his permanent and exclusive residence was in the United States and not in the municipality where he had run and won. His election was annulled.
>
> Where a former Filipino citizen repents his naturalization and decides to resume his old nationality, he must manifest a becoming contrition. He cannot simply abandon his adopted country and come back to this country as if he were bestowing a gift of himself upon the nation. It is not as easy as that. He is not a donor but a supplicant.

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> In a sense, he is an apostate. He has renounced Philippine citizenship by a knowing and affirmative act. When he pledged allegiance to the adopted country, he also flatly disavowed all allegiance to the Philippines. He cannot erase the infidelity by simply establishing his residences here and claiming the status he has lost.
>
> The remorseful Filipino turned alien by his own choice cannot say that he sought naturalization in another country only for reasons of convenience. That pretext is itself a badge of bad faith and insincerity. It reflects on his moral character and suggests that he is not an honest person. By his own admission, he deceived his adopted country when he pretended under oath to embrace its way of life." [Emphases and underscoring supplied]

Of course, this is only one side of the story and cannot represent the total truth of the returning citizen situation. Still, it would be best to remember the renegade, lest we forget this hidden facet of this case as we hear many impassioned pleas for justice and fairness, among them for foundlings, within and outside the Court. What should be before us should be one whole story with all the pieces woven together, both for and against the parties' respective sides. Part of this story should be the general public whose interests should be foremost in our minds. In considering them, we should consider most of all the Constitution that that they approved in the exercise of their sovereign power.

PART A

SUMMARY OF THE PONENCIA'S VOTES & POSITIONS

Of the nine (9) members of the Court supporting the ponencia, four (4) - among them, Justices Benjamin Caguioa, Francis Jardeleza, and Mario Victor M.V.F. Leonen, as well as Chief Justice Maria Lourdes P.A. Sereno herself - submitted their respective opinions to explain their own votes as reasons for supporting the ponencia 's conclusions.

While they offered their respective views (particularly on Poe's claimed natural-born citizen status, ten-year residency, and the COMELEC's conclusion of false representations), they fully concurred (by not qualifying their respective concurrences) with the ponencia's basic reason in concluding that grave abuse of discretion attended the COMELEC's challenged rulings.

On the other hand, the other four (4) members who voted with the majority fully concurred without qualification with the ponencia, thus fully joined it.

In granting Poe's certiorari petitions, the ponencia ruled that-

> "...[t]he procedure and the conclusions from which the questioned Resolutions emanated are tainted with grave abuse of discretion amounting to lack of jurisdiction. [Poe] is a QUALIFIED CANDIDATE for President in the May 9, 2016 National Elections."[2] [emphasis and underscoring supplied]

Under the terms of this grant, the ponencia confirmed its position that the COMELEC ruling was attended by grave abuse of discretion and this was the sole basis for the Court decision that COMELEC ruling should be nullified and set aside.

The ponencia gave the following explanations, which I quote for specific reference (as I do not wish to be accused of maliciously misreading the ponencia):

> "The issue before the COMELEC is whether or not the COC of [Poe] should be denied due course or cancelled 'on the exclusive ground' that she made in the certificate a false material representation. The exclusivity of the ground should hedge in the discretion of the COMELEC and restrain it from going into the issue of the qualifications of the candidate for the position, if, as in this case, such issue is yet undecided or undetermined by the proper authority. The COMELEC cannot itself, in the same cancellation case, decide the qualification or

> lack thereof of the candidate.
>
> x x x x
>
> x x x as presently required, to disqualify a candidate there must be a declaration by a final judgment of a competent court that the candidate sought to be disqualified 'is guilty of or found by the Commission to be suffering from any disqualification provided by law or the Constitution.[3]
>
> x x x The facts of qualification must beforehand be established in a prior proceeding before an authority properly vested with jurisdiction. The prior determination of qualification may be by statute, by executive order or by judgment of a competent court or tribunal."[4]
>
> If a candidate cannot be disqualified without prior finding that he or she is suffering from a disqualification 'provided by law or the Constitution, ' neither can the [CoC] be cancelled or denied due course on grounds of false material representations regarding his or her qualifications, such prior authority being the necessary measure by which falsity of representation can be found. The only exception that can be made conceded are self-evident facts of unquestioned or unquestionable veracity and judicial confessions xx x [which] are equivalent to prior decisions against which the falsity of representation can be determined".[5]

To summarize all these in a more straight-forward format, the ponencia concluded that the COMELEC gravely abused its discretion in cancelling Poe's CoC because:

> (1) the Comelec did not have the authority to rule on Poe's citizenship and residency qualifications as these qualifications have not yet been determined by the proper authority.
>
> (2) since there is no such prior determination as to Poe's qualifications, there is no basis for a finding that Poe's representations are false;
>
> (3) while a candidate's CoC may be cancelled without prior disqualification finding from the proper authority, the issues involving Poe's citizenship and residency do not involve self evident facts of unquestioned or unquestionable veracity from which the falsity of representation could have been determined; and
>
> (4) The COMELEC's determinations on Poe's citizenship and residency are acts of grave abuse of discretion because:
>
> (a) Poe's natural-born citizenship is founded on the intent of the framers of the 1935 Constitution, domestically recognized presumptions, generally accepted principles of international law, and executive and legislative actions; and
>
> (b) Poe's residency claims were backed up not only by jurisprudence, but more importantly by overwhelming evidence.

Justice Caguioa additionally offered the view that the requirement of "deliberate intent to deceive" cannot be disposed of by a simple finding that there was false representation of a material fact. Rather, there must also be a showing of the candidate's intent to deceive animated the false material representation.[6]

J. Caguioa also pointed out that the COMELEC shifted the burden to Poe to prove that she had the qualifications to run for President instead of requiring the private respondents (as the original petitioners in the petitions before the COMELEC) to prove the three (3) elements required in a Section 78 proceeding. It failed to appreciate that the evidence of both parties rested, at the least, at equipoise, and should have been resolved in favor of Poe.

A.1. The ponencia on Poe's citizenship

First, on Poe's citizenship, i.e, that Poe was not a natural-born Philippine citizen; the ponencia essentially ruled that although she is a foundling, her blood relationship with a Filipino citizen is demonstrable.[7]

J. Leonen agreed with this point and added[8] that all foundlings in the Philippines are natural-born being presumptively born to either a Filipino biological father or mother, unless substantial proof to the contrary is shown. There is no requirement that the father or mother should be identified. There can be proof of a reasonable belief that evidence presented in a relevant proceeding substantially shows that either the father or the mother is a Filipino citizen.

For his part, J. Caguioa submitted that if indeed a mistake had been made regarding her real status, this could be considered a mistake on a difficult question of law that could be the basis of good faith.[9]

Second, more than sufficient evidence exists showing that Poe had Filipino parents since Philippine law provides for presumptions regarding paternity.[10] Poe's admission that she is a foundling did not shift the burden of proof to her because her status did not exclude the possibility that her parents are Filipinos.[11]

The factual issue is not who the parents of Poe are, as their identities are unknown, but whether such parents were Filipinos.[12] The following circumstantial evidence show that Poe was a natural-born Filipino: (1) statistical probability that any child born in the Philippines at the time of Poe's birth is natural-born Filipino; (2) the place of Poe's abandonment; and (3) Poe's Filipino physical features.[13]

Third, the framers of the 1935 Constitution and the people who adopted this Constitution intended foundlings to be covered by the list of Filipino citizens.[14] While the 1935 Constitution's enumeration is silent as to foundlings, there is no restrictive language that would definitely exclude foundlings.[15]

Thus viewed, the ponencia believes that Poe is a natural-born citizen of the Philippines by circumstantial evidence, by presumption, and by implication from the silent terms of the Constitution.

The ponencia also clarified that the Rafols amendment pointed out by Poe was not carried in the 1935 Constitution not because there was any objection to their inclusion, but because the number of foundlings at the time was not enough to merit specific mention.[16]

More than these reasons, the inclusion of foundlings in the list of Philippine citizens is also consistent with the guarantee of equal protection of the laws and the social justice provisions in the Constitution.[17]

J. Jardeleza particularly agreed with these reasons and added that in placing foundlings at a disadvantaged evidentiary position at the start of the hearing and imposing upon them a higher quantum of evidence, the COMELEC effectively created two classes of children: (1) those with known biological parents; and (2) those whose biological parents are unknown. This classification is objectionable on equal protection grounds because it is not warranted by the text of the Constitution. In doing so, the COMELEC effectively subjected her to a higher standard of proof, that of absolute certainty.[18]

Fourth, the domestic laws on adoption and the Rule on Adoption support the principle that foundlings are Filipinos as these include foundlings among the Filipino children who may be adopted.[19]

In support of this position, J. Leonen additionally pointed out that the legislature has provided statutes essentially based on a premise that foundlings are Philippine citizens at birth, citing the Juvenile Justice and Welfare Act of 2006; and that the Philippines also ratified the UN Convention on the Rights of the Child and the 1966 International Convention on Civil and Political Rights, which are legally effective and binding by transformation.

J. Leonen further argued that the executive department had, in fact, also assumed Poe's natural-born status when she reacquired citizenship pursuant to Republic Act No. 9225 (Citizenship Retention and Reacquisition Act of 2003, hereinafter RA 9225) and when she was appointed as the Chairperson of the Movie and Television Review and Classification Board (MTR CB).[20] Her natural-born status was recognized, too, by the people when she

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was elected Senator and by the Senate Electoral Tribunal (SET) when it affirmed her qualifications to run for Senator.[21]

The Chief Justice added, on this point, that the SET decision is another document that shows that she was not lying when she considered herself a natural-born Filipino. At the very least, it is a prima facie evidence finding of natural-born citizenship that Poe can rely on. The SET ruling negated the element of deliberate attempt to mislead.[22]

Fifth. the issuance of a foundling certificate is not an act to acquire or perfect Philippine citizenship that makes a foundling a naturalized Filipino at best. "Having to perform an act" means that the act must be personally done by the citizen. In the case of foundlings, the determination of his/her foundling status is not done by himself, but by the authorities.[23]

Sixth, foundlings are Philippine citizens under international law, i.e., the Universal Declaration on Human Rights (UDHR), United Nations Convention on the Rights of the Child (UNCRC), and the International Convention on Civil and Political Rights (ICCPR), all obligate the Philippines to grant them nationality from birth and to ensure that no child is stateless. This grant of nationality must be at the time of birth which cannot be accomplished by the application of our present Naturalization Laws.[24]

The principle - that the foundlings are presumed to have the nationality of the country of birth, under the 1930 Hague Convention on Certain Questions Relating to the Conflict of Nationality Laws and the 1961 United Nations Convention on the Reduction of Statelessness - is a generally accepted principle of international law. "Generally accepted principles of international law" are based not only on international custom, but also on "general principles of law recognized by civilized nations."[25]

The requirement of opinio Juris sive necessitates in establishing the presumption of the founding State's nationality in favor of foundlings under the 1930 Hague Convention and the 1961 Convention on Statelessness as generally accepted principle of international law was, in fact, established by the various executive and legislative acts recognizing foundlings as Philippine citizens, i.e., by the executive through the Department of Foreign Affairs in authorizing the issuance of passports to foundlings, and by the Legislature, via the Domestic Adoption Act. Adopting these legal principles in the 1930 Hague Convention and the 1961 Convention on Statelessness is rational and reasonable and consistent with the jus sanguinis regime in our Constitution.[26]

Lastly, the COMELEC disregarded settled jurisprudence that repatriation results in the reacquisition of natural-born Philippine citizenship.[27] Poe's repatriation under RA No. 9225 did not result in her becoming a naturalized Filipino, but restored her status as a natural-born Philippine citizen. Repatriation is not an act to "acquire or perfect one's citizenship" nor does the Constitution require the natural-born status to be continuous from birth.[28]

A.2. The ponencia on Poe's residency

The ponencia ruled that the COMELEC gravely erred on the residency issue when it blindly applied the ruling in Coquilla, Japzon, and Caballero reckoning the period of residence of former natural-born Philippine citizens only from the date of reacquisition of Philippine citizenship, and relied solely in her statement in her 2012 CoC as to the period of her residence in the Philippines. The COMELEC reached these conclusions by disregarding the import of the various pieces of evidence Poe presented establishing her animus manendi and animus non-revertendi.[29]

Poe, in fact, had shown more than sufficient evidence that she established her Philippine residence even before repatriation. The cases of Coquilla, Japzon, Caballero, and Reyes are not applicable to Poe's case because in these

cases, the candidate whose residency qualification was questioned presented "sparse evidence"[30] on residence which gave the Court no choice but to hold that residence could only be counted from the acquisition of a permanent resident visa or from reacquisition of Philippine citizenship. Under this reasoning, Poe showed overwhelming evidence that she decided to permanently relocate to the Philippines on May 24, 2005, or before repatriation.[31]

J. Leanen, on this point, added that the COMELEC's dogmatic reliance on formal preconceived indicators has been repeatedly decried by the Court as grave abuse of discretion. Worse, the COMELEC relied on the wrong formal indicators of residence.[32]

As the ponencia did, J. Leanen stressed that the COMELEC disregarded Poe's evidence of re-establishment of Philippine residence prior to July 2006 when it merely invoked Poe's status as one who had not reacquired Philippine citizenship. To him, the COMELEC relied on a manifestly faulty premise to justify the position that all of Poe's evidence before July 2006 deserved no consideration.[33]

Second, Poe may re-establish her residence notwithstanding that she carried a balikbayan visa in entering the Philippines. The one year visa-free period allows a balikbayan to re-establish his or her life and to reintegrate himself or herself into the community before attending to the formal and legal requirements of repatriation. There is no overriding intent under the balikbayan program to treat balikbayans as temporary visitors who must leave after one year.[34]

Third, Poe committed an honest mistake in her 2012 CoC declaration on her residence period.[35] Following jurisprudence, it is the fact of residence and not the statement in a CoC which is decisive in determining whether the residency requirement has been satisfied. The COMELEC, in fact, acknowledged that the query on the period of residence in the CoC form for the May 2013 elections was vague; thus. it changed the phrasing of this query in the current CoC form for the May 9, 2016 elections. It was grave abuse of discretion for the COMELEC to treat the 2012 CoC as binding and conclusive admission against Poe.

Fourth, assuming that Poe's residency statement in her 2015 CoC is erroneous, Poe had no deliberate intent to mislead or to hide a fact as shown by her immediate disclosure in public of her mistake in the stated period of residence in her 2012 CoC for Senator.[36]

PART BSPECIFIC REFUTATION OF THE PONENCIA'S OUTSTANDING ERRORS

My original Separate Concurring Opinion (to the original ponencia of Justice Mariano del Castillo) deals with most, if not all, of the positions that the majority has taken. My Separate Concurring Opinion is quoted almost in full below (with some edits for completeness) as my detailed refutation of the ponencia.

Nevertheless, I have incorporated Part B in this Opinion to address the ponencia's more egregious claims that, unless refuted, would drastically change the constitutional and jurisprudential landscape in this country, in order only to justify the candidacy of one popular candidate. As I repeated often enough in my Separate Concurring Opinion, the Court operates outside of its depth and could possibly succeed in drowning this nation if it adds to, detracts from, negates, enlarges or modifies the terms of the Constitution as approved by the sovereign people of the Philippines.

B.1. The ponencia on the Comelec's lack of jurisdiction

The ponencia presented two arguments in concluding that the COMELEC lacked the jurisdiction to determine Poe's eligibility to become President in the course of a section 78 proceeding against her:

First, Article IX-C of the 1987 Constitution on the COMELEC's jurisdiction had no specific provision regarding

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the qualification of the President, Vice President, Senators and Members of the House of Representatives, while Article VI, Section 17 and Article VII, Section 4 of the 1987 Constitution specifically included contest involving the qualifications of Senators and Members of the House of Representatives, and of the President and Vice-President, to the jurisdiction of the Senate Electoral Tribunal (SET), the House of Representatives Electoral Tribunal (HRET) and the Presidential Electoral Tribunal (PET) respectively.[37]

Second, Fermin v. Comelec,[38] citing the Separate Opinion of Justice Vicente V. Mendoza in Romualdez-Marcos v. Comelec,[39] noted that "the lack of provision for declaring the ineligibility of candidates, however, cannot be supplied by a mere rule."[40] This view was adopted in the revision of the COMELEC Rules of Procedure in 2012, as reflected in the changes made in the 2012 Rules from the 1993 Rules of Procedure,[41] as follows:

1993 Rules of Procedure:

Section 1. Grounds for Disqualification. - Any candidate who does not possess all the qualifications of a candidate as provided for by the Constitution or by existing law or who commits any act declared by law to be grounds for disqualification may be disqualified from continuing as a candidate.

2012 Rules of Procedure:

Rule 25, Section 1. Grounds, - Any candidate who, in an action or protest in which he is a party, is declared by final decision of a competent court, guilty of, or found by the Commission to be suffering from any disqualification provided by law or the Constitution.

A Petition to Disqualify a Candidate invoking grounds for a Petition to Deny or to cancel a Certificate of Candidacy or Petition to Declare a Candidate as a Nuisance Candidate, or a combination thereof, shall be summarily dismissed.

The ponencia read Fermin and the 2012 Rules of Procedure to mean that there is no authorized proceeding to determine the qualifications of a candidate before the candidate is elected. To disqualify a candidate, there must be a declaration by a final judgment of a competent court that the candidate sought to be disqualified "is guilty of or found by the Commission to be suffering from any disqualification provided by law or the Constitution."[42]

Thus, the ponencia held that a certificate of candidacy "cannot be cancelled or denied due course on grounds of false representations regarding his or her qualifications without a prior authoritative finding that he or she is not qualified, such prior authority being the necessary measure by which the falsity of the representation can be found. The only exception that can be conceded are self-evident facts of unquestioned or unquestionable veracity and judicial confessions."[43]

The arguments in my original Separate Concurring Opinion regarding the COMELEC's jurisdiction to rule on Section 78 cases address the ponencia 's arguments, as follows:

a) The COMELEC's quasi-judicial power in resolving a Section 78 proceeding includes the determination of whether a candidate has made a false material representation in his CoC, and the determination of whether the eligibility he represented in his CoC is true.

b) In Tecson v. COMELEC"[44] the Court has recognized the COMELEC's jurisdiction in a Section 78 proceeding over a presidential candidate.

c) Fermin's quotation of Justice Mendoza's Separate Opinion in Romualdez-Marcos should be taken in context, as Fermin itself clarified:

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Lest it be misunderstood, the denial of due course to or the cancellation of the CoC is not based on the lack of qualifications but on a finding that the candidate made a material representation that is false, which may relate to the qualifications required of the public office he/she is running for. It is noted that the candidate states in his/her CoC that he/she is eligible for the office he/she seeks. Section 78 of the OEC, therefore, is to be read in relation to the constitutional and statutory provisions on qualifications or eligibility for public office. If the candidate subsequently states a material representation in the CoC that is false, the COMELEC, following the law, is empowered to deny due course to or cancel such certificate. Indeed, the Court has already likened a proceeding under Section 78 to a quo warranto proceeding under Section 253 of the OEC since they both deal with the eligibility or qualification of a candidate, with the distinction mainly in the fact that a "Section 78" petition is filed before proclamation, while a petition for quo warranto is filed after proclamation of the winning candidate.[45] [underscoring supplied]

Aside from these arguments, I point out that:

d) The ponente's conclusion contradicts his own recent affirmation of the COMELEC's jurisdiction to determine the eligibility of a candidate through a Section 78 proceeding in Ongsiako Reyes v. COMELEC (G.R. No. 207264, June 25, 2013) and in Cerafica v. COMELEC (G.R. No. 205136 December 2, 2014).

In Ongsiako-Reyes v. COMELEC, the Court, speaking through J. Perez, affirmed the COMELEC's cancellation of Ongsiako-Reyes' CoC and affirmed its determination that Ongsiako-Reyes is neither a Philippine citizen nor a resident of Marinduque.

The Court even affirmed the COMELEC's capability to liberally construe its own rules of procedure in response to Ongsiako-Reyes' allegation that the COMELEC gravely abused its discretion in admitting newly-discovered evidence that had not been testified on, offered and admitted in evidence. The Court held:

All in all, considering that the petition for denial and cancellation of the CoC is summary in nature, the COMELEC is given much discretion in the evaluation and admission of evidence pursuant to its principal objective of determining of whether or not the CoC should be cancelled. We held in Mastura v. COMELEC:

The rule that factual findings of administrative bodies will not be disturbed by courts of justice except when there is absolutely no evidence or no substantial evidence in support of such findings should be applied with greater force when it concerns the COMELEC, as the framers of the Constitution intended to place the COMELEC - created and explicitly made independent by the Constitution itself - on a level higher than statutory administrative organs. The COMELEC has broad powers to ascertain the true results of the election by means available to it. For the attainment of that end, it is not strictly bound by the rules of evidence.[46] [emphasis, italics and underscoring supplied]

In Cerafica, the Court, again speaking through J. Perez, held that the COMELEC gravely abused its discretion in holding that Kimberly Cerafica (a candidate for councilor) did not file a valid CoC and subsequently cannot be substituted by Olivia Cerafica. Kimberly's CoC is considered valid unless the contents therein (including her eligibility) is impugned through a Section 78 proceeding. As Kimberly's CoC had not undergone a Section 78 proceeding, then her CoC remained valid and she could be properly substituted by Olivia. In so doing, the Court quoted and reaffirmed its previous ruling in Luna v. COMELEC:[47]

"If Hans Roger made a material misrepresentation as to his date of birth or age in his certificate of candidacy, his eligibility may only be impugned through a verified petition to deny due course to or cancel such certificate of candidacy under Section 78 of the Election Code."[48] [italics supplied]

e) The ponencia's conclusion would wreak havoc on existing jurisprudence recognizing the COMELEC's

jurisdiction to determine a candidate's eligibility in the course of deciding a Section 78 proceeding before it.

The ponencia disregarded the following cases where it recognized the COMELEC's jurisdiction to determine eligibility as part of determining false material representation in a candidate's CoC. Cases involving Section 78 since the year 2012 (the year the COMELEC amended its Rules of Procedure) are shown in the table below:

Case

Ponente , Division

Ruling:

Aratea v. Comelec
C.R. No. 195229
October 9, 2012

Carpio, J. En banc

The Court affirmed the Comelec's determination that Lonzanida has served for three terms already and therefore misrepresented his eligibility to run for office; this, according to the Court, is a ground for cancelling Lonzanida's CoC under Section 78.

Maquiling V. Comelec, G.R. No. 195649, April 16, 2013

Sereno, CJ, En banc

The Court reversed the Comelec's determination of the Arnado's qualification to run for office because of a recanted oath of allegiance, and thus cancelled his Coe and proclaimed Maquiling as the winner. The Court, in reviewing the Comelec's determination, did not dispute its capacity to determine Arnado's qualifications.

Ongsiako Reyes v. Comelec, G.R. No. 207264, June 25, 2013

Perez, J., En Banc

The Court affirmed the Comelec's evaluation and determination that Ongsiako-Reyes is not a Philippine citizen and a resident of the Philippines.

It even upheld the Comelec's cognizance of "newly-discovered evidence" and held that the Comelec can liberally construe its own rules of procedure for the speedy disposition of cases before it.

Cerafica v. Comelec, G.R. No. 205136 December 2, 2014

Perez, J. En Banc Decision

The Court held that the Comelec gravely abused its discretion in holding that Kimberly did not file a valid CoC and subsequently cannot be substituted by Olivia; in so doing, the Court quoted and reaffirmed its previous ruling in Luna v Comelec, thus:

"If Hans Roger made a material misrepresentation as to his date of birth or age in his certificate of candidacy, his eligibility may only be impugned through a verified petition to deny due course to or cancel such certificate of candidacy under Section 78 of the Election Code."

Luna v. Comelec, G.R. No. 165983 April 24, 2007 (cited as reference to its affirmation in Cerafrica)

Carpio, J. En Banc

Since Hans Roger withdrew his certificate of candidacy and the COMELEC found that Luna complied with all the procedural requirements for a valid substitution, Luna can validly substitute for Hans Roger.

xxx

If Hans Roger made a material misrepresentation as to his date of birth or age in his certificate of candidacy, his eligibility may only be impugned through a verified petition to deny due course to or cancel such certificate of candidacy under Section 78 of the Election Code.

In this case, there was no petition to deny due course to or cancel the certificate of candidacy of Hans Roger. The COMELEC only declared that Hans Roger did not file a valid certificate of candidacy and, thus, was not a valid candidate in the petition to deny due course to or cancel Luna's certificate of candidacy. In effect, the COMELEC, without the proper proceedings, cancelled Hans Roger's certificate of candidacy and declared the substitution by Luna invalid.

f) Rules 23 of the 2012 COMELEC Rules of Procedure does not limit the COMELEC's jurisdiction in determining the eligibility of a candidate in the course of ruling on a Section 78 proceeding.

The second paragraph in Rule 23 delineates the distinction between a Section 78 ca ncellation proceeding and a Section 68 disqualification proceeding; to avoid the muddling or mixing of the grounds for each remedy, the COMELEC opted to provide that petitions that combine or substitute one remedy for the other shall be dismissed summarily.

Naturally, the text of this second paragraph also appears in Rule 25, which provides for the grounds for a petition for disqualification.

Rule 23 provides:

> Section 1. Ground for Denial or Cancellation of Certifcate of Candidacy. -
>
> A verified Petition to Deny Due Course to or Cancel a Certificate of Candidacy for any elective office may be filed by any registered voter or a duly registered political party, organization, or coalition of political parties on the exclusive ground that any material representation contained therein as required by law is false.
>
> A Petition to Deny Due Course to or Cancel Certificate of Candidacy invoking grounds other than those stated above or grounds for disqualification, or combining grounds for a separate remedy, shall be summarily dismissed;

Thus, Rule 23 recognizes material misrepresentation in the CoC as the sole ground for Section 78 without amending the definition of false material representation that jurisprudence has provided as early as 1999 in Salcedo II v. COMELEC:[49]

> The only difference between the two proceedings is that, under section 78, the qualifications for elective office are misrepresented in the certificate of candidacy and the proceedings must be initiated before the elections, whereas a petition for quo warranto under section 253 may be brought on the basis of two grounds - (1) ineligibility or (2) disloyalty to the Republic of the Philippines, and must be initiated within ten days after the proclamation of the election results. Under section 253, a candidate is ineligible if he is disqualified to be elected to office,[21] and he is disqualified if he lacks any of the qualifications for elective office.
>
> xxxx
>
> Therefore, it may be concluded that the material misrepresentation contemplated by section 78 of the Code refer to qualifications for elective office. This conclusion is strengthened by the fact that the consequences

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> imposed upon a candidate guilty of having made a false representation in his certificate of candidacy are grave to prevent the candidate from running or, if elected, from serving, or to prosecute him for violation of the election laws.[23] It could not have been the intention of the law to deprive a person of such a basic and substantive political right to be voted for a public office upon just any innocuous mistake:
>
> x x x x
>
> Aside from the requirement of materiality, a false representation under section 78 must consist of a deliberate attempt to mislead, misinform, or hide a fact which would otherwise render a candidate ineligible.[25] In other words, it must be made with an intention to deceive the electorate as to ones qualifications for public office. xxx

B.1.a. Effect of the ponencia's misinterpretation of
Section 78 proceedings to the Court's certiorari
jurisdiction over the present case

If we were to follow the ponencia's limitation on the COMELEC's function to determine Poe's eligibility to become President in a Section 78 proceeding, the logical result would be that even this Court itself cannot rule on Poe's citizenship and residence eligibilities in the course of reviewing a Section 78 COMELEC ruling; any declaration regarding these issues would be obiter dictum.

In practical terms, the Court's ruling only assured Poe the chance to run; conceivably, if she wins, the Court, through the Presidential Electoral Tribunal, will then rule that the people have spoken and that they cannot be denied their voice after the elections. Based on the present circumstances, this is a scenario that cannot be entirely ruled out.

To reiterate, the ponencia declared that the COMELEC has no jurisdiction to determine, even preliminarily, the eligibility of candidates prior to an election under a Section 78 proceeding, except for disqualifications already or previously acted upon by the proper authorities or where the facts are self-evident or of unquestioned or unquestionable veracity from which the falsity of representation could readily be determined.

Since the COMELEC lacks jurisdiction "to rule and cannot even preliminarily determine questions of eligibility, then the issues involving the COMELEC's alleged grave abuse of discretion in ruling on Poe's eligibilities cannot effectively be resolved except through a ruling that, given the lack of authority, it was grave abuse of discretion for COMELEC to rule as it did. And given the same lack of authority, the reversal of the cancellation of her CoC must follow as a consequence. Thus, her CoC effectively remains valid.

The consequence of ruling that the COMELEC is without jurisdiction to determine eligibility as part of a Section 78 proceeding is that any other subsequent discussions by this Court upholding Poe's eligibilities would be obiter dicta, or pronouncements that are not essential to the resolution of a case. With the COMELEC stripped of the jurisdiction to determine, even preliminarily, Poe's citizenship and residence, then its determinations are null and void, leading to the further conclusion that this Court no longer has any issue left to review and to decide upon as neither would it be necessary to determine Poe's eligibilities.

In other words, any pronouncements outside the COMELEC's limited jurisdiction in Section 78 would only be expressions of the COMELEC's opinion and would have no effect in the determination of the merits of the Section 78 case before it. Findings of ineligibility outside of the limits do not need to be resolved or even be touched by this Court. Thus, in the present case, Poe can simply be a candidate for the presidency, with her eligibilities open to post-election questions, if still necessary at that point.

B.1.b. Aruego's account of the deliberations,

as cited in the ponencia

Ironically, the ponencia's citation of Jose M. Aruego's recounting of the deliberations even reinforces my position that the framers never intended to include foundlings within the terms of the 1935 Constitution's parentage provisions. Aruego allegedly said:

> During the debates on this provision, Delegate Rafols presented an amendment to include as Filipino citizens the illegitimate children with a foreign father of a mother who was a citizen of the Philippines, and also foundlings; but this amendment was defeated primarily because the Convention believed that the cases, being too few to warrant the inclusion of a provision in the Constitution to apply to them, should be governed by statutory legislation. Moreover, it was believed that the rules of international law were already clear to the effect that illegitimate children followed the citizenship of the mother, and that foundlings followed the nationality of the place where they were found, thereby making unnecessary the inclusion in the Constitution of the proposed amendment.[50]

Aruego's account of the deliberations reinforces my position for the following reasons:

First, Aruego said that "this amendment was defeated primarily because the Convention believed that the cases, being too few to warrant the inclusion of a provision in the Constitution to apply to them, should be governed by statutory legislation."

In saying this, Aruego also recounted that many, if not most, of the majority of those who voted against the inclusion of foundlings in the 1935 Constitution believed that the matter of their citizenship should be governed by statutory legislation because the cases of foundlings are too few to be included in the Constitution.

Thus, the principle of international law on foundlings is merely supportive of the primary reason that the matter should be governed by statute, or is a secondary reason to the majority's decision not to include foundlings in Article IV, Section 1 of the 1935 Constitution.

Notably, both the text of the deliberations of the 1934 Constitutional Convention and the account of its member Jose Aruego do not disclose that the intent behind the non-inclusion of foundlings in Article IV, Section 1 of the 1935 Constitution was because they are deemed already included.

What deliberations show is that a member of the Convention thought that it would be better for a statute to govern the citizenship of foundlings, which Aruego, in his subsequent retelling of what happened in the deliberations, described as the primary belief of the majority. At the very least, there was no clear agreement that foundlings were intended to be part of Article IV, Section 1.

The ponencia's ruling thus does not only disregard the distinction of citizenship based on the father or the mother under the 1935 Constitution; it also misreads what the records signify and thereby unfairly treats the children of Filipino mothers under the 1935 Constitution who, although able to trace their Filipino parentage, must yield to the higher categorization accorded to foundlings who do not enjoy similar roots.

Another drastic change appears to be coming for no clear and convincing legal reason in the present case: Section 78 would now be emasculated despite established rulings by this very Court on what the COMELEC can undertake within its Section 78 jurisdiction.

A close reading of Ongsiako-Reyes v. COMELEC, also penned by J. Perez as above noted, will show that the issues the COMELEC decided there were practically the same issues in this cited case. Yet, the Court's majority in the present case holds that the COMELEC has no jurisdiction to rule on the issues of a candidate's citizenship and residence requirements in the course of a Section 78 proceeding, despite its previous affirmation of the same COMELEC power in Ongsiako-Reyes also in a Section 78 proceeding. Have established precedents been

sacrificed to achieve desired results?

But the worst impact yet on the Constitution is the discovery that this Court can play around even with the express wordings of the Constitution. While this may already be known to those in the legal profession, the reality becomes glaring and may be a new discovery for the general public because of the recent EDCA case; the present case and ruling may very well be considered another instance of judicial tinkering with the express terms of the Constitution.

B.1.c. Burden of Proof.

A contested issue that surfaced early on in these cases is the question: who carries the burden of proving that the petitioner is a natural-born Philippine citizen?

Lest we be distracted by the substance of this question, let me clarify at the outset that the cases before us are petitions for certiorari under Rule 64 (in relation to Rule 65) of the Rules of Court. In these types of petitions, the petitioner challenges the rulings/s made by the respondent pursuant to Article VIII, Section 1 of the Constitution. Thus, it is the petitioner who carries the burden of showing that the respondent, the COMELEC in this case, committed grave abuse of discretion.

Of course, in making the challenged ruling, the COMELEC had a wider view and had to consider the parties' respective situations at the outset. The present private respondents were the petitioners who sought the cancellation of Poe's CoC and who thereby procedurally carried the burden of proving the claim that Poe falsely represented her citizenship and residency qualifications in her CoC.

I would refer to this as the procedural aspect of the burden of proof issue. The original petitioners before the COMELEC (the respondents in the present petitions) - from the perspective of procedure - carried the burden under its Section 78 cancellation of CoC petition, to prove that Poe made false material representations; she claimed in her CoC that she is a natural-born Filipino citizen when she is not; she also claimed that she has resided in the Philippines for ten years immediately preceding the May 9, 2016 elections, when she had not. The original petitioners had to prove what they claimed to be false representations.

Thus viewed, the main issue in the case below was the false material representation, which essentially rested on the premises of citizenship and residence - is Poe a natural-born citizen as she claimed and had she observed the requisite qualifying period of residence?

The original petitioners undertook the task on the citizenship issue by alleging that Poe is a foundling; as such, her parents are unknown, so that she is not a Philippine citizen under the terms of the 1935 Constitution.

Poe responded by admitting that indeed she is a foundling, but claimed that the burden is on the original petitioners to prove that she is in fact a foreigner through proof that her parents are foreigners.

Since Poe indeed could not factually show that either of her parents is a Philippine citizen, the COMELEC concluded that the original petitioners are correct in their position that they have discharged their original burden to prove that Poe is not a natural-born citizen of the Philippines. To arrive at its conclusion, the COMELEC considered and relied on the terms of the 1935 Constitution.

With this original burden discharged, the burden of evidence then shifted to Poe to prove that despite her admission that she is a foundling, she is in fact a natural-born Filipino, either by evidence (not necessarily or solely DNA in character) and by legal arguments supporting the view that a foundling found in the Philippines is a natural-born citizen.

The same process was repeated with respect to the residency issue, after which, the COMELEC ruled that Poe

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committed false representations as, indeed, she is not a natural-born Philippine citizen and had not resided in the country, both as required by the Constitution.

These were the processes and developments at the COMELEC level, based on which the present Court majority now say that the COMELEC committed grave abuse of discretion for not observing the rules on the burden of proof on the citizenship and the residency issues.

Separately from the strictly procedural aspects of the cancellation of CoC proceedings, it must be considered that the petitioner, by filing a CoC, actively represents that she possesses all the qualifications and none of the disqualifications for the office she is running for.

When this representation is questioned, particularly through proof of being a foundling as in the present case, the burden should rest on the present petitioner to prove that she is a natural-born Philippine citizen, a resident of the Philippines for at least ten years immediately prior to the election, able to read and write, at least forty years of age on the day of the election, and a registered voter. This is the opportunity that the COMELEC gave Poe to the fullest, and I see no question of grave abuse of discretion on this basis.

From the substantive perspective, too, a sovereign State has the right to determine who its citizens are.[51] By conferring citizenship on a person, the State obligates itself to grant and protect the person's rights. In this light and as discussed more fully below, the list of Filipino citizens under the Constitution must be read as exclusive and exhaustive.

Thus, this Court has held that any doubt regarding citizenship must be resolved in favor of the State.[52] In other words, citizenship cannot be presumed; the person who claims Filipino citizenship must prove that he or she is in fact a Filipino.[53] It is only upon proper proof that a claimant can be entitled to the rights granted by the State.[54]

This was the Court's ruling in Paa v. Chan[55] where this Court categorically ruled that it is incumbent upon the person who claims Philippine citizenship, to prove to the satisfaction of the court that he is really a Filipino. This should be true particularly after proof that the claimant has not proven (and even admits the lack of proven) Filipino parentage. No presumption can be indulged in favor of the claimant of Philippine citizenship, and any doubt regarding citizenship must be resolved in favor of the State.

The Court further explained that the exercise by a person of the rights and/or privileges that are granted to Philippine citizens is not conclusive proof that he or she is a Philippine citizen. A person, otherwise disqualified by reason of citizenship, may exercise and enjoy the right or privilege of a Philippine citizen by representing himself to be one.[56]

Based on these considerations, the Court majority's ruling on burden of proof at the COMELEC level appears to be misplaced. On both counts, procedural and substantive (based on settled jurisprudence), the COMELEC closely hewed to the legal requirements. Thus, the Court majority's positions on where and how the COMELEC committed grave abuse of discretion are truly puzzling. With no grave abuse at the COMELEC level, the present petitioner's own burden of proof in the present certiorari proceedings before this Court must necessarily fail.

PART C

MY ORIGINAL "SEPARATE CONCURRING OPINION"
TO THE PONENCIA OF
JUSTICE MARIANO DEL CASTILLO

I am submitting this original Separate Concurring Opinion to refute in detail the ponencia 's main points that I

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disagree with. For convenience, the original numbering system of the original has been retained and I have introduced edits and supplied the footnotes that were missing when this Opinion was circulated on Monday, March 7, 2016.

The deadline for submission of Opinions was on March 8, 2016. The deliberation and the vote were originally scheduled for Wednesday, March 9, 2016 to allow the individual Justices to read through all the submitted Opinions. Unfortunately, for reasons not fully disclosed to me, the actual deliberation and voting took place on March 8, 2016 (when I was on leave for medical reasons).

Thus, while my Separate Concurring Opinion was circulated, made available on time to all the Justices and accounted for in the Court's count of votes, I did not have the full opportunity to orally expound on them. In this light, this Dissenting Opinion is my opportunity to cover the views I have not orally aired.

I.

The Relevant Facts and their Legal Significance.

I.A. The Petitions for Cancellation of CoC and the COMELEC ruling

Four (4) petitions were filed with the COMELEC to cancel Poe's CoC for the Presidency under Section 78 of the Omnibus Election Code (OEC).

The first petition before the COMELEC was the petition for cancellation filed by Estrella C. Elamparo, which was docketed as G.R. No. 221697.

The other three (3) petition were similarly for the cancellation of Poe's CoC filed by separate parties - by Francisco S. Tatad, Amado D. Valdez, and Antonio P. Contreras - and are before this Court under G.R. Nos. 221298-700.

The petitions before this Court - all of them for the nullification of the COMELEC en banc rulings through a writ of certiorari - were consolidated for hearing and handling because they all dealt with the cancellation of Poe's Coe.

These petitions essentially raised two grounds as basis for the cancellation prayed for:

First, she falsely represented her citizenship in her CoC because she is not a natural-born Filipino citizen; and

Second, she falsely represented the period of her residency prior to the May 9, 2016 elections as she has not resided in the Philippines for at least ten (10) years before the day of the election.

These issues were raised based on the constitutional command that:

> SECTION 2. No person may be elected President unless he is a natural-born citizen of the Philippines, a registered voter, able to read and write, at least forty years of age on the day of the election, and a resident of the Philippines for at least ten years immediately preceding such election. [Article VII, 1987 Constitution, emphasis and underscoring supplied]

The COMELEC en banc - in the appeal that Poe filed from the COMELEC Divisions' decisions - ruled that Poe's CoC should be cancelled for the false representations she made regarding her citizenship and residency. In the petitions before us, Poe claims that the COMELEC en banc acted with grave abuse of discretion amounting to lack or excess of jurisdiction when it made this ruling.

Thus, the issue before this Court is not per se about the COMELEC's legal authority to rule on the cancellation of

Poe's CoC, but about the manner the COMELEC exercised its jurisdiction, its allegedly abusive acts that caused it to exceed its jurisdiction.

I say this under the view that the COMELEC's primary authority in this case is to pass upon the candidates' certificates of candidacy and to order their cancellation if warranted, for false representation on material points. But the COMELEC can, in the exercise of this authority, preliminarily (and as a necessarily included power) pass on the correctness of the claims made on the material points of citizenship, residency, and other qualifications. I explain this point more extensively below.

I.B. The Citizenship Table

The citizenship issues relate to Poe's status as a citizen of the Philippines and to the character of this citizenship: whether or not she is a Philippine citizen; if so, whether or not she is a natural-born citizen as the Constitution requires.

The issues started because of the undisputed evidence that Poe is a foundling, which raised the question:

> (a) what is the status of a foundling under the 1935 Constitution given that this is the governing law when Poe was found in September of 1968.

Poe was likewise naturalized as an American citizen and thereafter applied for the reacquisition of Filipino citizenship under RA No. 9225. This circumstance gave rise to the questions:

> (a) was she qualified to apply under RA No. 9225 given that the law specifically applies only to former natural-born citizens;
>
> (b) even granting arguendo that she can be considered natural-born, did she - under RA 9225 - reacquire her natural-born status or is she now a naturalized citizen in light of the constitutional definition of who is a natural-born citizen?

The COMELEC, after considering the evidence and the surrounding circumstances, noted that Poe's citizenship claim was based on the material representation that she is a natural-born citizen of the Philippines when in fact, she is not; thus her representation on a material point was false. On this basis, the COMELEC resolved to cancel Poe's CoC based on her citizenship statements.

The false material representation started in Poe's application for reacquisition of citizenship under RA No. 9225 which became the foundation for the exercise of critical citizenship rights (such as the appointment to the Movie and Television Review and Classification Board [MTRCB], her candidacy and election to the Senate, and her present candidacy for the presidency).

Had Poe early on identified herself as a foundling (i.e., one who cannot claim descent from a Filipino parent), then the Bureau of Immigration and Deportation (BID) would have at least inquired further because this undisclosed aspect of her personal circumstances touches on her former natural-born citizenship status - the basic irreplaceable requirement for the application of RA No. 9225.

Notably, the BID approval led the career of Poe to her appointment to the MTRCB and her subsequent election to the Senate. Both positions require the natural-born citizenship status that the BID previously recognized in approving Poe's RA No. 9225 application.

For easy and convenient reference and understanding of the essential facts and issues, separate tables of the major incidents in the life of Poe, relevant to the issues raised and based on the duly footnoted parties' evidence, are hereby presented.

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Table I

CITIZENSHIP TABLE

DATE

Particular's (with legal significance)

September 3, 1968

The date Poe was found; her parentage as well as the exact date and actual place of birth are unknown.

Poe claims that she was born on this date when Edgardo Militar found her at the Jaro Iloilo Cathedral.[57]

- Legal significance: Our Constitution requires a President to be a natural-born citizen. Poe admitted that she is a foundling (i.e., one born of unknown parents)[58] and later claimed that she is a natural-born citizen.[59]

- She made her representation on the basis of a claimed presumption of Filipino citizenship (apparently stemming from the circumstances under which she was found [on September 3,1968 in Jaro Iloilo])[60] and on the basis of international law which allegedly gave her natural-born citizenship status.

- Poe never formally claimed that she is presumed a Filipino citizen under Philippine adoption laws, although adoption was mentioned in passing in her Memorandum.[61]

September 6, 1968

Emiliano reported Poe as a foundling with the Office I of the Civil Registrar (OCR) in Jaro, Iloilo for registration.[62]

- Legal significance: official record that Poe is a foundling. No legal question has been raised about this document.

November 27, 1968

The OCR issued the foundling certificate under the name "Mary Grace Natividad Contreras Militar."[63]

- The Original Certificate of Live Birth dated November 27, 1968 contains the notation· 'foundling" and now appears to have erasures, to reflect apparently the subsequent adoption of Poe by Ronald Allan Poe and Jesusa Sonora Poe.

1973

When Poe was five years old, Ronald Allan Poe and Jesusa Sonora Poe filed a petition for Poe's I adoption.[64]

May 13, 1974

The Court approved the Spouses Poe's petition for adoption. Poe's name was changed to "Mary Grace Sonora Poe.[65]

- Legal Significance: She officially assumed the status of a legitimate child by adoption of the Spouses Poe, but the adoption did not affect her citizenship status; under P.D. 603 (The Child and Youth Welfare Code), the adopted child does not follow the citizenship of the adopting parents.[66]

In 2006

- Significantly, no question arose regarding Poe's legal capacity to be adopted as the law likewise does not bar the

adoption of an alien.[67]

- Jesusa Sonora Poe registered Poe's birth and secured a birth certificate from the National Statistics Office on May 4, 2006. The certificate did not reflect that she was a foundling who had been adopted by the spouses Poe.[68] The changes were in accordance with Adm. Order No. 1, Series of 1993, the Implementing Rules on the Civil Registry Law, and P.D. 603 (The Child and Youth Welfare Code) which specifically allows the confidential treatment of the adoption.

December 13, 1986

The Comelec issued a voter's identification card to Poe for Precinct No. 196, Greenhills, San Juan, Metro Manila [69]

- Legal Significance: The records of the case do not disclose the documents Poe used to support her voter registration, but she must have surely claimed to be a Filipino citizen; otherwise, the voter's ID would not have been issued.[70]

April 4, 1988

Poe Obtained her Philippine Passport No. F927287[71] from the Ministry of Foreign Affairs.

She renewed her passport on April 5, 1993 (Passport i No. L881511) and on May 19, 1998 (Passport No. I DD155616).[72]

- Legal Significance: She could have been granted a passport only if she had applied as, and claimed that she is a Filipino citizen.[73]

Filipino citizenship is expressly stated on the faces of the passports.[74]

- The exercise of the rights of a Filipino citizen does not ripen to nor can it be the basis for claim of Filipino citizenship.[75]

July 29, 1991

Poe left for the U.S. after she married Daniel Llamanzares (an American citizen of Filipino extraction) in the Philippines on July 27, 1991.[76]

- Legal Significance: Her US. residency status did not affect the Philippine citizenship status reflected in her passport and voter's ID, but affected her Philippine residency status as soon as she applied for and was granted US. residency status. Specifically, she abandoned the Philippine domicile that she had from the time she was found.[77]

October 18, 2001

Poe became a naturalized United States (US.) citizen.[78]

- Legal significance: Poe lost whatever claim she had to Philippine citizenship through "express renunciation of the citizenship.[79]

U.S. citizenship confirmed her abandonment of the Philippine citizenship whose rights she had been exercising, as well as her Philippine residence.[80]

- Note that in her oath to the U.S., she "absolutely and entirely renounce[d] and abjure[d] all allegiance and fidelity ... to any state ... of whom or which I have heretofore been a subject or citizen." (This was the "infidelity" that the Return of the Renegade quotation, above, referred to.)

- She turned her back on the Philippines under these terms.

December 19, 2001

Poe obtained U.S. Passport No. 017037793, expiring on December 18, 2011.[81]

- Legal Significance: Part of her right as a U.S. citizen.

October 18, 2001 to July 18, 2006

Various travels of Poe to the Philippines before she applied for Philippine citizenship under RA No. 9225. She used her U.S. Passport and entered the Philippines through Philippine Balikbayan visas.[82]

Dates of Arrival

Visa

Passport

December 27, 2001

Balikbayan

US Passport

January 13, 2002

Balikbayan

US Passport

November 9, 2003

Balikbayan

US Passport

April 8, 2004

Balikbayan

US Passport

December 13, 2004

Balikbayan

US Passport

May 24, 2005

Balikbayan

US Passport

September 14, 2005

Balikbayan

US Passport

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January 7, 2006

Balikbayan

US Passport

March 11, 2006

Balikbayan

US Passport

July 5, 2006

Balikbayan

US Passport

- Legal Significance: During this period, Poe - an American citizen - was a visitor who had abjured all allegiance and fidelity to the Philippines; she was not a Filipino citizen or a legal resident of the country.

July 7, 2006

She took her oath of allegiance to the Philippines.[83]

- Legal Significance: The start of the process of reacquiring Filipino· citizenship by an alien under RA No. 9225. The process assumes that the applicant was a NATURAL-BORN Philippine citizenship before she lost this citizenship.

July l0, 2006

Poe filed with the Bureau of Immigration and Deportation (BID) applications for: (a) reacquisition of Philippine citizenship under Republic Act (RA) No. 9225; and (b) derivative citizenship for her three minor children.[84]

- Legal Significance: RA No. 9225 is available only to former natural-horn Filipino citizens.[85] Thus, the validity of her RA No. 9225 reacquired Philippine citizenship depended on the validity of her natural-born citizenship claim.

- She falsely represented under oath in her RA No. 9225 application that she was a former natural-born citizen of the Philippines and was the daughter of Ronald and Susan Poe, thereby also concealing that she had been a foundling who was adopted by the Spouses Poe, not their natural-born child. As an adopted child, she could not have been a natural-born citizen who followed the citizenship of the Spouses Poe under the rule of jus sanguinis.

- This false material representation became the basis for her subsequent claim to be a natural-born citizen, notably in her MTRCB appointment, her election to the Senate and her present candidacy for President. The COMELEC 's ruling on Poe 's CoC for President is now the subject of the present petitions.

- Despite the privilege under the adoption laws and rules[86] to keep the fact of adoption confidential, she still had the duty to disclose her foundling status under RA No. 9225 because this is material information that the law mandatorily requires to be made under oath as a condition for the application of the law.[87]

July 18, 2006

The BID approved Poe's application for Philippine citizenship and the applications for derivative citizenship for

her three children.[88]

- Legal Significance: The approval of Poe's RA No. 9225 application, on its face, entitled her to claim dual citizenship status - Philippine and American.[89]

- To quote the BID Order approving Poe's application - "the petitioner was a former natural-born citizen of the Philippines, having been born to Filipino parents ...." This Order immeasurably facilitated Poe's subsequent claim to natural-born status.

- The present case is not the medium to question validity of the BID approval, but still lays open the question of whether Poe committed false material representations in the application process - a question of fact that the COMELEC ruled upon,[90] i.e., that she falsely represented that she had been a natural-born citizen.

July 31, 2006

The BID issued to Poe her Identification Certificate No. 06-10918[91] pursuant to RA No. 9225 in relation with Administrative Order No.91, series of 2004 and Memorandum Circular No. AFF-2-005.

August 31, 2006

Poe registered again as voter in Barangay Santa Lucia, San Juan City.[92]

- Legal Significance: Under RA No. 9225, a dual citizen can vote but cannot be voted upon to elective position unless a renunciation of the other citizenship is made.[93]

October 31, 2006

Poe obtained Philippine Passport No. XX473199.[94]

- Legal Significance: The passport was issued after the approval of Poe's RA No. 9225 citizenship and was therefore on the strength of the approval made.

July 18, 2006 - October 13, 2009

(The date of the
BID's approval, to the date of the issuance of Poe's Philippine passport

Poe travelled abroad using her U.S. passport; the BID stamped the entry "RC" and/or "IC No. 06- 10918" for her travels to and from the Philippines on these dates:[95]

Dates of Arrival

Visa

Passport

July 21, 2007

RC

US Passport

March 28, 2008

RC

US Passport

May 8, 2008

RC

US Passport

October 2, 2008

RC

US Passport

October 5, 2008

RC

US Passport

April 20, 2009

RC

US Passport

May 21, 2009

RC

US Passport

July 31, 2009

RC

US Passport

- Legal Significance: The BID allowed Poe to enter and leave the country as "RC." Atty. Poblador mentioned that "RC" means "resident citizen" to claim the marking as evidence of continuing res id ency.

October 6, 2010

Poe was appointed Chair of the MTRCB.[96]

- Legal significance: Poe could have been appointed as MTR CB Chairperson only if she had been a natural-born citizen.[97]

October 20, 2010

Poe renounced her U.S. allegiance and citizenship to comply with RA No. 9225's requirements.[98]

- Legal Significance: Her renunciation of US. Citizenship complied with the requirements of RA No. 9225 and

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would have made her a "pure" Filipino citizen if she had validly reacquired Philippine citizenship under this law.[99]

- A seldom noticed aspect of this renunciation is that Poe only renounced her U.S. citizenship because it was required by her appointment and subsequent assumption to office at the MTRCB.[100]

October 21, 2010

Poe took her Oath of Office for the position of MTRCB Chairperson.[101]

October 26, 2010

Poe assumed the duties and responsibilities of the Office of the MTRCB Chairperson.[102]

- Legal significance: Poe could have been appointed as MTR CB Chairperson only if she had been a natural-born Filipino Citizenship.[103]

U.S. government actions on the renunciation of U.S. citizenship that Poe made.

The U.S. immigration noted in Poe's passport that she repatriated herself on this date.[104]

July 12, 2011

Poe executed the Oath/ Affirmation of Renunciation of U.S. Nationality at the U.S. Embassy in Manila.[105]

December 9, 2011

She also executed a Statement of Voluntary Relinquishment of U.S. Citizenship.[106]

February 3, 2012

The U.S. Vice Consul signed a Certificate of Loss of Nationality of the U.S.[107]

The U.S. Department of State approved the Certificate of Loss of U.S. Nationality.[108]

- Legal significance: Confirmatory renunciation, before U.S. authorities, of her previous renunciation under RA No. 9225. Up until these series of acts, Poe was a dual citizen.

- Legally, this was the conclusive evidence that she had abandoned her U.S. domicile, as a traveler carrying a purely Philippine passport, she could no longer travel at will to and from the U.S.. nor reside in that country.

October 2, 2012

Poe filed her CoC for Senator for the May 13, , 2013 Elections; she stated that she is a natural-born Filipino citizen.[109]

- Legal Significance: This is another case involving the material representation of being a · natural-born Filipino, having been born to Ronald Allan Poe and Jesusa Sonora Poe.

- She was elected Senator without any question about her citizenship being raised.

November 18, 2015

The Senate Electoral Tribunal (SET) (voting 5 to 4) issued its Decision[110] dismissing the Quo Warranto petition of Rizalito David which was based on the claim that Poe is not a natural-born citizen of the Philippines.

- Legal Significance - The SET ruling does not bind nor bar the COMELEC from ruling on the cancellation of CoC petitions because these tribunals are different, the cause of actions before them are different, and the parties

are likewise different.

- Significantly, the dissents at the SET were wholly based on legal considerations - on the Constitution, on international law, and Philippine statutes. The SET majority ruling relied more on political considerations.

October 15, 2015

Poe filed her CoC[111] for PRESIDENT for the May 9, 2016 Elections; she signed the statement under oath that she is a NATURAL-BORN FILIPINO CITIZEN.

- Legal Significance: This is the citizenship issue in the present case which posed to the Comelec 2 sub-issues:

First . Is Poe a natural-born Filipino citizen

After considering her foundling status, her

Acquisition of U.S. citizenship and the consequent loss of her claimed natural-born Philippine citizenship, and her alleged reacquisition under RA No. 9225?

Second . Since she claimed she was a natural-born citizen, did she commit false material representations in her CoC and in the official documents supporting her claim? If she did, should this false material representation lead to the cancellation of her CoC?

Given the succession of falsities that Poe made on her natural-born status, may the COMELEC be faulted with GAD for ruling as it did?

- Ironically, she claims in the present CoC cancellation case that the grant by the Philippines of her right to vote, her passport, and her appointment to the MTRCB should be· considered evidence of government recognitions of her natural-born Philippine citizen status.[112] She thus wants her very own misdeeds to be the evidence of her natural-born status.

- The previous false claims open the question: could they count as evidence of natural-born status if they have all been rooted on documents that were based on misrepresentations?

- More importantly, could her election or appointment to public office have worked to automatically grant or restore her Philippine citizenship?

- While the fact of adoption is confidential information in the Amended Certificate of Live Birth (but must appear in the Registry of Birth), the grant of confidentiality is not an absolute shield against the disclosure of being a foundling nor a defense against false representation. While in RA No. 9225, the natural-born requirement is a statutory one that arguably stands at the same level and footing as the confidential privilege on the law on adoption, in the present case, the natural-born requirement is a constitutional one that stands on a very much higher plane than the confidentiality privilege. In the latter case, national interest is already plainly involved in electing the highest official of the land.

- Note, too, that in Frivaldo v. COMELEC,[113] the Court ruled that the election of a former Filipino to office does not automatically restore Philippine citizenship, the possession of which is an indispensable requirement for holding public office. "The will of the people as expressed through the ballot cannot cure the vice of ineligibility, especially if they mistakenly believed, as in this case, that the candidate was qualified.[114]

I.C. RESIDENCY TABLE

The residency issues mainly stemmed from two events - (1) the naturalization of Poe as a U.S. citizen; and (2) her application for reacquisition of Philippine citizenship under RA No. 9225.

The first made her a domiciliary of the U.S.,[115] while the second (assuming the claimed reacquisition to be valid) gave her the right to reside in the Philippines and to be considered a domiciliary of the Philippines for the exercise of her political rights, i.e., for election purposes, based on her compliance with the requisites for change of residence. Still assuming that she complied with the RA 9225 requisites, the consolidated petitions still pose the following questions to the COMELEC and to this Court:

(a) Whether she became a resident of the Philippines for election purposes; and

(b) If so, when did she become a resident.

The COMELEC, after considering the evidence and the surrounding circumstances, ruled that she engaged in false material representations in claiming her residency status in her CoC for the Presidency; she tailor-fitted her claim to the requirements of the position by deviating from the claim she made when she ran/or the Senate.

While she claimed that a mistake intervened in her Senate CoC, she failed to adduce evidence on the details and circumstances of the mistake, thus making her claim a self-serving one. Her claim, too, went against established jurisprudence which holds that the counting of the period of residency for election purposes starts - at the earliest - from the approval of the RA No. 9225 application.

Table 2

THE RESIDENCY TABLE

DATE

Particulars (with legal significance)

Days prior to September 3, 1968 - the date Poe was found in Jaro, Iloilo

With Poe's parentage unknown, her residence from the time of her birth until she was found is likewise unknown.

- Legal Significance: Poe's circumstances of birth have been a big cipher from the very beginning.

September 3, 1968[116]

This is Poe's declared birthday, which is really the date Poe was found by Edgardo Militar at the Jaro Iloilo Cathderal. She was subsequently given to the care of Emiliano Militar and his wife, residents of Jaro, Iloilo.

- Legal Significance: The spouses Militar became Poe's de facto guardians; hence, Poe technically became a resident of Jara, Iloilo

1973

Ronald Allan Poe and Jesusa Sonora Poe filed a petition for Poe's adoption.[117]

May 13, 1974

The court approved the Spouses Poe's petition for adoption. Poe's name was changed to "Mary Grace Sonora Poe.[118]

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- Legal Significance: She officially assumed the status of a legitimate child after the Spouses Poe adopted her. She then followed her adoptive parents' residence as her domicile of origin.

- Under the Civil Code, the general effect of a decree of adoption is to transfer to the adoptive parents parental authority over the adopted child ... they must have the same residence.[119]

December 13, 1986

The COMELEC issued a voter's identification card to Poe for Precinct No. 196, Greenhills, San Juan, Metro Manila.[120]

- Legal Significance: She could have been registered as a voter only if she had represented that she was a Filipino citizen and a resident of the Philippines for at least one year and of Greenhills, San Juan, Metro Manila for at least six months immediately preceding the elections.[121]

Poe went to the U.S. to continue her tertiary studies at the Boston College in Chestnut Hill, Massachusetts.[122]

- Legal Significance: Poe remained a Philippine resident while studying in the US. Absence from Philippine domicile to pursue studies overseas does not constitute loss of domicile or residence.

1991

Poe graduated from Boston College.[123]

- Legal significance. Absence from the domicile of origin to pursue studies does not constitute loss of domicile or residence.

- While a student in the U.S., Poe's permanent residence remained in the Philippines,· there was intent to return to the Philippines or animus revertendi.[124]There is no evidence or proven intent to make Boston her fixed and permanent home.[125]

- Thus, Poe was a permanent Philippine resident for 23 years (1968 to 1991).

July 29, 1991

Poe left for the U.S. after she married Daniel Llamanzares (an American citizen of .Filipino extraction) in the Philippines on July 27, 1991.[126]

- Legal Significance: Her initial US stay was presumably preparatory to being a permanent resident of the U.S. for purposes of the U.S. citizenship that she eventually claimed.

- Significantly, Poe admits that she willingly chose to live with her husband in the U.S., and thus left on July 29, 1991. Very clearly, Poe intended to abandon her Philippine residence for a new residence in the U.S. when she went with her husband to the U.S.[127]

1991-2001

Poe lived with her husband and children in the U.S.[128]They travelled frequently to the Philippines but only to visit family and friends.

- Legal Significance: Poe remained a U.S. resident from the time she secured permanent U.S. visa status. The permanent resident status confirmed her intent to establish family life, and thus, residence, in the U.S.[129]

October 18, 2001

Poe became a naturalized American Citizen[130]

- Legal significance: U.S. citizenship erased all doubts that Poe had completely abandoned her Philippine residence.[131] It confirmed as well that she had been a permanent resident of the U.S. before her application for U.S. citizenship.

- The Philippine domicile she abandoned was the domicile she had from the time she was adopted by the spouses Poe.[132]

- To qualify for citizenship under U.S. naturalization laws, it is required that one must have been a permanent resident for 3 {three) years or more if one is filing for naturalization as the spouse of a U.S. citizen.[133]

- Her subsequent acts of living and remaining in the U.S. for ten years until her naturalization in 2001 point to the conclusion that at some point during this time (after arrival in 1991), she was already a U.S. and could no longer be considered a Philippine resident.

2004

Poe resigned from her work in the U.S. and allegedly never sought re-employment.[134]

- Legal Significance: Resignation from work had no immediate legal effect on residence and is thus immaterial to Poe's claimed Philippine residency status. Poe remained a US resident and was in fact a U.S. citizen domiciled in that country.

- Resignation from one's employment per se does not amount to abandonment of residence.[135]

April 8, 2004 up to July 7, 2004

Poe travelled to the Philippines with her daughter, Hanna. Poe also wanted to give birth to Anika in the Philippines and to give moral support to her parents during her father's campaign for the presidency.[136]

- Legal significance: Poe remained a U.S. resident.

- Poe's travels (to and from the U.S. and the Philippines) between April 2004 and February 2005 did not affect her U.S. residency status.

- The admitted purposes for these travels had nothing to do with any intent to re-establish Philippine residence.

July 8, 2004

Poe returned to the U.S. with her two daughters.[137]

- Legal significance: This return trip further proves that Poe remained a U.S. resident.

December 13, 2004 up to February 3, 2005

Poe was in the Philippines when Fernando Poe, Jr. was hospitalized. She eventually took care of settling his affairs after he died.[138]

- Legal significance: Poe remained q U.S. resident.

- The admitted purposes of her stay in the Philippines during this period had nothing to do with the re-establishment of her residence in the Philippines.

First Quarter of 2005

Poe and her husband allegedly decided to return to the Philippines for good.[139]

- Legal Significance: Poe did not abandon her US. Residence. Their (Poe and her husband's) alleged intent are

internal subjective acts that are meaningless without external supporting action under the legal conditions that would allow a change of domicile. Notably, Poe was in the Philippines during the year as a Visitor under a Balikbayan visa.[140]

- Mere change of residence in the exercise of the civil right to change residence is likewise different from a change of domicile for the exercise of the political right to be voted into public office. For the exercise of this political right, the candidate must be a Philippine citizen.

- US. residency - which started in 1991 and which was later confirmed by Poe's acquisition of US. citizenship - remained until specifically given up, for as long as the right to reside in the U.S. subsisted.

Note: Poe argues that her travels to and initial stay in the Philippines were preparatory acts in the goal to establish residence in the Philippines. Even assuming that they were preparatory acts, they are not material to the issue of when Poe became a Philippine resident (as contemplated by the Constitution and or election laws). They are not also conclusive on when she abandoned her U.S. residence.

In early 2005

Poe and her husband informed their children's schools that the children would be transferring to Philippine schools in the next semester.[141]

- Legal Significance: Poe remained a US. resident. This act establishes the intent to transfer schools, but does not, by itself, conclusively prove the intent to change or to abandon her US. residence.

- Absence from her US. residence (and presence in the Philippines) to pursue studies does not constitute loss of US. domicile and acquisition of a new domicile in the Philippines.

May 24, 2005

Poe returned to the Philippines and allegedly decided to resettle here for good.[142] Note that Poe was still under a Balikbayan visa and was thus a visitor to the Philippines.[143]

Poe argues that she re-established permanent Philippine residence at this point. Can a US. citizen, on a Balikbayan visit to the Philippines, thereby establish residence for purposes of the exercise of political rights in the Philippines?

- Legal Significance: The evidence speak for themselves. Poe's Balikbayan visa does not point to or confirm any intent to permanently settle in the Philippines.[144]

- Since she entered the Philippines under a Balikbayan visa and was thus a temporary visitor to the country under Section 13 of CA 613 (as amended by RA No. 4376), her alleged intent was not supported by her contemporaneous act.

- Consider too from here on that from the perspective of change of domicile, although Poe's acts may collectively show her intent to settle m the Philippines, they do not conclusively the intent to abandon her U.S. domicile. She was at this point still a US. citizen who had been a permanent resident since 1991 and who could return at will to the US. as a resident.

March 2005 to November 2006

Poe and her husband transacted with shipping agents for the transport of their personal belongings and other personal property from the U.S. to the Philippines in view of their decision to resettle in the Philippines.[145]

- Legal Significance: Poe remained a US. Resident temporarily in the Philippines; her visa status did not point to

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residence that could be credited as legal residence for election purposes. She might have been physically present in the Philippines but what was the nature of her stay in the Philippines? She was legally in the country for purposes only of a temporary stay and had no legally established basis to stay beyond this.[146]

- An important point to note is that she was not exercising any political right to reside in the Philippines at this point.

- Again, an obvious missing element was her clear intent to abandon her US. domicile. Her claimed acts do not clearly show Poe's intent to abandon her US. Domicile.

August 2005

Poe and her husband inquired with the Philippine authorities on the procedure to bring their pet dog from the U.S.A. to the Philippines.[147]

- Legal Significance: Poe's inquiry did not affect her residency at all; she remained a US. resident, and is totally worthless as she did not even show by subsequent evidence that she actually brought the dog to the Philippines. This act, too, does not prove abandonment of their US. residence.

June 2005

Poe enrolled her children m different schools m the Philippines.[148]

- Legal Significance: This act does not prove Poe's intent to abandon their U.S. domicile,· Poe's children entered the Philippines for a temporary period under the Balikbayan program. Note too, that the enrollment in schools is only for a period of one school year. At most, this shows that Poe and her children were physically present in the Philippines at this time. Note that under certain conditions, aliens like Poe, can enroll their children in the Philippines.[149]

- Absence from her U.S. residence (and presence in the Philippines) to pursue studies does not conclusively point to the loss of U.S. domicile and acquisition of a new Philippine domicile. Note that Poe herself previously studied in the U.S. without losing her Philippine residence.

July 22, 2005

Poe registered with and secured Tax Identification No. (TIN)[150] from the Bureau of Internal Revenue (BIR).

- Legal Significance: This act was undertaken as an alien and does not prove Poe's intent to remain in the Philippines or the intent to abandon U.S. domicile (animus non revertendi); hence, it is not legally significant for the residency issue before the Court. She was then on a temporary visitor who was simply physically present in the Philippines. A Taxpayer Identification No. could have been necessary for the purposes indicated below as Poe was a forced heir of Ronald Poe who recently died.

- "Any person, whether natural or juridical, required under the authority of the Internal Revenue Code to make, render or file a· return, statement or other documents, shall be supplied with or assigned a Taxpayer Identification Number (TIN) to be indicated in the return, statement or document to be filed with the Bureau of Internal Revenue, for his proper identification for tax purposes." (Sec. 236 (i) of the Tax Code).

- The absence of definitive abandonment of U.S. residency status and lack of legal capacity to establish Philippine residence for election purposes can only point to the conclusion that Poe remained a U.S. resident until July 18, 2006,[151] the date she acquired the right to reside in the Philippines.

February 20, 2006

The Register of Deeds (RD) of San Juan City issued to Poe and her husband CCT No. 11985-R covering Unit 7F of One Wilson Place, and CCT No. 11986-R covering the parking slot for Unit 7F.[152]

- Legal Significance: This act does not prove Poe's intent to abandon U.S. domicile (animus non-revertendi). It is, at best, evidence of an investment in Philippine real estate - a move that aliens can make.

- Aliens or foreign nationals, whether former natural-born Filipino citizens or not, can acquire condominium units and shares in condominium corporations up to 40% of the total and outstanding capital stock of a Filipino owned or controlled condominium Corporation, per RA No. 4726, as amended by RA No. 7899, (or An Act to Define Condominium, Establish Requirements For Its Creation, And Govern Its Incidents).[153]

February 14, 2006 to March 11, 2006

Poe travelled to the U.S. to supervise the disposal of some of her family's remaining household belongings.[154] She returned to the Philippines on March 11, 2006.[155]

- Legal Significance: Poe remained a US. resident. This is an unequivocal act that does not prove Poe's intent to abandon her US. domicile (animus non-revertendi).

Late March 2006

Poe's husband officially informed the U.S. Postal Service of their change of their U.S. address.[156]

- Legal Significance: Poe and her husband may have merely complied with the US. Laws for convenience and for mail forwarding purposes while on extended but temporary absence.

- This act, by itself, does not prove the establishment of domicile in the Philippines. Poe did not have at that point the legal capacity or right to establish domicile or residence in the country. The act does not conclusively signify abandonment of U.S. domicile.

April 25, 2006

Unit 7F of One Wilson Place and its parking slot were declared for taxation purposes under Poe and her husband's names.[157]

- Legal Significance: It does not establish permanent residence in the Philippines. It is merely in compliance with an obligation that arises from ownership of real property in the Philippines - an obligation that even alien owners of real property must fulfill.

April 27, 2006

Poe's U.S. family home was sold.[158]

- Legal Significance: Poe remained a U.S. resident. The sale of their family home may indicate intent to transfer residence (within or without the U.S.) but it does not automatically result m reacquiring domicile m the Philippines. Sale of the family home is a practical recourse for one who may be on extended absence; or who may be relocating for employment purposes; or who is simply engaged in profit-taking.

- What is important for the exercise of political right at issue is the legal capacity to establish residence in the Philippines. Notably, too, in terms of the legal status of her Philippine stay, she was still under a Balikbayan Visitor's Visa at this time.

June 1, 2006

The RD for Quezon City issued to Poe and her husband TCT No. 290260 covering a 509-square meter lot located

at No. 106 Rodeo Drive, Corinthian Hills, Barangay Ugong Norte, Quezon City to be used as their new family home.[159]

- Legal Significance: Poe still remained a US. resident for lack of legal capacity and the right to establish residence in the Philippines. She was also still a US. citizen who had not conclusively abandoned her US. domicile.

- Even alien non-residents who were former Filipino citizens can be transferees of up to 5, 000 sqm. of urban land or 3 has. of rural land for business or other purposes under RA No. 7042, as amended by RA No. 8179,[160] in relation with Article XII, Section 8 of the Constitution,[161] without the need to reacquire Philippine citizenship or to re-establish Philippine residence, provided they were former natural-born Filipinos. Acquisition of Philippine real estate is not evidence of the citizenship of former Filipino citizens, much less of their natural-born status.

- The original ponencia of Justice Mariano C. de/ Castillo noted that after this sale, Poe and her husband still owned and retained two (2) other residential properties in the U.S.[162] The retained properties negate whatever evidentiary worth the sale of the "family home" provided, Poe could still return to a residence the couple already own.

July 7, 2006

Poe took her oath of allegiance to the Philippines.[163]

- Legal Significance: Poe's oath of allegiance to the Philippines started the legal process under RA No. 9225 but had no immediate legal effect on her change of domicile; she was still a U.S. resident at this point and would remain to be so even after her RA No. 9225 is approved.

- Dual citizens do not become Philippine domiciliaries upon the approval of their RA No. 9225 petitions; note that former natural-born Filipino citizens who are U.S. residents can apply under RA No. 9225 even without need of establishing actual Philippine residence.[164] All they have after approval is the civil and political right to establish residence in the Philippines, but this they must do by complying with the rules on change of domicile.

July 10, 2006

Poe filed with the Bureau of Immigration and Deportation (BID) an application for reacquisition of Philippine citizenship under RA No. 9225 or the "Citizenship Retention and Reacquisition Act of 2003"; she also filed for derivative citizenship on behalf of her three children, who were all below eighteen years of age at that time.[165]

- Legal Significance: RA No. 9225 is available only to former natural-born citizens.[166] Thus, the validity of Poe's RA No. 9225 reacquired Philippine citizenship depends on the validity of her natural-born citizenship claim.

- Poe's application for reacquisition of Philippine citizenship (RA No. 9225) did not, by that act alone, conclusively prove abandonment of her US. domicile. As noted below, Poe, at that point, had the option to establish residence in both the Philippines and the US.

July 18, 2006

The BID approved Poe's application for reacquisition of Philippine citizenship under RA No. 9225, and the applications for derivative citizenship for her three children.[167]

- Legal Significance: Subject to the reservation made above, the approval entitled her to recognition as a dual citizen - Philippine and American.[168]

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- Assuming Poe to be a former natural-born citizen, July 18, 2006 would be the earliest possible reckoning point for Poe to establish Philippine residency for purposes of the exercise of political rights as it was only then that she was granted civil and political rights. To vote and be voted for are both political rights.

- But note that actual residence is still necessary as an RA No. 9225 Filipino citizen is a dual citizen who can reside either in the Philippines or in the other country of dual citizenship.[169]As already mentioned, the reacquisition of Philippine citizenship only gives the RA No. 9225 dual citizen an option to re-establish residence in the Philippines and to exercise the limited right of suffrage in national elections but not the right to run for public office.

- At this exact point, the resolution of the issue of residence is still unclear as Poe was a dual Philippine-US citizen who could be a resident physical as opposed to legal or juridical resident - of both the US. And the Philippines. Note that Poe started as a U.S. domiciliary. This characterization stays until she could carry a change of domicile into effect. This change admits of evidence showing compliance with the required elements, and becomes conclusive only when dual citizenship is given up in favor of one of the citizenships; upon this surrender, the right to reside in the other country is likewise given up.

- In the case of Poe, she secured her civil and political rights as a RA No. 9225 dual citizen on July 18, 2006. This is the earliest date she could exercise her right to reside in the Philippines for the exercise of her political rights, particularly of her right to vote. But she enjoys the right to be voted upon as a candidate upon the renunciation of her other citizenship. It was only then that that she conclusively gave up the US. domiciliary tag that she started with. Of course, hanging above and beclouding these issues is the natural-born citizenship question - was she in the first place a former natural-born Filipino who could avail of RA No. 9225?[170]

July 31, 2006

The BID issued Poe Identification Certificate No. 06- 10918 pursuant to RA No. 9225 in relation with Administrative Order No. 91, Series of 2004 and Memorandum Circular No. AFF-2-005.[171] Her children were likewise issued their respective Identification Certificate Nos.[172]

- Legal Significance: These are the effects of the approval of Poe's application for Philippine citizenship under RA No. 9225, and relate primarily to the citizenship, not to the residency issue. The right to reside in the Philippines of course came when the RA No. 9225 application was approved. The exercise of this right is another matter.

August 31, 2006

Poe registered as voter in Brgy. Santa Lucia, San Juan City.[173]

- Legal Significance: Registration as a voter could serve as proof of the start of Poe's stay in the Philippines after she acquired the legal capacity to do so through RA No. 9225, but does not conclusively establish her intent to remain m the Philippines or the intent to abandon her US. citizenship and domicile.

- She could have been registered as a voter only if she had represented that she was a resident of the Philippines for at least one year and of Brgy. Santa Lucia, San Juan City for at least six months immediately preceding the elections.[174]

- In Japzon v. COMELEC,[175] the Court considered Ty's registration as a voter as evidence of his intent to establish a new domicile of choice in General Macarthur, Eastern Samar.

October 18, 2001 to July 18, 2006

On these dates, Poe returned to the Philippines using her U.S. Passport under the Balikbayan program[176] per

the entry "BB" or "1 YR" and stamped dates in her U.S. Passport:[177]

Dates of Arrival

Visa

Passport

December 27, 2001

Balikbayan

US Passport

January 13, 2002

Balikbayan

US Passport

November 9, 2003

Balikbayan

US Passport

April 8, 2004

Balikbayan

US Passport

December 13, 2004

Balikbayan

US Passport

May 24, 2005

Balikbayan

US Passport

September 14, 2005

Balikbayan

US Passport

January 7, 2006

Balikbayan

US Passport

March 11, 2006

Balikbayan

US Passport

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July 5, 2006

Balikbayan

US Passport

November 4, 2006

Balikbayan

US Passport

- Legal Significance: These notations are evidence of the character of Poe's stay in the Philippines from May 24, 2005 up to the time her RA No. 9225 application was approved.

- During this period, Poe - an American citizen - was a visitor to the Philippines, not a Filipino citizen nor a legal resident of this country.

July 18, 2006 to October 13, 2009

On these dates,[178] Poe travelled to and from the Philippines using her U.S. Passport, but the BID stamp on her U.S. Passport changed from "BB" or "l YR" to "RC" and/or "IC No. 06-10918:"[179]

Dates of Arrival

Visa

Passport

July 21, 2007

RC

US Passport

March 28, 2008

RC

US Passport

May 8,2008

RC

US Passport

October 2, 2008

RC

US Passport

October 5, 2008

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RC

US Passport

April 20, 2009

RC

US Passport

May21, 2009

RC

US Passport

July 31, 2009

RC

US Passport

- Legal Significance - The continued use of Poe's US. passport could be explained by Poe's lack of a Philippine passport. The delay of three years between the RA No. 9225 approval and the issuance of the passport on October 13, 2009 raises questions about her intents, both the intent to remain in the Philippines and the intent to abandon her US. domicile. During this period at least, any claimed residence for the exercise of the right to be voted upon as a candidate cannot and should not be recognized; her abandonment of her US domicile was incomplete and uncertain.

October 13, 2009

Poe obtained Philippine Passport No. XX473199.[180]

- Legal Significance: The issuance of a Philippine passport, per se, has no legal effect on Poe's Philippine residency status. A Philippine citizen on dual citizenship status is entitled to a Philippine passport.

- The BID allowed Poe to enter and leave the country as "RC "Atty. Poblador mentioned that "RC" means "resident citizen."

October 6, 2010

Poe was appointed as the Chairperson of the Movie and Television Review and Classification Board (MTRCB).[181]

- Legal Significance: Poe could have been appointed as MTRCB Chairperson only if she had been a natural-born Filipino citizen, and a resident of the Philippines for purposes of the exercise of political rights.[182] The natural-born citizenship status is a direct legal requirement. Residency, on the other hand, is a consequence of the need to make a renunciation of the other citizenship (pursuant to RA No. 9225), as renunciation would leave the appointee with no other residence other than the Philippines.

October 20, 2010

Poe renounced her U.S. allegiance and citizenship.[183]

- Legal Significance: This is a requirement under RA No. 9225 and served to complete the necessary requirements before she could assume appointive public office.

- The event should be very significant for a Presidential candidate who had been previously naturalized in a foreign country, and who now claims residency status for the period required by the Philippine Constitution. This should serve as the conclusive proof that the candidate has undertaken a change of domicile through proof of abandonment of her old domicile.

- The strictest rule of interpretation and appreciation of evidence should be used given the previous loss of both Philippine citizenship and residency status. She is not the usual candidate as she is vying for the highest office in the land whose citizenship she previously renounced.

- Her renunciation of her foreign citizenship should be the lowest acceptable level of proof ·of Poe's intent to abandon her US. domicile (animus non-revertendi), as pointed out by Justice Del Castillo during the third round of oral arguments.)

- Note that by her own admission, Poe renounced her US. Citizenship and thereby likewise abandoned her US. domiciliary status only to comply with the requirements o[RA No. 9225 and the MTRCB appointment extended to her.[184]

October 21, 2010

Poe took her Oath of Office for the position of MTRCB Chairperson.[185]

October 26, 2010

Poe assumed the duties and responsibilities of the Office of the MTRCB Chairperson.[186]

- Legal significance: Poe could have been appointed as MTR CB Chairperson only if she had been a natural-born Filipino citizen, and a resident of the Philippines for purposes of exercising political rights.[187]

October 2, 2012

Poe filed her CoC for Senator for the May 13, 2013 Elections; she stated in Item No. 7 of her CoC that her " PERIOD OF RESIDENCE BEFORE MAY 13, 2013" was '6 years and 6 months."[188]This statement was made on October 2, 2012.

- Legal Significance: The residency statement in the CoC for the Senate was a material representation that Poe now claims to be a mistake.

- Ironically for Poe, the period she claimed in her Senate CoC dovetailed with her Philippine residency computed from the time her RA No. 9225 application was approved.

- Poe never introduced any evidence relating to her claimed "mistake," thus leaving this claim a self-serving one that allows her this time to qualify for the residency requirement for the Office of the President of the Philippines.

December 19, 2013

The Department of Foreign Affairs (DFA) issued to Poe, Diplomatic Passport No. DE0004530.[189]

- No effect on Poe's residency status.

March 14, 2014

The DF A issued to Poe, Philippine Passport No. EC0588861.[190]

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- No effect on Poe's residency status.

October 15, 2015

Poe filed her CoC for the Presidency for the May 9, 2016 Elections; she stated in Item No. 7 of her CoC that her "PERIOD OF RESIDENCE IN THE PHILIPPINES UP TO THE DAY BEFORE MAY 09, 2016 is 10 YEARS, 11 MONTHS,"[191]which the petitions before us now claim to be a false material representation.

- Legal significance: The residency claim, under the given facts and in light of the Senate CoC statement, gives rise to the question: did Poe commit a false material representation regarding her compliance with the residency requirement?

- Poe claims that she made a mistake in the Senate CoC declaration, but the claim remained self-serving with no evidence to support it.

- An unavoidable observation is that Poe's belated claim of mistake in her Senate CoC now allows her to claim the longer period of residency that her candidacy for the Presidency now requires.

- Should the COMELEC be now faulted for arriving at this obvious conclusion?

II.

Preliminary I Threshold Issues and Concerns
II.A. Nature of the Present Petition and the Court's Responses.

As the ultimate interpreter of the Constitution and of our laws, this Court will have the final say in the case now before us. Our collective actions and decisions are not subject to review by any other institution of government; we are the ultimate Guardians with no other guardians to check, correct, and chastise us. Beyond the dictates of the established standards of legal interpretation and application, only our individual conscience guides us; as unelected officials, only history can judge us.

Thus, for the sake of the country and for the maintenance of the integrity of this Court, we must render our ruling with the utmost circumspection.

As defined, the problem directly before the Court is the determination of the presence or absence of grave abuse of discretion in the COMELEC's cancellation of petitioner Poe's CoC for its invalidity, based on the false material representations the COMELEC found in her statements of citizenship and residency qualifications for the position of President of the Philippines. From the perspective of the Court, the present case calls for the exercise of the Court's power of judicial review.

The main issues in this case - the conformity of the COMELEC 's ruling with legal[192] and constitutional standards[193] - are directly governed by the Constitution. Thus, the dispute before us is a constitutional law case, not simply an election nor a social justice case, and one that should be dealt with according to the terms of the Constitution, following the norms of the rule of law.

To be sure, the applicable measuring standards cannot simply be the individual Justices' notions of the fairness of the constitutional terms involved (which are matters of policy that the Court cannot touch), nor their pet social and human rights advocacies that are not justified by the clear terms of the Constitution.

If these constitutional terms are clear, the only option for the Court is to apply them; if they lack clarity, the Court may interpret them using the established canons of constitutional interpretation but without touching on matters of policy that an authority higher than the Court's - that of the sovereign Filipino people - has put in place.[194]

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If indeed the Court deems the constitutional terms to be clear but tainted with unfairness, the Court's remedy is to note the tainted terms and observe that they should be raised with the people and their representatives for constitutional amendment; the Court cannot act on its own to remedy the unfairness as such step is a political one that the Court cannot directly undertake. Definitely, the remedy is not to engage in interpretation in order to read into the Constitution what is not written there. This is judicial legislation of the highest order that I do not want to be a party to.

II.B. The Parameters of the Court's Exercise of Judicial Power in acting on the case.

II.B.1. The Exercise of the Power of Judicial Review.

The Supreme Court in entertaining the present petitions acts pursuant to Article VIII, Section I of the 1987 Constitution which provides that:

> SECTION 1. The judicial power shall be vested in one Supreme Court and in such lower courts as may be established by law.
>
> Judicial power includes the duty of the courts of justice to settle actual controversies involving rights which are legally demandable and enforceable, and to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government. [Underscoring supplied)

In the seminal case of Angara v. Electoral Tribunal[195] the Court mandated in no uncertain terms that judicial review is "limited to the constitutional question raised or the very lis mota presented," and without passing upon "questions of wisdom, justice or expediency of legislation. " With the scope of the justiciable issue so delimited, the Court in resolving the constitutional issues likewise cannot add to, detract from, or negate what the Constitution commands; it cannot simply follow its sense of justice based on how things out to be, nor lay down its own policy, nor slant its ruling towards the individual Justices' pet advocacies. The individual Justices themselves cannot simply raise issues that the parties did not raise at the COMELEC level, nor explore constitutional issues for the first time. at this stage of the case.

Procedurally, the present case comes to this Court under Rule 64, in relation with Rule 65, of the Rules of Court - a petition for certiorari that calls for the judicial review of the COMELEC decision to ensure that the COMELEC acts within its jurisdiction.

The Court's review is limited by the grave abuse of discretion standard that the Constitution itself provides - to determine the propriety of the COMELEC action based on the question of whether it acted with grave abuse of discretion in cancelling Poe's CoC.

"Grave abuse of discretion" as mentioned in the Constitution and as implemented by the Court under Rule 65 and in its established rulings, carries a specific meaning. It is the arbitrary or despotic exercise of power due to passion, prejudice or personal hostility; or the whimsical, arbitrary, or capricious exercise of power that amounts to an evasion or refusal to perform a positive duty enjoined by law or to act at all in contemplation of law. For an act to be struck down as having been done with grave abuse of discretion, the abuse of discretion must be patent and gross."[196]

Thus, for this Court to strike down and nullify the challenged COMELEC rulings, the COMELEC must be considered to have acted without jurisdiction because it did not simply err, either in the appreciation of the facts or the laws involved, but because it acted in a patent and gross manner, thereby acting outside the contemplation of the law.[197]

II.C. The Separation of Powers Principle.

The same cited Angara ruling, in expounding on what "judicial power" encompasses, likewise fully provided a constitutional standard to ensure that the judiciary and its exercise of the power of judicial review do not exceed defined parameters. The standard is the separation of powers principle that underlies the Constitution.

Separation of powers is a fundamental principle in our system of govemment[198] that divides the powers of government into the legislative, the executive, and judicial.[199] The power to enact laws lies with the legislature; the power to execute is with the executive; and, the power to interpret laws rests with the judiciary.[200] Each branch is supreme within its own sphere.

Thus, the judiciary can only interpret and apply the Constitution and the laws as they are written; it cannot, under the guise of interpretation in the course of adjudication, add to, detract from or negate what these laws provide except to the extent that they run counter to the Constitution. With respect to the Constitution and as already mentioned above, the judiciary cannot interpret the Constitution to read into it what is not written there.

The separation of powers can be very material in resolving the present case as petitioner Poe essentially relies on two positions in claiming natural-born Philippine citizenship as a foundling. The first of these positions is the claim that foundling's fall within the listing of "citizens of the Philippines" under the 1935 Constitution, under the view that this was the intent of the framers of the Constitution.

As I reason out below, foundlings are simply not included in the wordings of the Constitution and cannot be read into its clear and express terms. Nor can any intent to include foundlings be discerned. Thus, foundlings are not within the 1935 constitutional listing, except to the extent that the application of its general terms would allow their coverage.

11.D. The Equal Protection Clause.

11.D.1. In General.

The equal protection clause is a specific constitutional guaranty of the equal application of the laws to all persons. The equality guaranteed does not deny the State the power to recognize and act upon factual differences between individuals and classes. It recognizes that inherent in the right to legislate is the right to classify.[201]

The well-settled principle is that the equal protection of the laws guaranty is not violated by a legislation based on reasonable classification.[202]

Thus, the problem in equal protection cases is primarily in the determination of the validity of the classification made by law,[203] if resort to classification is justified. For this reason, three (3) different standards of scrutiny in testing the constitutionality of classifications have been developed over time[204] - the rational basis test; the intermediate scrutiny test; and strict scrutiny test.

II.D.2. The Applicable Tests.

Under the rational basis test, courts will uphold a classification if it bears a rational relationship to an accepted or established governmental end.[205] This is a relatively relaxed standard reflecting the Court's awareness that classification is an unavoidable legislative task. The presumption is in favor of the classification's validity.[206]

If the classification, while not facially invidious, nonetheless gives rise to recurring constitutional difficulties, or if a classification disadvantages a "quasi-suspect class"[207] it will be treated under a heightened review called the intermediate scrutiny test.[208]

Intermediate scrutiny requires that the classification serve an important governmental end or objective and is

substantially related to the achievement of this objective.[209] The classification is presumed unconstitutional and the burden of justification for the classification rests entirely with the government.[210]

Finally, the strict scrutiny test is used when suspect classifications or fundamental rights are involved. This test requires that the classification serve a compelling state interest and is necessary to achieve such interest.[211]

A suspect classification is one where distinctions are made based on the most invidious bases for classification that violate the most basic human rights, i.e. on the basis of race, national origin, alien status, religious affiliation, and to a certain extent, sex and sexual orientation.[212]

The Court has found the strict scrutiny standard useful in determining the constitutionality of laws that tend to target a class of things or persons. By this standard, the legislative classification is presumed unconstitutional and the burden rests on the government to prove that the classification is necessary to achieve a compelling state interest and that it is the least restrictive means to protect such interest. The strict scrutiny standard was eventually used to assess the validity of laws dealing with the regulation of speech, gender, or race as well as other fundamental rights, as the earlier applications had been expanded to encompass the coverage of these other rights.[213]

II.D.3. The Application of the Equal Protection Clause to a constitutional provision.

The argument that the equal protection clause should be applied to the constitutional provisions on citizenship is patently misplaced. The Constitution is supreme; as the highest law of the land, it serves as the gauge or standard for all laws and for the exercise of all powers of government. The Supreme Court itself is a creation of, and cannot rise higher than, the Constitution.

Hence, this Court cannot invalidate a constitutional provision; it can only act on an unconstitutional governmental action trampling on the equal protection clause, such as when a constitutional provision is interpreted in a way that fosters the illegal classification that the Constitution prohibits. This is the question now before this Court.

II.D.4. The Citizenship of a Foundling.

The citizenship provisions of the Constitution authorize the State's exercise of its sovereign power to determine who its citizens are. These citizens constitute one of the pillars in the State's exercise of its sovereignty.[214] Based on this exercise, the State accordingly grants rights and imposes obligations to its citizens. This granted authority and its exercise assume primary and material importance, not only because of the rights and obligations involved, but because the State's grants involve the exercise of its sovereignty.

Aside from the above discussions on the application of the equal protection clause to the terms of the Constitution itself, it must further be considered in appreciating the equal protection clause in relation with foundlings that:

First, foundlings do not fall under any suspect class.

A "suspect class" is identified as a class saddled with such disabilities, or subjected to such a history of purposeful unequal treatment, or relegated to such a position of political powerlessness as to command extraordinary protection from the majoritarian political process. Examples of suspect classifications are based on race or national origin, alienage, or religion.[215]

Foundlings are not being treated differently on the basis of their race, national origin, alienage, or religion. It is the lack of information on the circumstances of their birth because of their unknown parentage and the jus sanguinis standard of the Constitution itself, that exclude them from being considered as natural-born citizens. They are not purposely treated unequally nor are they purposely rendered politically powerless; they are in fact recognized under binding treaties to have the right to be naturalized as Philippine citizens. All these take place

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because of distinctions that the Constitution itself made.

Second, there is likewise no denial of a fundamental right that does not emanate from the Constitution. As explained elsewhere in this Opinion, it is the Constitution itself that requires that the President of the Philippines be a natural-born citizen and must have resided in the country for 10 years before the day of the election.

Thus, naturalized citizens and those who do not fall under the definition of a natural-born citizen, again as defined in the Constitution itself, have no actionable cause for complaint for unfair treatment based on the equal protection clause. This consideration rules out the application of the strict scrutiny test as the COMELEC recognized distinctions the Constitution itself made.

On the test of intermediate scrutiny, the test has been generally used for legislative classifications based on gender or illegitimacy. Foundlings, however, may arguably be subject to intermediate scrutiny since their classification may give rise to recurring constitutional difficulties, i.e. qualification questions for other foundlings who are public officials or are seeking positions requiring Philippine citizenship.

To pass an intermediate scrutiny, it must be shown that the legislative purpose is important and the classification is substantially related to the legislative purpose; otherwise, the classification should be invalidated.

The classification of foundlings vis-a-vis Philippine citizens is undeniably important as already explained and the purpose of the classification is the State exercise of sovereignty: it has the inherent power to determine who are included and excluded as its own nationals. On these considerations, I rule out the use of the intermediate scrutiny test.

Third, under the circumstances, the most direct answer can be provided by the rational basis test in considering the petitioner's charge that the COMELEC denied her equal protection by applying the constitutional provisions on citizenship they way it did.

It is a well-settled principle that the equal protection guaranty of the laws is not violated by a legislation (or governmental action) based on reasonable classification. A classification, to be reasonable must: 1) rely on substantial distinctions; 2) be germane to the purpose of the law; 3) not be limited to existing conditions only; and 4) apply equally to all members of the same class.[216]

To restate and refine the question posed to us in the context of the present petition: did the COMELEC commit grave abuse of discretion when it did not include Poe in the natural-born classification?

This question practically brings us back to the main issues these consolidated cases pose to us.

To start from square one, I start with the admitted fact that Poe is a foundling, i.e., one whose parents are not known. With no known parents, the COMELEC could not have abused the exercise of its discretion when it concluded that Poe did not fall under the express listing of citizens under the 1935 Constitution and, hence, cannot even be a citizen under the express terms of the Constitution.

In the context of classification, the COMELEC effectively recognized that Poe, whose parents are unknown, cannot be the same, and cannot be similarly treated, as other persons born in the Philippines of Filipino parents as provided under Article IV, Section 1, paragraphs 3 and 4 of the 1935 Constitution.

The COMELEC did not also favorably entertain Poe's view that the 1935 Constitution impliedly recognized a foundling to be included in its listing. Based on the reasons on the merits that are more lengthily discussed elsewhere in this Opinion, the COMELEC - at the most - could have erred in its conclusions, but its reasoned approach, even assuming it to be erroneous, cannot amount to grave abuse of discretion as I have above specifically defined.

Lastly, the COMELEC did not recognize that the Philippines is bound under international law to recognize Poe as a natural-born citizen; these treaties merely grant Poe the right to acquire a nationality. This COMELEC conclusion is largely a conclusion of law and is not baseless; in fact, it is based on the clear terms of the cited treaties to which the Philippines is a signatory and on the principles of international law. Thus, again, the COMELEC committed no grave abuse of discretion in its ruling on this point.

This same conclusion necessarily results in considering Poe's argument that she should be treated like other foundlings favorably affected by treaties binding on the Philippines. All foundlings found in the Philippines and covered by these treaties have the right to acquire Philippine nationality; it is a question of availing of the opportunity that is already there. Thus, I can see no cause for complaint in this regard. In fact, Poe has not pointed to any foundling or to any specific treaty provision under which she would be treated the way she wants to - as a natural-born citizen.

In these lights, the COMELEC's exercise in classification could not but be reasonable, based as it were on the standards provided by the Constitution. This classification was made to give effect to the Constitution and to protect the integrity of our elections. It holds true, not only for Poe, but for all foundlings who may be in the same situation as she is in.

II.E. Jurisdictional Issues

The petitioner questions the COMELEC's decision to cancel her CoC on the ground that she falsely represented her Philippine citizenship because it allegedly:

- ignored the Senate Electoral Tribunal's (SET) Decision dated November 17, 2015, as well as relevant law and jurisprudence bestowing on foundlings the status of Philippine citizenship;

- disregarded the primary jurisdiction of the Department of Justice (DOJ) and Bureau of Immigration and Deportation (BID) in its application of RA No. 9225; and

- prematurely raised eligibility challenges that is properly the jurisdiction of the Presidential Electoral Tribunal (PET).

In particular, the petitioner Poe argues that the COMELEC does not have the primary jurisdiction to resolve attacks against her citizenship. The DOJ, as the administrative agency with administrative control and supervision over the BID, has the authority to revoke the latter's Order approving her reacquisition of natural-born citizenship. Petitions for cancellation of CoCs are thus, by their nature, prohibited collateral attacks against the petitioner's claimed Philippine citizenship.

Additionally, since the allegations in the petitions for cancellation of CoC seek to establish Poe's ineligibilities to become President, the issue lies within the exclusive jurisdiction of the PET, and should be filed only after she has been proclaimed President.

At the core of these challenges lie two main inquiries, from which all other issues raised by the petitioner spring:

> First, what is the scope and extent of the COMELEC's jurisdiction in a Section 78 proceeding?
>
> Second, given the scope and extent of the COMELEC's jurisdiction in a Section 78 proceeding, did it gravely abuse its discretion in its interpretation and application of the law and jurisprudence to the evidence presented before it?

To my mind, the COMELEC has ample jurisdiction to interpret and apply the relevant laws and applicable jurisprudence in the Section 78 proceeding against the petitioner, and did not commit any grave abuse of

discretion in doing so.

II.E.1. The COMELEC's authority to act on petitions
for cancellation of CoC's of presidential candidates.

As the constitutional authority tasked to ensure clean, honest and orderly elections, the COMELEC exercises administrative, quasi-legislative, and quasi-judicial powers granted under Article IX of the 1987 Constitution.

These constitutional powers are refined and implemented by legislation, among others, through the powers expressly provided in the Omnibus Election Code (OEC). These statutory powers include the authority to cancel a certificate of candidacy under Section 78 of the OEC, which provides:

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

The petitioner injects her desired color to Section 78 with the argument that the COMELEC 's jurisdiction in these proceedings is limited to determining deliberate false representation in her CoC, and should not include the substantive aspect of her eligibility. On this view, Poe asserts that she had not deliberately misrepresented her citizenship and residence.

II.E.2. The COMELEC's power under Section 78 is Quasi-Judicial in Character.

In Cipriano v. COMELEC,[217] this Court recognized that this authority is quasi-judicial in nature. The decision to cancel a candidate's CoC, based on grounds provided in Section 78, involves an exercise of judgment or discretion that qualifies as a quasi-judicial function by the COMELEC.

Quasi-judicial power has been defined as:

> x x x the power of the administrative agency to adjudicate the rights of persons before it. It is the power to hear and determine questions of fact to which the legislative policy is to apply and to decide in accordance with the standards laid down by the law itself in enforcing and administering the same law. The administrative body exercises its quasi-judicial power when it performs in a judicial manner an act which is essentially of an executive or administrative nature, where the power to act in such manner is incidental to or reasonably necessary for the performance of the executive or administrative duty entrusted to it. In carrying out their quasi-judicial functions the administrative officers or bodies are required to investigate facts or ascertain the existence of facts, hold hearings, weigh evidence, and draw conclusions from them as basis for their official action and exercise of discretion in a judicial nature.[218]

In Section 78 proceedings, the COMELEC determines whether the allegations in a petition to cancel a CoC are supported by sufficient evidence. In the process, the COMELEC allows both the petitioner and the respondent-candidate the opportunity to present their evidence and arguments before it. Based on these submissions, the COMELEC then determines whether the candidate's CoC should be cancelled.

To arrive at its decision in a cancellation case, the COMELEC must determine whether the candidate committed a material representation that is false - the statutory basis for the cancellation - in his or her CoC statements. While Section 78 itself does not expressly define what representation is "material," jurisprudence has defined "materiality" to be a false representation related to the candidate's eligibility to run for office.[219] The representation is "false" if it is shown that the candidate manifested that he or she is eligible for an elective office

that he or she filed a CoC for, when in fact he or she is not.

Thus, we have affirmed the cancellation of CoCs based on a candidate's false representations on citizenship, residence, and lack of a prior criminal record. These cases also refer to the need to establish a candidate's deliberate intent to deceive and defraud the electorate that he or she is eligible to run for office.

The linkage between the qualification the elective office carries and the representation the candidate made, directly shows that Section 78 proceedings must necessarily involve:

> (i) an inquiry into the standards for eligibility (which are found in the law and in jurisprudence);
>
> (ii) the application of these standards to the candidate; and
>
> (iii) the representations he or she made as well as the facts surrounding these representations.

Only in this manner can the COMELEC determine if the candidate falsely represented his or her qualification for the elective office he or she aspires for.

Aside from inquiring into the applicable laws bearing on the issues raised, the COMELEC can interpret these laws within the bounds allowed by the principles of constitutional and statutory interpretation. It can then apply these laws to the evidence presented after they are previously weighed.

The capacity to interpret and apply the relevant laws extends to situations where there exists no jurisprudence squarely applicable to the facts established by evidence. The exercise of a function that is essentially judicial in character includes not just the application by way of stare decisis of judicial precedent; it includes the application and interpretation of the text of the law through established principles of construction. To say otherwise would be to unduly cripple the COMELEC in the exercise of its quasijudicial functions every time a case before it finds no specific precedent.

II.E.2(a). Poe and the Section 78 Proceedings.

II.E.2(a)(i) Intent to Deceive as an Element.

In the present case, the private respondents sought the cancellation of Poe's CoC based on the false representations she allegedly made regarding her Philippine citizenship, her natural-born status, and her period of residence. These are all material qualifications as they are required by the Constitution itself.

To determine under Section 78 whether the representations made were false, the COMELEC must necessarily determine the eligibility standards, the application of these standards to Poe, and the claims she made i.e., whether she is indeed a natural-born Philippine citizen who has resided in the Philippines for at least ten years preceding the election, as she represented in her CoC, as well as the circumstances surrounding these representations. In relation to Poe's defense, these circumstances relate to her claim that she did not deliberately falsely represent her citizenship and residence, nor did she act with intent to deceive.

The element of "deliberate intent to deceive" first appeared in Philippine jurisprudence in Salcedo III v. COMELEC[220] under the following ruling:

> Aside from the requirement of materiality, a false representation under section 78 must consist of a deliberate attempt to mislead, misinform, or hide a fact which would otherwise render a candidate ineligible. In other words, it must be made with an intention to deceive the electorate as to one's qualifications for public office. The use of a surname, when not intended to mislead or deceive the public as to ones identity, is not within the scope of the provision. [italics supplied]

Salcedo III cited Romualdez-Marcos v. COMELEC,[221] which provided that

> It is the fact of residence, not a statement in a certificate of candidacy which ought to be decisive in determining whether or not and individual has satisfied the constitution's residency qualification requirement. The said statement becomes material only when there is or appears to be a deliberate attempt to mislead, misinform, or hide a fact which would otherwise render a candidate ineligible. It would be plainly ridiculous for a candidate to deliberately and knowingly make a statement in a certificate of candidacy which would lead to his or her disqualification. [italics supplied]

From Salcedo and with the exception of Tagolino v. HRET,[222] the "deliberate intent to deceive" element had been consistently included as a requirement for a Section 78 proceeding.

The Court in Tagolino v. HRET[223] ruled:

> Corollary thereto, it must be noted that the deliberateness of the misrepresentation, much less one 's intent to defraud, is of bare significance in a Section 78 petition as it is enough that the person's declaration of a material qualification in the CoC be false. In this relation, jurisprudence holds that an express finding that the person committed any deliberate misrepresentation is of little consequence in the determination of whether one's CoC should be deemed cancelled or not. What remains material is that the petition essentially seeks to deny due course to and/or cancel the CoC on the basis of one's ineligibility and that the same be granted without any qualification. [emphasis, italics, and underscoring supplied]

This statement in Tagolino assumes validity and merit when we consider that Romualdez-Marcos, the case that Salcedo III used as basis, is not a Section 78 proceeding, but a disqualification case.

Justice Vicente V. Mendoza's Separate Opinion[224] in Romualdez-Marcos pointed out that the allegations in the pleadings in Romualdez-Marcos referred to Imelda Romualdez-Marcos' disqualification, and not to an allegation for the cancellation of her CoC. This was allowable at the time, as Rule 25 of the COMELEC Rules of Procedure, prior to its nullification in Fermin v. Comelec,[225] had allowed the institution of disqualification cases based on the lack of residence.

The quoted portion in Romualdez-Marcos thus pertains to the challenge to Romualdez-Marcos' residence in a disqualification proceeding, and not in a CoC cancellation proceeding.

The Court held that the statement in Romualdez-Marcos's CoC does not necessarily disqualify her because it did not reflect the necessary residence period, as the actual period of residence shows her compliance with the legal requirements. The statement "[t]he said statement becomes material only when there is or appears to be a deliberate attempt to mislead, misinform, or hide a fact which would otherwise render a candidate ineligible" should thus be understood in the context of a disqualification proceeding looking at the fact of a candidate's residence, and not at a CoC cancellation proceeding determining whether a candidate falsely represented her eligibility.

Arguably, the element of "deliberate intent to deceive," has been entrenched in our jurisprudence since it was first mentioned in Salcedo III. Given the history of this requirement, and the lack of clear reference of "deliberate intent to deceive" in Section 78, this deliberate intention could be anchored from the textual requirement in Section 78 that the representation made must have been false, such that the representation was made with the knowledge that it had not been true.

Viewed from this perspective, the element of "deliberate intent to deceive" should be considered complied with upon proof of the candidate's knowledge that the representation he or she made in the CoC was false.

Note, at this point, that the CoC must contain the candidate's representation, under oath, that he or she is eligible for the office aspired for, i.e., that he or she possesses the necessary eligibilities at the time he or she filed the CoC. This statement must have also been considered to be true by the candidate to the best of his or her

knowledge.

Section 74 of the OEC, which lists the information required to be provided in a CoC, states:

> Sec. 74. Contents of certificate of candidacy. - The certificate of candidacy shall state that the person filing it is announcing his candidacy for the office stated therein and that he is eligible for said office; if for Member of the Batasang Pambansa, the province, including its component cities, highly urbanized city or district or sector which he seeks to represent; the political party to which he belongs; civil status; his date of birth; residence; his post office address for all election purposes; his profession or occupation; that he will support and defend the Constitution of the Philippines and will maintain true faith and allegiance thereto; that he will obey the laws, legal orders, and decrees promulgated by the duly constituted authorities; that he is not a permanent resident or immigrant to a foreign country; that the obligation imposed by his oath is assumed voluntarily, without mental reservation or purpose of evasion; and that the facts stated in the certificate of candidacy are true to the best of his knowledge. [italics and underscoring supplied]

More specifically, COMELEC Resolution No. 9984 requires the following to be contained in the 2015 CoC:

> Section 4. Contents and Form of Certificate of Candidacy. - The COC shall be under oath and shall state:
>
> a. office aspired for;
>
> xxxx
>
> g. citizenship, whether natural-born or naturalized;
>
> xxxx
>
> k. legal residence, giving the exact address and the number of years residing in the Philippines x x x;
>
> x x x x
>
> n. that the aspirant is eligible for said office;
>
> x x x x
>
> t. that the facts stated in the certificate are true and correct to the best of' the aspirant's knowledge;
>
> x x x x
>
> The COC shall be sworn to before a Notary Public or any official authorized to administer oath. COMELEC employees are not authorized to administer oath, even in their capacities as notary public. [emphasis and underscoring supplied]

The oath, the representation of eligibility, and the representation that the statements in the CoC are true to the best of the candidate's knowledge all operate as a guarantee from a candidate that he or she has knowingly provided information regarding his or her eligibility. The information he or she provided in the CoC should accordingly be considered a deliberate representation on his or her part, and any falsehood regarding such eligibility would thus be considered deliberate.

In other words, once the status of a candidate's ineligibility has been determined, I do not find it necessary to establish a candidate's deliberate intent to deceive the electorate, as he or she had already vouched for its veracity and is found to have committed falsehood. The representations he or she has made in his or her CoC regarding the truth about his or her eligibility comply with the requirement that he or she deliberately and knowingly falsely represented such information.

II.E.2(a)(ii) Poe had the "Intent to Deceive"

But even if we were to consider deliberate intent to deceive as a separate element that needs to be established in a Section 78 proceeding, I find that the COMELEC did not gravely abuse its discretion in concluding that Poe deliberately falsely represented her residence and citizenship qualifications.

The COMELEC, in concluding that Poe had known of her ineligibilities to run for President, noted that she is a highly-educated woman with a competent legal team at the time she filled up her 2012 and 2015 CoCs. As a highly educated woman, she had the necessary acumen to read and understand the plain meaning of the law. I add that she is now after the highest post in the land where the understanding of the plain meaning of the law is extremely basic.

The COMELEC thus found it unconvincing that Poe would not have known how to fill up a pro-forma CoC, much less commit an "honest mistake" in filling it up. (Interestingly, Poe never introduced any evidence explaining her "mistake" on the residency issue, thus rendering it highly suspect.)

A plain reading of Article JV, Section 1 of the 1935 Constitution could have sufficiently appraised Poe regarding her citizenship. Article IV, Section 1 does not provide for the situation where the identities of both an individual's parents from whom citizenship may be traced are unknown. The ordinary meaning of this non-inclusion necessarily means that she cannot be a Philippine citizen under the 1935 Constitution's terms.

The COMELEC also found that Poe's Petition for Reacquisition of Philippine citizenship before the BID deliberately misrepresented her status as a former natural-born Philippine citizen, as it lists her adoptive parents to be her parents without qualifications. The COMELEC also noted that Poe had been falsely representing her status as a Philippine citizen in various public documents. All these involve a succession of falsities.

With respect to the required period of residency, Poe deliberately falsely represented that she had been a resident of the Philippines for at least ten years prior to the May 9, 2016 elections. Poe's CoC when she ran for the Senate in the May 2013 national elections, however, shows that she then admitted that she had been residing in the Philippines for only six years and six months. Had she continued counting the period of her residence based on the information she provided in her 2012 CoC, she would have been three months short of the required Philippine residence of ten years. Instead of adopting the same representation, her 2015 CoC shows that she has been residing in the Philippines from May 24, 2005, and has thus been residing in the Philippines for more than ten years.

To the COMELEC, Poe's subsequent change in counting the period of her residence, along with the circumstances behind this change, strongly indicates her intent to mislead the electorate regarding her eligibility.

First, at the time Poe executed her 2012 CoC, she was already a high ranking public official who could not feign ignorance regarding the requirement of establishing legal domicile. She also presumably had a team of legal advisers at the time she executed this CoC as she was then the Chair of the MTRCB. She also had experience in dealing with the qualifications for the presidency, considering that she is the adoptive daughter of a former presidential candidate (who himself had to go to the Supreme Court because of his own qualifications).

Second, Poe's 2012 CoC had been taken under oath and can thus be considered an admission against interest that cannot easily be brushed off or be set aside through the simplistic claim of "honest mistake."

Third, the evidence Poe submitted to prove that she established her residence (or domicile) in the Philippines as she now claims; mostly refer to events prior to her reacquisition of Philippine citizenship, contrary to the established jurisprudence requiring Philippine citizenship in establishing legal domicile in the Philippines for election purposes.

Fourth, that Poe allegedly had no life-changing event on November 2006 (the starting point for counting her residence in her 2012 CoC) does not prove that she did not establish legal domicile in the Philippines at that time.

Lastly, Poe announced the change in the starting point of her residency period when she was already publicly known to be considering a run for the presidency; thus, it appears likely that the change was made to comply with the residence period requirement for the presidency.

These COMELEC considerations, to my mind, do not indicate grave abuse of discretion. I note particularly that Poe's false representation regarding her Philippine citizenship did not merely involve a single and isolated statement, but a series of acts - a series of falsities - that started from her RA No. 9225 application, as can be seen from the presented public documents recognizing her citizenship.

I note in this regard that Poe's original certificate of live birth (foundling certificate) does not indicate her Philippine citizenship, as she had no known parents from whom her citizenship could be traced. Despite this, she had been issued various government documents, such as a Voter's Identification Card and Philippine passport recognizing her Philippine citizenship. The issuance of these subsequent documents alone should be grounds for heightened suspicions given that Poe's original birth certificate provided no information regarding her Philippine citizenship, and could not have been used as reference for this citizenship.

Another basis for heightened suspicion is the timing of Poe's amended birth certificate, which was issued on May 4, 2006 (applied for in November 2005), shortly before she applied for reacquisition of Philippine citizenship with the BID. This amended certificate, where reference to being an adoptee has all been erased as allowed by law, was not used in Poe's RA No. 9225 BID application.

The timing of the application for this amended birth certificate strongly suggest that it was used purposely as a reserve document in case questions are raised about Poe's birth; they became unnecessary and were not used when the BID accepted Poe's statement under oath that she was a former natural-born citizen of the Philippine as required by RA No. 9225.

That government documents that touched on Poe's birth origins had been tainted with irregularities and were issued before Poe ran for elective office strongly indicate that at the time she executed her CoC, she knew that her claimed Philippine citizenship is tainted with discrepancies, and that she is not a Philippine citizen under Article IV, Section 1 of the 1935 Constitution.

II.E.2(a)(iii) Poe and her Residency Claim

On Poe's residence, I find it worthy to add that the information in her 2012 CoC (for the Senate) complies with the requirement that a person must first be a Philippine citizen to establish legal domicile in the Philippines. Based on Poe's 2012 COC, her legal domicile in the Philippines began in November 2006, shortly after the BID issued the Order granting her reacquisition of Philippine citizenship on July 18, 2006.

That her 2012 CoC complies with the ruling in Japzon v. Comelec,[226] a 2009 case requiring Philippine citizenship prior to establishing legal domicile in the Philippines, indicates Poe's knowledge of this requirement. It also indicates her present deliberate intent to deceive the electorate by changing the starting point of her claimed residency in the Philippines to May 24, 2005. This, she did despite being in the Philippines at that time as an alien under a balikbayan visa.

II.E.3. The COMELEC's interpretation of the law despite the Senate Electoral Tribunal's (SET) decision in the quo warranto case against the petitioner.

I cannot agree with the petitioner's pos1t10n that the COMELEC gravely abused its discretion when it did not

consider the SET's decision dated November 17, 2005.

By way of background, the petitioner's Philippine citizenship was earlier challenged in a quo warranto proceeding before the SET. A quo warranto proceeding involves a direct, not a preliminary challenge (unlike in a cancellation proceeding), to a public officer's qualification or office. The SET, voting 5 to 4, dismissed the petition and effectively held that she was fit to hold office as Senator.

The SET's dismissal of the quo warranto petition against Poe, however, is not binding on the COMELEC, nor does it have any effect on the COMELEC's authority to render its own decision over the Section 78 proceedings filed against her.

A First important point to consider in looking at the SET decision is that until now it is still the subject of judicial review petition before this Court but does not serve as a prejudicial question that must be resolved before the COMELEC can rule on the separate and distinct petition before it. Rizalito Y. David, the petitioner who initiated the quo warranto proceeding, timely invoked the expanded jurisdiction of the Court in G.R. No. 221538. While the decision's implementation has not been prohibited by the Court, its legal conclusions and reasoning are still under question. Thus, the decision has not yet been affirmed by the Court and cannot be applied, by way of judicial precedent, to the COMELEC's decision-making.

Note in this regard that only rulings of the Supreme Court are considered as part of the laws of the land and can serve as judicial precedent.[227] Cases decided by the lower courts, once they have attained finality, may only bar the institution of another case for res adjudicata, i.e., by prior judgment (claim preclusion) or the preclusion of the re-litigation of the same issues (issue preclusion).[228] For res judicata to take. Effect, however, the petitioner should have raised it as part of her defense and properly established that the elements for its application are present. The petitioner has done neither.

Likewise note that a court's ruling on citizenship, as a general rule, does not have the effect of res judicata, especially when the citizenship ruling is only antecedent to the determination of rights of a person in a controversy.[229] This point is further discussed below.

Second, the COMELEC can conduct its own inquiry regarding the petitioner's citizenship, separate from and independently of the SET.

The COMELEC, in order to determine the petitioner's eligibility and decide on whether her CoC should be cancelled, can inquire into her citizenship. Courts, including quasi-judicial agencies such as the COMELEC, may make pronouncements on the status of Philippine citizenship as an incident in the adjudication of the rights of the parties to a controversy.

In making this determination (and separately from the reasons discussed above), the COMELEC is not bound by the SET's decision since these constitutional bodies are separate and independent from one another, each with its own specific jurisdiction and different issues to resolve. The COMELEC, as the independent constitutional body tasked to implement election laws, has the authority to determine citizenship to determine whether the candidate committed false material representation in her CoC. The SET, on the other hand, is a constitutional body tasked to resolve all contests involving the eligibility of Senators to hold office.

That these two bodies have separate, distinct, and different jurisdictions mean that neither has the authority nor the ascendancy over the other, with each body supreme in its own sphere of authority. Conversely, these bodies have no ascendancy to rule upon issues outside their respective specific authority, much less bind other bodies with matters outside their respective jurisdictions. The decision of the SET, with its specific jurisdiction to resolve contests involving the qualifications of Senators, does not have the authority to bind the COMELEC, another

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constitutional body with a specific jurisdiction of its own.

Consider, too, that the actual ruling and reasoning behind the SET's decision are suspect and ambiguous. All the members of the SET, except for Senator Nancy Binay (who voted with the minority), issued his or her own separate opinion to explain his or her vote: aside from the three members of the SET who dissented and issued their own separate opinions, the five members of the majority also wrote their own separate opinions explaining their votes.

Notably, one member of the SET majority opined that the SET's decision is a political one since the majority of SET membership comes from the political legislative branch of government.

While I do not subscribe to this view, the fact that this was said by one of the members in the majority could reasonably affect the COMELEC's (and even the public's) opinion on the SET's grounds for its conclusion.

Another member of the SET majority in fact pointedly said:

> The composition of the Senate Electoral Tribunal is predominantly political, six Senators and three Justices of the Supreme Court. The Philippine Constitution did not strictly demand a strictly legal viewpoint in deciding disqualification cases against Senators. Had the intention been different, the Constitution should have made the Supreme Court also sit as the Senate Electoral Tribunal. The fact that six Senators, elected by the whole country, form part of the Senate Electoral Tribunal would suggest that the judgment of the whole Filipino nation must be taken into consideration. [Emphases, italics, and underscoring supplied]

Still another member of the SET majority openly explained that his vote stems from the belief that the SET is "predominantly a political body" that must take into consideration the will of the Filipino people, while another expressly stated that her opinion should not be extended to the issues raised in the COMELEC:

> Finally, it is important for the public to understand that the main decision of the SET and my separate opinion are limited to the issues raised before it. This does not cover other issues raised in the Commission on Elections in connection with the Respondent's candidacy as President or issues raised in the public fora.

These opinions reasonably cast doubt on the applicability - whether as precedent or as persuasive legal points of view - to the present COMELEC case which necessarily has to apply the law and jurisprudence in resolving a Section 78 proceeding.

Given the structure and specific jurisdictions of the COMELEC and the SET, as well as the opinions of some of the latter's members regarding the nature of their decision, the COMELEC could not have acted beyond its legitimate jurisdiction nor with grave abuse of discretion when it inquired into the petitioner's citizenship.

II.E.4. The COMELEC's authority under Section 78
and the BID 's Order under RA No. 9225.

Neither do I agree that the COMELEC's decision amounted to a collateral attack on the BID Order, nor that the COMELEC usurped the DOJ's primary jurisdiction over the BID Order.

In the present case, the private respondents sought the cancellation of the petitioner's CoC based on her false material representations regarding her Philippine citizenship, natural-born status, and period of residence. The BID, on the other hand, passed upon petitioner Poe's compliance with RA No. 9225 when she applied for the "reacquisition" of Philippine citizenship. The BID approved the application and thus certified Poe as a dual Philippine-U.S. citizen.

Whether the COMELEC's Section 78 decision is a collateral attack on the BID Order depends on the COMELEC's purpose, authority to make the inquiry, and the effect of its decision on the BID Order.

As I pointed out earlier, the COMELEC can make pronouncements on the status of Philippine citizenship as an incident in the adjudication of the rights of the parties to a controversy that is within its jurisdiction to rule on.[230]

A significant point to understand on citizenship is that RA No. 9225 - the law authorizing the BID to facilitate the reacquisition of Philippine citizenship and pursuant to which Poe now claims Filipino citizenship - does not ipso facto authorize a former natural-born Philippine citizen to run for elective office.

An RA No. 9225 proceeding simply makes a finding on the applicant's compliance with the requirements of this law. Upon approval of the application, the applicant's political and civil rights as a Philippine citizen are restored, with the subsequent enjoyment of the restored civil and political rights "subject to all attendant liabilities and responsibilities under existing laws of the Philippines x x x."

In other words, the BID handles the approval process and the restoration of the applicant's civil and political rights, but how and whether the applicant can enjoy or exercise these political rights are matters that are covered by other laws; the full enjoyment of these rights also depends on other institutions and agencies, not on the BID itself whose task under RA No. 9225 at that point is finished.

Thus, the BID Order approving petitioner Poe's reacquisition of her Philippine citizenship allowed her the political right to file a CoC, but like other candidates, she may be the subject of processes contesting her right to run for elective office based on the qualifications she represented in her CoC.

In the petitioner's case, her CoC has been challenged under Section 78 of the OEC for her false material representation of her status as a natural-born Philippine citizen and as a Philippine resident for at least ten years before the May 9, 2016 elections. Thus, as Section 78 provides, the COMELEC conducted its own investigation and reached its conclusions based on its investigation of the claimed false material representations. As this is part of its authority under Section 78, the COMELEC cannot be faulted for lack of authority to act; it possesses the required constitutional and statutory authority for its actions.

More importantly in this case, the COMELEC's action does not amount to a collateral attack against the BID Order, as the consequences of the BID Order allows the petitioner to enjoy political rights but does not exempt her from the liabilities and challenges that the exercise of these rights gave rise to.

In more precise terms, the COMELEC did not directly hold the Order to be defective for purposes of nullifying it; it simply declared - pursuant to its own constitutional and statutory power - that petitioner Poe cannot enjoy the political right to run for the Presidency because she falsely represented her natural-born citizenship and residency status. These facts are material because they are constitutional qualifications for the Presidency.

It is not without significance that the COMELEC 's determination under Section 78 of the OEC of a candidate's Philippine citizenship status despite having reacquired it through RA No. 9225 has been affirmed by the Court several times - notably, in Japzon v. Comelec,[231] Condon v. Comelec,[232] and Lopez v. Comelec.[233]

II.E.5. The claimed COMELEC encroachment on the powers of the
Presidential Electoral Tribunal (PET).

The petitioner posits on this point that the COMELEC, by ruling on her qualifications for the Presidency, encroached on the power of the PET to rule on election contests involving the Presidency. In short, she claims that the COMELEC, without any legal basis, prematurely determined the eligibility of a presidential candidate.

To properly consider this position, it must be appreciated that the COMELEC is not an ordinary court or

quasi-judicial body that falls within the judicial supervision of this Court. It is an independent constitutional body that enjoys both decisional AND institutional independence from the three branches of the government. Its decisions are not subject to appeal but only to the certiorari jurisdiction of this Court for the correction of grave abuses in the exercise of its discretion - a very high threshold of review as discussed above.

If this Court holds that the COMELEC did indeed encroach on the PET's jurisdiction determining the qualifications of Poe in the course of the exercise of its jurisdiction under Section 78 of the OEC, the ruling vastly delimits the COMELEC's authority, while the Court will itself unconstitutionally expand its own jurisdiction.

For easy reference, tabulated below is a comparison of the history of the grant of power, with respect to elections, to the Commission and to the PET (now transferred to the Supreme Court):

The Supreme Court

COMELEC

Republic Act No. 1793 (1957):

Sec. l. There shall be an independent residential Electoral Tribunal to be composed of eleven members which shall be the sole judge of all contests relating to the election returns, and qualifications of the president-elect and the vice-president-elect of the Philippines x x x x

Commonwealth Act No. 607 (1940), Sec. 2:

The Commission on Elections shall have exclusive charge of the enforcement and administration of all laws relative to the conduct of elections. It shall decide save those involving the right to vote, all administrative questions affecting elections x x x

1935 Constitution (as amended m 1940), Art. X, Sec. 2:

The Commission on Elections shall have exclusive charge of the enforcement and administration of all laws relative to the conduct of elections and shall exercise all other functions which may be conferred upon it by law. It shall decide, save those involving the right to vote, all administrative questions affecting elections, including the determination of the number and location of polling places, and the appointment of election inspectors and of other election officials. All law enforcement agencies and instrumentalities of the Government, when so required by the Commission, shall act as its deputies for the purpose of insuring free, orderly, and honest election. The decisions, orders, and rulings of the Commission shall be subject to review by the Supreme Court. Xxx

Batas Pambansa Big. 884 (1985), Sec. 1:

There shall be an independent Presidential Electoral Tribunal, hereinafter referred to as the Tribunal, to be composed of the nine members which shall be the sole judge of all contests relating to the election, returns and qualifications of the President and the VicePresident of the Philippines.xx x

1973 Constitution, Art. XII-C, Sec. 2:

The Commission on Elections shall have the following powers and functions:

1. Enforce and administer all laws relative to the conduct of elections. xxxx

3. Decide, save those involving the right to vote, administrative questions affecting elections, including the determination of the number and location of polling places, the appointment of election officials and inspectors, and the registration of votes.

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1987 Constitution, Art. VII, Sec. 4:

x x x x

The Supreme Court, sitting en banc, shall be the sole judge of all contests relating to the election, returns, and qualifications of the President or Vice-President, and may promulgate its rules for the purpose.

1987 Constitution, Art. IX-C, Sec. 2:

The Commission on Elections shall exercise the following powers and functions:

(1) Enforce and administer all laws and

Regulations relative to the conduct of an election, plebiscite, initiative, referendum, and recall.

x x x x

(3) Decide, except those involving the right to vote , all questions affecting elections, including determination of the number and location of polling places, appointment of election officials and inspectors, and registration of voters.

1987 Constitution, Art. IX, Sec. 7:

x x x Unless otherwise provided by this Constitution or by law, any decision, order, or ruling of each Commission may be brought to the Supreme Court on certiorari by the Aggrieved party within thirty days from receipt o r a copy thereof.

1987 Constitution, Art. IX, Sec. I:

The Constitutional Commissions, which shall be independent, are the Civil Service Commission, the Commission on Elections, and the Commission on Audit.

Executive Order 292 (1987), Book V, Title I, Subtitle C, Chapter 1, Sec. 2:

Powers and functions. - In addition to the powers and functions conferred upon it by the constitution, the Commission shall have exclusive charge of the enforcement and administration of all laws relative to the conduct of elections for the purpose of insuring free, orderly, honest, peaceful, and credible elections, and shall:

(20) Have exclusive jurisdiction over all pre-proclamation controversies. It may motuproprio or upon written petition, and after due notice and hearing, order the partial or total suspension of the proclamation of any candidate-elect or annul partially or totally any proclamation, if one has been made, as the evidence shall warrant. Notwithstanding the pendency of any pre-proclamation controversy, the Commission may, motuproprio or upon filing of a verified petition and after due notice and hearing, oder the proclamation of other winning candidates whose election will not be affected by the outcome of the controversy.

II.E.5(a). History of the PET.

An examination of the 1935 Constitution shows that it did not provide for a mechanism for the resolution of election contests involving the office of the President or Vice-President. This void was only filled in 1957 when Congress enacted RA No. 1793,[234] creating the Presidential Electoral Tribunal. Until then, controversies or disputes involving election contests, returns, and qualifications of the President-elect and Vice-President-elect were not justiciable.[235]

RA No. 1793 gave the Supreme Court, acting as the PET, the sole jurisdiction to decide all contests relating to the

elections, returns, and qualifications of the President-elect and the Vice-President elect.

The PET became irrelevant under the 1973 Constitution since the 1973 President was no longer chosen by the electorate but by the members of the National Assembly; the office of the Vice-President in tum ceased to exist.[236]

The PET was only revived in 1985 through Batas Pambansa Blg. (B.P.) 884[237] after the 1981 amendments to the 1973 Constitution restored to the people the power to directly elect the President and reinstalled the office of the Vice-President.

The PET under B.P. 884 exercised the same jurisdiction as the sole judge of all contests relating to the election, returns, and qualifications of the President and the Vice-President, albeit it omitted the suffix "-elect." It was also an entirely distinct entity from the Supreme Court with membership composed of both Supreme Court Justices and members of the Batasang Pambansa.[238]

The PET's jurisdiction was restored under the 1987 Constitution with the Justices of the Supreme Court as the only members. Presently, this Court, sitting en banc, is the sole judge of all contests relating to the election, returns, and qualifications of the President or Vice-President.

The grant of jurisdiction to the PET is exclusive but at the same time, limited. The constitutional phraseology limits the PET's jurisdiction to election contests which can only contemplate a post-election and post proclamation controversy[239] since no "contest" can exist before a winner is proclaimed. Understood in this sense, the jurisdiction of the members of the Court, sitting as PET, does not pertain to Presidential or Vice-Presidential candidates but to the President (elect) and Vice-President (elect).

II.E.S(b). The COMELEC's History.

The PET's history should be compared to the history of the grant of jurisdiction to the COMELEC which was created in 1940, initially by statute whose terms were later incorporated as an amendment to the 1935 Constitution. The COMELEC was given the power to decide, save those involving the right to vote, all administrative questions affecting elections.

When the 1973 Constitution was adopted, this COMELEC power was retained with the same limitations.

The 1987 Constitution deleted the adjective "administrative" in the description of the COMELEC's powers and expanded its jurisdiction to decide all questions affecting elections, except those involving the right to vote. Thus, unlike the very limited jurisdiction of election contests granted to the Supreme Court/PET, the COMELEC's jurisdiction, with its catch-all provision, is all encompassing; it covers all questions/issues not specifically reserved for other tribunals.

The Administrative Code of 1987 further explicitly granted the COMELEC exclusive jurisdiction over all pre-proclamation controversies.

Section 78 of the OEC still further refines the COMELEC's power by expressly granting it the power to deny due course or to cancel a Certificate of Candidacy on the ground of false material representation. Ex necessitate legis. Express grants of power are deemed to include those of necessary or fair implication, or incident to the powers expressly conferred, or essential thereto. This power under Section 78, therefore, necessarily includes the power to make a determination of the truth or falsity of the representation made in the CoC.

The bottom line from this brief comparison is that the power granted to the PET is limited to election contests while the powers of the COMELEC are broad and extensive. Except for election contests involving the President or Vice-President (and members of Congress)[240] and controversies involving the right to vote, the COMELEC

has the jurisdiction to decide ALL questions affecting the elections. Logically, this includes pre-proclamation controversies such as the determination of the qualifications of candidates for purpose of resolving whether a candidate committed false material representation.

Thus, if this Court would deny the COMELEC the power to pass upon the qualifications of a Presidential candidate - to stress, not a President or a President-elect - on the ground that this power belongs to the PET composed of the members of this Court, we shall be self-servingly expanding the limited power granted to this Court by Article VII, Section 4, at the expense of limiting the powers explicitly granted to an independent constitutional comm1ss10n. The Court would thus commit an unconstitutional encroachment on the COMELEC's powers.

II.E.S(c). Jurisprudence on COMELEC-PET Jurisdiction.

In Tecson v. COMELEC,[241] the Court indirectly affirmed the COMELEC's jurisdiction over a presidential candidate's eligibility in a cancellation proceeding. The case involved two consolidated petitions assailing the eligibility of presidential candidate Fernando Poe Jr. (FPJ): one petition, G.R. No. 161824, invoked the Court's certiorari jurisdiction under Rule 64 of the Rules of Court over a COMELEC decision in a CoC cancellation proceeding, while the other, G.R. No. 161434, invoked the Court's jurisdiction as a Presidential Electoral Tribunal.

The G.R. No. 161824 petition, in invoking the Court's jurisdiction over the COMELEC's decision to uphold FPJ's candidacy, argued that the COMELEC's decision was within its power to render but its conclusion is subject to the Court's review under Rule 64 of the Rules of Court and Article IX, Section 7 of the 1987 Constitution.

In contrast, the G.R. No. 161434 petition argued that that the COMELEC had no jurisdiction to decide a presidential candidate's eligibility, as this could only be decided by the PET. It then invoked the Court's jurisdiction as the PET to rule upon the challenge to FPJ's eligibility.

The Court eventually dismissed both petitions, but for different reasons. The Court dismissed G.R. No. 161824 for failure to show grave abuse of discretion on the part of the COMELEC. G.R. No. 161434 was dismissed for want of jurisdiction.

The difference in the reasons for the dismissal of the two petitions in effect affirmed the COMELEC's jurisdiction to determine a presidential candidate's eligibility in a pre-election proceeding. It also clarified that while the PET also has jurisdiction over the questions of eligibility, its jurisdiction begins only after a President has been proclaimed.

Thus, the two Tecson petitions, read in relation with one another, stand for the proposition that the PET has jurisdiction over challenges to a proclaimed President's eligibility, while the COMELEC has jurisdiction over the eligibilities and disqualifications of presidential candidates filed prior to the proclamation of a President.

This is the precise point of my discussions above.

As against the Tecson ruling, the case of Fermin v. COMELEC[242] that petitioner Poe relies on, does not divest the COMELEC of its authority to determine a candidate's eligibility in the course of resolving Section 78 petitions.

Fermin held that a candidate's ineligibility is not a ground for a Section 68 proceeding involving disqualification cases, despite a COMELEC rule including the lack of residence (which is an ineligibility) in the list of grounds for a petition for disqualification. It then characterized the disputed petition as a petition for the cancellation of a CoC and not a petition for disqualification, and held that it had been filed out of time.

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The Court's citation in Fermin of Justice Vicente V. Mendoza's Separate Opinion in Romualdez-Marcos v. COMELEC[243] thus refers to the COMELEC's lack of authority to add to the grounds for a petition for disqualification as provided in the law, even if these grounds involve an ineligibility to hold office. It cannot be construed to divest the COMELEC of its authority to determine the veracity of representations in a candidate's CoC, which, to be considered material, must pertain to a candidate's eligibility to hold elective office. Fermin itself clarified this point when it said that:

> Lest it be misunderstood, the denial of due course to or the cancellation of the CoC is not based on the lack of qualifications but on a finding that the candidate made a material representation that is false, which may relate to the qualifications required of the public office he/she is running for. It is noted that the candidate states in his/her CoC that he/she is eligible for the office he/she seeks. Section 78 of the OEC, therefore, is to be read in relation to the constitutional and statutory provisions on qualifications or eligibility for public office. If the candidate subsequently states a material representation in the CoC that is false, the COMELEC, following the law, is empowered to deny due course to or cancel such certificate. Indeed, the Court has already likened a proceeding under Section 78 to a quo warranto proceeding under Section 253 of the OEC since they both deal with the eligibility or qualification of a candidate, with the distinction mainly in the fact that a "Section 78" petition is filed before proclamation, while a petition for quo warranto is filed after proclamation of the winning candidate.[244] [emphases and italics supplied]

III.

The Claim of Grave Abuse of Discretion with respect to the CITIZENSHIP ISSUE

Aside from committing acts outside its jurisdiction, petitioner Poe claims that the COMELEC also committed acts of grave abuse of discretion when it misapplied the law and related jurisprudence in holding that Article IV, Section 1 of the 1935 Constitution does not grant her natural-born Philippine citizenship and in disregarding the country's obligations under treaties and the generally-accepted principles of international law that require the Philippines to recognize the Philippine citizenship of foundlings in the country.

Petitioner Poe also questions the COMELEC's evaluation of the evidence, and alleges that it disregarded the evidence she presented proving that she is a natural-born Philippine citizen.

Poe lastly raises the COMELEC's violation of her right to equal protection, as it has the right to be treated in the same manner as other foundlings born after the Philippines' ratification of several instruments favorable to the rights of the child.

III.A. The COMELEC did not gravely abuse its discretion in interpreting Article IV, Section 1 of the 1935 Constitution.

III.A.1. Article IV, Section 1ofthe1935 Constitution does not, on its face, include foundlings in listing the "citizens of the Philippines."

Jurisprudence has established three principles of constitutional construction: first, verba legis non est recedendum - from the words of the statute there should be no departure; second, when there is ambiguity, ratio legis est anima - the words of the Constitution should be interpreted based on the intent of the framers; and third, ut magis valeat quam pereat - the Constitution must be interpreted as a whole.[245]

I hold the view that none of these modes support the inclusion of foundlings among the Filipino citizens listed in the 1935 Constitution. The 1935 Constitution does not expressly list foundlings among Filipino citizens.[246] Using verba legis, the Constitution limits citizens of the Philippines to the listing expressly in its text. Absent any ambiguity, the second level of constitutional construction should not also apply.

Even if we apply ratio legis, the records of the 1934 Constitutional Convention do not reveal an intention to consider foundlings to be citizens, much less natural-born ones. On the contrary the Constitutional Convention rejected the inclusion of foundlings in the Constitution. If they were now to be deemed included, the result would be an anomalous situation of monstrous proportions - foundlings, with unknown parents, would have greater rights than those whose mothers are citizens of the Philippines and who had to elect Philippine citizenship upon reaching the age of majority.

In interpreting the Constitution from the perspective of what it expressly contains (verba legis), only the terms of the Constitution itself require to be considered. Article IV, Section 1 of the 1935 Constitution on Citizenship provides:

> ARTICLE IV
> CITIZENSHIP
>
> Section 1. The following are citizens of the Philippines:(1) Those who are citizens of the Philippine Islands at the time of the adoption of this Constitution.
>
> (2) Those born in the Philippine Islands of foreign parents who, before the adoption of this Constitution, had been elected to public office in the Philippine Islands.
>
> (3) Those whose fathers are citizens of the Philippines.
>
> (4) Those whose mothers are citizens of the Philippines and, upon reaching the age of majority, elect Philippine citizenship.
>
> (5) Those who are naturalized in accordance with law.

Section 2. Philippine citizenship may be lost or reacquired in the manner provided by law.

To reiterate, the list of persons who may be considered Philippine citizens is an exclusive list. According to the principle of expressio unius est exclusio alterius, items not provided in a list are presumed not to be included in it.[247]

In this list, Paragraphs (1) and (2) need not obviously be considered as they refer to persons who were already born at the time of the adoption of the 1935 Constitution. Petitioner Poe was born only in 1968. Paragraphs (5),on the other hand and except under the terms mentioned below, does not also need to be included for being immaterial to the facts and the issues posed in the present case.

Thus, we are left with paragraphs (3) and (4) which respectively refer to a person's father and mother. Either or both parents of a child must be Philippine citizens at the time of the child's birth so that the child can claim Philippine citizenship under these paragraphs.[248]

This is the rule of jus sanguinis or citizenship by blood, i.e., as traced from one or both parents and as confirmed by the established rulings of this Court.[249] Significantly, none of the 1935 constitutional provisions contemplate the situation where both parents' identities (and consequently, their citizenships) are unknown, which is the case for foundlings.

As the list of Philippine citizens under Article IV, Section 1 does not include foundlings, then they are not included among those constitutionally granted or recognized to be Philippine citizens except to the extent that they full under the coverage of paragraph 5, i.e., if they choose to avail of the opportunity to be naturalized. Established rules of legal interpretation tell us that nothing is to be added to what the text states or reasonably implies; a matter that is not covered is to be treated as not covered.[250]

The silence of Article IV, Section 1, of the 1935 Constitution, in particular of paragraphs (3) and (4) parentage provisions, on the citizenship of foundlings in the Philippines, in fact speaks loudly and directly about their legal situation. Such silence can only mean that the 1935 Constitution did not address the situation of foundlings via paragraphs (3) and (4), but left the matter to other provisions that may he applicable as discussed below.

Specifically, foundlings can fully avail of Paragraph (5) of the above list, which speaks of those who are naturalized as citizens in accordance with law. Aside from the general law on naturalization,[251] Congress can pass a law specific to foundlings or ratify other treaties recognizing the right of foundlings to acquire Filipino citizenship. The foundling himself or herself, of course, must choose to avail of the opportunity under the law or the treaty.

To address the position that petitioner Poe raised in this case, the fact that the 1935 Constitution did not provide for a situation where both parents are unknown (as also the case in the current 1987 Constitution) does not mean that the provision on citizenship is ambiguous with respect to foundlings; it simply means that the constitutional provision on citizenship based on blood or parentage has not been made available under the Constitution but the provision must be read in its totality so that we must look to other applicable provision that are available, which in this case is paragraph (5) as explained above.

In negative terms, even if Poe's suggested interpretation via the parentage provision did not expressly apply and thus left a gap, the omission does not mean that we can take liberties with the Constitution through stretched interpretation, and forcibly read the situation so as to place foundlings within the terms of the Constitution's parentage provisions. We cannot and should not do this as we would thereby cross the forbidden path of judicial legislation.

The appropriate remedy for the petitioner and other foundlings, as already adverted to, is via naturalization, a process that the Constitution itself already provides for. Naturalization can be by specific law that the Congress can pass for foundlings, or on the strength of international law via the treaties that binds the Philippines to recognize the right of foundlings to acquire a nationality. (Petitioner Poe obviously does not want to make this admission as, thereby, she would not qualify for the Presidency that she now aspires for.) There, too, is the possible amendment of the Constitution so that the situation of foundlings can be directly addressed in the Constitution (of course, this may also be an unwanted suggestion as it is a course of action that is too late [or the 2016 elections.)

Notably, the government operating under the 1935 Constitution has recognized that foundlings who wish to become full-fledged Philippine citizens must undergo naturalization under Commonwealth Act No. 473. DOJ Opinion No. 377 Series of 1940, in allowing the issuance of Philippine passports to foundlings found in the Philippines, said:

> However under the principles of International Law, a foundling has the nationality of the place where he is found or born (See chapter on the Conflict of Law, footnote, p. 57 citing Bluntschli in an article in the Revue de Trait int. for 1870, p. 107; Mr. Hay, Secretary of State, to Mr. Leishman, Minister to Switzerland, July 12, 1899, For. Rel. 1899, 760; Moore, International Law Digest, Vol. III, p. 281; Garcia's Quizzer on Private International Law, p. 270) which in this case, is the Philippines. Consequently, Eddy Howard may be regarded as a citizen of the Philippines for passport purposes only if he desires to be a full-fledged Filipino, he may apply for naturalization under the provisions of Commonwealth Act No. 473 as amended by Commonwealth Act No. 535. [emphasis, italics, and underscoring supplied]

A subsequent DOJ Opinion, DOJ Opinion No. 189, series of 1951, stated:

> However under the principles of International Law, a foundling has the nationality of the place where he is

> found or born (See chapter on the Conflict of Law, footnote, p. 57 citing Bluntschli in an article in the Revue de Trait int. for 1870, p. 107; Mr. Hay, Secretary of State, to Mr. Leishman, Minister to Switzerland, July 12, 1899, For. Rel. 1899, 760; Moore, International Law Digest, Vol. III, p. 281) which in this case, is the Philippines. Consequently, Anthony Satan Hale may be regarded as a citizen of the Philippines, and entitled to a passport as such.

The two DOJ opinions both say that a foundling is considered a Philippine citizen for passport purposes. That the second DOJ Opinion does not categorically require naturalization for a foundling to become a Philippine citizen does not mean it amended the government's stance on the citizenship of foundlings, as these opinions were issued to grant them a Philippine passport and facilitate their right to travel. International law is cited as reference because they would be travelling abroad, and it is possible that other countries they will travel to recognize that principle. But for purposes of application in the Philippines, the domestic law on citizenship prevails, that is, Article IV, Section 1 of the 1935 Constitution. This is why DOJ Opinion No. 377, Series of 1940 clarified that if a foundling wants to become a full-fledged Philippine citizen, then he should apply for naturalization under CA No. 473.

In any case, DOJ Opinion No. 189, Series of 1950 should not be interpreted in such a way as to contravene the 1935 Constitution, and it most certainly cannot amend or alter Article IV. Section l, of the 1935 Constitution.

III.A.2. The Constitution did not intend to include foundlings within its express terms but did not totally leave them without any remedy.

Poe, in arguing this point, effectively imputes grave abuse of discretion on the COMELEC for not recognizing that an ambiguity exists under paragraphs (3) and (4) of Section 1, of Article IV of the 1935 Constitution, and for not recognizing that the framers of the 1935 Constitution intended to include foundlings in the constitutional listing.

I see no ambiguity as explained above, but I shall continue to dwell on this point under the present topic to the extent of petitioner Poe's argument that the exclusio unios principle is not an absolute rule and that "unfairness" would result if foundlings are not deemed included within the constitutional listing.

I shall discuss these points though in relation with the petitioner's second point - the alleged intent of the framers of the 1935 Constitution to include foundlings within the terms of the 1935 Constitution. The link between the first and the second points of discussion lies in the claim that ambiguity and fairness render the discussion of the framers' intent necessary.

Poe bases her ambiguity and unfairness argument on the Court's ruling in People v. Manantan[252] which provided an exception to the exclusio unius est exclusio alterius principle under the ruling that:

> Where a statute appears on its face to limit the operation of its provisions to particular persons or things by enumerating them, but no reason exists why other persons or things not so enumerated should not have been included, and manifest injustice will follow by not so including them, the maxim expressio unius est exclusio alterius, should not be invoked.[253]

The petitioner appears to forget that, as discussed above, the terms of the Constitution are clear - they simply did not provide for the situation of foundlings based on parentage - but left the door open for the use of another measure, their naturalization. There is thus that backdoor opening in the Constitution to provide for foundlings using a way other than parentage.

The 1935 Constitution did not also have the effect of fostering unfairness by not expressly including foundlings as

citizens via the parentage route as foundlings could not rise any higher than children: whose mothers are citizens of the Philippines. Like them, they fell under the naturalized classification under the terms of the 1935 Constitution. That under the terms of the subsequent Constitutions the children of Filipino mothers were deemed natural-born citizens of the Philippines does not also unfairly treat foundlings as there is a reasonable distinction between their situations - the former have established Filipino parentage while the latter's parents are unknown.

From these perspectives, the Constitution did not leave out the situation of foundling's altogether so that there could be a gap that would call for interpretation. Apparently, the petitioner simply objects because she wants the case of foundlings to be addressed via the parentage route which is a matter of policy that is not for this Court to take. In the absence of a gap that would call for interpretation, the use of interpretative principles is uncalled for.

III.A.3. Neither did the framers of the 1935
Constitution intend to include foundlings within the
parentage provisions of this Constitution.

The full transcript of the deliberations shows that the express inclusion of foundlings within the terms of the 1935 Constitution was taken up during its deliberations. These records show that the proposal to include them was rejected. Other than this rejection, no definitive decision was reached, not even in terms of a concrete proposal to deem them included, within the meaning of the parentage provisions of Article IV, Section l of the 1935 Constitution; there were only vague and inconclusive discussions from which we cannot and should not infer the intent of the framers of the Constitution to consider and then to include them within its terms.

In this regard, the Court should not forget the fine distinction between the evidentiary value of constitutional and congressional deliberations: constitutional deliberation discussions that are not reflected in the wording of the Constitution are not as material as the congressional deliberations where the intents expressed by the discussants come from the very legislators who would reject or approve the law under consideration. In constitutional deliberations, what the framers express do not necessarily reflect the intent of the people who by their sovereign act approve the Constitution on the basis of its express wording.[254]

To refer to the specifics of the deliberations, Mr. Rafols, a Constitutional Convention member, proposed the inclusion of foundlings among those who should be expressly listed as Philippine citizens. The proposal was framed as an amendment to the agreed provision that children born of Filipina mother and foreign fathers shall be considered Philippine citizens.

As petitioner Poe pointed out, Mr. Roxas raised the point (as an observation, not as an amendment to the proposal on the table) that the express inclusion of foundlings was no longer needed as their cases were rare and international law at that time already recognized them as citizens of the country where they are born in.

Mr. Buslon, another member, voiced out another point - that the matter should be left to the discretion of the legislature.

The present dispute essentially arose from these statements which preceded the vote on the Rafols proposal (which did not reflect either of the observations made). For clarity, the exchanges among the Convention members went as follows:

Table 3

Español

English

SR. RAFOLS: Para una enmienda, Senor Presidente. Propongo que despues def inciso 2 se inserte lo siguiente:

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"Los hijos natura!es de un padre extranjero y de una madre filipina no reconocidos por aquel,

x x x x

EL PRES/DENTE: La Mesa desea pedir una aclara. cion def proponente de la enmienda. ;,Se refiere Su Senoria a hijos naturales o a toda clase de hijos ilegitimos?

SR. RAFOLS: A toda clase de hijos ilegitimos. Tambien se incluye a los hijos naturales de padres conocidos, y los hijos naturales o ilegitimos de padres desconocidos.

SR. MONTINOLA: Para una aclaracion. Alli se dice de padres desconocidos. Los Codigos actuates considera como filipino, es decir, me refiero al Codigo espanol que considera como espanoles a todos los hijos da padrea desconcidos nacidos en terrilorio espanol, porque la presuncion es que el hijo de padres desconocidos es hijo de un espanol, y de igual manera se podra aplicar eso en Filipinas, de que un hijo de padre desconocido y nacido en Filipinas se considerara que es filipino. de modo que no hay necesidad . ..

SR. RAFOLS: Hay necesidad, porque estamos relatando las condiciones de los que van a ser filipinos.

SR. MONTINOLA: Pero esa es la interpretacion de la ley ahora, de manera de que no hay necesidad de la enmienda.

SR. RAFOLS: La enmienda debe leerse de esta manera: "Los hijos naturales o ilegitimos de un padre extranjero y de una madre filipina, no reconocidos par aquel, o los hijos de padres desconocidos. "

x x x x

SR. BUSLON: Mr. President, don't you think it would be better to leave this matter to the hands of the Legislature? (original in English)

SR. ROXAS: Senor Presidente, mi opinion hum ii de es que estos son casos muy insignificantes y contados, para que la Constitucion necesite referirse a ellos. Por las /eyes internacionales se reconoce el principio de que los hijos o las personas nacidas en un pais y de padres desconocidos son ciudadanos de esa nacion, y no es necesario incluir en la Constitucion una disposicion taxativa sobre el particular.

x x x x

EL PRESIDENTE: La Mesa sometera a votacion dicha enmienda. Los que esten conformes con la misma, que digan Si. (Una minoria: Si.) Los que no lo esten, que digan No. (Una mayoria: No.) Queda rechazada la enmienda.

MR. RAFOLS: For an amendment, Mr. Chairman. I propose that after the paragraph 2, the following be inserted: "The natural children of a foreign father and a Filipino mother recognized that"

x x x x

THE PRESIDENT: The Board wishes to request a clarification to the proponent of the amendment. Does His Honor· refer to natural children or any kind of illegitimate children.

MR. RAFOLS: To all kinds of illegitimate children. It also includes the natural children of unknown parentage, and natural or illegitimate children of unknown parentage.

MR. Montinola: for clarification. They are called "of unknown parents." The Codes actually consider them Filipino, that is, I mean the Spanish Code considers all children of unknown parents born m Spanish territory as Spaniards because the presumption is that the child of unknown parentage is the son of a Spaniard; this treatment

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can likewise be applied in the Philippines so that a child of unknown father born in the Philippines is Filipino, so there is no need ...

MR. RAFOLS: There is a need, because we are relating those conditions to those who are going to be Filipinos.

MR. Montinola: But that's the lay interpretation of law now, so there is no need for the amendment.

MR. RAFOLS: The amendment should be read this way: "The natural or illegitimate children of a foreign father and a Filipino mother, not recognized by either one, or the children of unknown parents."

x x x x

MR. BUSLON: Mr. President, don't you think it would be better to leave this matter to the hands of the Legislature?

MR. ROXAS: Mr. President, my humble opinion is that these are very insignificant and rare cases for the Constitution to refer to them. Under international law the principle that children or people born in a country and of unknown parents are citizens of that nation is recognized, and it is not necessary to include in the Constitution an exhaustive provision on the matter.

x x x x

THE PRESIDENT: The Chair places the amendment to a vote. Those who agree with the amendment, say Yes. (A minority: Yes.) Those who do not, say No. (the majority: No.) The amendment is rejected.

Mr. Roxas, a known and leading lawyer of his time who eventually became the fifth President of the Philippines, was clearly giving his personal "opinion humilde" (humble opinion) following Mr. Buslon's alternative view that the matter should be referred to the legislature. He did not propose to amend or change the original Rafols proposal which was the approval or the rejection of the inclusion to the provision "[t]he natural or illegitimate children of a foreign father and a Filipino mother, not recognized by either one, or the children of unknown parents."

The Convention rejected the Rafols proposal. As approved, paragraph 3 of Section 1 of Article IV of the 1935 Constitution finally read: "Those whose mothers are citizens of the Philippines and upon reaching the age of majority, elect Philippine citizenship."

Under these simple unadorned terms, nothing was thus clear except the Rafols proposal to include "children of unknown parents," after which a vote followed. As the transcripts show, the assemblage rejected the proposal. To be sure, the rejection was not because foundlings were already Philippine citizens under international law; the Rafols proposal was not amended to reflect this reasoning and was simply rejected after an exchange of views.

To say under these circumstances that foundlings were in fact intended to be included in the Filipino parentage provision is clearly already a modification of the records to reflect what they do not say.

The most that can perhaps be claimed under these records is that the framers were inconclusive on the reason for the rejection. It should not be lost on the Court that the deemed inclusion that Poe now claims does not logically arise from the main provision that Mr. Rafols wanted to amend; his proposal had a premise different from the Filipino parentage that was sought to be modified.

In clearer terms, the main provision sought to be amended was based on the existence of a Filipino mother; what

Rafols wanted was to include a situation of completely unknown parentage. This Rafols proposal was rejected. Nothing was decided on why the rejection resulted. Anything beyond this simple reading is conjectural.

To my mind, these considerations should caution us against bowing to petitioner Poe's self-serving interpretation of Mr. Roxas's statement - in effect, an interpretation, not of an express constitutional provision, but of an observation made in the course of the constitutional debate.

To summarize my reasons for disagreeing with this proposition are as follows:

(1)

another member of the 1934 Constitutional Convention provided for a different reason for not including foundlings in the enumeration of citizens under Article IV, i.e., that the· matter should be left to the discretion of the legislature;

(2)

Mr. Roxas' statement could in fact reasonably be construed to be in support as well of this alternative reason; what is certain is that Mr. Roxas did not support the Rafols proposal;

(3)

Mr. Roxas's view is only one view that was not supported by any of the members of the Constitutional Convention, and cannot be considered to have been representative of the views of the other 201 delegates, 102 of whom were also lawyers like Mr. Roxas and might be presumed to know the basics of statutory construction;

(4)

references to international law by members of the Constitutional Convention cannot, without its corresponding text in the Constitution, be considered as appended to or included in the Constitution;

(5)

Poe's position is based on an interpretation of a lone observation made in the course of the constitutional debate; it is not even an interpretation of a constitutional provision;

(6)

the deemed inclusion would have rendered paragraph 3 of Section 1 absurdly unfair as foundlings would be considered Filipino citizens while those born of Filipina mothers and foreign fathers would have to undertake an election; and lastly,

(7)

the sovereign Filipino people could not be considered to have known and ratified the observation of one member of the Constitutional Convention, especially when the provisions which supposedly reflect this observation do not indicate even a hint of this intent.

These reasons collectively provide the justification under the circumstances that lead us to the first and primordial rule in constitutional construction, that is, the text of the constitutional provision applies and is controlling. Intent of the Constitution's drafters may only be resorted to in case of ambiguity, and after examining the entire text of the Constitution. Even then, the opinion of a member of the Constitutional Convention is merely instructive, it cannot be considered conclusive of the people's intent.

III.A.4. The application of Article JV, Section 1 of the 1935

Constitution does not violate social justice principles
or the equal protection clause.

In light of the clarity of the text of Article IV, Section l of the 1935 Constitution regarding the exclusion of foundlings and the unreliability of the alleged intent of the 1934 Constitutional Convention to include foundlings in the list of Philippine citizens, I do not think the 1987 Constitution's provisions on social justice and the right of a child to assistance, as well as equal access to public office should be interpreted to provide Philippine citizenship to foundlings born under the 1935 Constitution.

As I earlier pointed out, there is no doubt in the provision of Article IV, Section 1 of the 1935 Constitution. Foundlings had been contemplated at one point to be included in the provision, but this proposition was rejected, and the ultimate provision of the text did not provide for the inclusion of persons with both parents' identities unknown.

Additionally, I do not agree that the Court should interpret the provisions of a new Constitution (the 1987 Constitution) to add meaning to the provisions of the previous 1935 Constitution. Indeed, we have cited past Constitutions to look at the history and development of our constitutional provisions as a tool for constitutional construction. How our past governments had been governed, and the changes or uniformity since then, are instructive in determining the provisions of the current 1987 Constitution.

I do not think that a reverse comparison can be done, i.e., that what the 1935 Constitution provides can be amended and applied at present because of what the 1987 Constitution now provides. It would amount to the Court amending what had been agreed upon by the sovereign Filipino nation that ratified the 1935 Constitution, and push the Court to the forbidden road of judicial legislation.

Moreover, determining the parameters of citizenship is a sovereign decision that inherently discriminates by providing who may and may not be considered Philippine citizens, and how Philippine citizenship may be acquired. These distinctions had been ratified by the Filipino nation acting as its own sovereign through the 1935 Constitution and should not be disturbed.

In these lights, I also cannot give credence to Poe's assertion that interpreting the 1935 Constitution to not provide Philippine citizenship to foundlings is "baseless, unjust, discriminatory, contrary to common sense", and violative of the equal protection clause.

Note, at this point, that the 1935 Constitution creates a distinction of citizenship based on parentage; a person born to a Filipino father is automatically considered a Philippine citizen from birth, while a person born to a Filipino mother has the inchoate right to elect Philippine citizenship upon reaching the age of majority. Distinguishing the kind of citizenship based on who of the two parents is Filipino is a hallmark (justly or unjustly) of the 1935 Constitution, and allowing persons with whom no parent can be identified for purposes of tracing citizenship would contravene this distinction.

Lastly, as earlier pointed out, adhering to the clear text of the 1935 Constitution would not necessarily deprive foundlings the right to become Philippine citizens, as they can undergo naturalization under our current laws.

III.A.5. The Philippines has no treaty obligation to
automatically bestow Philippine citizenship to
foundlings under the 1935 Constitution.

Treaties are entered into by the President and must be ratified by a two-thirds vote of the Philippine Senate in order to have legal effect in the country.[255] Upon ratification, a treaty is transformed into a domestic law and

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becomes effective in the Philippines. Depending on the terms and character of the treaty obligation, some treaties need additional legislation in order to be implemented in the Philippines. This process takes place pursuant to the doctrine of transformation.[256]

The Philippines has a dualist approach in its treatment of international law.[257] Under this approach, the Philippines sees international law and its international obligations from two perspectives: first, from the international plane, where international law reigns supreme over national laws; and second, from the domestic plane, where the international obligations and international customary laws are considered in the same footing as national laws, and do not necessarily prevail over the latter.[258]

The first approach springs from the international customary law of pacta sunt servanda that recognizes that obligations entered into by states are binding on them and requires them to perform their obligations in good faith.[259] This principle finds expression under Article 27 of the Vienna Convention on the Law of Treaties,[260] which provides that "[a] party may not invoke the provisions of its internal law as justification for its failure to perform a treaty.[261]

Thus, in the international plane, the Philippines cannot use its domestic laws to evade compliance with its international obligations; noncompliance would result in repercussions in its dealings with other States.

On the other hand, under Article VIII of the 1987 Constitution, a treaty may be the subject of judicial review,[262] and is thus characterized as an instrument with the same force and effect as a domestic law.[263] From this perspective, treaty provisions cannot prevail over, or contradict, constitutional provisions;[264] they can also be amended by domestic laws, as they exist and operate at the same level as these laws.[265]

As a last point, treaties are - in the same manner as the determination of a State's determination of who its citizens are - an act made in the exercise of sovereign rights. The Philippines now has every right to enter into treaties as it is independent and sovereign. Such sovereignty only came with the full grant of Philippine independence on July 4, 1946.

Thus, the Philippines could not have entered into any binding treaty before this date, except with the consent of the U.S. which exercised foreign affairs powers for itself and all colonies and territories under its jurisdiction. No such consent was ever granted by the U.S. so that any claim of the Philippines being bound by any treaty regarding its citizens and of foundlings cannot but be empty claims that do not even deserve to be read, much less seriously considered.

III.A.5(a). The Philippines' treaty obligations
under the JCCPR and UNCRC do not require the immediate
and automatic grant of Philippine citizenship
to foundlings.

While the International Covenant for Civil and Political Rights (ICCPR) and United Nations' Convention on the Rights of the Child (UNCRC) are valid and binding on the Philippines as they have been signed by the President and concurred in by our Senate, our obligations under these treaties do not require the immediate and automatic grant of Philippine citizenship, much less of natural-born status, to foundlings.

Treaties are enforceable according to the terms of the obligations they impose. The terms and character of the provisions of the ICCPR and UNCRC merely require the grant to every child of the right to acquire a nationality.

Section 3, Article 24 of the IC CPR on this point provides:

> 3. Every child has the right to acquire a nationality. [Emphasis supplied]

while Article 7, Section 1 of the UNCRC provides:

> 1. The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents. [emphasis supplied]

The right to acquire a nationality is different from the grant of an outright Filipino nationality. Under the cited treaties, States are merely required to recognize and facilitate the child's right to acquire a nationality.

The method through which the State complies with this obligation varies and depends on its discretion. Of course, the automatic and outright grant of citizenship to children in danger of being stateless is one of the means by which this treaty obligation may be complied with. But the treaties allow other means of compliance with their obligations short of the immediate and automatic grant of citizenship to stateless children found in their territory.

These treaties recognize, too, that the obligations should be complied with within the framework of a State's national laws. This view is reinforced by the provisions that implement these treaties.

Article 2 of the ICCPR on this point provides:

> 2. Where not already provided for by existing legislative or other measures, each State Party to the present Covenant undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of the present Covenant, to adopt such laws or other measures as may be necessary to give effect to the rights recognized in the present Covenant.

On the other hand, Article 4 of the UNCRC states:

> States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention. With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international co-operation. [emphasis and italics supplied]

These terms should be cross-referenced with Section 2, Article 7 of the UNCRC, which provides:

> States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless. [Emphasis, italics, and underscoring supplied]

Taken together, these ICCPR and UNCRC implementation provisions reveal the measure of flexibility mentioned above.[266] This flexibility runs from the absolute obligation to recognize every child's right to acquire a nationality, all the way to the allowable and varying measures that may be taken to ensure this right. These measures may range from an immediate and outright grant of nationality, to the passage of naturalization measures that the child may avail of to exercise his or her rights, all in accordance with the State's national law.

This view finds support from the history of the provision "right to acquire nationality" in the ICCPR. During the debates that led to the formulation of this provision, the word "acquire" was inserted in the draft, and the words "from his birth" were deleted. This change shows the intent of its drafters to, at the very least, vest discretion on the State with respect to the means of facilitating the acquisition of citizenship.

Marc Bussoyt, in his Guide to the "Travaux Preparatoires" of the International Covenant on Civil and Political Rights,"[267] even concluded that "the word 'acquire' would infer that naturalization was not to be considered as a right of the individual but was accorded by the State at its discretion."

III.A. 5(b). The right to a nationality under the UDHR
does not require its signatories to automatically grant

citizenship to foundlings in its respective territories.

Neither does the Philippines' participation as signatory to the United Nation Declaration on Human Rights (UDHR)[268] obligate it to automatically grant Filipino citizenship to foundlings in its territory.

Allow me to point out at the outset that the UDHR is not a treaty that directly creates legally-binding obligations for its signatories.[269] It is an international document recognizing inalienable human rights, which eventually led to the creation of several legally-binding treaties, such as the ICCPR and the International Covenant on Economic, Social and Cultural Rights (ICESCR).[270] Thus, the Philippines is not legally-obligated to comply with the provisions of the UDHR per se. It signed the UDHR because it recognizes the rights and values enumerated in the UDHR; this recognition led it to sign both the ICCPR and the ICESCR.[271]

To be sure, international scholars have been increasingly using the provisions of the UDHR to argue that the rights provided in the document have reached the status of customary international law. Assuming, however, that we were to accord the right to nationality under the UDHR the status of a treaty obligation or of a generally-accepted principle of international law, it still does not require the Philippine government to automatically grant Philippine citizenship to foundlings in its territory.

Article 15 of the UDHR provides:

> Article 15.
>
> (1) Everyone has the right to a nationality.
>
> (2) No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

Thus, the language of the UDHR itself recognizes the right of everyone to a nationality, without imposing on the signatory States how they would recognize this right.

Interestingly, Benigno Aquino, the then Philippine delegate to the United Nations, even opposed the declaration of the right to nationality under the UDHR, and opined that the UDHR should be confined to principles whose implementation should be left to the proposed covenant.

III.A.5(c). The Philippines' compliance with its international obligations does not include the grant of natural-born Philippine citizenship to foundlings.

In legal terms, a State is obliged to ensure every child's right to acquire a nationality through laws in the State's legal system that do not contradict the treaty.

In the Philippines, the Constitution defines the overall configuration of how Filipino citizenship should be granted and acquired. Treaties such as the ICCPR and UNCRC should be complied with, in so far as they touch on citizenship, within the terms of the Constitution's Article on Citizenship.

In the context of the present case, compliance with our treaty obligations to recognize the right of foundlings to acquire a nationality must be undertaken under the terms of, and must not contradict, the citizenship provisions of our Constitution.

The 1935 Constitution defined who the citizens of the Philippines then were and the means of acquiring Philippine citizenship at the time the respondent was found (and born). This constitutional definition must necessarily govern the petitioner's case.

As repeatedly mentioned above, Article IV of the 1935 Constitution generally follows the jus sanguinis rule:

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Philippine citizenship is determined by blood, i.e., by the citizenship of one's parents. The Constitution itself provides the instances when jus sanguinis is not followed: for inhabitants who had been granted Philippine citizenship at the time the Constitution was adopted; those who were holding public office at the time of its adoption; and those who are naturalized as Filipinos in accordance with law.

As earlier explained, the constitutional listing is exclusive. It neither provided nor allowed for the citizenship of foundlings except through naturalization. Since the obligation under the treaties can be complied with by facilitating a child's right to acquire a nationality, the presence of naturalization laws that allow persons to acquire Philippine citizenship already constitutes compliance.

Petitioner Poe argues against naturalization as a mode of compliance on the view that this mode requires a person to be 18 years old before he or she can apply for a Philippine citizenship. The sufficiency of this mode, in light particularly of the petitioner's needs, however, is not a concern that neither the COMELEC nor this Court can address given that the country already has in place measures that the treaties require - our naturalization laws.

As likewise previously mentioned, the ICCPR and the UNCRC allow the States a significant measure of flexibility in complying with their obligations. How the Philippines will comply within the range of the flexibility the treaties allow is a policy question that is fully and wholly within the competence of the Congress and of the Filipino people to address.

To recall an earlier discussion and apply this to the petitioner's argument, the country has adopted a dualist approach in conducting its international affairs. In the domestic plane where no foreign element is involved, we cannot interpret and implement a treaty provision in a manner that contradicts the Constitution; a treaty obligation that contravenes the Constitution is null and void.

For the same reason, it is legally incorrect for the petitioner to argue that the ICCPR, as a curative treaty, should be given retroactive application. A null and void treaty provision can never, over time, be accorded constitutional validity, except when the Constitution itself subsequently so provides.

The rule in the domestic plane is, of course, separate and different from our rule in the international plane where treaty obligations prevail. If the country fails to comply with its treaty obligations because they contradict our national laws, there could be repercussions in our dealings with other States. This consequence springs from the rule that our domestic laws cannot be used to evade compliance with treaties in the international plane. Repercussions in the international plane, however, do not make an unconstitutional treaty constitutional and valid. These repercussions also cannot serve as an excuse to enforce a treaty provision that is constitutionally void in the domestic plane.

III.A.6. The alleged generally accepted principles of international law presuming the parentage of foundlings is contrary to the 1935 Constitution.

III.A.6(a). Generally accepted principles of international law.

Unlike treaty obligations that are ratified by the State and clearly reflect its consent to an obligation, the obligations under generally accepted principles of international law are recognized to bind States because state practice shows that the States themselves consider these principles to be binding.

Generally accepted principles of international law are legal norms that are recognized as customary in the international plane. States follow them on the belief that these norms embody obligations that these States, on their own, are bound to perform. Also referred to as customary international law, generally accepted principles of international law pertain to the collection of international behavioral regularities that nations, over time, come to

view as binding on them as a matter of law.[272]

In the same manner that treaty obligations partake of the character of domestic laws in the domestic plane, so do generally accepted principles of international law. Article II, Section 2 of the 1987 Constitution provides that these legal norms "form part of the law of the land." This constitutional declaration situates in clear and definite terms the role of generally accepted principles of international law in the hierarchy of Philippine laws and in the Philippine legal system.

Generally accepted principles of international law usually gain recognition in the Philippines through decisions rendered by the Supreme Court, pursuant to the doctrine of incorporation.[273] The Supreme Court, in its decisions, applies these principles as rules or as canons of statutory construction, or recognizes them as meritorious positions of the parties in the cases the Court decides.[274]

Separately from Court decisions, international law principles may gain recognition through actions by the executive and legislative branches of government when these branches use them as bases for their actions (such as when Congress enacts a law that incorporates what it perceives to be a generally accepted principle of international law).

But until the Court declares a legal norm to be a generally accepted principle of international law, no other means exists in the Philippine legal system to determine with certainty that a legal norm is indeed a generally accepted principle of international law that forms part of the law of the land.

The main reason for the need for a judicial recognition lies in the nature of international legal principles. Unlike treaty obligations that involve the express promises of States to other States, generally accepted principles of international law do not require any categorical expression from States for these principles to be binding on them.[275]

A legal norm requires the concurrence of two elements before it may be considered as a generally accepted principle of international law: the established, widespread, and consistent practice on the part of States; and a psychological element known as the opinio juris sive necessitates (opinion as to law or necessity).[276] Implicit in the latter element is the belief that the practice is rendered obligatory by the existence of a rule of law requiring it.

The most widely accepted statement of sources of international law today is Article 38(1) of the Statute of the International Court of Justice (ICJ), which provides that the ICJ shall apply international custom, as evidence of a general practice accepted as law.[277] The material sources of custom include state practices, state legislation, international and national judicial decisions, recitals in treaties and other international instruments, a pattern of treaties in the same form, the practice of international organs, and resolutions relating to legal questions in the United Nations General Assembly.[278]

Sometimes referred to as evidence of international law, these sources identify the substance and content of the obligations of States and are indicative of the state practice and the opinio juris requirements of international law.

In the usual course, this process passes through the courts as they render their decisions in cases. As part of a court's function of determining the applicable law in cases before it (including the manner a law should be read and applied), the court has to determine the existence of a generally applied principle of international law in the cases confronting it, as well as the question of whether and how it applies to the facts of the case.

To my mind, the process by which courts recognize the effectivity of general principles of international law in the Philippines is akin or closely similar to the process by which the Supreme Court creates jurisprudence. Under the principle of stare decisis, courts apply the doctrines in the cases the Supreme Court decides as judicial precedents

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in subsequent cases with similar factual situations.[279]

In a similar manner, the Supreme Court's pronouncements on the application of generally accepted principles of international law to the cases it decides are not only binding on the immediately resolved case, but also serve as judicial precedents in subsequent cases with similar sets of facts. That both jurisprudence and generally accepted principles of international law form "part of the law of the land" (but are not laws per se) is, therefore, not pure coincidence.[280]

To be sure, the executive and legislative departments may recognize and use customary international law as basis when they perform their functions. But while such use is not without legal weight, the continued efficacy and even the validity of their use as such cannot be certain. While their basis may be principles of international law, their inapplicability or even invalidity in the Philippine legal setting may still result if the applied principles are inconsistent with the Constitution - a matter that is for the Supreme Court to decide.

Thus viewed, the authoritative use of general principles of international law can only come from the Supreme Court whose decisions incorporate these principles into the legal system as part of jurisprudence.

III.A.6(b). The concept and nature of generally accepted principles of international law is inconsistent with the State's sovereign prerogative to determine who may or may not be its citizens.

Petitioner Poe argues that the presumption of the parentage of foundlings is a legal norm that has reached widespread practice and is indicative of the opinio juris of States so that the presumption is binding. Thus, it is a generally-accepted principle of international law that should be recognized and applied by the Court.

I cannot agree with this reasoning as the very nature of generally accepted principles of international law is inconsistent with and thus inapplicable to, the State's sole and sovereign prerogative to choose who may or may not be its citizens, and how the choice is carried out.

A generally accepted principle of international law is considered binding on a State because evidence shows that it considers this legal norm to be obligatory. No express consent from the State in agreeing to the obligation; its binding authority over a State lies from the inference that most, if not all States consider the norm to be an obligation.

In contrast, States have the inherent right to decide who may or may not be its citizens, including the process through which citizenship may be acquired. The application of presumptions, or inferences of the existence of a fact based on the existence of other facts, is part of this process of determining citizenship.

This right is strongly associated with and attendant to state sovereignty. Traditionally, nationality has been associated with a State's "right to exclude others", and to defend the territory of the nation from external aggression has been a predominant element of nationality.[281]

Sovereignty in its modem conception is described as the confluence of independence and territorial and personal supremacy, expressed as "the supreme and independent authority of States over all persons in their territory."[282]

Indeed, a State exercises personal supremacy over its nationals wherever they may be. The right to determine who these nationals are is a pre-requisite of a State's personal supremacy, and therefore of sovereignty.[283]

It is in this context that Oppenheimer said that:

> It is not for International Law, but for Municipal Law to determine who is, and who is not considered a

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subject.[284]

Given that the State's right to determine who may be its nationals (as well as how this determination is exercised) is inextricably linked to its sovereignty, I cannot see how it can properly be the subject of state consensus or norm dictated by the practice of other States. In other words, the norm pertaining to the determination of who may or may not be a citizen of a State cannot be the subject of an implied obligation that came to existence because other States impliedly consider it to be their obligation.

In the first place, a State cannot be obligated to adopt a means of determining who may be its nationals as this is an unalterable and basic aspect of its sovereignty and of its existence as a State. Additionally, the imposition of an implied obligation on a State simply because other States recognize the same obligation contradicts and impinges on a State's sovereignty.

Note at this point, that treaty obligations that a State enters into involving the determination of its citizens has the express consent of the State; under Philippine law, this obligation is transformed into a municipal law once it is ratified by the Executive and concurred in by the Senate.

The evidence presented by petitioner Poe to establish the existence of generally-accepted principles of international law actually reflects the inherent inconsistency between the State's sovereign power to determine its nationals and the nature of generally-accepted principles of international law as a consensus-based, implied obligation. Poe cites various laws and international treaties that provide for the presumption of parentage for foundlings. These laws and international treaties, however, have the expressed imprimatur of the States adopting the presumption.

In contrast, the Philippines had not entered into any international treaty recognizing and applying the presumption of parentage of foundlings; neither is it so provided in the 1935 Constitution. References to international law in the deliberations of the 1934 Constitutional Convention - without an actual ratified treaty or a provision expressing this principle - cannot be considered binding upon the sovereign Filipino people who ratified the 1935 Constitution. The ratification of the provisions of the 1935 Constitution is a sovereign act of the Filipino people; to reiterate for emphasis, this act cannot be amended by widespread practice of other States, even if these other States believe this practice to be an obligation.

III.A.6(c). The presumption of parentage contradicts the distinction set out in the 1935 Constitution.

Further, even if this presumption were to be considered a generally accepted principle of international law, it cannot be applied in the Philippines as it contradicts the jus sanguinis principle of the 1935 Constitution, as well as the distinction the 1935 Constitution made between children born of Filipino fathers and of Filipina mothers.

As earlier discussed, a presumption is an established inference from facts that are proven by evidence.[285] The undisputed fact in the present case is that the petitioner was found in a church in Jara, Iloilo; because of her age at that time, she may conceivably have been born in the area so that Jaro was her birth place.

This line of thought, if it is to lead to Poe's presumption, signifies a presumption based on jus soli or place of birth because this is the inference that is nearest the established fact of location of birth. Jus sanguinis (blood relationship) cannot be the resulting presumption as there is absolutely no established fact leading to the inference that the petitioner's biological parents are Filipino citizens.

Jus soli, of course, is a theory on which citizenship may be based and is a principle that has been pointedly rejected in the country, at the same time that jus sanguinis has been accepted. From this perspective, the petitioner's advocated presumption runs counter to the 1935 Constitution.

The same result obtains in the line of reasoning that starts from the consideration that a principle of international law, even if it is widely observed, cannot form part of the law of the land if it contravenes the Constitution.

Petitioner Poe's desired presumption works at the same level and can be compared with existing presumptions in determining the parentage of children and their citizenship, which are based on the Civil Code as interpreted by jurisprudence.[286] These are the presumptions formulated and applied in applying our citizenship laws, particularly when the parentage of a child is doubtful or disputed.

For instance, a child born during his or her parent's marriage is presumed to be the child of both parents.[287] Thus, the child follows the citizenship of his or her father. A child born out of wedlock, on the other hand, can only be presumed to have been born of his or her mother, and thus follows the citizenship of his or her mother until he or she proves paternal filiations. These Civil Code presumptions are fully in accord with the constitutional citizenship rules.

A presumption that a child with no known parents will be considered to have Filipino parents, on the other hand, runs counter to the most basic rules on citizenship under the 1935 Constitution.

Other than through naturalization or through outright constitutional grant, the 1935 Constitution requires that the father or the mother be known to be Filipino for a person to acquire Filipino citizenship. This is a consequence of the clear and categorical jus sanguinis rule that the 1935 Constitution established for the country.

Under its terms, should a child's father be Filipino, then he or she acquires Philippine citizenship. On the other hand, should his or her father be a foreigner but the mother is a Filipina, the 1935 constitutional Rule is to give the child the right to elect Philippine citizenship when he or she reaches 18 years of age.

Without the identity of either or both parents being known in the case of foundlings, no determination of the foundling's citizenship can be made under jus sanguinis. Specifically, whose citizenship shall the foundling follow: the citizenship of the father, or the option to elect the citizenship of the mother?

Applying Poe's desired presumption would obviously erase the distinction that the 1935 Constitution placed in acquiring Philippine citizenship, and only strengthens the lack of intent (aside from a lack of textual provision) to grant Philippine citizenship to foundlings.

This inherent irreconcilability of Poe's desired presumption with the 1935 Constitution renders futile any discussion of whether this desired presumption has reached the status of a generally accepted principle of international law applicable in the Philippines. We cannot (and should not) adopt a presumption that contradicts the fundamental law of the land, regardless of the status of observance it has reached in the international plane.

I recognize of course that in the future, Congress may, by law, adopt the petitioner's desired presumption under the 1987 Constitution. A presumption of Filipino parentage necessarily means a presumption of jus sanguinis for foundlings.

But even if made, the presumption remains what it is - a presumption that must yield to the reality of actual parentage when such parentage becomes known unless the child presumed to be Filipino by descent undertakes a confirmatory act independent of the presumption, such as naturalization.

Note that the 1987 Constitution does not significantly change the jus sanguinis rule under the 1935 Constitution. Currently, a natural-born Filipino is one whose father or mother is a Filipino at the time of the child's birth. As in 1935, the current 1987 Constitution speaks of parents who are actually Philippine citizens at the time of the child's birth; how the parents acquired their own Philippine citizenship is beside the point and is not a consideration for

as long as this citizenship status is there at the time of the child's birth.

A presumption of Filipino parentage cannot similarly apply or extend to the character of being natural-born, as this character of citizenship can only be based on reality; when the Constitution speaks of "natural-born," it cannot but refer to actual or natural, not presumed birth. A presumption of being natural-born is effectively a legal fiction that the definition of the term "natural-born" under the Constitution and the purposes this definition serves cannot accommodate.

To sum up, the petitioner's argument based on a foundling's presumed Filipino parentage under a claimed generally accepted principle of international law is legally objectionable under the 1935 Constitution and cannot be used to recognize or grant natural-born Philippine citizenship.

III.B. Grave Abuse of Discretion in Resolving the Citizenship Issues: Conclusions.

Based on all these considerations, I conclude that the COMELEC laid the correct premises on the issue of citizenship in cancelling Poe's CoC.

To recapitulate, Poe anchors her arguments mostly on two basic points: first, that the framers of the 1935 Constitution agreed to include foundlings in the enumeration of citizens in Article IV, Section 1 of the 1935 Constitution although they did not expressly so provide it in its express provisions; and second, that the Philippines' international obligations include the right to automatically vest Philippine citizenship to foundlings in its territory.

With her failure on these two points, the rest of Poe's arguments on her natural-born citizenship status based on the 1935 Constitution and under international law, and the grave abuse of discretion the COMELEC allegedly committed in cancelling her CoC, must also necessarily fail. The unavoidable bottom line is that the petitioner did indeed actively, knowingly, and falsely represent her citizenship and natural-born status when she filed her CoC.

IV.

The Claim of Grave Abuse of Discretion in relation with the RESIDENCY Issues.
I likewise object to the majority's ruling that the COMELEC gravely abused its discretion in cancelling Poe's CoC for falsely representing that she has complied with the ten-year residence period required of Presidential candidates.

The COMELEC correctly applied prevailing jurisprudence in holding that Poe has not established her legal residence in the Philippines for at least ten years immediately prior to the May 9, 2016 elections.

In addition, I offer my own views regarding the political character of the right to establish domicile, which necessarily requires Philippine citizenship before domicile may be established in the Philippines.

In my view, aliens who reacquire Philippine citizenship under RA No. 9225 may only begin establishing legal residence in the Philippines from the time they reacquire Philippine citizenship. This is the clear import from the Court's rulings in Japzon v. COMELEC[288] and Caballero v. COMELEC,[289] cases involving candidates who reacquired Philippine citizenship under RA No. 9225; their legal residence in the Philippines only began after their reacquisition of Philippine citizenship.

I find it necessary to elaborate on this legal reality in light of Poe's insistence that the Court's conclusions in Coquilla,[290] Japzon, and Caballero do not apply to her. To emphasize, these cases - Coquilla, Japzon and Caballero - are one in counting the period of legal residence in the Philippines from the time the candidate reacquired Philippine citizenship.

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Poe resists these rulings and insists that she established her legal residence in the Philippines beginning May 24, 2005, i.e., even before the BID Order, declaring her reacquisition of Philippine citizenship, was issued on July 18, 2006.

She distinguishes her situation from Coquilla, Japzon, and Caballero, on the position that the candidates in these cases did not prove their legal residence in the Philippines before acquiring their Philippine citizenship. In contrast, Poe claims to have sufficiently proven that she established her domicile in the Philippines as early as May 24, 2005, or ten years and eleven months prior to the May 9, 2016 elections. That the COMELEC ignored the evidence she presented on this point constitutes grave abuse of discretion.

To my mind, the conclusion in Japzon and Caballero is not just based on the evidence that the candidates therein presented. The conclusion that candidates who reacquired Philippine citizenship under RA No. 9225 may only establish residence in the Philippines after becoming Philippine citizens reflects the character of the right to establish a new domicile for purposes of participating in electoral exercises as a political right that only Philippine citizens can exercise. Thus, Poe could only begin establishing her domicile in the Philippines on July 18, 2006, the date the BID granted her petition for reacquisition of Philippine citizenship.

Furthermore, an exhaustive review of the evidence Poe presented to support her view shows that as of May 24, 2005, Poe had not complied with the requirements for establishing a new domicile of choice.

IV.A. Domicile for purposes of determining political
rights and civil rights.

The term "residence" is an elastic concept that should be understood and construed according to the object or purpose of the statute in which it is employed. Thus, we have case law distinguishing residence to mean actual residence, in contrast to domicile, which pertains to a permanent abode. Note, however, that both terms imply a relation between a person and a place.[291] determining which connotation of the term residence applies depends on the statute in which it is found.

Generally, we have used the term "residence" to mean actual residence when pertaining to the exercise of civil rights and fulfillment of civil obligations.

Residence, in this sense pertains to a place of abode, whether permanent or temporary, or as the Civil Code aptly describes it, a place of habitual residence. Thus, the Civil Code provides:

> Art. 50. For the exercise of civil rights and the fulfillment of civil obligations, the domicile of natural persons is the place of their habitual residence. (40a)
>
> Art. 51. When the law creating or recognizing them or any other provision does not fix the domicile of juridical persons, the same shall be understood to be the place where their legal representation is established or where they exercise their principal functions. (41a) [emphases supplied]

Still, the actual residence for purposes of civil rights and obligations may be further delineated to residence in the Philippines, or residence in a municipality in the Philippines, depending on the purpose of the law in which they are employed.[292]

On the other hand, we generally reserve the use of the term residence as domicile for purposes of exercising political rights. Jurisprudence has long established that the term "residence" in election laws is synonymous with domicile. When the Constitution or the election laws speak of residence, it refers to the legal or juridical relation between a person and a place- the individual's permanent home irrespective of physical presence.

To be sure, physical presence is a major indicator when determining the person's legal or juridical relation with

the place he or she intends to be voted for. But, as residence and domicile is synonymous under our election laws, residence is a legal concept that has to be determined by and in connection with our laws, independent of or in conjunction with physical presence.

Domicile is classified into three, namely: (1) domicile of origin, which is acquired by every person at birth; (2) domicile of choice, which is acquired upon abandonment of the domicile of origin; and (3) domicile by operation of law, which the law attributes to a person independently of his residence or intention.

Domicile of origin is the domicile of a person's parents at the time of his or her birth. It is not easily lost and continues until, upon reaching the majority age, he or she abandons it and acquires a new domicile, which new domicile is the domicile of choice.

The concept of domicile is further distinguished between residence in a particular municipality, city, province, or the Philippines, depending on the political right to be exercised. Philippine citizens must be residents of the Philippines to be eligible to vote, but to be able to vote for elective officials of particular local government units, he must be a resident of the geographical coverage of the particular local government unit.

To effect a change of domicile, a person must comply with the following requirements: (1) an actual removal or an actual change of domicile; (2) a bona fide intention of abandoning the former place of residence and establishing a new one; and (3) acts which correspond with such purpose.

In other words, a change of residence requires animus manendi coupled with animus non revertendi. The intent to remain in or at the domicile of choice must be for an indefinite period of time; the change of residence must be voluntary; and the residence at the place chosen for the new domicile must be actual.[293]

In Limbona v. COMELEC,[294] the Court enumerated the following requirements to effect a change of domicile or to acquire a domicile by choice:

> (1) residence or bodily presence in the new locality;
>
> (2) a bona fide intention to remain there; and
>
> (3) a bona fide intention to abandon the old domicile.

The latter two are the animus manendi and the animus non revertendi that those considering a change of domicile must take into account.

Under these requirements, no specific unbending rule exists in the appreciation of compliance because of the element of intent[295] - an abstract and subjective proposition that can only be determined from the surrounding circumstances. It must be appreciated, too, that aside from intent is the question of the actions taken pursuant to the intent, to be considered in the light of the applicable laws, rules, and regulations.

Jurisprudence, too, has laid out three basic foundational rules in the consideration of residency issues, namely:

First, a man must have a residence or domicile somewhere;

Second, when once established, it remains until a new one is acquired; and

Third, a man can have but one residence or domicile at a time.[296]

These jurisprudential foundational rules, hand in hand with the established rules on change of domicile, should be fully taken into account in appreciating Poe's circumstances.

IV.A.1. The right to establish domicile is imbued

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with the character of a political right that only citizens
may exercise.

Domicile is necessary to be able to participate in governance, i.e., to vote and/or be voted for, one must consider a locality in the Philippines as his or her permanent home, a place in which he intends to remain in for an indefinite period of time (animus manendi) and to return to should he leave (animus revertendi).

In this sense, the establishment of a domicile not only assumes the color of, but becomes one with a political right because it allows a person, not otherwise able, to participate in the electoral process of that place. To logically carry this line of thought a step further, a person seeking to establish domicile in a country must first posses the necessary citizenship to exercise this political right.

Note, at this point, that Philippine citizenship is necessary to participate in governance and exercise political rights in the Philippines. The preamble of our 1987 Constitution cannot be clearer on this point:

> We, the sovereign Filipino people, imploring the aid of Almighty God, in order to build a just and humane society, and establish a Government that shall embody our ideals and aspirations, promote the common good, conserve and develop our patrimony, and secure to ourselves and our posterity, the blessings of independence and democracy under the rule of law and a regime of truth, justice, freedom, love, equality, and peace, do ordain and promulgate this Constitution. [emphases, italics, and underscoring supplied)

It is the sovereign Filipino people (i.e., the citizens through whom the State exercises sovereignty, and who can vote and participate in governance) who shall establish the Government of the country (i.e. one of the purposes why citizens get together and collectively act), and they themselves ordain and promulgate the Constitution (i.e., the citizens themselves directly act, not anybody else).

Corollarily, a person who does not possess Philippine citizenship, i.e., an alien, cannot participate in the country's political processes. An alien does not have the right to vote and be voted for, the right to donate to campaign funds, the right to campaign for or aid any candidate or political party, and to directly, or indirectly, take part in or influence in any manner any election.

The character of the right to establish domicile as a political right becomes even more evident under our election laws that require that a person's domicile and citizenship coincide to enable him to vote and be voted for elective office. In more concrete terms (subject only to a few specific exceptions), a Philippine citizen must have his domicile in the Philippines in order to participate in our electoral processes.

Thus, a Philippine citizen who has chosen to reside permanently abroad may be allowed the limited opportunity to vote (under the conditions laid down under the Overseas Absentee Voting Act)[297] but he or she cannot be voted for; he or she is disqualified from running for elective office under Section 68 of the Omnibus Election Code (OEC).[298]

In the same light, an alien who has been granted a permanent resident visa in the Philippines does not have the right of suffrage in the Philippines, and this should include the right to establish legal domicile for purposes of election laws. An alien can reside in the Philippines for a long time, but his stay, no matter how lengthy, will not allow him to participate in our political processes.

Thus, an inextricable link exists among citizenship, domicile, and sovereignty; citizenship and domicile must coincide in order to participate as a component of the sovereign Filipino people. In plainer terms, domicile for election law purposes cannot be established without first becoming a Philippine citizen; they must coincide from the time domicile in the Philippines is established.

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IV.A.2. The right to RE-ESTABLISH domicile in the Philippines may be exercised only after reacquiring Philippine citizenship.

> Unless a change of domicile is validly effected, one
> with reacquired Filipino citizenship acquires the right to reside in the
> country, hut must have a change of domicile,· otherwise,
> he is a Filipino physically in the Philippines hut is
> domiciled elsewhere.

Once a Philippine citizen permanently resides in another country, or becomes a naturalized citizen thereof, he loses his domicile of birth (the Philippines) and establishes a new domicile of choice in that country.

If a former Filipino reacquires his or her Philippine citizenship, he reacquires as well the political right to reside in the Philippines, but he does not become a Philippine domiciliary unless he validly effects a change of domicile; otherwise, he remains a Filipino physically in the Philippines but is domiciled elsewhere. The reason is simple: an individual can have only one domicile which remains until it is validly changed.

In Coquilla,[299] the Court pointed out that "immigration to the [U.S.] by virtue of a green card, which entitles one to reside permanently in that country, constitutes abandonment of domicile in the Philippines. With more reason then does naturalization in a foreign country result in an abandonment of domicile in the Philippines."

Thus, Philippine citizens who are naturalized as citizens of another country not only abandon their Philippine citizenship; they also abandon their domicile in the Philippines.

To re-establish the Philippines as his or her new domicile of choice, a returning former Philippine citizen must thus comply with the requirements of physical presence (or the required period (when exercising his political right), animus manendi, and animus non-revertendi.

Several laws govern the reacquisition of Philippine citizenship by former Philippine citizens-aliens each providing for a different mode of, and different requirements for, Philippine citizenship reacquisition. These laws are Commonwealth Act (CA) No. 473; RA No. 8171; and RA No. 9225.

All these laws are meant to facilitate an alien's reacquisition of Philippine citizenship by law. CA No. 473[300] as amended,[301] governs reacquisition of Philippine citizenship by naturalization; it is also a mode for original acquisition of Philippine citizenship. RA No. 8171,[302] on the other hand, governs repatriation of Filipino women who lost Philippine citizenship by marriage to aliens and Filipinos who lost Philippine citizenship by political or economic necessity; while RA No. 9225[303] governs repatriation of former natural-born Filipinos in general.

Whether termed as naturalization, reacquisition, or repatriation, all these modes fall under the constitutional term "naturalized in accordance with law" as provided under the 1935, the 1973, and the 1935 Constitutions.

Note that CA No. 473[304] provides a more stringent procedure for acquiring Philippine citizenship than RA Nos. 9225 and 8171 both of which provide for a more expedited process. Note, too, that under our Constitution, there are only two kinds of Philippine citizens: natural-born and naturalized. As RA Nos. 8171 and 9225 apply only to former natural-born Filipinos (who lost their Philippine citizenship by foreign naturalization), CA No. 4 73 - which is both a mode for acquisition and reacquisition of Philippine citizenship - logically applies in general to all former Filipinos regardless of the character of their Philippine citizenship, i.e., natural-born or naturalized.

The difference in the procedure provided by these modes of Philippine citizenship reacquisition presumably lies in the assumption that those who had previously been natural-born Philippine citizens already have had ties with

the Philippines for having been directly descended from Filipino citizens or by virtue of their blood and are well-versed in its customs and traditions; on the other hand, the alien-former Filipino in general (and no matter how long they have resided in the Philippines) could not be presumed to have such ties.

In fact, CA No. 473 specifically requires that an applicant for Philippine citizenship must have resided in the Philippines for at least six months before his application for reacquisition by naturalization.

Ujano v. Republic[305] interpreted this residence requirement to mean domicile, that is, prior to applying for naturalization, the applicant must have maintained a permanent residence in the Philippines. In this sense, Ujano held that an alien staying in the Philippines under a temporary visa does not comply with the residence requirement, and to become a qualified applicant, an alien must have secured a permanent resident visa to stay in the Philippines. Obtaining a permanent resident visa was, thus, viewed as the act that establishes domicile in the Philippines for purposes of complying with CA No. 473.

The ruling in Ujano is presumably the reason for the Court's reference that residence may be waived separately from citizenship in Coquilla. In Coquilla, the Court observed that:

> The status of being an alien and a non-resident can be waived either separately, when one acquires the status of a resident alien before acquiring Philippine citizenship, or at the same time when one acquires Philippine citizenship. As an alien, an individual may obtain an immigrant visa under 13 [28] of the Philippine Immigration Act of 1948 and an Immigrant Certificate of Residence (ICR)[29] and thus waive his status as a non-resident. On the other hand, he may acquire Philippine citizenship by naturalization under C.A. No. 473, as amended, or, if he is a former Philippine national, he may reacquire Philippine citizenship by repatriation or by an act of Congress, in which case he waives not only his status as an alien but also his status as a non-resident alien.[306] [underscoring supplied]

The separate waiver refers to the application for Philippine citizenship under CA No. 437, which requires that the applicant alien be domiciled in the Philippines as evidenced by a permanent resident visa. An alien intending to become a Philippine citizen may avail of CA No. 473 and must first waive his domicile in his country of origin to be considered a permanent resident alien in the Philippines, or he may establish domicile in the Philippines after becoming a Philippine citizen through direct act of Congress.

Note, at this point, that the permanent residence requirement under CA No. 473 does not provide the applicant alien with the right to participate in the country's political process, and should thus be distinguished from domicile in election laws.

In other words, an alien may be considered a permanent resident of the Philippines, but without Philippine citizenship, his stay cannot be considered in establishing domicile in the Philippines for purposes of exercising political rights. Neither could this period be retroactively counted upon gaining Philippine citizenship, as his stay in the Philippines at that time was as an alien with no political rights.

In these lights, I do not believe that a person reacquiring Philippine citizenship under RA No. 9225 could separately establish domicile in the Philippines prior to becoming a Philippine citizen, as the right to establish domicile has, as earlier pointed out, the character of a political right.

RA No. 9225 restores Philippine citizenship upon the applicant's submission of the oath of allegiance to the Philippines and other pertinent documents to the BID (or the Philippine consul should the applicant avail of RA No. 9225 while they remain in their country of foreign naturalization). The BID (or the Philippine consul) then reviews these documents, and issues the corresponding order recognizing the applicant's reacquisition of Philippine citizenship.

Upon reacquisition of Philippine citizenship under RA No. 9225, a person becomes entitled to full political and civil rights, subject to its attendant liabilities and responsibilities. These include the right to reestablish domicile in the Philippines for purposes of participating in the country's electoral processes. Thus, a person who has reacquired Philippine citizenship under RA No. 9225 does not automatically become domiciled in the Philippines, but is given the option to establish domicile in the Philippines to participate in the country's electoral process.

This, to my mind, is the underlying reason behind the Court's consistent ruling in Coquilla, Japzon, and Caballero that domicile in the Philippines can be considered established only upon, or after, the reacquisition of Philippine citizenship under the expedited processes of RA No. 8171 or RA No. 9225. More than the insufficiency of evidence establishing domicile prior to the reacquisition of Philippine citizenship, this legal reality simply disallows the establishment of domicile in the Philippines prior to becoming a Philippine citizen.

To reiterate, the Court in these three cases held that the candidates therein could have established their domicile in the Philippines only after reacquiring their Philippine citizenship.

Thus, the Court in Coquilla said:

> In any event, the fact is that, by having been naturalized abroad, he lost his Philippine citizenship and with it his residence in the Philippines. Until his reacquisition of Philippine citizenship on November 10, 2000, petitioner did not reacquire his legal residence in this country.[307] [underscoring supplied]

In Japzon, the Court noted:

> "[Ty's] reacquisition of his Philippine citizenship under [RA] No. 9225 had no automatic impact or effect on his residence /domicile. He could still retain his domicile in the USA, and he did not necessarily regain his domicile in the Municipality of General Macarthur, Eastern Samar, Philippines. Ty merely had the option to again establish his domicile in the Municipality of General Macarthur, Eastern Samar, Philippines, said place becoming his new domicile of choice. The length of his residence therein shall be determined from the time he made it his domicile of choice and it shall not retroact to the time of his birth.[308]

Caballero, after quoting Japzon, held:

> Hence, petitioner's retention of his Philippine citizenship under RA No. 9225 did not automatically make him regain his residence in Uyugan, Batanes. He must still prove that after becoming a Philippine citizen on September 13, 2012, he had reestablished Uyugan, Batanes as his new domicile of choice which is reckoned from the time he made it as such.[309]

In these lights, the COMELEC correctly applied the doctrine laid out in Coquilla, Japzon, and Caballero in Poe's case, i.e., that her physical presence allegedly coupled with intent should be counted, for election purposes, only from her reacquisition of Philippine citizenship or surrender of her immigrant status. Any period of residence prior to such reacquisition of Philippine citizenship or surrender of immigrant status cannot simply be counted as Poe, at such time, was an alien non-resident who had no right to permanently reside anywhere in the Philippines.

Significantly, these are the established Court rulings on residency of former natural-born Filipinos seeking elective public office that would be disturbed if the Court would allow Poe to run for the Presidency in the May 9, 2016 elections. Application of the social justice and equity principles that some sectors (within and outside the Court) urge this Court to do and their persistent appeal to fairness must not be allowed to weigh in and override what the clear terms laws and these jurisprudence provide.

IV.B. Poe's representation as to her residence: Poe has not been a Philippine resident (or the period required by Article VII, Section 2 of the Constitution.

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Based on the foregoing laws, principles, and relevant jurisprudence, I find the COMELEC correct in ruling that Poe does not meet the Constitution's ten-year residence requirement for the Presidency.

IV.B.1. Poe was not a natural-born citizen who could validly reacquire Philippine citizenship under RA No. 9225; hence, she could not have re-established residence in the Philippines under the laws' terms even with the BID's grant of her RA No. 9225 application.

The simplified repatriation procedure under RA No. 9225 applies only to former natural-born Filipino citizens who became naturalized foreign citizens. Thus, persons who were not natural-born citizens prior to their foreign naturalization cannot reacquire Philippine citizenship through the simplified RA No. 9225 procedure, but may do so only through the other modes CA No. 63[310] provides, i.e., by naturalization under CA No. 473, as amended by RA No. 530, or by direct act of Congress.

Prior to a valid reacquisition under RA No. 9225, a former Philippine citizen does not have political rights in the Philippines, as he or she is considered an alien. His political rights begin only upon reacquisition of Philippine citizenship: 12

In Poe's case, she was not a natural-born citizen who could have validly repatriated under RA No. 9225. As she did not reacquire Philippine citizenship under the appropriate mode, she likewise did not reacquire the right to reside in the Philippines save only as our immigration laws may have allowed her to stay as visitor. But regardless of its length, any such period of stay cannot be counted as residence in the Philippines under the election laws' terms.

IV.B.2. Assuming, arguendo, that Poe reacquired Philippine Citizenship; she still has not been a Philippine resident [or "10 years and 11 months" on the day before the election.

Even assuming, arguendo, that Poe reacquired Philippine citizenship with the BID's grant of her RA No. 9225 application, she still fails to meet the Constitution's ten-year residence requirement, as explained below.

IV.B.2(a). Poe arrived in the Philippines using her U.S. passport as an American citizen and under a "Balikbayan" visa; hence, she could not have re-established Philippine residence beginning May 24, 2005.

When Poe returned to the Philippines on May 24, 2005, she was a non-resident alien - a naturalized American citizen. She used her U.S. passport in her travel to and arrival in the Philippines under a "Balikbayan" visa, as the parties' evidence show and as even Poe admits. These dates stamped in her U.S. passport, in particular, bear the mark "BB" (which stands for Balikbayan) or "1 YR" (which stands for 1-Year stay in the Philippines): September 14, 2005, January 7, 2006 (arrival), March 11, 2006 (arrival), July 5, 2006 (arrival), and November 4, 2006 (arrival).[311]

The term "balikbayan" refers to a Filipino citizen who has been continuously out of the Philippines for a period of at least one (1) year, a Filipino overseas worker, or former Filipino citizen and his or her family who had been naturalized in a foreign country and comes or returns to the Philippines.[312]

In other words, a balikbayan may be a Filipino citizen or a former Filipino who has been naturalized in a foreign country. Notably, the law itself provides that a former Filipino citizen may "come or return" to the Philippines - this means that he/she may be returning to permanently reside in the country or may just visit for a temporary stay.

RA No. 6768, as amended, further provides for the privilege of a visa-free entry to the Philippines for a period of one (1) year for foreign passport holders, with the exception of restricted nationals.[313] I stress in this regard that

not all balikbayans enter the Philippines via a visa-free entry, as the privilege applies only to foreign passport holders and not to Filipino citizens bearing Philippine passports upon entry.

The distinction is significant because a Filipino balikbayan, by virtue of his Philippine citizenship, has the right to permanently reside in any part of the Philippines. Conversely, a foreigner-balikbayan, though a former Philippine citizen, may only acquire this right by applying for an immigrant visa and an immigrant certificate of residence or by reacquisition of Philippine citizenship.[314] Evidently, the nature of the stay of a foreigner-balikbayan who avails of the visa-free entry privilege is only temporary, unless he acquires an immigrant visa or until he reacquires Philippine citizenship.

The BID itself designates a balikbayan visa-free entry under the temporary visitor's visa category for non-visa required nationals.[315] In addition, the visa-free entry privilege is limited to a period of one (1) year subject to extensions for another one (1), two (2) or six (6) months, provided that the balikbayan presents his/her valid passport and fills out a visa extension form and submits it to the Visa Extension Section in the BID Main Office or any BID Offices nationwide. After thirty-six (36) months of stay, an additional requirement will be asked from a balikbayan who wishes to further extend his/her stay.[316]

From her arrival on May 24, 2005 until the BID Order recognized her Philippine citizenship on July 18, 2006, Poe was an alien under a balikbayan visa who had no right to permanently reside in the Philippines save only in the instances and under the conditions our Immigration laws allow to foreign citizens. This period of stay under a temporary visa should thus not be considered for purposes of Article VII, Section 2 of the Constitution as it does not fall within the concept of "residence."

IV.B.2(b). Poe reacquired Philippine citizenship only on July 18, 2006 when the BID granted her RA No. 9225 application, hence, July 18, 2006 should be the earliest possible reckoning point (or her Philippine residence.

To recall, Poe reacquired Philippine citizenship only on July 18, 2006 when the BID granted her RA No. 9225 application.[317] Under Section 5(2) of RA No. 9225, the right to enjoy full civil and political rights that attach to Philippine citizenship begins only upon its reacquisition. Thus, under RA No. 9225, a person acquires the right to establish domicile in the Philippines upon reacquiring Philippine citizenship. Prior to this, a former Philippine citizen has no right to reside in the Philippines save only temporarily as our Immigration laws allow.

In this light, the COMELEC correctly ruled that July 18, 2006 is the earliest possible date for Poe to establish her domicile in the Philippines, as it is only then that Poe acquired the right to establish domicile in the Philippines. Counting the period of her residence in the Philippines to begin on July 18, 2006, however, renders Poe still ineligible to run for President, as the period between July 18, 2006 to May 9, 2016 is 9 years, 9 months, and 20 days, or 2 months and 10 days short of the Constitution's ten-year requirement.

IV.B.2(c). Poe's moves to resettle in the Philippines prior to July 18, 2006 may have supported her intent which intent became truly concrete beginning only on July 18, 2006.

I do not deny that Poe had taken several moves to re-establish her residence in the Philippines prior to July 18, 2006. As the evidence showed, which the COMELEC considered and reviewed, Poe had taken several actions that may arguably be read as moves to relocate and resettle in the Philippines beginning May 24, 2005, namely: (1) enrolling her children in Philippine schools in July 2005 as shown by their school records;[318] (2) purchasing real property in the Philippines as evidenced by the February 20, 2006 condominium unit and parking lot titles,[319] the June 1, 2006 land title,[320] and the tax declarations for these;[321] (3) selling their U.S. home as shown by the April 27, 2006 final settlement;[322] (4) arranging for the shipment of their U.S. properties from the U.S. to the Philippines;[323] (5) notifying the U.S. Postal Service of their change of their U.S. address;[324]

and (6) securing a Tax Identification Number (TIN) from the BIR on July 22, 2005.[325]

I clarify, however, that any overt resettlement moves Poe made beginning May 24, 2005 up to and before July 18, 2006 may be considered merely for the purpose of determining the existence of the subjective intent to re-establish Philippine residence (animus revertendi), but should not be considered for the purpose of establishing the fact of residence that the Constitution contemplates.

As earlier explained, entitlement to the enjoyment of the civil and political rights that come with the reacquired citizenship that RA No. 9225 grants attaches when the requirements have been completed and Philippine citizenship has been reacquired. Only then can reacquiring Filipino citizens secure the right to reside in the country as Filipinos with the right to vote and be voted for public office under the requirements of the Constitution and applicable existing laws. Prior to reacquisition of Philippine citizenship, they are entitled only to such rights as the Constitution and the laws recognize as inherent in any person.

Significantly, these pieces of evidence do not prove Poe's intent to abandon U.S. domicile (animus non-revertendi) as she was, between May 24, 2005 and July 18, 2006, a temporary visitor physically present in the Philippines. I submit the following specific reasons.

Poe's purchase of real property in the Philippines. Aliens, former natural-born Filipinos or not, can own condominium units in the Philippines; while aliens who were former natural-born Filipinos can purchase Philippine urban or rural land even without acquiring or reacquiring Philippine citizenship with the right to permanently reside herein.

Under RA No. 4726[326] as amended by RA No. 7899,[327] aliens or foreign nationals, whether former natural-born Filipino citizens or not, can acquire condominium units and shares in condominium corporations up to 40o/o of the total and outstanding capital stock of a Filipino owned or controlled condominium Corporation.

On the other hand, under RA No. 7042,[328] as amended by RA No. 8179, former natural-born Filipinos who lost their Philippine citizenship and who has the legal capacity to contract "may be a transferee of a private land up to a maximum area of five thousand (5, 000) square meters in the case of urban land or three (3) hectares in the case of rural land xx x for business or other purposes."[329]

In short, Poe's purchase of a condominium unit and an urban land, as well as her declaration of these for tax purposes, do not sufficiently prove that she re-established residence in the Philippines. At most, they show that she acquired real property in the Philippines for purposes which may not necessarily be for residence, i.e., business or other purposes; and that she complied with the law's requirements for owning real property in the Philippines.

The sale of U.S. home and notice to the U.S. Postal service. The sale of their U.S. home on April 27, 2006 establishes only the fact of its sale. At most, it may indicate intent to transfer residence (within or without the U.S.) but it does not automatically result in the change of domicile from the U.S. to the Philippines.

The notice to the U.S. Postal Service in late March of 2006, on the other hand, merely shows that they may have complied with the U.S. laws when transferring residence, for convenience and for mail forwarding purposes while on extended but temporary absence. This act, however, does not conclusively signify abandonment of U.S. residence, more so reestablishment of Philippine domicile.

Note that at both these times, Poe did not have the established legal capacity or the right to establish residence in the Philippines. Besides, the winding up of a would-be candidate's property affairs in another country is not a qualification requirement under the law for reacquisition of Philippine citizenship nor is it a condition to the

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residency requirement for holding public office.

The enrollment of her children in Philippine schools. The enrollment of Poe's children in Philippine schools in June 2005 establishes their physical presence in the Philippine during this time, but not her intent to abandon U.S. domicile. Note that her children entered the Philippines for a temporary period under their balikbayan visas. Enrollment, too, in schools is only for a period of one school year, or about ten months.

Moreover, aliens or foreign national students can, in fact, enroll and study in the Philippines without having to acquire Philippine citizenship or without securing immigrant visas (and ICRs). Foreigners or aliens at least 18 years of age may apply for non-immigrant student visa, while those below 18 years of age elementary and high school students may apply for Special Study Permits.[330]

Poe's BIR TIN number. Poe's act of securing a TIN from the BIR on July 22, 2005 is a requirement for taxation purposes that has nothing to do with residence in the Philippines. Under Section 236(i) of the National Internal Revenue Code (NIRC), "[a]ny person, whether natural or juridical, required under the authority of the Internal Revenue Code to make, render or file a return, statement or other documents, shall be supplied with or assigned a Taxpayer Identification Number (TIN) to be indicated in the return, statement or document to be filed with the Bureau of Internal Revenue, for his proper identification for tax purposes." Under the same Tax Code, nonresident aliens are subject to Philippine taxation under certain circumstances,[331] thus likewise requiring the procurement of a TIN number.

Over and above all these reasons, it should be pointed out, too, that the nature and duration of an alien's stay or residence in the Philippines is a matter determined and granted by the Constitution and by the law. As the COMELEC correctly noted, a foreigner's capacity to establish Philippine residence is limited by and is subject to regulations and prior authority of the BID.[332] Indeed, the State has the right to deny entry to and/or impose conditions on the entry of aliens in the Philippines, as I have elsewhere discussed in this Opinion; and, in the exercise of this right, the State can determine who and for how long an alien can stay in its territory. An alien's intent regarding the nature and duration of his or her stay in the Philippines cannot override or supersede the laws and the State's right, even though the alien is a former natural-born Filipino citizen who intends to reacquire Philippine citizenship under RA No. 9225.

In short, these pieces of evidence Poe presented may be deemed material only for the purpose of determining the existence of the subjective intent to effect a change of residence (from the U.S. to the Philippines) prior to reacquiring Philippine citizenship (with the concomitant right to reestablish Philippine domicile). For the purpose of counting the period of her actual legal residence to determine compliance with the Constitution's residency qualification requirement, these antecedent actions are immaterial as such residence should be counted only from her reacquisition of Philippine citizenship.

To summarize all these: Poe may have hinted her intention to resettle in the Philippines on May 24, 2005, which intention she supported with several overt actions. The legal significance of these overt actions, however, is at best equivocal and does not fully support her claimed animus non-revertendi to the U.S. She can be considered to have acted on this intention under the election laws' terms only on July 18, 2006 when she reacquired Philippine citizenship legally securing to herself the option and the right to re-establish legal residence in the Philippines. (But even then, as discussed below, when she became a dual RP-U.S. citizen, she could at anytime return to the U.S.; thus her abandonment of her U.S. domicile is, at best, an arguable matter.)

IV.C. Poe was still an American citizen with residence
in the United States between May 24, 2005 to
July 18, 2006.

Conversely, Poe's incapacity to establish domicile in the Philippines because she lacks the requisite Philippine citizenship reflects her status as an American with residence in the United States.

As a requirement to establish domicile, a person must show that he or she has animus non-revertendi, or intent to abandon his or her old domicile. This requirement reflects two key characteristics of a domicile: first, that a person can have only one residence at any time, and second, that a person is considered to have an animus revertendi (intent to return) to his current domicile.

Thus, for a person to demonstrate his or her animus non revertendi to the old domicile, he or she must have abandoned it completely, such that he or she can no longer entertain any animus revertendi with respect to such old domicile. This complete abandonment is necessary in light of the one-domicile rule.

In more concrete terms, a person seeking to demonstrate his or her animus non-revertendi must not only leave the old domicile and is no longer physically present there, he or she must have also shown acts cancelling his or her animus revertendi to that place.

Note, at this point, that a person who has left his or her domicile is considered not to have abandoned it so long as he or she has animus revertendi or intent to return to it. We have allowed the defense of animus revertendi for challenges to a person's domicile on the ground that he or she has left it for a period of time, and held that a person's domicile, once established, does not automatically change simply because he or she has not stayed in that place for a period of time.

Applying these principles to Poe's case, as of May 24, 2005, her overt acts may have established an intent to remain in the Philippines, but do not comply with the required animus non-revertendi with respect to the U.S., the domicile that she was abandoning.

On May 24, 2005, Poe and her family's home was still in the U.S. as they sold their U.S. family home only on April 27, 2006. They also officially informed the U.S. Postal Service of their change of their U.S. address only in late March 2006. Lastly, as of this date (May 24, 2005), Poe's husband was still in the U.S. and a legal resident thereof.

Taken together, these facts show that as of May 24, 2005, Poe had not completely abandoned her domicile in the U.S.; thus, she had not complied with the necessary animus non-revertendi at that date.

Note, too, that Poe's travel documents between May 24, 2005 and July 18, 2006 strongly support this conclusion. In this period, she travelled to and from the Philippines under a balikbayan visa that, as earlier pointed out, has a fixed period of validity and is an indication that her stay in the Philippines during this period was temporary.

While it is not impossible that she could have entered the Philippines under a balikbayan visa with the intent to eventually establish domicile in the Philippines, her return to the U.S. several times while she was staying in the Philippines under a temporary visa prevents me from agreeing to this possibility.

On the contrary, Poe's acts of leaving the Philippines for the U.S. as an American citizen who had previously stayed in the Philippines under a temporary visa is an indication of her animus revertendi to the U.S., her old domicile.

Worthy of note, too, is that in between Poe's arrival on May 24, 2005 and her acquisition of Philippine citizenship, Poe made four trips to and from the U.S. in a span of one year and two months; this frequency over a short period of time indicates and supports the conclusion that she has not fully abandoned her domicile in the U.S. during this period.

Additionally, too, during this time, Poe continued to own two houses in the U.S., one purchased in 1992 and

another in 2008 (or after her reacquisition of the Philippine citizenship.[333] The ownership of these houses, when taken together with her temporary visa in travelling to the Philippines from May 24, 2005 to July 18, 2006, manifest the existence of an animus revertendi to the U.S., which means that as of May 24, 2005, she had not yet completely abandoned the U.S. as her domicile.

IV.D. Poe made several inconsistent claims regarding her period of residence in the Philippines that shows a pattern of deliberate attempt to mislead and to qualify her for the Presidency.

Lest we forget, I reiterate that Poe declared in her 2012 CoC for Senator that she has been a resident of the Philippines for at least "6 years and 6 months" before the May 13, 2013. This was a personal declaration made under oath, certified to be true and correct, and which she announced to the public to prove that she was eligible for the Senatorial post.

Six (6) years and six (6) months counted back from the day before the May 13, 2013 elections point to November 2006 as the beginning of her Philippine residence - which period of residence before the May 9, 2016 elections leads to only 9 years and 6 months, short of the ten-year requirement for the Presidency.

When she realized this potential disqualifying ground sometime in June of 2015, she told a different story to the public by claiming that she counted the "6-year 6-month" period as of the day she filed her CoC for Senator on October 2, 2012.[334] Effectively, she claimed that she had been a resident of the Philippines since April 2006 thereby removing her ineligibility.

Subsequently, she claimed that she has been a resident of the Philippines since May 24, 2005 when she arrived in the Philippines and has allegedly decided to re-settle here for good. Thus, in her 2015 CoC for President, she declared the "10-year and 11-month" period as her Philippine residence.

As with her 2012 CoC, this was a personal declaration which she made under oath and which she announced to the public to prove that she was eligible, this time for the Presidency. This declaration, however, is contrary to the declaration she made in her 2012 CoC as well as to the declarations she made to the public in 2015 when she tried to explain away her potential disqualifying circumstance.

I clarify that these declarations, particularly the declaration Poe made in the 2012 CoC, are not- and the COMELEC did not consider them to be - evidence of the actual number of years she had been legally residing in the Philippines from which I draw the conclusion that she has not been a Philippine resident for ten years and thus committed false material representation. As the COMELEC did, I do not conclude that Poe has only been a Philippine resident for 9 years and 6 months following her 2012 CoC declaration.

Rather, I consider these declarations to be evidence of falsehoods and inconsistent representations with respect to her residency claim: she made a representation in her 2015 CoC that is completely different from her representation in her 2012 CoC as well as from her public declarations. Poe's public declarations under oath considered as a whole reveal a pattern that confirms her deliberate attempt to mislead and to falsely represent to the electorate that she was eligible for the Presidency. This evidence fully justified the COMELEC decision to cancel her CoC.

V.

CONCLUSION

In light of all these considerations, I vote for the reversal of the majority's ruling granting the petitions based on the COMELEC's grave abuse of discretion. In lieu thereof, the Court should enter a Revised Ruling dismissing the petitions and ordering the COMELEC to proceed with the cancellation of the Certificate of Candidacy of

petitioner Grace Poe.

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[1] Philippine Daily Inquirer,' Return of the Renegade" Mar. 4, 1995.

[2] See p. 16, par. I of the ponencia.

[3] Seep. 20, last paragraph of the ponencia.

[4] See p. 21, par. I of the ponencia.

[5] See p. 21, par. 2 of the ponencia.

[6] See p. 4 of J. Caguioa's Separate Concurring Opinion.

[7] See p. 22, par. I of the ponencia.

[8] See p. 2 of the first circulated version of J. Leonen's Opinion.

[9] See p. 10 of J. Caguioa's Separate Concurring Opinion.

[10] See p. 22, par. 2 of the ponencia.

[11] Seep. 22, par. 2 of the ponencia.

[12] Seep. 22, par. 3 of the ponencia.

[13] See p. 22-23 of the ponencia

[14] See p. 24-28 of the ponencia.

[15] See p. 24, par. I of the ponencia.

[16] See p. 26, par. I of the ponencia.

[17] See pp. 27-28 par. 2 of the ponencia.

[18] See p.25 of the first circulated version of J. Jardeleza's Opinion.

[19] See p. 28, pars. I and 2 of the ponencia.

[20] Seep. 66 of the first circulated version of J. Leonen's Opinion.

[21] See p. I and p.66 of the first circulated version of J. Leonen's Opinion.

[22] See page 68 of the originally circulated opinion.

[23] See pp. 28-29 of the ponencia.

[24] See pp. 29- 30 of the ponencia

[25] See pp. 30-32 of the ponencia

[26] See pp. 33, pars. 2 and 3 of the ponencia.

[27] See pp. 34-36 of the ponencia

[28] See p. 35, par. 2 of the ponencia.

[29] See pp. 36-39 of the ponencia.

[30] See p. 39. Par. 2 of the ponencia.

[31] See discussions on pp. 38-39 of the ponencia on these points.

[32] See p. 86 of the first circulated version of J. Leonen's Opinion.

[33] See discussions on pp. 84 to 87 of the first circulated version of J. Leonen's Opinion.

[34] See pp. 39-40 of the ponencia.

[35] See discussion on pp. 41-44 of the ponencia on these points.

[36] See discussion on pp. 41-44 of the ponencia on these points.

[37] See pp. 17-18 of the ponencia.

[38] 595 Phil. 449 (2008).

[39] G.R. No. 119976, September 18, 1995, 248 SCRA 300.

[40] See p. 19 of the ponencia.

[41] See p. 20 of the ponencia.

[42] See pp. 20 - 21 of the ponencia.

[43] Ibid.

[44] G.R. No. 161434, March 3, 2004, 424 SCRA 277.

[45] 595 Phil. 449, 465-67 (2008).

[46] Ongsiako Reyes v. Comelec, G.R. No. 207264, June 25, 2013, 699 SCRA 522, 543 - 544.

[47] G.R. No. 165983, April 24, 2007.

[48] Cerajica v. Comelec, G.R. No. 205136, December 2, 2014.

[49] G.R. No. 135886, August 16, 1999, 312 SCRA 447, 459.

[50] See p. 26 of the ponencia, citing I Jose M. Aruego, The Framing of the Philippine Constitution 209 (1949).

[51] Alexander Marie Stuyt, The General Principles of Law as Applied by International Tribunals to Disputes on Attribution and Exercise of State Jurisdiction (2013), p. 101.

[52] Gov. Ramos, 614 Phil. 451 (2009).

[53] Ibid.

[54] J. Bernas SJ, The Constitution of the Republic of the Philippines A Commentary, 1[st] edition (1987), p. 500, citing Justice Warren's dissenting opinion in Perez v. Brownell, 356 U.S. 44 (1958).

[55] Paa v. Chan, 128 Phil. 815 (1967).

[56] Ibid.

[57] See petition in G.R. No. 221697, pp. 12, 14; and petition in G.R. No. 221698-700, pp. 15, 17. See also Foundling Certificate, Annex "M-series", Exhibit "l" (both of Tatad, and Contreras/Valdez case) in G.R. No. 221698-700; and Annex "I-series", Exhibit "l" (of Elamparo case) in G.R. No. 221697.

[58] See petition in G.R. No. 221697, pp. 10, 12 (pars. 12 and 13), 109-120 (subsection 8.3), 112 (par. 148), and 120 (par. 156); and petition in G.R. No. 221698-700, pp. 6, 7, 15 (par. 17), 79-89 (subsection 8.3), 84 (pars. 122 and 122.l), and 87 (par. 125).

[59] See petition in G.R. No. 221697, pp. 9, 10, 94 (subsection 8), 97-109 (subsection 8.2), 109-120 (subsection 8.3), 153 (par. 202), 156 (par. 204.8), and 157 (par. 205); and petition in· G.R. No. 221698-700, pp. 5, 24 (par. 47), 55-59 (subsection 8 and 8.1), 69-76, 79-89, and 141-146 (subsection B.11).

[60] See petition in G.R. No. 221697, pp. 104-108 (pars. 136-138); and petition in G.R. No. 221698- 700, pp. 72-76 (pars. 106-108).

[61] See Paragraph 4.23.8 of Poe's Memorandum with Formal Offer of Evidence and Motion for Reconsideration, both in the Tatad case, Annexes "N" and "U" of G.R. No. 221698-700.

Paragraph 4.23.8 stated:

ii. Official acts in recognition of Respondent's [Poe's] Philippine citizenship

4.23.8. On 13 May 1974, the San Juan Court issued a Decision granting the Spouses Poe's petition to adopt Respondent. Article 15 of the Civil Code states that "(l)aws relating to family rights and duties, or to the status, condition and legal capacity of persons are binding upon citizens of the Philippines, even though living abroad." Respondent does not argue, and has never argued, that her adoption by the Poe spouses conferred citizenship on her. However, the adoption affirms that Respondent was a Filipino in the first place. The San Juan Court could not have applied Philippine adoption law (which relates to "family rights and duties" and to "status" of persons), if it did not in the first place, consider Respondent to be a Filipino who would be "bound" by such laws.

Page 24 of Poe's Motion for Reconsideration, on the other hand, read:

30.6. On 13 May 1974, the San Juan Court issued a Decision granting the Spouses Poe's petition to adopt Respondent. Respondent does not argue that her citizenship is derived from her Filipino adoptive parents; rather it is her position that the adoption affirms that she was a Filipino in the first place. The San Juan Court could not have applied Philippine adoption law (which relates to "family rights and duties" and to "status" of persons), if it did not in the first place, consider Respondent to be a Filipino who would be "bound" by such laws.

[62] See petition in G.R. No. 221697, pp. 12, 14; and petition in G.R. No. 221698-700, pp. 15, 17. See also Foundling Certificate, Annex "M-series", Exhibit "l" (both of Tatad, and Contreras/Valdez case) in G.R. No. 221698-700; and Annex "I-series", Exhibit "1" (of Elamparo case) in G.R. No. 221697.

[63] Foundling Certificate (LCR 4175), Annex "M-series", Exhibit "1" (both of Tatad, and Contreras/Valdez case) in G.R. No. 221698-700; and Annex "I-series", Exhibit "I" (of Elamparo case) in G.R. No. 221697.

[64] See petition in G.R. No. 221697, par. 14; and petition in G.R. No. 221698-700, par. 19.

[65] MTC Decision, Annex "M-series", Exhibit "2" (of Tatad case) in G.R. No. 221698-700; and Annex "I-series", Exhibit "2" (of Elamparo case) in G.R. No. 221697.

See also Certificate of Finality dated October 27, 2005, Annex "M-series", Exhibit "2-A" (of Tatad case) in G.R. No. 221698-700; and Annex "I-series", Exhibit "2-A" (of Elamparo case) in G.R. No. 221697.

[66] Art. 39(1) of PD 603.

[67] See Articles 337 and 339 of the Civil Code and Section 2, Rule 99 of the Rules of Court. - the governing laws and rules on adoption at the time Grace Poe was adopted by the spouses Poe. Articles 337 and 339 provides

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who may be adopted; impliedly, they allow adoption of aliens, save those aliens whose government the Republic of the Philippines has broken diplomatic relations. Section of Rule 99, on the other hand, enumerates the contents of a petition for adoption; the petition does not require allegation that the child is a Philippine citizen.

[68] See NSO Birth Certificate, Annex "M-series", Exhibit "10" (of Tatad case) in G.R. No. 221698- 700; and Annex "I-series", Exhibit "10" (of Elamparo case) in G.R. No. 221697.

[69] See petition in G.R. No. 221697, par. 15; and petition in G.R. No. 221698-700, par. 20. Annex "M-series", Exhibit "3" (of Tatad case) in G.R. No. 221698-700; and Annex "I-series", Exhibit "3" (of Elamparo case) in G.R. No. 221697.

[70] See Article V, Section 1 of the Constitution. It reads:

SECTION 1. Suffrage may be exercised by all citizens of the Philippines not otherwise disqualified by law, who are at least eighteen years of age, and who shall have resided in the Philippines for at least one year and in the place wherein they propose to vote for at least six months immediately preceding the election. No literacy, property, or other substantive requirement shall be imposed on the exercise of suffrage. [Emphasis supplied]

[71] See petition in G.R. No. 221697, p. 13; and petition in G.R. No. 221698-700, 17. Annex "Mseries", Exhibit "4" (of Tatad case) in G.R. No. 221698-700; and Annex "I-series", Exhibit "4" (of Elamparo case) in G.R. No. 221697.

[72] Annex "M-series", Exhibits "4-A" and "4-B" (of Tatad case) in G.R. No. 221698-700; and Annex "I-series", Exhibits "4-A" and "4-B" (of Elamparo case) in G.R. No. 221697.

[73] Section 5 of RA No. 8239 (Philippine Passport Act of 1996) pertinently states:

SECTION 5. Requirements for the Issuance of Passport. - No passport shall be issued to an applicant unless the Secretary or his duly authorized representative is satisfied that the applicant is a Filipino citizen who has complied with the following requirements:

a) A duly accomplished application form and photographs of such number, size and style as may be prescribed by the Department;

x x x x

g) If the applicant is an adopted person, the duly certified copy of court order of adoption, together with the original and amended birth certificates duly issued and authenticated by the Office of the Civil Registrar General shall be presented: Provided, That in case the adopted person is an infant or a minor or the applicant is for adoption by foreign parents, an authority from the Department of Social Welfare and Development shall be required: Provided, further, That the adopting foreign parents shall also submit a certificate from their embassy or consulate that they are qualified to adopt such infant or minor child xx x. [emphases supplied]

[74] Section 3(d) of RA No. 8239 states: "x x x (d) Passport means 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.

See Poe's Philippine passport issued on May 19, 1998, October 2009, and March 18, 2014; and her Diplomatic passport issued on December 19, 2013, Annex "M-series" in GR Nos. G.R. No. 221698-700; and Annex "I-series in GR No. 221697.

[75] Paa v. Chan, 128 Phil. 815, 824 (1967).

[76] See petition in G.R. No. 221697, pp. 14; and petition in G.R. No. 221698-700, p. 18.

[77] See Coquilla vs. COMELEC, 434 Phil. 861, 872-873 (2002); Romualdez v. Comelec, G.R. No. 119976, 248 SCRA 300, 328-329 (1995), citing Faypon v. Quirino, 96 Phil. 294 (1954); Nuval v. Ouray, 52 Phil. 645 (1928); Koh v. Court of Appeals, 160-A Phil. 1034, 1042 (1975); Caraballo v. Republic, 114 Phil. 991 (1962); Fule v. Court of Appeals, 165 Phil. 785, 797-798 (1976).

[78] See petition in G.R. No. 221697, p. 15; and petition in G.R. No. 221698-700, p. 18.

[79] " I hereby declare, on oath, that I absolutely and entirely renounce and abjure all allegiance and fidelity to foreign prince, potentate, state, or sovereignty, of whom or which I have heretofore been a subject or citizen; that I will support and defend the Constitution and laws of the United States of America against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I will bear arms on behalf of the United States when required by the law; .that I will perform noncombatant service in the Armed Forces of the United States when required by the law; that I will perform work of national importance under civilian direction when required by the law; and that I take this obligation freely, without any mental reservation or purpose of evasion; so help me God. "

Source: The Immigration and Nationality Act of the U.S. https://www.uscis.gov/uscitizenship/citizenship-through-naturalization (last accessed on February 15, 2016).

[80] See the Immigration and Nationality Act of the U.S. https://www.uscis.gov/uscitizenship/citizenship-through-naturalization (last accessed on February 7, 2016).

[81] Poe's U.S. passport, Annex "M-series", Exhibit "5" (of Tatad case) in G.R. No. 221698-700; and Annex "I-series", Exhibit "5" (of Elamparo case) in G.R. No. 221697.

[82] See petition in G.R. No. 221697, p. 23; and petition in G.R. No. 221698-700, pp. 28-29. Annex "M-series", Exhibit "5" (of Tatad case) in G.R. No. 221698-700; and Annex "I-series", Exhibit "5" (of Elamparo case) in G.R. No. 221697.

[83] See petition in G.R. No. 221697, p. 20; and petition in G.R. No. 221698-700, p. 24. Annex "Mseries", Exhibit "19" (of Tatad case), Exhibit "13" (of Contreras/Valdez cases) in G.R. No. 221698-700; and Annex "I-series", Exhibit "19" (of Elamparo case) in G.R. No. 221697.

[84] See petition in G.R. No. 221697, p. 20; and petition in G.R. No. 221698-700, p. 25. Annex "Mseries", Exhibits "20" and "21" to "21-B" (of Tatad case), Exhibits "14" and "15" to "15-B" (of Contreras/Valdez cases) in G.R. No. 221698-700; and Annex "I-series", Exhibits "20" and "21" to "21-B" (of Elamparo case) in G.R. No. 221697.

[85] See Section 3 of RA No. 9225. It pertinently 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:

x x x x

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. [Emphases supplied]

[86] Art. 38 of PD 603.

[87] M.C. No. Aff-04-01, Secs. 2-5 and 8.

[88] See petition in G.R. No. 221697, p. 20; and petition in G.R. No. 221698-700, p. 25. Annex "M-series", Exhibit "22" (of Tatad case), Exhibit "16" (of Contreras/Valdez cases) in G.R. No. 221698-700; and Annex "I-series", Exhibit "22" (of Elamparo case) in G.R. No. 221697.

[89] The full title of RA No. 9225 reads: "AN ACT MAKING THE CITIZENSHIP OF PHILIPPINE CITIZENS WHO ACQUIRE FOREIGN CITIZENSHIP PERMANENT.AMENDING FOR THE PURPOSE COMMONWEAL TH ACT. NO. 63, AS AMENDED AND FOR OTHER PURPOSES".

See also Section 2 of RA 9225. It states:

Section 2. Declaration of Policy - It is hereby declared the policy of the State that all Philippine citizens of another country shall be deemed not to have lost their Philippine citizenship under the conditions of this Act.

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

[90] See December 23, 2015 Comelec en banc resolution in the Elamparo case, Annex "B" of G.R. No. 221697; and December 23, 2015 Comelec en banc resolution in the Tatad, Contreras, and Valdez cases, Annex "B" of G.R. No. 221698-700.

[91] See petition in G.R. No. 221697, p. 21; and petition in G.R. No. 221698-700, p. 26. Poe's Identification Card was signed by signed by Commission Alipio Fernandez: Annex "M-series", Exhibit "23" (of Tatad case), Exhibit "17" (of Contreras/Valdez cases) in G.R. No. 221698-700; and Annex "I-series", Exhibit "23" (of Elamparo case) in G.R. No. 221697.

[92] See also the Identification Certificates of her children: Annex "M-series", Exhibits "23-A" to "23- C" (of Tatad case), Exhibits "17-A" to "17-C" (of Contreras/Valdez cases) in G.R. No. 221698- 700; and Annex "I-series", Exhibits "23-A" to "23-C" (of Elamparo case) in G.R. No. 221697.

[93] RA No. 9225, Sec. 5(1) and (2).

[94] See petition in G.R. No. 221697, p. 21; petition in G.R. No. 221698-700, p. 26. Annex "I-series", Exhibit "25" (of Elamparo case) in G.R. No. 221697; and Annex "M-series", Exhibit "25" (of Tatad case) in G.R. No. 221698-700.

[95] See petition in G.R. No. 221697, p. 23; and petition in G.R. No. 221698-700, pp. 28-29. Annex "M-series", Exhibit "5" (of Tatad case) in G.R. No. 221698-700; and Annex "I-series"', Exhibit "5" (ofElamparo case) in G.R. No. 221697.

[96] See petition in G.R. No. 221697, p. 23; and petition in G.R. No. 221698-700, pp. 28-29. Annex "M-series", Exhibit "26" (of Tatad case), Exhibit "19" (of Contrera/Valdez cases) in G.R. No. 221698-700; and Annex "I-series", Exhibit "26" (of Elamparo case) in G.R. No. 221697.

[97] See Sections 2 of Presidential Decree (PD) No. 1986, enacted on October 5, 1985. Section 2 pertinently provides:

Section 2. Composition; Qualifications; Benefits - The BOARD shall be composed of a Chairman, a Vice-Chairman and thirty (30) members, who shall all be appointed by the President of the Philippines. The Chairman, the Vice-Chairman, and the members of the BOARD, shall hold office for a term of one (1) year, unless sooner removed by the President for any cause. x x x.

No person shall be appointed to the BOARD, unless he is a natural-born citizen of the Philippines, not less than twenty-one (21) years of age, and of good moral character and standing in the community xx xx. [emphasis supplied]

[98] See petition in G.R. No. 221697, p. 22; and petition in G.R. No. 221698-700, pp. 29. Annex "M-series", Exhibit "27" (of Tatad case), Exhibit "21" (of Contreras/Valdez cases) in G.R. No. 221698-700; and Annex "I-series", Exhibit "27" (of Elamparo case) in G.R. No. 221697.

[99] See Japzon v. Comelec, 596 Phil. 354 (2009).

[100] See petition in G.R. No. 221697, p. 21, par. 49; and petition in G.R. No. 221698-700, pp. 26-27, par. 54.

Under Sec. 5(3) of RA No. 9225, "[t]hose appointed to any public office shall subscribe and swear to an oath of allegiance to the Republic of the Philippines and its duly constituted authorities prior to their assumption of office: Provided, that they renounce their oath of allegiance to the country where they took that oath." 'Emphases and underscoring supplied]

[101] See Annex "M-series", Exhibit "29" (of Tatad case) in G.R. No. 221698-700; and Annex "!- series", Exhibit "29" (of Elamparo case) in G.R. No. 221697.

[102] See Annex "M-series", Exhibit "26-A" (of Tatad case), Exhibit "20" (of Contreras/Valdez cases) in G.R. No. 221698-700; and Annex "I-series", Exhibit "26-A" (of Elamparo case) in G.R. No. 221697.

[103] See Sections 2 of Presidential Decree (PD) No. 1986, enacted on October 5, 1985. Section 2 pertinently provides:

Section 2. Composition; Qualifications; Benefits - The BOARD shall be composed of a Chairman, a Vice-Chairman and thirty (30) members, who shall all be appointed by the President of the Philippines. The Chairman, the Vice-Chairman, and the members of the BOARD, shall hold office for a term of one (1) year, unless sooner removed by the President for any cause. x x x.

No person shall be appointed to the BOARD, unless he is a natural-born citizen of the Philippines, not less than twenty-one (21) years of age, and of good moral character and standing in the community xx x. [emphasis supplied]

[104] Annex "M-series", Exhibit "5" (of Tatad case) in G.R. No. 221698-700; and Annex "I-series", Exhibit "5" (of Elamparo case) in G.R. No. 221697.

[105] See petition in G.R. No. 221697, p. 24; petition in G.R. No. 221697, p. 30. Annex "M-series", Exhibit "30" (of Tatad case), Exhibit "22" (of Contreras/Valdez cases) in G.R. No. 221698-700; and Annex "I-series", Exhibit "30" (of Elamparo case) in G.R. No. 221697.

[106] Annex "M-series", Exhibit "30-A" (of Tatad case), Exhibit "23" (of Contreras/Valdez cases) in G.R. No. 221698-700; and Annex "I-series", Exhibit "30-A" (of Elamparo case) in G.R. No. 221697.

[107] Annex "M-series", Exhibit "31" (of Tatad case), Exhibit "24" (of Contreras/Valdez cases) in G.R. No. 221698-700; and Annex "I-series", Exhibit "31" (of Elamparo case) in G.R. No. 2216971.

[108] Annex "M-series", Exhibit "31" (of Tatad case), Exhibit "24" (of Contreras/Valdez cases) in G.R. No. 221698-700; and Annex "I-series", Exhibit "31" (of Elamparo case) in G.R. No. 221697.

[109] Annex "M-series", Exhibit "32" (of Tatad case) in G.R. No. 221698-700; and Annex "I-series", Exhibit "32" (of Elamparo case) in G.R. No. 221697.

See also Come lee en banc December 11, 2015 resolution in SPA No. 15-002 (DC), SPA No. 15- 007 (DC), and SPA No. 15-139 (DC), pp. 43 and 47, Annexes "A" and "Bin G.R. No. 221698- 700.

[110] Annex "M-series", Exhibit "43" (of Tatad case) in G.R. No. 221698-700; and Annex "I-series", Exhibit "43" (of Elamparo case) in G.R. No. 221697.

[111] See petition in G.R. No. 221698-700, p. 16; and petition in G.R. No. 221697, pp. 62-63 and 70-72. Annex "C" both in G.R. No. 221697 and G.R. No. 221698-700.

[112] See petition in G.R. No. 221697, pp. 102-104; and petition in G.R. No. 221698-700, pp. 69-72.

[113] 255 Phil. 934 (1989).

[114] Frivaldo v. Comelec, 255 Phil. 934 (1989).

[115] US citizenship acquires requires a prior period of permanent residence in that country.

[116] See petition in G.R. No. 221697, pp. 12, 14; and petition in G.R. No. 221698-700, pp. 15, 17. See also Foundling Certificate (LCR 4175), Annex "M-series", Exhibit "I" (both of Tatad and Contreras/Valdez case) in G.R. No. 221698-700; and Annex "I-series", Exhibit "I" (of Elamparo case) in G.R. No. 221697.

[117] See petition in G.R. No. 221697, par. 14, and petition in G.R. No. 221698-700, par. 19.

[118] MTC Decision, Annex "M-series", Exhibit "2" (of Tatad case) in G.R. No. 221698-700; and Annex "I-series", Exhibit "2" (of Elamparo case) in G.R. No. 221697.

See also Certificate of Finality dated October 27, 2005, Annex "M-series", Exhibit "2-A" (of Tatad case) in G.R. No. 221698-700; and Annex "I-series", Exhibit "2-A" (of Elamparo case) in G.R. No. 221697.

See also OCR Certification of receipt of MTC Decision, Annex "M-series", Exhibit "2-B" (of Tatad case) in G.R. No. 221698-700; and Annex "I-series", Exhibit "2-B" (of Elamparo case) in G.R. No. 221697.

[119] See Tolentino, A. (1960). Civil Code of the Philippines, Vol.I, pp. 651-652, in relation top. 624.

[120] See petition in G.R. No. 221697, par. 15; and petition in G.R. No. 221698-700, par. 20. Annex "M-series", Exhibit "3" (of Tatad case) in G.R. No. 221698-700; and Annex "I-series", Exhibit "3" (of Elamparo case) in G.R. No. 221697.

[121] See Article V, Section I of the Constitution.

[122] See petition in G.R. No. 221697, p. 14; and petition in G.R. No. 221698-700, p. 17.

[123] See petition in G.R. No. 221697, p. 12, 14; and petition in G.R. No. 221698-700, pp. 15, 17.

[124] Faypon v. Quirino, 96 Phil. 294 (1954); Nuval v. Guray, 52 Phil. 645 (1928); Koh v. Court of Appeals, 160-A Phil. 1034, 1042 (1975); Caraballo v. Republic, 114 Phil. 991, 995 (1962); Fule v. Court of Appeals, 165 Phil. 785, 797-798 (1976).

[125] Ibid.

[126] See petition in G.R. No. 221697, p. 14; and petition in G.R. No. 221698-700, p. 18.

[127] See petition in G.R. No. 221697, p. 14, par. 19; and petition in G.R. No. 221698-700, p. 17, par. 24.

[128] See petition in G.R. No. 221697, pp. 14; and petition in G.R. No. 221698-700, p. 18.

[129] See petition in G.R. No. 221697, p. 14; and petition in G.R. No. 221698-700, p. 17.

[130] See petition in G.R. No. 221697, p. 15; and petition in G.R. No. 221698-700, p. 18.

[131] See Coquilla vs. COMELEC, 434 Phil. 861 (2002).

[132] Romualdez v. Comelec, G.R. No. 119976, 248 SCRA 300, 328-329 (1995), citing Faypon v. Quirino, 96 Phil. 294 (1954); Nuval v. Guray, 52 Phil. 645, 651-652 (1928); Koh v. Court of Appeals, 160-A Phil. 1034 (1975); Caraballo v. Republic, 114 Phil. 991, 995 (1962); Fule v. Court of Appeals, 165 Phil. 785, 797-798 (I 976).

[133] See US Immigration and Nationality Act. https://www.uscis.gov/us-citizenship/citizenshipthrough-naturalization (last accessed on February 7, 2016).

[134] See petition G.R. No. 221697, p. 16; and petition in G.R. No. 221698-700, p. 20.

[135] Jurisprudence tells us that absence from one's residence to pursue study or profession someplace else does not amount to abandonment of that residence (Supra note 7). Analogously, it can be argued that resignation from one's employment does not ipso facto translate to abandonment of residence (in cases where the place of employment is the same as the place of residence).

[136] See petition G.R. No. 221697, p. 15; and petition in G.R. No. 221698-700, p. 18-19. See also Poe's U.S. passport, Annex "M-series", Exhibit "5" (of Tatad case) in G.R. No. 221698-700; and Annex "I-series", Exhibit "5" (of Elamparo case) in G.R. No. 221697.

[137] See petition G.R. No. 221697, p. 15; and petition in G.R. No. 221698-700, p. 19.

[138] See petition in G.R. No. 221697, p. 15; and petition in G.R. No. 221698-700, p. 19.

[139] See petition in G.R. No. 221697, p. 16; and petition in G.R. No. 221698-700, p. 19-20.

[140] See petition in G.R. No. 221697, p. 23; and petition in G.R. No. 221698-700, pp. 28-29. See Poe's U.S. passport, Annex "M-series", Exhibit "5" (of Tatad case) in G.R. No. 221698-700; and Annex "I-series", Exhibit "5" (of Elamparo case) in G.R. No. 221697.

[141] See petition in G.R. No. 221697, p. 16; and petition in G.R. No. 221698-700, p. 20. Annex "M-series", Exhibits "7" and "7-A" to "7-F" (of Tatad case), and Exhibits "3" and "3-A" to "3-F" (of Contreras and Valdez cases) in G.R. No. 221698-700; Annex "I-series", Exhibits "7" and "7-A" to "7-F" (of Elamparo case) in G.R. No. 221697.

[142] See petition in G.R. No. 221697, p. 16; and petition in G.R. No. 221698-700, p. 20.

[143] Oral Arguments, January 19, 2016.

[144] See Coquilla v. Comelec, 434 Phil. 861, 875 (2002).

"Under § 2 of R.A. No. 6768 (An Act Instituting a Balikbayan Program), the term balikbayan includes a former Filipino citizen who had been naturalized in a foreign country and comes or returns to the Philippines and, if so, he is entitled, among others, to a "visa-free entry to the Philippines for a period of one (I) year" (§ 3(c)). It would appear then that when petitioner entered the country on the dates in question, he did so as a visa-free balikbayan visitor whose stay as such was valid for one year only." [emphasis supplied]

[145] See Annex "M-series", Exhibit "6-series" (of Tatad case), Exhibit "2-series" (of Contreras/Valdez cases) in G.R. No. 221698-700; and Annex "I-series", Exhibit "2-series" (of Elamparo case) in G.R. No. 221697.

[146] See Romualdez v. RTC. G.R. No. 104960, 14 September 1993, 226 SCRA 408, 415-416.

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[147] See petition in G.R. No. 221697, p. 16; and petition in G.R. No. 221698-700, p. 20.

[148] See petition in G.R. No. 221697, p. 17; and petition in G.R. No. 221698-700, p. 21. See also Annex "M-series", Exhibits "7" to "7-F" (of Tatad case) and Exhibits "3" to "3-F" (of Contreras/Valdez cases) in G.R. No. 221698-700; and Annex "I-series", Exhibits "7" to "7-F" (of Elamparo case), in G.R. No. 221697.

[149] See Section 9(f) of the Philippine Immigration Act of 1940, Executive Orders No. 423 (signed in June 1997) and Executive Order No. 285 (signed in September 4, 2000).

In 2011, the Bureau of Immigration records show that the Philippines had more than 26,000 foreign students enrolled in various Philippine schools; more than 7,000 of these are college enrollees while the rest were either in elementary and high school or taking short-term language courses (see http://globalnation.inguirer.net/978l/philippines-has-26k-foreign-students last accessed on February 12, 2016).

See also The International Mobility of Students in Asia and the Pacific, published in 2013 by the United Nations Educational, Scientific and Cultural Organization http://www.uis.unesco.org/Library/ Documents/international-student-mobility-asia-pacific-education-2013-en.pdf (last accessed on February 12, 2016); and Immigration Policies on Visiting and Returning Overseas Filipinos http://www.cfo.gov.ph/pdf/handbook/Immigration_Policies_on_Visiting_and_Returning_Overseas_Filipinos-chapterIV.pdf (last accessed on February 15, 2016).

[150] See petition in G.R. No. 221697, p. 17; and petition in G.R. No. 221698-700, p. 22. Annex "M-series", Exhibit "8" (of Tatad case), Exhibit "4" (of Contreras/Valdez cases) in G.R. No. 221698- 700; and Annex "I-series", Exhibit "8" (of Elamparo case) in G.R. No. 221697.

[151] Romualdez v. RTC, G.R. No. 104960, 14 September 1993, 226 SCRA 408, 415-416.

[152] See petition in G.R. No. 221697, p. 18; and petition in G.R. No. 221698-700, p. 22. Annex "M-series", Exhibits "II" and "12" in G.R. No. 221698-700; and Annex "I-series", Exhibits "5" and "6" (of Elamparo case) in G.R. No. 221697.

[153] Section 5 of RA No. 4726 reads:

Sec. 5. Any transfer or conveyance of a unit or an apartment, office or store or other space therein, shall include the transfer or conveyance of the undivided interests in the common areas or, in a proper case, the membership or shareholdings in the condominium corporation: Provided, however, That where the common areas in the condominium project are owned by the owners of separate units as co-owners thereof, no condominium unit therein shall be conveyed or transferred to persons other than Filipino citizens, or corporations at least sixty percent of the capital stock of which belong to Filipino citizens, except in cases of hereditary succession. Where the common areas in a condominium project are held by a corporation, no transfer or conveyance of a unit shall be valid ifthe concomitant transfer of the appurtenant membership or stockholding in the corporation will cause the alien interest in such corporation to exceed the limits imposed by existing laws.

See also Hulst v. PR Builders, Inc., 558 Phil. 683, 698-699 (2008).

[154] See petition in G.R. No. 221697, p. 18; and petition in G.R. No. 221698-700, p. 2. Annex"!- series", Exhibits "6-series", "15", and "15-A" (of Elamparo case) in G.R. No. 221697; Annex "M-series", Exhibits "6-series", "15", and "15-A" (ofT atad case), Exhibits "2-series", "9" and "9-A" (of Contreras/Valdez cases) in G.R. No. 221698-700.

[155] See petition in G.R. No. 221697, p. 19; and petition in G.R. No. 221698-700, p. 23.

[156] See petition in G.R. No. 221697, p. 18; and petition in G.R. No. 221698-700, p. 23. Annex "M-series", Exhibit "16" (of Tatad case), Exhibit "10" (of Contreras/Valdez cases) in G.R. No. 221698-700; and Annex "I-series", Exhibit "16" (of Elamparo case) in G.R. No. 221697.

[157] See petition in G.R. No. 221697, p. 18; and petition in G.R. No. 221698-700, p. 23. Annex "M-series", Exhibits "13 and 14" (of Tatad case), Exhibits "7" and "8" (of Contreras/Valdez cases) in G.R. No. 221698-700; and Annex "I-series", Exhibits "13" and "14" (of Elamparo case) in G.R. No. 221697.

[158] See petition in G.R. No. 221697, p. 19; and petition in G.R. No. 221698-700, p. 23. Annex "Mseries", Exhibit "17" (of Tatad case), Exhibit "II" (of Contreras/Valdez cases) in G.R. No. 221698-700; and Annex "I-series", Exhibit "17" (of Elamparo case) in G.R. No. 221697.

[159] See petition in G.R. No. 221697, p. 19; and petition in G.R. No. 221698-700, p. 23. Annex "Mseries", Exhibit "17" (of Tatad case), Exhibit "I I" (of Contreras/Valdez cases) in G.R. No. 221698-700; and Annex "I-series", Exhibit "17" (of Elamparo case) in G.R. No. 221697.

[160] "AN ACT TO PROMOTE FOREIGN INVESTMENTS, PRESCRIBE THE PROCEDURES FOR REGISTERING ENTERPRISES DOING BUSINESS IN THE PHILIPPINES, AND FOR OTHER PURPOSES", enacted on March 28, 1996.

Section l 0 of RA No. 7042, as amended by R.A. 8179, states:

SEC. l 0. Other Rights of Natural Born Citizen Pursuant to the Provisions of Article XII, Section 8 of the Constitution. - Any natural born citizen who has Jost his Philippine citizenship and who has the legal capacity to enter into a contract under Philippine laws may be a transferee of a private land up to a maximum area of five thousand (5,000) square meters in the case of urban land or three (3) hectares in the case of rural land to be used by him for business or other purposes. In the case of married couples, one of them may avail of the privilege herein granted: Provided, That if both shall avail of the same, the total area acquired shall not exceed the maximum herein fixed. [emphasis supplied]

[161] Article XII, Section 8 of the Constitution reads:

SECTION 8. Notwithstanding the provisions of Section 7 of this Article, a natural-born citizen of the Philippines who has lost his Philippine citizenship may be a transferee of private lands, subject to limitations provided by Jaw. [emphasis supplied]

[162] See Petitioner's Memorandum, pp. 278-279; ponencia, pp. 45-47.

[163] See petition in G.R. No. 221697, p. 20; and petition in G.R. No. 221698-700, p. 24. Annex "M-series", Exhibit "19" (of Tatad case), Exhibit "13" (of Contreras/Valdez cases) in G.R. No. 221698-700; and Annex "I-series", Exhibit "19" (of Elamparo case) in G.R. No. 221697.

[164] See Section 3 of Memorandum Circular No. MCL-08-006 or the "2008 Revised Rules Governing Philippine Citizenship Under Republic Act (R.A.) No. 9225 and Administrative Order (A.O.) No. 91, Series of 2004.

[165] See petition in G.R. No. 221697, p. 20; and petition in G.R. No. 221698-700, p. 25. Annex "M-series", Exhibits "20" and "21" to "21-B" (of Tatad case), Exhibits "14" and "IS" to "15-B" (of Contreras/Valdez cases) in G.R. No. 221698-700; and Annex "I-series", Exhibits "20" and "21" to "21-B" (of Elamparo case) in G.R. No. 221697.

[166] See Section 3 of RA 9225. It pertinently 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:

x x x x

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. [emphases supplied]

[167] See petition in G.R. No. 221697, p. 20; and petition in G.R. No. 221698-700, p. 25. Annex "M-series", Exhibit "22" (of Tatad case), Exhibit "16" (of Contreras/Valdez cases) in G.R. No. 221698-700; and Annex "I-series", Exhibit "22" (of Elamparo case) in G.R. No. 221697.

[168] The full title of RA No. 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".

See also Section 2 of RA 9225. It states:

Section 2. Declaration of Policy - It is hereby declared the policy of the State that all Philippine citizens of another country shall be deemed not to have lost their Philippine citizenship under the conditions of this Act.

See also excerpts of Congress deliberations on RA 9225 in AASJS v. Hon. Datumanong, 51 Phil. II0, 116-117 (2007).

[169] See the cases of Japzon v. Comelec, G.R. No. 180088, January 19, 2009, 576 SCRA 331; and Caballero v. Comelec. G.R. No. 209835, September 22, 2015.

[170] R.A. No. 9225 allows the retention and re-acquisition of Filipino citizenship for natural-born citizens who have lost their Philippine citizenship by taking an oath of allegiance to the Republic. See Sobejana-Condon v. COMELEC, G.R. No. 198742, August 10, 2012, 678 SCRA 267.

[171] See petition in G.R. No. 221697, p. 21; and petition in G.R. No. 221698-700, p. 26. Annex "M-series", Exhibit "23" (of Tatad case), Exhibit "17" (of Contreras/Valdez cases) in G.R. No. 221698-700; and Annex "I-series", Exhibit "23" (of Elamparo case) in G.R. No. 221697.

[172] See Annex "M-series", Exhibits "23-A" to "23-C" (of Tatad case), Exhibits "17-A" to "17-C" (of Contreras/Valdez cases) in G.R. No. 221698-700; and Annex "I-series", Exhibits "23-A" to "23- C" (of Elamparo case) in G.R. No. 221697.

[173] See petition in G.R. No. 221697, p. 21; and petition in G.R. No. 221698-700, p. 26. Annex "Mseries", Exhibit "24" (of Tatad case), Exhibit "18" (of Contreras/Valdez cases) in G.R. No. 221698-700; and Annex "I-series", Exhibit "24" (of Elamparo case) in G.R. No. 221697.

[174] See Article V, Section I of the Constitution.

[175] G.R. No. 180088, January 19, 2002, 576 SCRA 331.

[176] Under Section 3 of R.A. 6768, as amended, a balikbayan, who is a foreign passport holder, is . entitled to a visa-free entry to the Philippines for a period of one (1) year, with the exception of restricted nationals.

[177] See petition in G.R. No. 221697, p. 23; and petition in G.R. No. 221698-700, pp. 28-29. Annex "M-series", Exhibit "5" (of Tatad case) in G.R. No. 221698-700; and Annex "I-series", Exhibit "5" (ofElamparo case) in G.R. No. 221697.

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[178] See petition in G.R. No. 221697, p. 23; and petition in G.R. No. 221698-700, pp. 28-29. Annex "M-series", Exhibit "5" (of Tatad case) in G.R. No. 221698-700; and Annex "I-series", Exhibit "5" (ofElamparo case) in G.R. No. 221697.

[179] Grace Poe's Identification Certificate Number.

[180] See petition in G.R. No. 221697, p. 21; and petition in G.R. No. 221698-700, p. 26. Annex "M-series", Exhibit "25" (of Tatad case) in G.R. No. 221698-700; and Annex "I-series", Exhibit "25" (of Elamparo case) in G.R. No. 221697.

[181] See petition in G.R. No. 221697, p. 23; and petition in G.R. No. 221698-700, pp. 28-29. Annex "M-series", Exhibit "26" (of Tatad case), Exhibit "19" (of Contreras/Valdez cases) in G.R. No. 221698-700; and Annex "I-series", Exhibit "26" (of Elamparo case) in G.R. No. 221697.

[182] See Sections 2, 3, and 5 of Presidential Decree (PD) No. 1986, enacted on October 5, 1985. Section 2 pertinently provides:

Section 2. Composition; Qualifications; Benefits - The BOARD shall be composed of a Chairman, a Vice-Chairman and thirty (30) members, who shall all be appointed by the President of t:ie Philippines. The Chairman, the Vice-Chairman, and the members of the BOARD, shall hold office for a term of one (I) year, unless sooner removed by the President for any cause. xxx

No person shall be appointed to the BOARD, unless he is a natural-born citizen of the Philippines, not less than twenty-one (21) years of age, and of good moral character and standing in the community x x x

Section 3 of PD No. 1986, on the other hand, enumerates the powers, functions, and duties of the MTRCB Board, while Section 5 enumerates the powers of the Chairman of the Board who shall likewise act as the Chief Executive Officer of the Board.

[183] See petition in G.R. No. 221697, p. 22; and petition in G.R. No. 221698-700, pp. 29. Annex "M-series", Exhibit "27" (of Tatad case), Exhibit "21" (of Contreras/Valdez cases) in G.R. No. 221698-700; and Annex "I-series", Exhibit "27" (of Elamparo case) in G.R. No. 221697.

[184] See petition in G.R. No. 221697, p. 21, par. 49; and petition in G.R. No. 221698-700, pp. 26-27, par. 54.

[185] See Annex "M-series", Exhibit "29" (of Tatad case) in G.R. No. 221698-700; and Annex "(- series", Exhibit "29" (of Elamparo case) in G.R. No. 221697.

[186] See Annex "M-series", Exhibit "26-A" (of Tatad case), Exhibit "20" (of Contreras/Valdez cases) in G.R. No. 221698-700; and Annex "I-series", Exhibit "26-A" (of Elamparo case) in G.R. No. 221697.

[187] See Sections 2, 3, and 5 of Presidential Decree (PD) No. 1986, enacted on October 5, 1985.

Section 2 pertinently provides:

Section 2. Composition; Qualifications, Benefits - The BOARD shall be composed of a Chairman, a Vice-Chairman and thirty (30) members, who shall all be appointed by the President of the Philippines. The Chairman, the Vice-Chairman, and the members of the BOARD, shall hold office for a term of one (1) year, unless sooner removed by the President for any cause. x x x

No person shall be appointed to the BOARD, unless he is a natural-born citizen of the Philippines, not less than twenty-one (2 I) years of age, and of good moral character and standing in the community x x x

Section 3 of PD 1986, on the other hand, enumerates the powers, functions, and duties of the MTRCB Board,

while Section 5 enumerates the powers of the Chairman of the Board .who shall likewise act as the Chief Executive Officer of the Board.

[188] See Comelec en banc December 11, 2015 resolution in SPA No. 15-002 (DC), SPA No. 15-007 (DC), and SPA No. 15-139 (DC), pp. 43 and 47, Annexes "A" and "Bin G.R. No. 221698-700. See also petition in G.R. No. 221698-700, p. 168.

[189] See Annex "M-series", Exhibit "33" (of Tatad case) in G.R. No. 221698-700; and Annex "I- series", Exhibit "33" (of Elamparo case) in G.R. No. 221697.

[190] See Annex "M-series", Exhibit "34" (of Tatad case) in G.R. No. 221698-700; and Annex"!- series", Exhibit "34" (of Elamparo case) in G.R. No. 221697.

[191] See petition in G.R. No. 221698-700, p. 16; and petition in G.R. No. 221697, pp. 62-63 and 70-72. Annex "C" both in G.R. No. 221697 and G.R. No. 221698-700.

[192] Sections 78 and 52, in relation with Sections 74 and 63 of the Omnibus Election Code.

[193] See Article IX-C, Section 2 in relation with Article VIII, Section I of the Constitution. Article VIII, Section I provides in no categorical terms:

SECTION I. The judicial power shall be vested in one Supreme Court and in such lower courts as may be established by law. Judicial power includes the duty of the courts of justice to settle actual controversies involving rights which are legally demandable and enforceable, and to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government. [emphases supplied]

[194] See Francisco, Jr. v. House of Representatives, 460 Phil. 830, 885 (2003).

[195] 63 Phil. 139, 158-59 (1936).

[196] Beluso v. Comelec, G.R. No. 180711, 22 June 2010, 621 SCRA 450, 456; Fajardo v. Court of Appeals, G.R. No. 157707, October 29, 2008, 570 SCRA 156, 163; People v. Sandiganbayan, G.R. Nos. 158780-82, October 12, 2004, 440 SCRA 206, 212.

[197] Varias v. Commission on Elections, G.R. No. 189078, February 11, 2010, 612 SCRA 386.

[198] Justice Puno 's Concurring and Dissenting Opinion in Macalintal v. Comelec, 453 Phil: 586, 740 (2003) citing Angara v. Electoral Commission, 63 Phil. 139 (1936).

[199] Justice Puna 's Concurring and Dissenting Opinion in Macalintal v. Comelec, 453 Phil. 586 (2003).

[200] Anak Mindanao Party-List Group v. Executive Secretary, 558 Phil. 338 (2007).

[201] Bernas, S.J. The 1987 Constitutiun of the Republic of the Philippines: A Commentary, (2003), pp. 136-137.

[202] People v. Cayat, 68 Phil. 12, l 8 (1939).

[203] Bernas, id. note 1, at 137.

[204] See J. Leonardo-De Castro, Concu1Ting Opinion in Garcia v. Drilon, G.R. No. I 79267, June 25, 2013, 699 SCRA 352, 435.

[205] J. Panganiban, Dissenting Opinion. Central Bank Employees Association Inc. v. Bangko Sentral ng Pilipinas, G.R. No. 148208, December 15, 2004, 446 SCRA 299, 392.

[206] Bernas, S.J. The l 987 Constitution of the Rep11blic of the Philippines: A Commentary, (2009), p. 139.

[207] J. Carpio-Morales, Dissenting Opinion, Central Bank Employees Association Inc. v. Bangko Sentral ng Pilipinas, G.R. No. 148208, December 15, 2004, 699 SCRA 352, 435.

Examples of these so-called "quasi-suspect" classifications are those based on gender, legitimacy under certain circumstances, legal residency with regard to availment of free public education, civil service employment preference for armed forces veterans who are state residents upon entry to military service, and the right to practice for compensation the profession for which certain persons have been qualified and licensed.

[208] Ibid.

[209] Ibid.

[210] Ibid.

[211] J. Leonardo-De Castro, Concurring Opimon in Garcia v. Drilon, G.R. No. 179267, June 25, 2013, 699 SCRA 352, 435. Emphasis supplied.

[212] J. Brion, Concurring and Dissenting Opinion, Sameer Overseas Placement Agency, Inc. v. Cabiles, G.R. No. 170139, August 5, 2014.

[213] Disini v. Secretary of Justice, G.R. No. 203335, February 18, 2014, 716 SCRA 237.

[214] Article II, Section 1 states that "sovereignty resides in the people and all government authority emanates from them."

Following the definition of the concept of "state" provided under Article I of the Montevideo Convention of 1933, the elements of a state: people, territory, sovereignty, and government.

Bernas defines "people" as "a community of persons sufficient in number and capable of maintaining continued existence of the community and held together by a common bond of law." On the other hand, he defines "sovereignty" as "the competence, within its own constitutional system, to conduct international relations with other states, as well as the political, technical and financial capabilities to do so." (See Bernas, S.J. The 1987 Constitution of the Republic of the Philippines: A Commentary, (2009), pp. 40 and 54, respectively).

Cruz, citing Malcolm, defines it as "a people bound together by common attractions and repulsions into a living organism possessed of a common pulse, common intelligence and inspiration, and destined apparently to have a common history and a common fate." While he defines "sovereignty" as "the supreme and uncontrollable power inherent in a State by which that state is governed." (Cruz, Constitutional Law, (2007), pp. 16 and 26, respectively).

[215] J. Carpio Morales, Dissenting Opinion, Central Bank Employees Association Inc. v. Bangko Sentral ng Pilipinas, G.R. No. 148208, December 15, 2004, 699 SCRA 352, 435.

[216] People v. Cayat, 68 Phil. 12, 18 (1939).

[217] G.R. No. 158830, August 10, 2004, 436 SCRA 45.

[218] Bedol v. Commission on Elections, G.R. 179830, December 3, 2009, 606 SCRA 554, 570-71.

[219] Salcedo II v. Comelec, G.R. No. 135886, August 16, 1999, 312 SCRA 447; Lluz and Adeloesa v. Comelec, G.R. No. 172840, June 7, 2007, 523 SCRA 456.

[220] G.R. No. 135886, August 16, 1999, 312 SCRA 447, 459.

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[221] G.R. No. 119976, September 18, 1995, 248 SCRA 300, 326.

[222] 706 Phil. 534 (2013).

[223] Id. at 551.

[224] G.R. No. 119976, September 18, 1995, 248 SCRA 300, 392-400.

[225] 595 Phil. 449 (2008).

[226] G.R. No. 180088, January 19, 2002, 576 SCRA 331.

[227] See Civil Code, Art. 8. See also Ting v. Velez-Ting, G.R. No. 166562, March 31, 2009, 582 SCRA 694, 704-705; Cabigon v. Pepsi-Cola Products Philippines, Inc., G.R. No. 168030, December 19, 2007, 541 SCRA 149, 156-157; Hacienda Bino/Hortencia Starke, Inc., G.R. No. 150478, April 15, 2005, 456 SCRA 300, 309.

[228] See Apo Fruits Corporation v. Land Bank of the Phlippines, G.R. No. 164195, October 12, 2010, 632 SCRA 727, 760; Filipinas Palmoil Processing, Inc. v. Dejapa, G.R. No. 167332, February 7, 2011, 641 SCRA 572, 581. See also Pasiona v. Court of Appeals, G.R. No. 165471, July 21, 2008, 559 SCRA 137.

[229] See Go, Sr. v. Ramos, 614 Phil. 451, 473 (2009). See also Moy Ya Lim Yao v. Commissioner of Immigration, No. L-21289, October 4, 1971, 41 SCRA 292, 367; Lee v. Commissioner of Immigration, No. L-23446, December 20. 1971, 42 SCRA 561, 565; Board of Commissioners (CID) v. Dela Rosa, G.R. Nos. 95612-13, May 31, 1991, 197 SCRA 854, 877-878.

[230] Palaran v. Republic, 4 Phil. 79 (1962).

[231] 596 Phil. 354 (2009).

[232] G.R. No. 198742, August 10, 2012, 678 SCRA 267.

[233] 581 Phil. 657 (2008).

[234] An Act Constituting an Independent Presidential Electoral Tribunal to Try, Hear and Decide Protests Contesting the Election of the President-Elect and the Vice-President-Elect of the Philippines and Providing for the Manner of Hearing the Same (21 June 1957).

[235] Lopez v. Roxas, 124 Phil. 168 (1966).

[236] 1973 Constitution, Art. VII, Sec. 2.

[237] An Act Constituting an Independent Presidential Electoral Tribunal to Try, Hear and Decide Election Contests in the Office of the President and Vice-President of the Philippines, Appropriating Funds Therefor and For Other Purposes (1985) .

[238] B.P. 883, Sec. I.

[239] Tecson v. Commission on Elections, G.R. No. 161434, March 3, 2004, 424 SCRA 277; Macalintal v. Presidential Electoral Tribunal, G.R. No. 191618, November 23, 2010, 635 SCRA 783.

[240] Art. VI, Sec. 17.

[241] G.R. No. 161434, March 3, 2004, 424 SCRA 277.

[242] 595 Phil. 449 (2008).

[243] 318 Phil. 329 (1995).

[244] 595 Phil. 449, 465-67 (2008).

[245] Francisco v. House of Representatives, 460 Phil. 830 (2003); Chavez v. Judicial and Bar Council, 691 Phil. 173 (2012).

[246] 193 5 CONSTITUTION, ARTICLE IV, SECTION 1:

"Section I. The following are citizens of the Philippines:

(1) Those who are citizens of the Philippine Islands at the time of the adoption of this Constitution.

(2) Those born in the Philippine Islands of foreign parents who, before the adoption of this Constitution, had been elected to public office in the Philippine Islands.

(3) Those whose fathers are citizens of the Philippines.

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

(5) Those who are naturalized in accordance with law."

[247] Initiatives for Dialogue and Empowerment Through Alternative Legal Services, Inc. v. Power Sector Assets and Liabilities Management Corporation, G.R. No. 192088, October 9, 2012, 682 SCRA 602, 649.

[248] This is also the prevailing rule under Section 1 (2), Article IV of the 1987 Constitution.

[249] Tan Chong v. Secretary of Labor, 73 Phil. 307 (1941); Talaroc v. Uy, 92 Phil. 52 (1952); Tecson v. Commission on Elections, 468 Phil 421 (2004).

[250] A. Scalia and B. Gamer. Reading Law: The Interpretation of Legal Texts (2012 ed.), p. 93.

[251] CA No. 473.

[252] 115 Phil. 657 (1962).

[253] People v. Manantan, 115 Phil. 657, 668-69 (1962).

[254] See Francisco, Jr. v. House of Representatives. 460 Phil. 830, 887 (2003).

[255] CONSTITUTION, Article Vil, Section 21.

[256] Pharmaceutical and Health Care Association of the Philippines v. Duque III, 561 Phil: 386, 399 (2003).

[257] M. Magallona. "The Supreme Court and International Law: Problems and Approaches in Philippine Practice" 85 Philippine Law Journal 1, 2 (2010).

[258] See: Secretary of Justice v. Hon. Lantion, 379 Phil. 165, 212-213 (2000).

[259] Ibid.

[260] Signed by the Philippines on May 23, 1969 and ratified on November 15, 1972. See Vienna Convention on the Law of Treaties, March 23, 1969, 1115 U.N.T.S. 331, 512. Available at https://treaties.un.org/doc/Publication/UNTS/Volume%20l155/volume-1155-1-18232-English.pdf

[261] Id. at 339.

[262] Section 5, (2)(a), Article VIII provides:

SECTION 5. The Supreme Court shall have the following powers:

x x x x

(2) Review, revise, reverse, modify, or affirm on appeal or certiorari, as the law or the Rules of Court may provide, final judgments and orders of lower courts in:

(a) All cases in which the constitutionality or validity of any treaty, international or executive agreement, law, presidential decree, proclamation, order, instruction, ordinance, or regulation is in question.

x x x x

[263] See: I. Cortes and R. Lotilla. "Nationality and International Law From the Philippine Perspective" 60(1) Philippine Law Journal 1, 1-2 (1990); and, M. Magallona. "The Supreme Court and International Law: Problems and Approaches in Philippine Practice" 85 Philippine law Journal 1, 2-3 (2010).

[264] CONSTITUTION, Article VIII, Section 4('2) on the power of the Supreme Court to nullify a treaty on the ground of unconstitutionality. See also: M. Magallona, supra note 111, at 6-7.

[265] M. Magallona, supra note 111, at 4, citing Ichong v. Hernandez, 101 Phil. 1156 (1957).

[266] See: M. Dellinger. "Something is Rotten in the State of Denmark: The Deprivation of Democratic Rights by Nation States Not Recognizing Dual Citizenship" 20 Journal of Transnational law & Policy 41, 61 (2010-2011).

[267] See: M. Bussuyt. "Guide to the"Travaux Preparatoires" of the International Covenant on Civil and Political Rights" Martinus Nijhoff Publishers (1987).

[268] Adopted by the United Nations General Assembly on December 10, 1948. Available from http://www.un.org/en/universal-declaration-human-rights/index.html

[269] See: Separate Opinion of CJ Puno in Republic v. Sandiganbayan, supra note I 04, at 577.

[270] See: J. von Bemstorff. "The Changing Fortunes of the Universal Declaration of Human Rights: Genesis and Symbolic Dimensions of the Tum to Rights in International Law" 19(5) European Journal of International Law 903, 913-914 (2008).

[271] See: Secretary of National Defense v. Manalo, 589 Phil. 1, 50-51 (2008) and Separate Opinion of CJ Puno in Republic v. Sandiganbayan, supra Note 104 at 577.

[272] J Leonen, Concurring Opinion in Arigo v. Swift, G.R. No. 206510, September 16, 2014, 735 SCRA 208, 209; citing E. Posner and J. L Goldsmith, "A Theory of Customary International Law" (1998). See also Razon, Jr. v. Tagitis, 621 Phil. 536, 600-605 (2009).

[273] See CONSTITUTION, Article II, Section 2.

[274] See Pharmaceutical and Health Care Association of the Philippines v. Duque III, 561 Phil. 386, 399 (2003).

[275] See: M. Magallona, supra note 111, at 2-3.

[276] Razon v. Tagitis, supra note 119, at 601.

[277] Statute of the International Court of Justice, Article 38(1)(b). Available at http://www.icj-cij.org/documents/?p1=4&p2=2

[278] Pharmaceutical and Health Care Association of the Philippines v. Duque III, supra note 115, at 199.

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[279] Ting v. Velez-Ting, 601 Phil. b76, 687 (2009).

[280] CONSTITUTION, Article II, Section 2 in relation to CIVIL CODE, Article 8.

[281] See: K. Hailbronner. "Nationality in Public International Law and European Law," EUDO Citizenship Observatory, (2006). Available at http://eudocitizenship.eu/docs/chapter1_Hailbronner.pdf

[282] See: P. Weiss. "Nationality and Statelessness in International Law" Sijthoff & Noordhoff International Publishers B. V., (1979).

[283] Ibid

[284] I. Oppenheim, International Law 643 (8[th] ed. 1955).

[285] Metropolitan Bank Corporation v. Tobias, supra note 63, at 188-189.

[286] CIVIL CODE, Title VIII, Chapter I.

[287] Id., Article 255

[288] 596 Phil. 354 (2009).

[289] G.R. No. 209835, September 22, 2015.

[290] 434 Phil. 861 (2002).

[291] See Romualdez-Marcos v. Commission on Elections, 318 Phil. 329 (1995).

[292] Thus, for purposes of determining venue for filing personal actions, we look to the actual address of the person or the place where he inhabits, and noted that a person can have more than one residence. We said this in light of the purpose behind fixing the situs for bringing real and personal civil actions, which is to provide rules meant to attain the greatest possible convenience to the party litigants by taking into consideration the maximum accessibility to them i.e., to both plaintiff and defendant, not only to one or the other of the courts of justice.

[293] Limbona v. Comelec, 578 Phil. 364 (2008).

[294] 619 Phil. 226 (2009). See also Macalintal v. Comelec, 453 Phil. 586 (2003).

[295] See Abella v. Commission on Elections and Larazzabal v. Commission on Elections, 278 Phil. 275 (1991). See also Pundaodaya v. Comelec, 616 Phil. 167 (2009).

[296] See Pundaodaya v. Comelec, 616 Phil. 167 (2009) and Jalosjos v. Comelec, 686 Phil. 563 (2012).

[297] See: Sections 4, 5, 6 & 8 of R.A. No. 9189

[298] Sec. 68. Disqualifications. - x x x Any person who is a permanent resident of or an immigrant to a foreign country shall not be qualified to run for any elective office under this code, unless said person has waived his status as permanent resident or immigrant of a foreign country in accordance with the residence requirement provided for in the election laws.

[299] 434 Phil. 861 (2002).

[300] 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.

[301] Entitled "An Act Making Additional Provisions for Naturalization", enacted on June 16, 1950.

[302] AN ACT PROVIDING FOR THE REPATRIATION OF FILIPINO WOMEN WHO HAVE LOST THEIR PHILIPPINE CITIZENSHIP BY MARRIAGE TO ALIENS AND OF NATURAL BORN FILIPINOS. Approved on October 23, 1995.

> Prior to RA No. 8171, repatriation was governed by Presidential Decree No. 725, enacted on June 5, 1975. Paragraph 5 of PD No. 725 provides that: (1) Filipino women who lost their Philippine citizenship by marriage to aliens; and (2) natural born Filipinos who have lost their Philippine citizenship may require Philippine citizenship through repatriation by applying with the Special Committee on Naturalization created by Letter of Instruction No. 270, and, if their applications are approved, taking the necessary oath of allegiance to the Republic of the Philippines, after which they shall be deemed to have reacquired Philippine citizenship. The Commission on Immigration and Deportation shall thereupon cancel their certificate of registration. "Note that the repatriation procedure under PD No. 725 is similar to the repatriation procedure under Section 4 of CA No. 63.

[303] See Section 3 of RA 9225. It pertinently 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:
>
> x x x x
>
> 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. [emphases supplied]

[304] CA No. 473 provides the following exceptions: (1) the qualifications and special qualifications prescribed under CA No. 473 shall not be required; and (2) the applicant be, among others, at least twenty-one years of age and shall have resided in the Philippines at least six months before he applies for naturalization. Per Section 3 of CA No. 63:

> "The applicant must also: have conducted himself in a proper and irreproachable manner during the entire period of his residence in the Philippines, in his relations with the constituted government as well as with the community in which he is living; and subscribe to an oath declaring his intention to renounce absolutely and perpetually all faith and allegiance to the foreign authority, state or sovereignty of which he was a citizen or subject."

Section 7 of CA No. 473. It states in full:

> Sec. 7. Petition for citizenship. - Any person desiring to acquire Philippine citizenship shall file with the competent court, a petition in triplicate, accompanied by two photographs of the petitioner, setting forth his name and surname; his present and former places of residence; his occupation; the place and date of his birth; whether single or married and the father of children, the name, age, birthplace and residence of the wife and of each of the children; the approximate date of his or her arrival in the Philippines, the name of the port of debarkation, and, if he remembers it, the name of the ship on which he came; a declaration that he has the qualifications required by this Act, specifying the same, and that he is not disqualified for naturalization under the provisions of this Act; that he has complied with the requirements of section five of this Act; and that he will reside continuously in the Philippines from the date of the filing of the petition up to the time of his

admission to Philippine citizenship. The petition must be signed by the applicant in his own handwriting and be supported by the affidavit of at least two credible persons, stating that they are citizens of the Philippines and personally know the petitioner to be a resident of die Philippines for the period of time required by this Act and a person of good repute and morally irreproachable, and that said petitioner has in their opinion all the qualifications necessary to become a citizen of the Philippines and, is not in any way disqualified under the provisions of this Act. The petition shall also set forth the names and post-office addresses of such witnesses as the petitioner may desire to introduce at the hearing of the case.

The certificate of arrival, and the declaration of intention must be made part of the petition.

See Section 9 of CA No. 473. It reads:

Sec. 9. Notification and appearance. - Immediately upon the filing of a petition, it shall be the duty of-the clerk of the court to publish the same at petitioner's expense, once a week for three consecutive weeks, in the Official Gazette, and in one of the newspapers of general circulation in the province where the petitioner resides, and to have copies of said public and conspicuous place in his office or in the building where said office is located, setting forth in such notice the name, birthplace and residence of the petitioner, the date and place of his arrival in the Philippines, the names of the witnesses whom the petitioner proposes to introduce support of his petition, and the date of the hearing of the petition, which hearing shall not be held within ninety days from the date of the last publication of the notice. The clerk shall, as soon as possible, forward copies of the petition, the sentence, the naturalization certificate, and other pertinent data to the Department of the interior, the Bureau of Justice, the provincial Inspector of the Philippine Constabulary of the province and die justice of the peace of the municipality wherein the petitioner resides.

See also Sections 1and 2 of RA No. 530 amending Sections 9 and 10 of CA No. 473. They read:

SECTION 1. The provisions of existing laws notwithstanding, no petition for Philippine citizenship shall be heard by the courts until after six months from the publication of the application required by law, nor shall any decision granting the application become executory until after two years from its promulgation and after the court, on proper hearing, with the attendance of the Solicitor General on his representative, is satisfied, and so finds, that during the intervening time the applicant has (I) not left the Philippines, (2) has dedicated himself continuously to a lawful calling or profession, (3) has not been convicted of any offense or violation of Government promulgated rules, (4) or committed any act prejudicial to the interest of the nation or contrary to any Government announced policies.

SEC. 2. After the finding mentioned in section one, the order of the court granting citizenship shall be registered and the oath provided by existing laws shall be taken by the applicant, whereupon, and not before, he will be entitled to all the privileges of a Filipino citizen.

And Section 4 of CA No. 4 73 which states:

Sec. 4. Who are disqualified - The following cannot be naturalized as Philippine citizens:

1. Persons opposed to organized government or affiliated with any association or group of persons who uphold and teach doctrines opposing all organized governments;

2. Persons defending or teaching the necessity or propriety of violence, personal assault, or assassination for the success and predominance of their ideas;

3. Polygamists or believers in the practice of polygamy;

4. Persons convicted of crimes involving moral turpitude;

5. Persons suffering from mental alienation or incurable contagious diseases;

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> 6. Persons who, during the period of their residence in the Philippines, have not mingled socially with the Filipinos, or who have not evinced a sincere desire to learn and embrace the customs, traditions, and ideals of the Filipinos;
>
> 7. Citizens or subjects of nations with whom the United States and the Philippines are at war, during the period of such war;
>
> 8. Citizens or subjects of a foreign country other than the United States whose laws do not grant Filipinos the right to become naturalized citizens or subjects thereof.

[305] G.R. No. L-22041, May 19, 1966, 17 SCRA 147.

[306] 434 Phil. 861, 873-875 (2002).

[307] 434 Phil. 861, 873 (2002).

[308] 596 Phil. 354, 369-370 (2009).

[309] G.R. No. 209835, September 22, 2015.

[310] Sec. 2. How citizenship may be reacquired. - Citizenship may be reacquired: (1) By naturalization: Provided, That the applicant possess none of the disqualification's prescribed in section two of Act Numbered Twenty-nine hundred and twenty-seven; (2) By repatriation of deserters of the Army, Navy or Air Corp: Provided, That a woman who lost her citizenship by reason of her marriage to an alien may be repatriated in accordance with the provisions of this Act after the termination of the marital status; and (3) By direct act of the National Assembly.

[311] See petition in G.R. No. 221697, p. 23; and petition in G.R. No. 221698-700, pp. 28-29. See Poe's U.S. passport, Annex "M-series", Exhibit "5" (of Tatad case) in G.R. No. 221698-700; and Annex "I-series", Exhibit "5" (of Elamparo case) in G.R. No. 221697.

[312] R.A. 6768, as amended by R.A. 9174, Section 2(a).

[313] Id. at Section 3(c).

> This visa is issued under the government's "Balikbayan" program instituted under the administration of the Department of Tourism to attract and encourage overseas Filipinos to come and visit their motherland. in addition to the one-year visa-free stay, the program also provides for a kabuhayan shopping privilege allowing tax-exempt purchase of livelihood tools and providing the opportunity to avail of the necessary training to enable the balikbayan to become economically self-reliant members of society upon their return to the country. The program also intends to showcase competitive and outstanding Filipino-made products.
>
> The program also provides tax-exempt maximum purchases in the amount of USO 1,500, or the equivalent in Philippine and other currency, at Philippine Government-operated duty free shops, and exemption from Travel Tax, provided that their stay in the Philippines is one year or less. If their stay in the Philippines exceeds one year, Travel tax will apply to them.

[314] Coquilla v. Comelec, 434 Phil. 861 (2002).

[315] Bureau of Immigration, Visa Inquiry - Temporary Visitor's Visa. Available at http://www.immigration.gov.ph/faqs/visa-inQuiry/temporary-visitor-s-visa.

[316] Ibid.

[317] See petition in G.R. No. 221697, p. 20; and petition in G.R. No. 221698-700, p. 25. Annex "M-series",

Exhibit "22" (of Tatad case), Exhibit "16" (of Contreras/Valdez cases) in G.R. No. 221698-700; and Annex "I-series", Exhibit "22" (of Elamparo case) in G.R. No. 221697.

[318] See petition in G.R. No. 221697, p. 17; and petition in G.R. No. 221698-700, p. 21. See also Annex "M-series", Exhibits "7" to "7-F" (of Tatad case) and Exhibits "3" to "3-F" (of Contreras/Valdez cases) in G.R. No. 221698-700; and Annex "I-series", Exhibits "7" to "7-F" (of Elamparo case), in G.R. No. 221697.

[319] See petition in G.R. No. 221697, p. 18; and petition in G.R. No. 221698-700, p. 22. Annex "Mseries", Exhibits "11" and "12" in G.R. No. 221698-700; and Annex "I-series", Exhibits "5" and "6" (of Elamparo case) in G.R. No. 221697.

[320] See petition in G.R. No. 221697, p. 19; and petition in G.R. No. 221698-700, p. 24. Annex "M-series", Exhibit "18" (of Tatad case); Exhibit "12" (of Contreras Valdez cases) in G.R. No. 221698-700; and Annex "I-series", Exhibit "18" (of Elamparo case) in G.R. No. 221697.

[321] See petition in G.R. No. 221697, p. 18; and petition in G.R. No. 221698-700, p. 23. Annex "M-series", Exhibits "13 and 14" (of Tatad case), Exhibits "7" and "8" (of Contreras/Valdez cases) in G.R. No. 221698-700; and Annex "I-series", Exhibits "13" and "14" (of Elamparo case) in G.R. No. 221697.

[322] See petition in G.R. No. 221697, p. 19; and petition in G.R. No. 221698-700, p. 23. Annex "M-series", Exhibit "17" (of Tatad case), Exhibit "11" (of Contreras Valdez cases) in G.R. No. 221698-700; and Annex "I-series", Exhibit "17" (of Elamparo case) in G.R. No. 221697.

[323] See Annex "M-series", Exhibit "6-series" (of Tatad case), Exhibit "2-series" (of Contreras/Valdez cases) in G.R. No. 221698-700; and Annex "I-series", Exhibit "2-series" (of Elamparo case) in G.R. No. 221697. See also petition in G.R. No. 221697, p. 16; and petition in G.R. No. 221698- 700, p. 20. Also, see petition in G.R. No. 221697, p. 18; and petition in G.R. No. 221698-700, p. 2. Annex "I-series", Exhibits "6-series", "15", and "15-A" (of Elamparo case) in G.R. No. 221697; Annex "M-series", Exhibits "6-series", "15", and "15-A" (of Tatad case), Exhibits "2- series", "9" and "9-A" (of Contreras/Valdez cases) in G.R. No. 221698-700.

[324] See petition in G.R. No. 221697, p. 18; and petition in G.R. No. 221698-700, p. 23. Annex "M-series", Exhibit "16" (of Tatad case), Exhibit "JO" (of Contreras Valdez cases) in G.R. No. 221698-700; and Annex "I-series", Exhibit "16" (of Elamparo case) in G.R. No. 221697.

[325] See petition in G.R. No. 221697, p. 17; and petition in G.R. No. 221698-700, p. 22. Annex "M-series", Exhibit "8" (of Tatad case), Exhibit "4" (of Contreras/Valdez cases) in G.R. No. 221698- 700; and Annex "I-series", Exhibit "8" (of Elamparo case) in G.R. No. 221697.

[326] "An Act to Define Condominium, Establish Requirements For Its Creation, And Govern Its Incidents", enacted on June 18, 1966.

Section 5 of RA No. 4 726 reads:

> Sec. 5. Any transfer or conveyance of a unit or an apartment, office or store or other space therein, shall include the transfer or conveyance of the undivided interests in the common areas or, in a proper case, the membership or shareholdings in the condominium corporation: Provided, however, That where the common areas in the condominium project are owned by the owners of separate units as co-owners thereof, no condominium unit therein shall be conveyed or transferred to persons other than Filipino citizens. or corporations at least sixty percent of the capital stock of which belong to Filipino citizens, except in cases of hereditary succession. Where the common areas in a condominium project are held by a corporation, no transfer or conveyance of a unit shall be valid if the concomitant transfer of the appurtenant membership or stockholding in the corporation will cause the alien interest in such corporation to exceed the limits imposed by

existing laws.

See also Hulst v. PR Builders, Inc., 588 Phil. 23 (2008).

[327] "An Act Amending Section Four And Section Sixteen of Republic Act Numbered Four Thousand Seven Hundred Twenty-Six, Otherwise Known As The Condominium Act", approved on February 23, 1995.

[328] "AN ACT TO PROMOTE FOREIGN INVESTMENTS, PRESCRIBE THE PROCEDURES FOR REGISTERING ENTERPRISES !JOING BUSINESS IN THE PHILIPPINES, AND FOR OTHER PURPOSES", enacted on March 28, 1996.

[329] See Section 10 of RA No. 7042, as amended by R.A. 8179.

[330] See Section 9(f) of the Philippine Immigration Act of 1940, Executive Orders No. 423 (signed in June 1997) and Executive Order No. 285 (signed in September 4, 2000).

> In 2011, the Bureau of Immigration records show that the Philippines had more than 26,000 foreign students enrolled in various Philippine schools; more than 7,000 of these are college enrollees while the rest were either in elementary and high school or taking short-term language courses (see http://globalnation.inquirer.net/9781/philippines-has-26k-foreign-students las accessed on February 12, 2016).
>
> See also The International Mobility of Students in Asia and the Pacific, published in 2013 by the United Nations Educational, Scientific and Cultural Organization http://www.uis.unesco.org/Libraiy/Documents/international-student-mobility-asia-pacificeducation-2013-en.pdf (last accessed on February 12, 2016); and Immigration Policies on Visiting and Returning Overseas Filipinos
>
> http://www.cfo.gov.ph/pdf/handbook/Immigration_Policies_on_Visiting_and_Returning_Overseas_Filipinos-chapterIV.pdf (last accessed on February 12, 2016).

[331] See Sections 25 and 28(8) of the NIRC.

[332] See Comelec's en banc's December 23, 2015 resolution in SPA Nos. 15-002(DC), 15-007(DC) and 15-139(DC), Annex "B" of GR Nos. 221698-700 (Tatad case).

[333] In her Memorandum, Poe admitted to owning two (2) houses in the U.S. up to this day, one purchased in 1992 and the other in 2008. She, however, claims to no longer reside in them. Petitioner's Memorandum, pp. 278-279.

[334] See page 19 of the Comelec en banc 's December 23, 2015 resolution in SPA No. 15-001 (DC) (Elamparo case), Annex "B" of G.R. No. 221697.

DISSENTING OPINION

DEL CASTILLO, J.:

A person who aspires to occupy the highest position in the land must obey the highest law of the land.[1]

Since the second Monday of May of 1992 and every six years thereafter,[2] the Filipino people have been exercising their sacred right to choose the leader who would steer the country towards a future that is in accordance with the aspirations of the majority as expressed in the fundamental law of the land. At stake is the Presidency, the highest position in the land.

The President wields a vast array of powers which includes "control of all the executive departn1ents, bureaus and

offices."[3] He/she is also the Commander-in-Chief of all armed forces of the Philippines[4] and can "grant reprieves, commutations, and pardons, and remit fines and forfeitures, after conviction by final judgment,"[5] as well as amnesty, subject to the concurrence of Congress.[6] For the rest of the world, he/she is the representation and the representative of the Filipino people.

Petitioner Mary Grace Natividad Poe-Llamanzares (petitioner) aspires to occupy the exalted position of the President of the Republic of the Philippines so that on October 15, 2015, she filed her Certificate of Candidacy (2015 CoC) attesting that she is a natural-born Filipino citizen and a resident of this country for 10 years and 11 months immediately preceding the May 9, 2016 elections. However, several sectors were not convinced of petitioner's representations, prompting them to file petitions to deny due course to and cancel her 2015 CoC and for disqualification.

The cases

Before us are petitioner's consolidated Petitions for Certiorari assailing the Commission on Elections' (Comelec) Resolutions which cancelled her 2015 CoC. In GR. No. 221697, the Petition for Certiorar[7] assails the Second Division's December 1, 2015 Resolution[8] and the En banc's December 23, 2015 Resolution[9] in SPA No. 15-001 (DC) which granted private respondent Estrella C. Elamparo's (Elamparo) Petition and cancelled petitioner's 2015 CoC for President. In GR. Nos. 221698-700, the Petition for Certiorari[10] assails the First Division's December 11, 2015 Resolution[11] and the En banc's December 23, 2015 Resolution[12] which granted private respondents Francisco S. Tatad (Tatad), Antonio P. Contreras (Contreras) and Amado D. Valdez's (Valdez) petitions in SPA No. 15-002 (DC), SPA No. 15-007 (DC), and SPA No. 15-139 (DC), respectively, and likewise cancelled petitioner's 2015 CoC for President.

Factual Antecedents

On September 3, 1968, petitioner, who was then still an infant, was found abandoned in Jaro, Iloilo City.[13] Her biological parents were unknown. Five years later, petitioner was adopted by spouses Ronald Allan Kelley Poe and Jesusa Sonora Poe. In 1991, petitioner graduated from Boston College in Massachusetts, with a degree of Bachelor of Arts in Political Studies.

On July 27, 1991, petitioner married Teodoro Misael Daniel V. Llamanzares, a citizen of both the Philippines and the United States of America (U.S.A. or U.S.) from birth, at the Santuario de San Jose Parish in San Juan.[14] On July 29, 1991, the couple left the Philippines, settled in the U.S., and started a family there. On October 18, 2001, petitioner became a naturalized U.S. citizen.[15]

On July 7, 2006, petitioner took her Oath of Allegiance[16] to the Republic of the Philippines pursuant to Republic Act No. 9225[17] (RA 9225). On July 18, 2006, the Bureau of Immigration and Deportation (BID) issued an Order[18] granting her petition for reacquisition of Filipino citizenship under the said law.

On August 31, 2006, petitioner registered as a voter in Barangay Sta. Lucia, San Juan.[19] After more than three years, petitioner secured a Philippine passport valid until October 12, 2014.[20]

On October 6, 2010, petitioner was appointed as Chairperson of the Movie and Television Review and Classification Board (MTRCB).

On October 20, 2010, petitioner executed an Affidavit of Renunciation of Allegiance to the United States of America and Renunciation of American Citizenship (Affidavit of Renunciation).[21] The following day, October 21, 2010, petitioner took her Oath of Office as MTRCB Chairperson before President Benigno S. Aquino III.[22]

On July 12, 2011, petitioner executed a document entitled Oath/Affirmation of Renunciation of Nationality of the

United States[23] before the U.S. Vice-Consul. Thus, on December 9, 2011, the latter issued her a Certificate of Loss of Nationality of the United States.[24]

In a bid for a Senate seat, petitioner secured and accomplished a CoC for Senator[25] on September 27, 2012 (2012 CoC). To the question "PERIOD OF RESIDENCE IN THE PHILIPPINES BEFORE MAY 13, 2013," she answered six years and six months. Then on October 2, 2012, petitioner filed said CoC with the Comelec.

Petitioner won and was proclaimed Senator of the Philippines on May 16, 2013.

In June 2015, Navotas Rep. Tobias M. Tiangco pointed out through the media that based on petitioner's entry in her 2012 CoC, she does not meet the 10-year residency requirement for purposes of the 2016 presidential election.

Desirous of furthering her political career in the Philippines, and notwithstanding the looming issue on her period of residency in the Philippines, petitioner next focused on the Presidency and filed her CoC therefor on October 15, 2015.

The Petitions before the Comelec:

1) SPA No. 15-001 (DC)- (Elamparo Petition, now GR. No. 221697)

On October 21, 2015, Elamparo filed before the Come lee a Petition to Deny Due Course to or Cancel Certificate of Candidacy.[26] Elamparo asserted that petitioner falsely represented to the Filipino people that she had been a resident of the Philippines for a period of 10 years and 11 months immediately prior to the May 9, 2016 elections and that she is a natural-born Filipino citizen. Elamparo advanced the following arguments in support of her position that petitioner is not a natural-born Filipino:

a) Under the 1935 Constitution which was in force at the time of petitioner's birth, "the status of natural-born citizen could be determined only by descent from a known Filipino father or mother."[27] Since petitioner's biological parents were unknown, she could not categorically declare that she descended from Filipino parents.

b) Petitioner's subsequent adoption by Filipino citizens did not vest upon her a natural-born status. Adoption merely "established a juridical relationship between her and her adoptive parents"[28] but did not confer upon her the citizenship of her adoptive parents.[29] Moreover, adoption laws are civil in nature; they do not detem1ine citizenship which is a political matter.[30]

c) No international agreement or treaty supports petitioner's claim of natural-born citizenship.

c-1) The 1930 Hague Convention on Certain Questions Relating to the Conflict of Nationality Laws provides that State laws determine who are its nationals.[31]

c-2) Petitioner could not rely on the presumption provided in Article 2 of the 1961 Convention on the Reduction of Statelessness that a "foundling found in the territory of a Contracting State" is born to "parents possessing the nationality of that State" for the following reasons: One, the Philippines could not be considered as a "Contracting State" since it did not ratify or accede to the 1961 Convention on the Reduction ofStatelessness.[32] Two, even on the assun1ption that the Philippines will ratify the 1961 Convention on the Reduction of Statelessness, it will not have any retroactive application on the case of petitioner pursuant to Section 2, Article 28 of the Vienna Convention on the Law on Treaties[33] and Section 12(3) of the 1961 Convention on the Reduction of Statelessness. Three, while admittedly, non-signatories to international agreements may be bound by such agreements if such agreements are transformed into customary laws,[34] the presumption under Article 2 of the 1961 Convention on the Reduction of Statelessness has not yet ripened into customary international law as to bind the Philippines.[35]

c-3) The 1959 United Nations Declaration on the Rights of the Child and the 1989 Convention on the Rights of the Child have no binding force.[36] The principle stated therein that a child is entitled to a nationality is merely "an authoritative statement" with no corresponding "demandable right."[37] In any case, what is conferred by these declarations is nationality, not natural-born status. Moreover, municipal law governs matters of nationality.[38]

d) Mere presumption of natural-born citizenship does not comply with the strict constitutional requirement.[39] No uncertainty on the qualification of the President must be entertained.[40]

e) "Place of birth is not a recognized means of acquiring such citizenship, much less a reason to claim that one is a natural-born Filipino."[41] Petitioner has the burden of proving her natural-born status.[42]

f) RA 9225 applies only to former natural-born Filipinos. Since petitioner is not a natural-born Filipino, then she is not qualified to apply for reacquisition or retention of citizenship under RA 9225.[43]

g) Even assuming that petitioner is a natural-born Filipino, she lost such status by becoming a naturalized U.S. citizen.[44] And assuming that she could avail herself of the benefits of RA 9225, her status as Filipino citizen is considered "not from birth" but from July 18, 2006 when the BID approved her application for reacquisition of Philippine citizenship.[45]

h) "When she applied for reacquisition of her Philippine citizenship and took her oath of allegiance, she had to perform an act to acquire her Philippine citizenship"[46] which is anathema or antithetical to the concept of natural-born citizenship.

i) The use by the petitioner of her U.S. passport even after she renounced her American citizenship is tantamount to recantation of the renunciation of her U.S. citizenship[47] pursuant to the rulings in Maquiling v. Commission on Elections[48] and Amado v. Commission on Elections.[49] During oral arguments before the Senate Electoral Tribunal (SET), Atty. Manuelito Luna argued that the records of the U.S. Department of State Bureau of Consular Affairs showed that petitioner still used her U.S. passport in September 2011 or after her renunciation of U.S. citizenship.

As regards residency, Elamparo put forth that, at most, petitioner's residency in the Philippines is only nine years and 10 months, or short of two months to comply with the residency requirement for Presidency. In support of her contention, she argued that:

a) Petitioner abandoned her domicile of origin in the Philippines when she became a naturalized U.S. citizen and established her new domicile of choice in the U.S.[50]

b) Petitioner "did not go to the U.S. and be naturalized as a U.S. citizen to pursue any calling, profession or business" but with the intention of starting a family there.[51] Thus, her trips back/visits to the Philippines prior to July 2006 (when she took the oath of allegiance to the Philippines and applied to reacquire her Philippine citizenship with the BID) should be considered temporary in nature and for a specific purpose only;"[52] i.e., to visit family and friends and not to establish a new domicile or residence.

c) Having established her domicile of choice in the U.S., the burden of proof rests upon petitioner to prove that she is abandoning her domicile in the U.S. and establishing a new domicile in the Philippines.[53]

d) Petitioner's status as a naturalized U.S. citizen and her continued use of her U.S. passport from 2006 to 2011 are indicative of her intention to retain her domicile in the U.S.[54]

e) Not being a natural-born Filipino, petitioner is not eligible to apply for reacquisition of Philippine citizenship under RA 9225. Consequently, she could not have established her domicile of choice in the Philippines.[55]

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f) Even on the argument that petitioner reacquired her Philippine citizenship upon taking the oath of allegiance, it cannot be said that she automatically regained or reestablished her new domicile, At most, what she had was the option to choose or establish a new domicile.[56] Thus, the earliest date that she could have reestablished her legal residence in the Philippines was on July 18, 2006 when she reacquired her status as a Filipino citizen.[57] Reckoned from July 18, 2006, petitioner's residence in the country by May 2016 would only be nine years and 10 months, or two-months shy of the 10-year residency requirement for presidential candidates.[58]

g) Petitioner is estopped from denying that her residency in the Philippines prior to the May 13, 2013 elections is six years and six months as stated in her 2012 senatorial CoC.[59]

h) The period of residency stated in petitioner's 2012 CoC cannot be considered as an honest mistake.[60]

2) SPA Nos.15-002(DC),15-007 (DC) and 15-139 (DC), (the Tatad Petition, Contreras Petition, and Valdez Petition, now GR. Nos. 221698-700)

Valdez and Contreras also filed petitions seeking to cancel or deny due course to petitioner's 2015 CoC while Tatad filed a petition for disqualification.

Invoking Section 25 of the Comelec Rules of Procedure,[61] Tatad, in his Petition, echoed most of Elamparo's arguments that petitioner miserably lacked the residency and citizenship requirements. In addition, he contended that in case of conflict between international conventions and treaties on one hand, and the Constitution on the other, the latter prevails. Moreover, since petitioner has no jus sanguinis citizenship she could not be considered a natural-born Filipino and would not be permitted to run for President.[62] Citing the Hague Convention of 1930 on the Conflict of Nationality Laws, he argued that any question relating to nationality must be resolved in accordance with the law of the state.[63] He also pointed out that the 1930 Protocol in Relation to Certain Case of Statelessness, the 1930 Hague Special Protocol Concerning Statelessness, the 1948 Universal Declaration of Human Rights, and the 1961 United Nations Convention on the Reduction of Statelessness, do not have binding effect.[64] He explained that international rules are at par only with congressional acts and could not in any manner supplant or prevail over the Constitution.[65]

Anent the issue of residency, Tatad noted that in the 2012 senatorial CoC, petitioner's period of residence in the country immediately before the May 13, 2013 elections is six years and six months. Adding the period from May 13, 2013 up to May 9, 2016, petitioner's period of residence in the Philippines would only be nine years and five months, which is short of the 10-year requirement.[66] Tatad likewise alleged that petitioner's intention to abandon the U.S. domicile and establish a new domicile in the country could not be inferred from her acts. At most, petitioner's visits here were only for the purpose of consoling her adoptive mother and participating in the settlement of the estate of her adoptive father since her husband remained in the U.S. during this period. In fact, petitioner renounced her U.S. citizenship only on October 20, 2010,[67] or long after the death of her adoptive father.

Tatad maintained that petitioner is not qualified to avail herself of RA 9225 because she is not a natural-born Filipino. There is no showing that she descended from parents who are Filipino citizens.[68] He further posited that the Order of the BID granting petitioner's application for reacquisition of Philippine citizenship was not signed by Immigration Commissioner Alipio F. Fernandez, Jr.; hence, it is null and void.[69] Finally, Tatad asserted that petitioner's travels to the U.S. after renouncing her U.S. citizenship are equivalent to a repudiation of her earlier renunciation.[70]

The Petition[71] filed by Contreras focused only on the failure of petitioner to comply with the residency requirement and her false representation - that by May 9, 2016 she would have resided in the country for 10 years

and 11 months.[72] For Contreras, it "is a blatant attempt to undermine the rule of law and the Constitution when one submits a certificate of candidacy falsely claiming the possession of a qualification that is specified in the Constitution as a requirement to run for President of the Republic of the Philippines."[73] According to Contreras, petitioner is deemed to have abandoned her domicile in the Philippines when she became a naturalized U.S. citizen. And, in order for her to have at least 10 years of residency in the country, she should have reacquired her Philippine domicile at the latest by May 9, 2006. However, since she reacquired her Philippine citizenship only on July 18, 2006, petitioner failed to comply with the 10 year residency requirement. Her visits in the country before July 18, 2006 should not inure to her benefit since at that time she was traveling not as a Filipino but as a U.S. citizen.[74] By his reckoning, petitioner's residency in the country by May 9, 2016 would only be nine years, nine months and 22 days.[75]

Contreras postulated that had petitioner really intended to establish a new domicile in the Philippines and to abandon her U.S. domicile, she should have applied for an immigrant status before the BID which will in turn issue an Immigrant Certificate of Residence (ICR).[76] Contreras noted that in her application to reacquire Philippine citizenship under RA 9225, petitioner did not indicate an ICR or an Alien Certificate of Registration, unlike on the part of her three children, which "would have been relevant information x x x on the issue of her residence."[77]

For his part, Valdez, in his Petition[78] to cancel or deny due course to petitioner's CoC, argued that since petitioner had to perform an overt act to reacquire her citizenship, then she is not a natural-born Filipino citizen as defined in Article IV, Section 2 of the 1987 Constitution.[79] Valdez asserted that it is not possible for petitioner to reacquire a natural-born status on July 18, 2006 since at that time she had dual allegiance to the Philippines and the U.S. which is prohibited under Article IV, Section 5 of the Constitution.[80] Neither did RA 9225 bestow a natural-born status upon her; at most, she was "only 'deemed' not to have lost her Philippine citizenship."[81]

Valdez also contended that petitioner lacked the residency requirement or misrepresented her period of residency. He pointed out that petitioner cited varying dates regarding the establishment of her residency in the Philippines.[82] In her 2015 CoC, petitioner claimed that by May 9, 2016 she would have resided in the country for a period of 10 years and 11 months. By simple mathematical computation, petitioner was claiming that she started residing in the Philippines in June 2005. In stark contrast, petitioner stated in her 2012 CoC that her residency in the country prior to May 13, 2013 is six years and six months, which means that she has been a resident of the Philippines only since November 13, 2006.[83] For Valdez, the "conflicting admissions x x x [petitioner] voluntarily, willingly, and knowingly executed as to when she established her residency in the Philippines [demonstrate] a deliberate attempt on her part to mislead, misinform, or hide a fact that would render her ineligible for the position of President of the Philippines."[84]

Valdez reckoned that July 18, 2006 would be the earliest date that petitioner could have established her new domicile of choice as this was the time she reacquired her Philippine citizenship. Valdez insisted that her stay in the Philippines prior to reacquiring Philippine citizenship could not be favorably considered for purposes of the residency requirement.[85] He emphasized that at that time, petitioner did not even secure a permanent resident visa; consequently, she could only be considered as a foreigner temporarily residing in the country.[86] He elaborated that petitioner's reacquisition of Philippine citizenship did not affect her domicile; what petitioner had at the time was only an option to change or establish a new domicile of choice.[87]

Valdez averred that petitioner could not claim "honest mistake made in good faith"[88] especially "when one runs for public office and for a national post x x x [as] natural human experience and logic dictate that one should be very well aware of the qualifications required for that position and whether x x x one possesses those qualifications. x x x More importantly, one is highly expected to give accurate information as regards his/her

qualifications."[89]

Finally, Valdez opined that petitioner failed to prove that she intended to permanently reside in the Philippines for a period of 10 years prior to the May 9, 2016 elections. Having already abandoned her domicile in the Philippines upon her naturalization as a U.S. citizen, it can only be construed that her subsequent trips to the Philippines were temporary in nature. More importantly, petitioner's 2014 Statement of Assets, Liabilities and Net Worth (SALN) showed that she still maintains two houses in the U.S.[90] which she bought in 1992 and in 2008.

The Answers of Petitioner before the Comelec:

1) SPA No. 15-001 (DC) (Elamparo Petition)

Petitioner claimed that Elamparo's Petition failed to state a cause of action for it did not aver that there was a false representation in her 2015 CoC amounting to a deliberate attempt to mislead, misinform, or hide a fact that would otherwise render a candidate ineligible or that it was intended to deceive the electorate as regards the candidate's qualifications.[91] She also posited that the burden of proof rests upon Elamparo to show that her representations in the CoC are false.[92] She alleged that the pronouncement in the 1967 case of Paa v. Chan[93] to the effect that there is no presumption of Philippine citizenship had already been superseded by later rulings.[94]

Petitioner also assailed the jurisdiction of the Comelec. She claimed that it is the Department of Justice (DOJ) which has the primacy jurisdiction to rule on the validity of the June 18, 2006 Order of the BID granting her natural-born status;[95] and pending this determination, the Comelec must refrain from ruling on whether she could avail herself of the benefits of RA 9225.[96] In addition, she averred that the Elamparo Petition is essentially one for quo warranto since it seeks a ruling on her eligibility or lack of qualifications and therefore must be lodged with the Presidential Electoral Tribunal (PET). However, since there is no election yet and no winner had been proclaimed, the Petition is premature.[97]

Petitioner asserted that she is a natural-born Filipino based on the intent of the framers of the 1935 Constitution[98] and treaties such as the United Nations Convention on the Rights of the Child[99] and the 1966 International Covenant on Civil and Political Right.[100] She averred that although these treaties were not yet in force at the time of her birth, they could be given retroactive application.[101] In addition, generally accepted principles of international law and customary international law support her thesis that she is a natural-born Filipino. She also cited the 1930 Hague Convention on Certain Questions Relating to Conflict of Nationality Laws[102] and the 1961 Convention on the Reduction of Statelessness.[103]

Petitioner insisted that "the natural-born citizenship of a person may be established using presumptions."[104] She maintained that "there is nothing unconstitutional about presuming that [she] was born of Filipinos or that she is a natural-born Filipino, even though she cannot, as yet, prove that she is related by blood to citizens of the Philippines."[105] Petitioner claimed that by the official acts of the Philippine Government, she had been repeatedly and consistently recognized as a natural-born Filipino thereby giving rise to the presumption that she is a natural-born Filipino.[106] Moreover, she surmised that since she was not naturalized, then she is natural-born.[107]

Petitioner conceded that she abandoned her Philippine citizenship by becoming a naturalized U.S. citizen on October 18, 2001. However, she claimed that she reacquired her natural-born Filipino status by virtue of RA 9225[108] particularly when she took her oath of allegiance[109] on July 7, 2006. Thereafter, she renounced her U.S. citizenship. She insisted that she never repudiated the renunciation of her U.S. citizenship.[110]

As regards the issue of residency, petitioner maintained that by May 9, 2016, she would have resided in the Philippines for 10 years and 11 months. She asserted that since May 24, 2005[111] she had been bodily present in

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the Philippines and that her subsequent acts, which "must be viewed 'collectively' and not 'separately' or in isolation,"[112] were indicative of her intention to permanently stay in the country.[113] Otherwise stated, on May 24, 2005, she left the U.S. for good[114] without intention of returning there.[115] She opined that her occasional trips to U.S. did not negate her intent to reside permanently in the Philippines.[116] Neither would possession of a U.S. passport be considered indicative of her intent to return to the U.S. She explained that she kept her U.S. passport "in the meantime because it was plainly convenient for travel purposes."[117]

Petitioner also contended that she could legally establish her domicile in the Philippines even before reacquiring her Philippine citizenship.[118] She surmised that domicile or residence required only physical presence and intent, and not necessarily Filipino citizenship.[119] She posited that "residency is independent of, or not dependent on, citizenship."[120] In fact, RA 9225 by which she reacquired her Filipino citizenship "treats citizenship independently of residence."[121] She argued that if only Filipinos could establish residence in the Philippines, "then no alien would ever qualify to be naturalized as a Filipino, for aliens must be residents before they can be naturalized."[122]

Finally, petitioner admitted that she committed a mistake, albeit an honest one and in good faith, when she claimed in her 2012 senatorial CoC that her period of residence was six years and six months.[123] She insisted that despite said mistake, she still complied with the two-year residency requirement for senatorial candidates; that she misinterpreted the phrase "period of residence in the Philippines before May 13, 2013;" and that she reckoned her period of residence in the Philippines from March-April 2006 as this was the time that her family had substantially wrapped up their affairs in the U.S.[124] She claimed that her period of residence should be reckoned from May 24, 2005, as stated in her 2015 presidential CoC.[125] She asserted that she is not estopped from correcting her mistake, which in fact she did when she executed her 2015 CoC.[126]

2) SPA No. 15-002 (DC)- (Tatad Petition)

Petitioner's Answer[127] to Tatad's Petition is almost a restatement of the arguments she raised in her Answer to the Elamparo Petition. In addition, she averred that although Tatad's Petition was filed under Section 68 of the Omnibus Election Code[128] (OEC) in relation to Section 1, Rule 25 of the Comelec Rules, it failed to allege grounds for disqualification as enumerated thereunder.[129] Instead, it cited lack of citizenship and residency requirements which are not grounds for a petition filed under Section 68 of the OEC. According to petitioner, if Tatad's Petition were to be considered a quo warranto petition, it should be filed with the PET and only if petitioner "is elected and proclaimed President, and not before then."[130] As such, the Tatad Petition must be dismissed for failure to state a cause of action.[131] Moreover, the Tatad Petition could not be considered as a petition to deny due course to or cancel a CoC as it did not allege as ground material misrepresentation in the CoC; neither did it pray for the cancellation of or denial of due course to petitioner's CoC.[132]

3) SPA No. 15-139 (DC) - Valdez Petition

Likewise, petitioner's Answer[133] to the Petition of Valdez repleads the arguments in her Answer to the Elamparo Petition. At the same time, she stressed that considering that her "representation in her [CoC] on her citizenship is based on prevailing law and jurisprudence on the effects of repatriation and [RA 9225] x x x said representation in her [CoC] cannot be considered 'false.'"[134] As regards the issue of residency, particularly on Valdez's postulation that petitioner's period of residence must be counted only from October 20, 2010 or upon renunciation of her U.S. citizenship, petitioner countered that such argument "would be tantamount to adding a fourth requisite"[135] in establishing a new domicile of choice, that is, possession of permanent resident visa/possession of Philippine citizenship and/or prior renunciation of U.S. citizenship.[136] Petitioner reiterated that she could legally reestablish her Philippine domicile even before renouncing her U.S. citizenship in

2010.[137] As regards Valdez's allegation that petitioner still maintains two houses in the U.S. (after she took her oath of allegiance to the Philippines, and even purchased one of the houses in 2008 after she took her oath in 2006, and after they supposedly sold their family home in the U.S. in 2006), petitioner couched her denial as follows:

> 2.13. The allegation in paragraph 98 of the Petition is DENIED insofar as it is made to appear that Respondent "resides" in the 2 houses mentioned in said paragraph. The truth is that Respondent does not "reside" in these houses, but in her family home in Corinthian Hills, Quezon City (where she has lived with her family for almost a decade).[138]

4) SPA No. 15-007 (DC)- (Contreras Petition)

Petitioner's Answer[139] to the Petition filed by Contreras is likewise a reiteration of her contentions in the Answer she filed to the Elamparo Petition. She maintained that she did not commit any material misrepresentation in her 2015 CoC when she stated that by May 9, 2016, she would have resided in the Philippines for 10 years and 11 months.[140] She also averred that she could legally reestablish her domicile in the Philippines even before she reacquired her natural-born citizenship.[141]

Rulings of the Commission on Elections

A. SPA No. 15-001 (DC) - Elamparo Petition

On December 1, 2015, the Second Division of the Comelec issued its Resolution[142] granting Elamparo's Petition and cancelling petitioner's 2015 CoC. It held that petitioner's representations in her CoC with regard to her citizenship and residency are material because they pertain to qualifications for an elective office.[143] Next, it ruled that petitioner's representation that she would have resided in the Philippines for 10 years and 11 months immediately preceding the May 9, 2016 elections is false vis-a-vis the admission she made in the 2012 CoC that her residence in the Philippines prior to May 13, 2013 was only six years and six months. It characterized petitioner's claim of honest mistake as self-serving. Besides, there was no showing of any attempt to correct the alleged honest mistake. The Second Division also noted that the earliest point from which to reckon petitioner's residency would be on July 18, 2006 when the BID granted her application for reacquisition of Philippine citizenship under RA 9225. Thus, her period of residence prior to May 2016 would only be nine years and 10 months, or two months short of the required period of residence. The Second Division opined that prior to July 2006, petitioner was an alien without any right to reside in the Philippines save as our immigration laws may have allowed her to stay as a visitor or as a resident alien.[144]

The Comelec's Second Division rejected petitioner's claim that she is a natural-born Filipino citizen. It held that the provisions of the 1935 Constitution on citizenship clearly showed that only children born of Filipino fathers are considered n.atu. ral-b.orn. As such, the representation in the 2015 CoC that she is a natural-born Filipino is false.[145] The Second Division also ruled that as a well-educated Senator, petitioner ought to know that she is not a natural-born Filipino citizen since our country has consistently adhered to the jus sanguinis principle.[146] It likewise rejected petitioner's argument that the members of the 1934 Constitutional Convention intended to include children of unknown parents as natural-born citizens, reasoning out that a critical reading of the entire records of the 1934 Constitutional Convention discloses no such intent.[147] It also gave short shrift to petitioner's invocation of international law, particularly the 1930 Hague Convention on Certain Questions Relating to the Conflict of Nationality Laws, the 1948 Universal Declaration of Human Rights, the 1961 Convention on the Reduction of Statelessness, and the 1966 International Covenant on Civil and Political Rights, because the Philippines is not a signatory thereto; besides, these international laws/conventions do not categorically state that children of unknown parents must be categorized as natural-born. Furthermore, even

assuming that these conventions or treaties classified these children as natural-born, the same could not supplant or alter the provisions of the 1935 Constitution on citizenship.[148]

The Comelec's Second Division found that petitioner deliberately attempted to mislead, misinform, or hide a fact, when she declared in her 2015 CoC that her period of residency immediately prior to May 9, 2016 would be 10 years and 11 months.[149] However, as regards her citizenship, it ruled that there was no conclusive evidence of any deliberate attempt to mislead, misinform or hide a fact from the electorate. It ratiocinated that the citizenship issue regarding foundlings is one of first impression and thus petitioner could be presumed to have acted in good faith in making such a declaration.[150]

Both petitioner and Elamparo moved for reconsideration. While petitioner prayed for a complete reversal of the Comelec's Second Division ruling, Elamparo prayed for partial reconsideration,[151] that is, for the Comelec to pronounce petitioner as likewise guilty of misrepresenting her citizenship status. She pointed out that there is a pattern of misrepresentation on the part of petitioner regarding her citizenship. She claimed that in three certificates of title[152] issued prior to July 2006, petitioner declared that she was a Filipino when in fact she was not; and, that in her Petition for Retention and/or Reacquisition of Philippine Citizenship Under RA 9225, petitioner also falsely represented that she "is a former natural-born Philippine citizen born x x x to Ronald Allan Kelley Poe, a Filipino citizen and Jesusa Sonora Poe, a Filipino citizen."

On December 23, 2015, the Comelec En Banc issued its Resolution[153] denying petitioner's motion for reconsideration and granting Elamparo's motion for partial reconsideration. Accordingly, it declared that petitioner is likewise guilty of misrepresenting her citizenship in her 2015 CoC, viz.:

> WHEREFORE, premises considered, the Verified Motion for Reconsideration of [petitioner] is hereby DENIED and the Motion for Partial Reconsideration of [Elamparo] is hereby GRANTED.
>
> ACCORDINGLY, the Resolution dated 1 December 2015 of the COMELEC Second Division is hereby AFFIRMED WITH MODIFICATION. [Petitioner's] Certificate of Candidacy for President in the 9 May 2016 National, Local and ARMM Elections contains material misrepresentations as to both her citizenship and residency.
>
> THEREFORE, the Certificate of Candidacy for President in the 9 May 2016 National, Local and ARMM elections filed by [petitioner] Mary Grace Natividad Sonora Poe Llamanzares is hereby CANCELLED.
>
> FURTHER, the Urgent Motion to Exclude of [Elamparo] is hereby DENIED.
>
> SO ORDERED.[154]

The Comelec En Banc debunked petitioner's allegation in her motion for reconsideration that the Second Division based its Resolution on the 2012 CoC alone. It clarified that the Second Division, much like trial courts, is not obliged to itemize all the evidence presented by the parties, but only that it should duly evaluate such evidence.[155] In any event, the Comelec En Banc again scrutinized the evidence presented by the petitioner and concluded that they all pertained to events that transpired before July 2006,[156] or prior to her reacquisition of her Philippine citizenship. Thus, the same had no probative value in light of settled jurisprudence that "the earliest possible date that petitioner could reestablish her residence in the Philippines is when she reacquired her Filipino citizenship [in] July 2006."[157] The Comelec En Banc held that petitioner's statement in her 2012 CoC was properly considered as an admission against interest and being a notarial document is presumed to be regular.[158] It also held that the burden rests upon petitioner to prove that the 2015 CoC contained uue statements and that the declarations made in the 2012 CoC were not done in bad faith.[159]

The Comelec En Banc was not convinced that petitioner "stated truthfully her period of residence in the [2015]

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CoC" and that "such false statement was made without a deliberate attempt to mislead."[160] It considered petitioner's so-called public acknowledgment of her mistakes as contrived since they were delivered at the time when the possibility of her running for President was already a matter of public knowledge.[161] The Comelec En Banc held that:

> Indeed, this Commission finds it hard to believe that a woman as well-educated as [petitioner], who was then already a high-ranking public official with, no doubt, a competent staff and a band of legal advisers, and who is not herself entirely unacquainted with Philippine politics being the daughter of a former high-profile presidential aspirant, would not know how to correctly fill-up [sic] a pro-forma COC in 2013. We are not convinced that the subject entry therein was [an] honest mistake.[162]

On the issue of citizenship, the Comelec En Banc ruled that petitioner cannot rely on presumptions to prove her status as natural-born citizen.[163] It concurred with the Second Division that the cited international laws/conventions have no binding force.[164] It also held that it is not bound by the November 17, 2015 Decision of the SET in a quo warranto proceeding questioning petitioner's qualification as a Senator where she was declared as a natural-born Filipino. The Comelec En Banc ratiocinated that it is an independent constitutional body which does not take its bearings from the SET or any other agency of the government; and that in any case, the SET's Decision has been elevated to and is still pending with this Court.[165]

In addition, the Comelec En Banc lent credence to Elamparo 's claim that there is substantial evidence, borne out by public documents, showing petitioner's pattern of misrepresentation as regards her citizenship.[166] The Comelec En Banc opined that petitioner's educational attainment and other prevailing circumstances, coupled with the simplicity and clarity of the terms of the Constitution, lead to no other conclusion than that she made the false material representation in her 2015 CoC to mislead the electorate into thinking that she is a Filipino and eligible to run for President.[167] Thus, the Comelec En Banc modified the Resolution of the Second Division by holding that petitioner committed material false representation in her citizenship as well.

B. On the Tatad, Contreras, and Valdez Petitions

The Comelec's First Division, in its December 11, 2015 Resolution,[168] arrived at the same conclusion that petitioner falsely represented her citizenship and period of residency. Hence it ordered the cancellation of petitioner's 2015 CoC. Apart from the ratiocinations similar to those made in the resolution of Elamparo's Petition, the Comelec's First Division made some additional points.

On the procedural aspect, the Comelec's First Division held that although the Petition of Tatad was denominated as a petition for disqualification, it is not barred from taking cognizance of the same since it "impugns the citizenship and residency of [petitioner], and therefore generally questions the truthfulness of her CoC stating that she has the qualification and eligibility to run for and be elected President x x x."[169] And since the said Petition raised proper grounds for cancellation of a CoC under Section 1,[170] Rule 23 of the Comelec Rules of Procedure, it falls within the Comelec's jurisdiction pursuant to Section 78 of the OEC.

As to the Comelec 's jurisdiction over the questioned citizenship, the Comelec's First Division held that it is not bound by the BID Order; otherwise, it would be deprived of its constitutionally-granted power to inquire into the aspiring candidate's qualifications and to determine whether there is commission of material misrepresentation.[171]

Lastly, the Comelec's First Division thumbed down petitioner's clain1s that the petitions are premature and that the issues raised therein are appropriate in a quo warranto proceeding. The Comelec's First Division pointed out that the petitions raised the issue of material misrepresentation;[172] it also declared that petitioner's CoC is riddled with inconsistencies with regard to her period of residency, which is indicative of her deliberate attempt to

mislead; and that the Comelec has Jurisdiction over the petitions since they were filed before proclamation.[173]

On the substantive aspect, the Comelec's First Division, with regard to petitioner's citizenship status, held that those persons who are not' included in the enumeration of Filipino citizens in the 1935 Constitution, such as petitioner, should not be considered as Filipino citizens.[174] It opined that "[e]xtending its application to those who are not expressly included in the enumeration and definition of natural-born citizens is a disservice to the rule of law and an affront to the Constitution."[175] It ruled that one's citizenship must not be anchored on mere presumptions and that any doubt thereon must be resolved against the claimant who bears the burden of proof.[176]

The Comelec 's First Division also held that no international law supports petitioner's claim of natural-born citizenship.[177] In any event, the status of international laws is equivalent to or at par with legislative enactments only and could not in any manner supplant or prevail over the Constitution.[178] Neither can petitioner find solace in generally accepted principles of international law and customary international law as there is no showing that recognition of persons with unknown parentage as natural-born citizens of the country where they are found has become established, widespread and consistently practiced among states.[179] The Comelec's First Division posited that, if at all, persons with no known parents may be considered Filipino citizens, but not natural-born Filipino citizens.[180] Ergo, petitioner could not have validly availed of the benefits of repatriation under RA 9225. Even on the assumption that she is a natural-born Filipino citizen, it could not be said that she reacquired such status by virtue of RA 9225; what she reacquired was merely Philippine citizenship, not her purported natural-born status.[181]

As regards petitioner's residency, the Comelec's First Division pointed out that petitioner can only start counting her residency, at the earliest, from July 2006 when she reacquired her Philippine citizenship; and that from that point, her intent to permanently reside here became manifest only when she registered as a voter of Barangay Sta. Lucia, San Juan City on August 31, 2006. Hence, she is deemed to have reestablished her Philippine domicile only from said date.[182]

The Comelec En Banc denied petitioner's Motion for Reconsideration[183] and affirmed the First Division in a Resolution[184] dated December 23, 2015.

Aside from upholding the reasons underlying the Comelec's First Division's Resolution, the Comelec En Banc stressed that assuming, for the sake of argument, that petitioner may invoke the presumption that she is a natural-born citizen, establishing this presumption by solid, incontrovertible evidence is a burden that shifted to her when she admitted that she does not know who her biological parents are.[185]

The dispositive portion of the Comelec En Banc Resolution in the Tatad, Contreras and Valdez Petitions reads as follows:

> WHEREFORE, premises considered, the Commission RESOLVED, as it hereby RESOLVES, to DENY the Verified Motion for Reconsideration of SENATOR MARY GRACE NATNIDAD SONORA POE-LLAMANZARES. The Resolution dated 11 December 2015 of the Commission First Division is affirmed.
>
> SO ORDERED.[186]

Hence, these Petitions for Certiorari brought via Rule 64 in relation to Rule 65 of the Rules of Court.[187] In both Petitions, petitioner "seeks to nullify, for having been issued without jurisdiction or with grave abuse of discretion amounting to lack or excess of jurisdiction"[188] the assailed Comelec Resolutions.

On December 28, 2015, this Court issued Temporary Restraining Orders[189] enjoining the Comelec from

cancelling petitioner's 2015 CoC due to time constraints before these petitions could be resolved and so as not to render the same moot and academic should this Court rule in petitioner's favor. Then, in a Resolution[190] dated January 12, 2016, the petitions were consolidated.

I find that the Comelec did not gravely abuse its discretion or exercise its judgment in a whimsical or capricious manner as to amount to lack or excess of jurisdiction in ordering the cancellation of and denying due course to petitioner's 2015 CoC.

The power of this Court to review the assailed Resolutions is limited to the determination of whether the Comelec committed grave abuse of discretion; the burden lies on the petitioner to indubitably show that the Comelec whimsically or capriciously exercised its judgment or was "so grossly unreasonable" as to exceed the limits of its jurisdiction in the appreciation and evaluation of the evidence.

It bears stressing at the outset that these petitions were brought before this Court via Rule 64 in relation to Rule 65 of the Rules of Court. Therefore, as held in Mitra v. Commission on Elections, [191] this Court's review power is based on a very limited ground - the jurisdictional issue of whether the Comelec acted without or in excess of its jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction.

We explained in Mitra that:

> As a concept, 'grave abuse of discretion' defies exact definition; generally, it 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. We have held, too, that the use of wrong or irrelevant considerations in deciding an issue is sufficient to taint a decision-maker's action with grave abuse of discretion.
>
> Closely related with the limited focus of the present petition is 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. Substantial evidence is that degree of evidence that a reasonable mind might accept to support a conclusion.
>
> In the light of our limited authority to review findings of fact, we do not ordinarily review in a certiorari case the COMELEC's appreciation and evaluation of evidence. Any misstep by the COMELEC in this regard generally involves an error of judgment, not of jurisdiction.
>
> In exceptional cases, however, when the COMELEC's action on the appreciation and evaluation of evidence oversteps the limits of its jurisdiction to the point of being grossly unreasonable, the Court is not only obliged, but has the constitutional duty to inter1vene. When grave abuse of discretion is present, resulting errors arising from the grave abuse mutate from error of judgment to one of jurisdiction.[192]

In fine, there is grave abuse of discretion when the exercise of judgment is capricious, whimsical, despotic or arbitrary, engendered by reason of passion and hostility. Also, the abuse of discretion must be so gross and so

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patent as to amount to an evasion of positive duty or virtual refusal to perform a duty enjoined by law.

In Sabili v. Commission on Elections,[193] this Court spoke, through Chief Justice Maria Lourdes P. A. Sereno, that there is an error of jurisdiction when the Comelec's appreciation and evaluation of evidence is so grossly unreasonable.[194]

Pursuant thereto, it is incumbent upon petitioner to clearly demonstrate via these petitions that the Comelec was so grossly unreasonable in the appreciation and evaluation of the pieces of evidence submitted that it overstepped the limits of its jurisdiction.

In short, petitioner must satisfactorily hurdle this high bar set in Sabili and companion cases in order for the petitions to be granted.

In these petitions, the Comelec found that petitioner committed material misrepresentation when she stated in her 2015 CoC that her period of residence in the Philippines up to the day before May 9, 2016 is 10 years, 11 months and that she is a natural-born Filipino citizen. Petitioner, on the other hand, insists that her evidence, which the Comelec allegedly disregarded, negates any false material representation on her part.

But first off, the procedural questions.

I. PROCEDURAL ISSUES

The respective petitions filed by respondents with the Comelec were properly characterized as petitions for cancellation and/or denial of due course to petitioner's 2015 CoC

Section 2(1), Article IX(C) of the 1987 Constitution vests upon the Comelec the power and function to "[e]nforce and administer all laws and regulations relative to the conduct of an election, plebiscite, initiative, referendum, and recall." This constitutional grant of power is echoed in Section 52 of the OEC which emphasizes that the Comelec has "exclusive charge of the enforcement and administration of all laws relative to the conduct of elections." Also, in Bedol v. Commission on Elections,[195] this Court explained that the Comelec's quasi-judicial functions pertain to its power "to resolve controversies arising from the enforcement of election laws, and to be the sole judge of all pre-proclamation controversies x x x.[196]

In line with this power, Section 78[197] of the OEC, in relation to Section 74[198] thereof, provides for a mechanism for the cancellation or denial of due course to a CoC based on the exclusive ground of material misrepresentation. The misrepresentation must refer to a material fact, such as one's citizenship or residence.[199]

To be sufficient, a Section 78 petition must contain the following ultimate facts: "(1) the candidate made a representation in his certificate; (2) the representation pertains to a material matter which would affect the substantive rights of the candidate (the right to run for the elective position for which he filed his certificate); and (3) the candidate made the false representation with the intention to deceive the electorate as to his qualification for public office or deliberately attempted to mislead, misinform or hide a fact which would otherwise render him ineligible."[200]

I find that the Petitions filed by Elamparo, Contreras, and Valdez with the Comelec distinctly and sufficiently alleged the ultimate facts constituting the cause/s of action for a Section 78 petition.[201] The Petitions of Elamparo and Valdez both alleged that petitioner made material misrepresentations in her CoC in stating that she is a natural-born Filipino citizen and that she is a resident of the Philippines for at least 10 years. The Petition of

Contreras alleged the same commission by petitioner of material misrepresentation with respect to her period of residency. All three petitions sought the cancellation or denial of due course to petitioner's 2015 CoC based on the said material misrepresentations which were allegedly made with the intention to deceive the electorate as to her qualifications for President.

With respect to Tatad's Petition, petitioner points out that the same was fatally infirm because while captioned as a "Petition for Disqualification" under Section 68 of the OEC in relation to Rule 25 of the Comelec Rules, the allegations therein did not make out a case for disqualification. Petitioner posits that Tatad clearly resorted to a wrong remedy, hence, the Comelec should have dismissed his petition outright and should not have taken cognizance of it as a petition for cancellation or denial of due course to a CoC.

Contrary to petitioner's argument, I believe that the Comelec acted correctly in not outrightly dismissing Tatacl's Petition. In Spouses Munsalud v. National Housing Authority,[202] this Court held that the dismissal of a complaint "should not be based on the title or caption, especially when the allegations of the pleading support an action."[203] "The caption of the pleading should not be the governing factor, but rather the allegations in it should determine the nature of the action, because even without the prayer for a specific remedy, the courts [or tribunal] may nevertheless grant the proper relief as may be warranted by the facts alleged in the complaint and the evidence introduced."[204] Here, I agree with the Comelec that the essential facts alleged by Tatad in his Petition do. really establish a clear case for the cancellation of or denial of due course to petitioner's 2015 COC. Hence, the Comelec properly treated the same as a Section 78 petition.

In Fermin v. Commission on Elections,[205] this Court declared a petition for disqualification filed with the Comelec as one for cancellation of or denial of due course to therein petitioner Mike A. Fermin's CoC. This was after it found that although captioned as a petition for disqualification, the allegations contained therein made out a case for cancellation and/or denial of due course to a CoC under Section 78 of the OEC.

Anent the contention that the Comelec lacks jurisdiction over candidates for national positions, suffice it to state that Section 78 of the OEC does not distinguish between CoCs of candidates running for local and those running for national positions. It simply mentions "certificate of candidacy." Ubi lex non distinguit nee nos distingu-ere debemus - when the law does not distinguish, we must not distinguish. This is a basic rule in statutory construction that is applicable in these cases. Hence, the Comelec has the power to determine if the CoC of candidates, whether running for a local or for a national position, contains false material representation. In other words, any person may avail himself/herself of Section 78 of the OEC to assail the CoC of candidates regardless of the position for which they are aspiring.

Petitioner further argues that the issues raised by respondents in their petitions properly pertain to a quo warranto proceeding which can only be initiated after she should have won the election for and proclaimed as President.

This Court in Fermin had already explained, viz:

> Lest it be misunderstood, the denial of due course to or the cancellation of the CoC is not based on the lack of qualifications but on a finding that the candidate made a material representation that is false, which may relate to the qualifications required of the public office he/she is running for. It is noted that the candidate states in his/her CoC that he/she is eligible for the office he/she seeks. Section 78 of the OEC, therefore, is to be read in relation to the constitutional and statutory provisions on qualifications or eligibility for public office. If the candidate subsequently states a material representation in the CoC that is false, the COMELEC, following the law, is empowered to deny due course to or cancel such certificate. Indeed, the Court bas already likened a proceeding under Section 78 to a quo warranto proceeding under Section 253 of the OEC since they both deal with the eligibility or qualification of a candidate, with the distinction mainly in the fact that a "Section 78" petition is filed before proclamation, while a petition for quo warranto is filed after proclamation of the

winning candidate.[206] (Emphasis supplied. Italics in the original.)

While it is admitted that there is a similarity between a petition under Section 78 of the OEC and a quo warranto proceeding in that they both deal with the eligibility or qualification of a candidate, what sets them apart is the time when the action is filed, that is, before or after an election and proclamation. As the election subject of these petitions is yet to be held, there can be no doubt that the issues raised by respondents were properly set forth in their respective petitions for cancellation and/or denial of due course to petitioner's CoC.

Therefore, the Comelec was not so grossly unreasonable that it exceeded the limits of its jurisdiction when it duly characterized the petitions as ones for cancellation and/or deniai of due course to petitioner's 2015 CoC. Indeed, in these cases the Comelec did not exercise its judgment in a whimsical, capricious, arbitrary, or despotic manner. Othe1wise stated, petitioner failed to show that the Comelec committed grave abuse of discretion amounting to lack or excess of jurisdiction in holding that the petitions before it are for cancellation and/or denial of due course to petitioner's 2015 CoC.

The Comelec did not usurp the
jurisdiction of the Presidential
Electoral Tribunal.

Apropos to the above discussion is petitioner's argument that the Comelec usurped the PET's jurisdiction.

As heretofore stated, a petition under Section 78 seeks to cancel a candidate's CoC before there has been an election and proclamation. Such a petition is within the Comelec's jurisdiction as it is "the sole judge of all pre-proclamation controversies."[207]

On the other hand, the PET is "the sole judge of all contests relating to the election, returns, and qualifications of the President or Vice-President of the Philippines."[208] Particularly, the PET has jurisdiction over an election contest initiated through an election protest or a petition for quo warranto against the President or Vice-President.[209] The PET's adjudicative powers come into play after the President or the Vice-President concerned had been elected and proclaimed. Under the PET Rules an election protest may be filed only within 30 days after proclamation of the winner,[210] while a quo warranto petition may be initiated within 10 days after the proclamation of the winner.[211] In other words, it is the date of proclamation of the candidate concerned that is determinative of the time when the PET's jurisdiction attaches.

Pertinently, in Tecson v. Commission on Elections,[212] this Court held that ordinarily, the term "contest" refers to "post-election scenario" and that election contests have one objective, which is to unseat the winning candidate. Hence it stressed that the PET's jurisdiction covers contests relating to the election, returns and qualifications of the "President" or "Vice-President," and not of "candidates" for President or Vice-President.

Against this backdrop, it is beyond cavil that the Comelec has the power and jurisdiction to rule on a petition to deny due course to or to cancel the CoC of a candidate, whether for a local or national position, who may have committed material misrepresentation in his/her CoC.

Verily, the Comelec did not usurp, as indeed it could not have usurped, the PET's jurisdiction if only because the herein petitioner remains a mere candidate for President and has not yet been elected and proclaimed President. Therefore, the petitioner failed to prove that the Comelec acted with grave abuse of discretion equivalent to lack or excess of jurisdiction when it took cognizance of these cases.

The validity of Section 8, Rule 23
of the Comelec Rules is upheld.

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Petitioner challenges the validity of Section 8, Rule 23 of the Comelec Rules which reads as follows:

> Section 8. Effect if Petition Unresolved - If a Petition to Deny Due Course to or Cancel a Certificate of Candidacy is unresolved by final judgment on the day of elections, the petitioner may file a motion with the Division or Commission En Banc as may be applicable, to suspend the proclamation of the candidate concerned, provided that the evidence for the grounds for denial to or cancel certificate of candidacy is strong. For this purpose, at least three (3) days prior to any election, the Clerk of the Commission shall prepare a list of pending cases and furnish all Commissioners copies of the said list.
>
> A Decision or Resolution is deemed final and executory if, in case of a Division ruling, no motion for reconsideration is filed within the reglementary period, or in cases of rulings of the Commission En Banc, no restraining order is issued by the Supreme Court within five (5) days from receipt of the decision or resolution. (Emphasis supplied)

Petitioner argues that paragraph 2 of Section 8 above, which declares that rulings of the Comelec En Banc shall be final within five days from receipt of the resolution or decision sans any temporary restraining order from this Court, is invalid because it violates Section 7, Article IX-A of the 1987 Constitution which gives the aggrieved party 30 days from receipt of the assailed Comelec Resolution within which to challenge it before the Supreme Court. Section 7 reads:

> Each Commission shall decide by a majority vote of all its Members, any case or matter brought before it within sixty days from the date of its submission for decision or resolution. A case or matter is deemed submitted for decision or resolution upon the filing of the last pleading, brief, or memorandum required by the rules of the Commission or by the Commission itself. Unless otherwise provided by this Constitution or by law, any decision, order, or ruling of each Commission may be brought to the Supreme Court on certiorari by the aggrieved party within thirty days from receipt of a copy thereof. (Emphasis supplied)

I am, however, unable to perceive any conflict between the two provisions.

Paragraph 2, Section 8 of Rule 23 emanates from the Comelec 's rule-making power under Section 3 of Article IX-C of the 1987 Constitution, to wit:

> Section 3. The Commission on Elections may sit en banc or in two divisions, and shall promulgate its rules of procedure in order to expedite disposition of election cases, including pre-proclamation controversies. All such election cases shall be heard and decided in division, provided that motions for reconsideration of decisions shall be decided by the Commission en banc.

At the risk of belaboring a point, the 1987 Constitution explicitly grants the Comelec rule-making powers in deciding election cases. Thus, in fulfilment of its Constitutional mandate of deciding election cases with reasonable dispatch, the Comelec promulgated rules of procedure to provide for an orderly means, ways or process of deciding election cases. The insertion in the above-quoted Section 7, Article IX of the 1987 Constitution of the qualifying phrase "unless otherwise provided by this Constitution or law," makes it abundantly clear that the Constitution itself recognizes the rule-making power of the Comelec and, as a necessary corollary, invests it with authority to determine the reasonable period within which its decision or resolution shall be considered final and executory.

Thus, far from invalidating paragraph 2, Section 8 of Rule 23 of the Comelec Rules for being contrary to Section 7, Article IX-A of the 1987 Constitution, the two provisions in fact do work in harmony. Under the principle of interpretare et concordare leges legibus est optimus interpretandi modus, every statute must be so construed in harmony with other statutes as to form a uniform system of jurisprudence.[213]

There being no conflict between Section 8, Rule 23 of the Comelec Rules and Section 7, Article IX-A of the 1987

Constitution and given that this Section 8, Rule 23 recognizes the Comelec 's rule-making power, the validity of the subject Comelec rule must be sustained.

The Comelec is not precluded by the
SET's Decision from determining
petitioner's citizenship.

Despite the November 17, 2015 Decision of the SET declaring petitioner a natural-born Filipino citizen, the Comelec is not precluded from ruling on petitioner's citizenship.

As earlier explained, the Comelec, under Section 78 of the OEC, has the power to determine whether a candidate committed any material misrepresentation in his or her CoC. In view thereof, the Comelec can also properly determine the candidate's citizenship or residency as an adjunct to or as a necessary consequence of its assessment on whether the CoC contains material misrepresentation. To my mind, this does not amount to a usurpation of the SET's power to determine the qualifications or eligibility of a candidate; neither does it amount to a usurpation of this Court's prerogative to resolve constitutional issues. Rather, I view it as part of the Comelec's duty to examine a candidate's representations in his/her CoC pursuant to the aforementioned Section 78. Clearly, for the Comelec to shirk or evade from, or to refuse to perform, or abandon this positive duty would amount to grave abuse of discretion.

Furthermore, the Comelec is an independent constitutional body separate and distinct from the SET. While the SET is the sole judge of all contests relating to the election, returns, and qualifications of Members of the Senate,[214] its decisions do not have any doctrinal or binding effect on the Comelec. It is settled that there is "only one Supreme Court from whose decisions all other courts [or tribunals] should take their bearings."[215] Here, the November 17, 2015 SET Decision is the subject of a Petition for Certiorari entitled David v. Senate Electoral Tribunal, and docketed as GR. No. 221538, that is still pending before this Court. Until said petition is decided with finality by this Court, any ruling on petitioner's citizenship does not, subject to the conditions that will be discussed later, constitute res judicata.

Consequently, the Comelec correctly held that it is not precluded from determining petitioner's citizenship insofar as it impacts on its determination of whether the petitioner's CoC contains material false representation. Conversely stated, petitioner failed to prove that the Comelec acted with grave abuse of discretion amounting to lack or excess of jurisdiction in taking cognizance of these cases.

The July 18, 2006 Order of the Bureau
of Immigration and Deportation is not
binding on the Comelec

Petitioner argues that it is only the DOJ which can revoke the BID's Order presumptively finding her a natural-born Filipino citizen and approving her petition for reacquisition of Filipino citizenship.[216]

The argument is specious. It is settled that whenever the citizenship of a person is material or indispensable in a judicial or administrative case, the decision of the court or tribunal on the issue of citizenship is generally not considered as res judicata. This is so because the issue on citizenship may be "threshed out again and again as the occasion may demand."[217] To accept petitioner's contention that it is the DOJ that has jurisdiction to revoke the grant of her petition for reacquisition of Filipino citizenship would be to veer away from the said settled rule because this implies that no subsequent contrary findings may be arrived at by other bodies or tribunals.

In Go, Sr. v. Ramos,[218] this Court held that res judicata may apply in citizenship cases only if the following conditions or circumstances concur:

1. a person's citizenship must be raised as a material issue in a controversy where said person is a party;

2. the Solicitor General or his authorized representative took active part in the resolution thereof; and

3. the finding o[f] citizenship is affirmed by this Court.

Since the foregoing conditions or circumstances are not present in these cases, the BID's previous finding on petitioner's citizenship cannot be binding on the Comelec.

Moreover, while the BID stated in its July 18, 2006 Order that "petitioner was a former citizen of the Republic of the Philippines being born to Filipino parents,"[219] this is contrary to petitioner's own assertion that she had no known blood relatives - the very reason why her citizenship is now being questioned. Notably, too, the BID did not categorically declare that petitioner is a natural-born Filipino, but merely presumed her to be one.[220] Being merely presumed, that presumption can be overturned at any time by evidence to the contrary. Most importantly and as correctly held by the Comelec, it cannot be bound by the BID Order because a contrary view will deprive it of its constitutional mandate to inquire into and examine the qualifications of candidates, and determine whether they committed material misrepresentation in their CoC.[221] Clearly, thus, petitioner's purported natural-born Filipino citizenship may be correctly determined by the Comelec, as it in fact already did, despite the aforesaid BID Order.

In sum, petitioner failed to prove that the Comelec capriciously and whimsically exercised its judgment, or that it acted in an arbitrary or despotic manner by reason of passion and hostility, or was so grossly unreasonable when it took cognizance of the cases; indeed, in these cases, the Comelec committed no error of jurisdiction.

II. SUBSTANTIVE ISSUES

Material misrepresentation

Under Section 74[222] of the OEC, a person running for public office is required to state in his CoC the following details:

(1) if running for Member of the [House of Representatives], the province, including its component cities, highly urbanized city or district or sector which he seeks to represent;

(2) the political party to which he belongs;

(3) civil status;

(4) his date of birth;

(5) residence;

(6) his post office address for all election purposes; and

(7) his profession or occupation.

In addition, the aspirant is required to state under oath that:

(1) he/she is announcing his/her candidacy for the office stated therein and that he/she is eligible for the said office;

(2) he/she will support and defend the Constitution of the Philippines and will maintain true faith and allegiance thereto;

(3) he/she will obey the laws, legal orders, and decrees promulgated by the duly constituted authorities;

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(4) he/she is not a permanent resident or immigrant to a foreign country;

(5) the obligation imposed by his/her oath is assumed voluntarily, without mental reservation or purpose of evasion; and

(6) the facts stated in the certificate of candidacy are true to the best of his/her knowledge.

As previously discussed, Section 78 of the OEC provides that within 25 days from the time of filing of the CoC, any person may file a petition to deny due course to and/or to cancel it on the exclusive ground that any material representation stated therein as required by Section 7 4 of the OEC, is false. In the same vein, Section I, Rule 23 of the Comelec Rules of Procedure states that a CoC may be denied due course or cancelled "on the exclusive ground that any material representation contained therein as required by law is false."

In Marcos v. Commission on Elections,[223]this Court declared that there is material misrepresentation when a statement in a CoC is made with the intent to mislead, misinform, or hide a fact which would otherwise render a candidate ineligible.

In Salcedo II v. Commission on Elections,[224] it was explained that to constitute a material misrepresentation, the false representation must not only pertain to a material fact which would affect the substantive right of a candidate to run for the position stated in the CoC, but must also consist of a "deliberate attempt to mislead, misinform, or hide a fact which would otherwise render a candidate ineligible."[225] Simply put, the false representation must have been done "with an intention to deceive the electorate as to one's qualifications for public office."[226]

Gonzalez v. Commission on Elections[227] reiterated the pronouncement that a material misrepresentation is not just the falsity of the information declared in the CoC but also consists in the very materiality of the said information, and the deliberate attempt by the candidate to mislead or deceive the electorate as to that candidate's qualification for public office.

Stated differently, before the Comelec may deny due course to and/or cancel a CoC, it must be shown: (a) that the representation pertains to a material fact; (b) that it is in fact false; and (c) that there was a deliberate attempt to deceive, mislead, misinform, or hide a fact, which would otherwise render the candidate ineligible to run for the position. Under the third element, the deception must be such as to lead the electorate to believe that the candidate possesses the qualifications for the position he/she is running for, when in truth the candidate does not possess such qualifications, thus making him/her ineligible to run.

Here, petitioner wants to run for the Presidency in the 2016 elections and claims in her 2015 CoC that she possesses the five qualifications set forth in Section 2, Article VII of the 1987 Constitution which states:

Section 2. No person may be elected President unless he is a natural-born citizen of the Philippines, a registered voter, able to read and write, at least forty years of age on the day of the election, and a resident of the Philippines for at least ten years immediately preceding such election. (Emphases supplied)

Respondents, however, insist that petitioner committed false material representation when she declared in her 2015 CoC that she is a natural-born Filipino and that she is a resident of this country for more than 10 years prior to the May 9, 2016 elections. (Emphasis supplied.)

In its assailed Resolutions, the Comelec found petitioner to have falsely represented material facts in her 2015 CoC.

Residency

The controversy with respect to petitioner's residency qualification arose when it was observed that she made the following entry in Item 11 of her 2012 CoC for Senator:

> PERIOD OF RESIDENCE IN THE PHILIPPINES BEFORE MAY 13, 2013:
>
> 06 No. of Years 06 No. of Months

Based on the said entry, it could be deduced that by her own reckoning, petitioner started residing in the Philippines in November 2006. Thus by May 8, 2016, or the day immediately preceding the elections on May 9, 2016, her period of residency in the Philippines would only be nine years and six months, or short of the mandatory 10-year residency requirement for the presidential post. In contrast, petitioner attested in her 2015 CoC that her period of residency in the Philippines on the day before the May 9, 2016 elections is "10 years and 11 months." Clearly, these are contrasting declarations which give the impression that petitioner adjusted the period of her residency in her 2015 CoC to show that she is eligible to run for the Presidency. This rendered her vulnerable to the charge that she committed material misrepresentations in her 2015 CoC.

Section 2 of Article VII of the 1987 Constitution, as reproduced above, requires, among others, that a person aspiring to become a President must be a resident of the Philippines for at least 10 years immediately preceding the election. This requirement is mandatory and must be complied with strictly. For one, no less than our Constitution itself imposes it. For another, Section 2 was couched in a negative form - an indication of the intention of the framers of our Constitution to make it mandatory. "A statute or provision which contains words of positive prohibition, such as 'shall not,' 'cannot; or 'ought not,' or which is couched in negative terms importing that the act shall not be done otherwise than designated, is mandatory."[228] Moreover, Section 63[229] of Article IX of the OEC imposes the same 10-year residency requirement.

For purposes of election laws, this Court, as early as 1928,[230] held that the term residence is synonymous with domicile.[231] Domicile denotes the place "'where a party actually or constructively has his permanent home,' where he, no matter where he may be found at any given time, eventually intends to return and remain"[232] (animus manendi).

In deviating from the usual concepts of residency, the framers of our Constitutions intended "'to exclude strangers or newcomers unfamiliar with the conditions and needs of the community' from taking advantage of favorable circumstances existing in that community for electoral gain."[233] Their decision to adopt the concept of domicile "is rooted in the recognition that [elective] officials x x x should not only be acquainted with the metes and bounds of their constituencies; more importantly, they should know their constituencies and the unique circumstances of their constituents - their needs, difficulties, aspirations, potentials for growth and development, and all matters vital to their common welfare. Familiarity, or the opportunity to be familiar, with these circumstances can only come with residency x x x."[234] At the same time, the residency requirement gives the electorate sufficient time to know, familiarize themselves with, and assess the true character of the candidates.

Domicile is classified into three types according on its source, namely: (1) domicile of origin, which an individual acquires at birth or his first domicile; (2) domicile of choice, which the individual freely chooses after abandoning the old domicile; and (3) domicile by operation of law, which the law assigns to an individual independently of his or her intention.[235] A person can only have a single domicile at any given time.[236]

To acquire a new domicile of choice, one must demonstrate:

1. Residence or bodily presence in the new locality;

2. An intention to remain there (animus manendi); and

3. An intention to abandon the old domicile (animus non revertendi).[237]

"To successfully effect a change of domicile, one must demonstrate an actual removal or an actual change of domicile; a bona fide intention of abandoning the former place of residence and establishing a new one and definite acts which correspond with the purpose."[238] In the absence of clear and positive proof of the above mentioned requisites, the current domicile should be deemed to continue. Only with clear evidence showing concurrence of all three requirements can the presumption of continuity of residence be rebutted, for a change of legal residence requires an actual and deliberate abandonment of the old domicile.[239] Elsewise put, if any of the above requisites is absent, no change of domicile will result.[240]

Having dispensed with the above preliminaries, I shall now discuss whether petitioner satisfactorily proved that the Comelec acted with grave abuse of discretion an1ounting to lack or in excess of jurisdiction in ruling that there was material misrepresentation when she declared in her 2015 CoC that on the day immediately preceding the May 9, 2016 elections, she would have been a resident of this country for 10 years and 11 months. Otherwise stated, was there substantial evidence showing that petitioner committed material misrepresentation as regards her period of residency?

Elements of material misrepresentation in relation to Petitioner's claimed period of residence in the Philippines: a) materiality; b) falsity,· and c) deliberate attempt to deceive, mislead, misinform, or hide a fact which would otherwise render her ineligible to run for the position of President.

A. Residency as a material fact.

As to the first element, it is jurisprudentially settled that residence is a material fact because it involves the candidate's eligibility or qualification to run for public office.[241] In view of this and considering that the parties do not dispute that the matter of a candidate's residency in the Philippines is a material fact, there is no need to dwell further upon this element.

B. Falsity of petitioner's
declaration as to the period
of her residency in her
2015 CoC

At this juncture, it must be stressed that on October 18, 2001, petitioner not only formally abandoned the Philippines as her domicile, but she also renounced her Philippine citizenship by becoming a naturalized American citizen. She preferred and chose to be domiciled in the U.S. than in the Philippines. And she did so not out of necessity or fur temporary leisure or exercise of profession but to permanently live there with her family. Fifteen years later, petitioner is before this Court claiming that she had decided to abandon and had in fact abandoned her U.S. domicile and that she had decided to establish and had in fact established a new domicile of choice in the Philippines. She would want us to believe that she had complied with all the requirements in establishing a new domicile of choice.

The question now is: As a U.S. citizen who was domiciled in the U.S., how can petitioner reestablish her domicile in the Philippines? Obviously, petitioner must abandon or lose her domicile in the U.S. Also, she has to satisfactorily prove intent to permanently stay in the country and make the Philippines her new domicile of choice.

For easy reference, I hereby reiterate the requirements in establishing a new domicile of choice, to wit: a) residence or bodily presence in the new locality; b) an intention to remain there (animus manendi); and c) an

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intention to abandon the old domicile (animus non revertendi).

Petitioners evidence of animus manendi; earliest possible date that her physical presence in the Philippines can be characterized as coupled with animus manendi.

In support of her claim that from the time she arrived in the Philippines on May 24, 2005 her physical presence here was imbued with animus manendi, petitioner offered the following evidence:

- travel records which show that she would consistently return to the Philippines from her trips abroad;

- the affidavit of her adoptive mother attesting to the fact that after petitioner and her children's arrival in the Philippines in early 2005, they first lived with her in Greenhills, San Juan;

- school records which show that her children had been attending Philippine schools continuously since June 2005;

- TIN which shows that shortly after her return to the Philippines in May 2005, she considered herself a taxable resident and a subject of the country's tax jurisdiction;

- Condominium Certificate of Title for Unit 7F and a parking lot at One Wilson Place purchased in early 2005 and its corresponding Declarations of Real Property for real property tax purposes;

- reacquisition of her natural-born Filipino citizenship and applications for derivative citizenship for her minor children;

- registration as a voter on August 31, 2006;

- renunciation of her U.S. citizenship on October 20, 2010;

- acceptance of her appointment as MTRCB Chairperson on October 21, 2010;

- Questionnaire - Information for Determining Possible Loss of U.S. Citizenship wherein petitioner indicated that she considered herself a resident of the Philippines starting May 2005.

Petitioner claims that had the Comelec considered her evidence in its totality and not in isolation, it would have concluded that she intended to remain in the Philippines since May 24, 2005.

I do not agree.

What must not be overlooked is that these pieces of evidence fly in the face of the fact that from May 24, 2005 to July 18, 2006 petitioner was an alien on temporary sojourn here. It should be emphasized that after petitioner abandoned the Philippines as her domicile and became a naturalized U.S. citizen on October 18, 2001, the U.S. became her domicile of choice. In Coquilla v. Commission on Elections[242] and reiterated in Japzon v. Commission on Elections,[243] this Court held that a Filipino who applies for naturalization as an American citizen has to establish legal residence in the U.S. which would consequently result in the abandonment of Philippine domicile as no person can have two domiciles at any given time. Hence, beginning October 18, 2001, petitioner was domiciled in the U.S.[244]

When petitioner arrived in the Philippines on May 24, 2005, she in fact did so as a foreigner balikbayan as she was then still a U.S. citizen. Normally, foreign nationals are required to obtain a visa before they can visit the Philippines. But under RA 6768,[245] as amended by RA 9174,[246] foreigner balikbayans[247] are accorded the privilege of visa-free entry to the Philippines. This visa-free privilege is, however, not without conditions for it

allows such balikbayans to stay in the Philippines for a limited period of one year only. Thus:

> SEC. 3. Benefits and Privileges of the Balikbayan. - The balikbayan and his or her family shall be entitled to the following benefits and privileges:
>
> x x x x
>
> (c) Visa-free entry to the Philippines for a period of one (1) year for foreign passport holders, with the exception of restricted nationals.

Since petitioner availed herself of RA 6768, her stay in the Philippines from the time she arrived here as a foreigner balikbayan on May 24, 2005 was not permanent in character or for an indefinite period of time. It was merely temporary. At most, her stay in the Philippines would only be for one year. This only proves that her stay was not impressed with animus manendi, i.e., the intent to remain in or at the domicile of choice for an indefinite period of time.[248] Thus in Coquilla, we did not include the period of the candidate's physical presence in the Philippines while he was still an alien. In that case, Teodulo M. Coquilla (Coquilla) was naturalized as U.S. citizen in 1965. He returned to the Philippines in 1998 and was repatriated under RA 8171 on November 7, 2000. He took his oath as a citizen of the Philippines on November 10, 2000. Subsequently, he filed his CoC for Mayor of Oras, Eastern Samar. A petition to cancel Coquilla's CoC was filed on the ground of material misrepresentation based on his representation that he met the one-year residency requirement. This Court affirmed the Comelec finding that Coquilla lacked the required residency. While Coquilla arrived in the Philippines as early as 1998, his presence here from that point until his naturalization on November 10, 2000 was excluded in counting the length of his residency in the Philippines because during that time he had no right to reside permanently here. Thus:

> In the case at bar, petitioner lost his domicile of origin in Oras by becoming a U.S. citizen after enlisting in the U.S. Navy in 1965. From then on and until November 10, 2000, when he reacquired Philippine citizenship, petitioner was an alien without any right to reside in the Philippines save as our immigration laws may have allowed him to stay as a visitor or as a resident alien.[249]

Also, in the 1966 case of Ujano v. Republic,[250] the trial court denied Melecio Clarinio Ujano's (Ujano) petition to reacquire citizenship for failure to meet the six months residency requirement. In so ruling, it reasoned out that Ujano, "who is presently a citizen of the United States of America, was admitted into this country as a temporary visitor, a status he has maintained at the time of the filing of the present petition for reacquisition of Philippine citizenship and which continues up to the present. "[251] This Court adopted and sustained the trial court's ratiocination and added that "[t]he only way by which [Ujano] can reacquire his lost Philippine citizenship is by securing a quota for permanent residence so that he may come within the purview of the residence requirement of Commonwealth Act No. 63."[252] Clearly, as early as 1966, jurisprudence has unrelentingly and consistently applied the rule that the law does not include temporary visits in the determination of the length of legal residency or domicile in this country. Indeed it is illogical and absurd to consider a foreign national to have complied with the requirements of animus manendi, or intent to permanently stay in this country, if he/she was only on a temporary sojourn here.

Petitioner's claim that she had established animus manendi upon setting foot in this country on May 24, 2005 has, therefore, no leg to stand on. The pieces of evidence she presented in support of this proposition are irrelevant, and are negated by the undisputed fact that she was then a foreigner temporarily staying here as a balikbayan. In this context, petitioner's imputation of grave abuse of discretion falls flat on its face.

I also subjected petitioner's evidence of animus manendi to utmost judicial scrutiny, particularly in relation to her claim that such intent concurs with her physical presence in the Philippines beginning May 24, 2005. However, I find them wanting and insufficient.

I start off with the fundamental precept that if a person alleges that he/she has abandoned her domicile, it is incumbent upon that person to prove that he/she was able to reestablish a new domicile of choice.[253] Applied to this case, this means that it is upon the intrinsic merits of petitioner's own evidence that her claim of reestablishment of domicile in the Philippines on May 24, 2005 must rise or fall.

After a critical review, I am satisfied that the Comelec correctly found petitioner's evidence relative to her claim of animus manendi beginning May 24, 2005 both wanting and insufficient. For instance, securing a TIN is not conclusive proof of intent to remain in the Philippines considering that under the country's tax laws, any person, whether a citizen, non-citizen, resident or non-resident of the Philippines, is required to secure a TIN for purposes of tax payment. If at all, procurement of a TIN merely suggests or indicates an intention to comply with the obligation to pay taxes which may be imposed upon any person, whether a citizen or an alien. In fact, by her own admission, petitioner secured a TIN precisely for the purpose of "settling her late father's estate."[254] At any rate, a TIN was issued to petitioner on July 22, 2005,[255] or almost two months after her claimed starting point of residency in the Philippines.

Under the same parity of reasoning, petitioner's acquisition of a condominium unit and parking lot at One Wilson Place in San Juan City, as well as her acquisition of a parcel of land in Corinthian Hills, Quezon City and the subsequent construction of a house thereon, do not evince an intent to remain in the Philippines for good. Speaking for the Court in Svetlana Jalosjos v. Commission on Elections,[256] Chief Justice Maria Lourdes P.A. Sereno declared that "ownership of a house or some other property does not establish domicile."[257] After all, acquisition of properties may also very well be for investment purposes only. Besides, it bears emphasis that by petitioner's own allegation, the condominium unit and parking lot were acquired in the second half of 2005, the lot in Corinthian Hills was bought in 2006, and the house standing thereon was constructed that same year (2006)-all after May 24, 2005.

The claimed intent also becomes shrouded in doubt in light of petitioner's maintaining a house in the U.S. which she bought in 1992 and the subsequent acquisition of a residential house in the U.S. in 2008.

It must be stressed that in the Petition of Valdez before the Comelec, particularly par. 98 thereof, he pointed out that: "per respondent's [herein petitioner] own Statement of Assets, Liabilities and Net Worth for 2014, she still maintains two (2) residential houses in the U.S., one purchased in 1992, and the other in 2008."[258] Petitioner had the opportunity to categorically deny, refute or discuss head on this contention of Valdez in her Verified Answer. Unfortunately, she did not seize the chance. Instead, in paragraph 2.13 of her Verified Answer, petitioner couched her "'denial" that she still owns two houses in the U.S. as follows:

> 2.13. The allegation in paragraph 98 of the Petition is DENIED insofar as it is made to appear that [Petitioner] "resides" in the 2 houses mentioned in said paragraph. The truth is that [Petitioner] does not "reside" in these houses, but in her family home in Corinthian Hills, Quezon City (where she has lived with her family for almost a decade).[259]

From the foregoing, petitioner in effect admitted the veracity and truthfulness of Valdez's assertion regarding the acquisition of the two residential houses; her denial pe11ained only to the fact that she was residing thereat. Thereafter, no further mention of this matter was made.

The care by which petitioner crafted her Answer regarding the sale of her family's real property in the U.S. is also obvious. In her four Verified Answers, she averred thus:

> x x x The family home in the U.S.A. was eventually sold on 27 April 2006.[260]

By adverting solely and exclusively to the "family home" as the real property that had been sold in April 2006,

petitioner effectively avoided, and withheld, mentioning and discussing her family's other remaining real properties in the U.S., such as the two other residential houses.

Also, in Valdez's Comment/Opposition to the Petition for Certiorari,[261] particularly in paragraphs 11.14 and 17 4, he manifested that the existence of these two houses in the U.S. was in fact admitted, not at all denied, by petitioner. Thus:

> 11.14. x x x In 2014, petitioner indicated in her Statement of Assets and Liabilities that she has two (2) residential properties in the U.S.A., a fact that she also confirmed during the clarificatory hearing on 25 November 2015 as herein provided.[262]
>
> 174. Her counsel also admitted in the clarificatory hearing that PETITIONER still own[s] two properties in the US, one purchased in 1992, and the other in 2008, up to the present time. This is inconsistent with animus non revertendi. In fact, the properties remain as a physical link with the US which is her domicile of choice for many years, which is inconsistent with her claim that she completely abandoned.[263]

Furthermore, during the oral argument on January 19, 2016, the undersigned inquired if petitioner's family still owns prope1ties of whatever kind in the U.S. Her counsel denied any knowledge.[264] When it was the turn of Valdez to be interpellated and the undersigned again brought up the alleged ownership of petitioner's family of two or more properties in the U.S., Valdez affirmed the allegation.[265] Constrained to discuss the matter, petitioner now admits in her

Memorandum[266] that she and her family indeed do own two houses in the U.S.

These houses are obviously not considered by petitioner as their family home; nonetheless, considering the circumstances prevailing in the case, their acquisition and maintenance are relevant to the determination of whether petitioner had indeed abandoned her U.S. domicile and whether she had effectively reestablished her domicile in the Philippines.

Thus, to follow petitioner's proposition that acquisition of residential properties is an indicia of aminus manendi is actually detrimental to her cause considering that subsequent to her purchase of a condominium unit and a residential lot in the Philippines in 2006, she later on acquired a residential property in the U.S. in 2008. In addition, she maintained one other residential property in the U.S. which was bought in 1992.

I also agree with the observation of respondent Contreras regarding the failure of petitioner to secure an ICR for herself as she did with her children. For Contreras, this not only shows that petitioner was fully cognizant of the nature of her residency status and the applicable laws/rules regarding the same; more significantly, it was clear and positive evidence of her intention or ambivalence not to become a permanent resident of the Philippines at that time. Thus:

> x x x For foreign nationals, of which petitioner was one prior to her reacquisition of her Filipino citizenship, intent to remain for good could not just rest on being physically present, and performing acts such as buying a condominium unit and enrolling her children here, for such are also the acts of expatriates who are working in the country. As foreign nationals, to be even considered as resident aliens, these expats and their dependents have to obtain the appropriate visas for their stay to be legal. Petitioner fully knew this well, when she registered her children, who were also foreign nationals like her, with the BI to obtain an ACR for each of them, as such would have been a requirement for enrolment in schools. It is for this that she could not feign ignorance of the real nature of her residency status in the country from 24 May 2005 until July 2006, when she did not possess an ACR since she failed to register with the BI, and hence did not acquire the status of a permanent resident in the country. As such, she did not lose her domicile in the US during that period, and could therefore not rightfully claim to have re-established her domicile in the Philippines.[267]

> x x x [T]he fact that she obtained immigration documents for her three (3) children in the form of Alien Certificate of Registration (ACR), even if she failed to obtain one for herself, is an incontrovertible proof that she could not claim total ignorance about the limitations imposed on a non-resident alien in the country.[268]

Finally, it is my opinion that the Comelec correctly considered petitioner's declarations in her 2012 CoC as an admission against interest. An admission is any statement of fact made by a party against his/her interest or is inconsistent with the facts alleged by him/her.[269] It is governed by Section 26 of Rule 130 of the Rules of Court, which states:

> Sec. 26. Admissions of a party. - The act, declaration or omission of a party as to a relevant fact may be given in evidence against him.

"To be admissible, an admission must: (a) involve matters of fact, and not of law; (b) be categorical and definite; (c) be knowingly and voluntarily made; and (d) be adverse to the admitter's interests, otherwise it would be self-serving and inadmissible."[270]

All these requisites are present in these cases. The entry in petitioner's 2012 CoC, i.e., six years and six months, refers to her period of residence in the Philippines before May 13, 2013 - a matter which without a doubt involves a question of fact. The same is categorical and definite, and was made under oath. The entry is adverse to petitioner's interest, specifically in respect to her present claim in her 2015 CoC that she has been a resident of the Philippines for 10 years and 11 months up to the day before the May 9, 2016 elections. Clearly, the questioned entry in petitioner's 2012 CoC is admissible as an admission against her interest.

"Admissibility, however, is one thing, weight is another."[271] Indeed, when the admission is contained in a document as in this case, the document is the best evidence which affords the greatest certainty of the facts in dispute. The rationale for the rule is based on the presumption that no man would declare anything against himself/herself unless such declaration was true. Thus, it is fair to presume that the declaration corresponds with the truth, and it is his/her fault if it does not.[272] It bears emphasizing, though, that this does not preclude a declarant from refuting his/her admission.[273] In this case, petitioner must show clear, convincing, and more than preponderant evidence in order to refute the facts stated in her 2012 CoC considering that it is a sworn document which the Rules of Court presumes had been executed in the regular course of law.[274]

Petitioner thus asserts that the statement in the 2012 CoC about her period of residence was a result of an honest mistake and not binding on her. She invokes Marcos v. Commission on Elections where we held that "it is the fact of residence, not a statement in a certificate of candidacy, which ought to be decisive in determining whether or not an individual has satisfied the Constitution's residency qualification requirement."

However, I am not convinced with petitioner's invocation of honest mistake. Among other reasons, the defense of honest mistake interposed in Marcos was found tenable because therein petitioner Imelda Romualdez-Marcos (Imelda) wrote in her CoC "seven" months as her period of residence - an entry which was obviously short of the one-year residency requirement for the position for which she filed her CoC. Hence, the Court stated that it would be plainly ridiculous for a candidate to deliberately and knowingly make a statement in a CoC which would lead to her disqualification. It can be concluded, therefore, that the defense of honest mistake is available only if the mistake in the CoC would make a qualified candidate ineligible for the position. It cannot be invoked when the mistake would make an ineligible candidate qualified for the position. For in the first case, no candidate in his/her right mind would prevaricate or make the electorate believe that he/she is not qualified for the position he/she is aspiring for. Hence, there could be no other conclusion than that the mistake was committed honestly. Whereas in the second case, the intention to mislead can be deduced from the fact that an aspirant, although not qualified, makes it appear in his/her CoC that he/she is eligible to run for public office when in truth he/she is not. Here,

petitioner made it appear that she did meet the 10-year residency requirement when in fact, she did not.

And even assuming that she committed an honest mistake, still, the same cannot outweigh her categorical, definite, voluntary, and sworn declaration in her 2012 CoC, which is favored by the prima facie presumption of regularity.[275] Said entry in petitioner's 2012 CoC which, as previously discussed is an admission against interest, tends to prove that she intended to stay permanently in the Philippines starting only in November 2006 (or in April 2006 assuming her claim of honest mistake is tn1e, but still far from her claim of May 24, 2005). In other words, petitioner has miserably failed to present evidence sufficient to overthrow the facts she herself supplied in her 2012 CoC. She cannot now, therefore, adjust or readjust the dates from which to reckon her reestablishment of domicile in the Philippines in order to meet the 10-year constitutional residency requirement. As correctly observed by the Comelec, petitioner's actions only highlight her ambivalence in reestablishing domicile, viz.:

> 4.149. Petitioner claims to have re-established her domicile in the Philippines on 24 May 2005. xx x
>
> 4.150. It is incorrect based on petitioner's own submissions which are conflicting.
>
> 4.151. In her COC for Senator in the May 2013 election filed in October 2012, [petitioner] stated:
> "PERIOD OF RESIDENCE IN THE PHILIPPINES BEFORE MAY 13, 2013 - 6 YEARS AND 6 MONTHS".

The above sworn entry in her COC for Senator meant that [petitioner] had been a Philippine resident only since November 2006.

4.152. She later claimed that the Comelec form confused her, that actually that entry of "6 years and 6 months" was meant to be up to the date of filing said COC in October 2012. Assuming this to be correct, and applying the "6 years and 6 months" as up to October 2012, this means that [petitioner] had been a Philippine resident only since April 2006.

4.153. In her present COC for President in the May 2016 elections, her sworn entry on residency is "10 years and 11 months" up to the day before May 9, 2016 which would be a residency since June 2005.

4.154. So which is which?

May 24, 2005 as the date she claims to have re-established her Philippine domicile?

Or is it April 2006 as she also claims relative to her 2012 senatorial COC reckoned up to the date of its filing in October 2012?

Or is it November 2006 which is the plain import of her sworn entry in her senatorial COC?

Or is it June 2005 which would be the reckoning date per her 2015 COC for President in the May 2016 elections?[276]

In fine, even if it be conceded that petitioner's evidence (i.e., TIN, acquisition of residential properties, enrollment of her children in Philippine schools), taken singly or collectively, somehow evinces her claimed intent to remain in the Philippines, the same cannot outweigh the evidence on record that her presence in the country as of May 24, 2005 was temporary in nature. "Evidence is assessed in terms of quality, not quantity. It is to be weighed, not counted. "[277]

At this point, I wish to make it abundantly clear that it is not my position that petitioner could not reestablish her domicile in the country prior to taking the oath of allegiance to the country. In retrospect, petitioner could have made her stay in the Philippines permanent in character beginning May 24, 2005 or thereabouts had she applied for an immigrant status as provided in Commonwealth Act No. 613 or The Philippine Immigration Act of 1940,

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as amended by RA 4376,[278] which allows a natural-born Filipino citizen (assuming that she is) who was naturalized abroad to return as a non-quota immigrant entitled to permanent residence. As correctly argued by respondent Contreras, "[t]he possession of a permanent resident visa is not an added element, but is simply evidence that sufficiently proves the presence of an act that would indicate the element of animus manendi that applies to foreign nationals who would like to make the Philippines as their new domicile of choice."[279] But for some reason petitioner did not apply for an immigrant status, and there is no indication that she was subsequently granted an immigrant visa, or a permanent resident status.

As a U.S. citizen, petitioner failed to perform an act necessary to show that as of May 24, 2005 she intended to permanently remain in the Philippines. Such intention may be inferred from her waiver of non-resident status by obtaining a permanent resident visa or an ACR or by taking an oath of allegiance to the Philippines, which petitioner neither availed of on or before May 24, 2005.

Nevertheless, while petitioner entered the Philippines on May 24, 2005 as a foreigner balikbayan with a limited period of stay, her status changed when she took her Oath of Allegiance to the Republic under RA 9225 on July 18, 2006. This conferred upon her not only Philippine citizenship but also the right to stay in the Philippines for an unlimited period of time. Section 5 of the said law provides:

> 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. xxx

Thus, it is from this date, July 18, 2006, that petitioner can rightfully claim that her physical presence in the Philippines was with animus manendi. Her becoming a Filipino, albeit still a dual citizen, on said date, allowed her to thenceforth stay permanently here.

However, it must be emphasized that petitioner's reacquisition of Philippine citizenship neither automatically resulted in the reestablishment of her Philippine domicile nor in the abandonment of her U.S. domicile. It is settled that RA 9225 treats citizenship independently of residence.[280] It does not provide for a mode of reestablishing domicile and has no effect on the legal residence of those availing of it. "This is only logical and consistent with the general intent of the law for dual citizenship. Since a natural-born Filipino may hold, at the same time, both Philippine and foreign citizenships, he[/she] may establish residence either in the Philippines or in the foreign country of which he[/she] is also a citizen."[281]

A case in point is Caballero v. Commission on Elections.[282] In that case, Rogelio Batin Caballero (Caballero) ran for Mayor of Uyugan, Batanes in the May 13, 2013 elections, His rival candidate, however, filed a petition to cancel his CoC on the ground of false representation as Caballero declared in his CoC that he was eligible to run for Mayor despite being a Canadian citizen and not a resident of Uyugan, Batanes for at least one year immediately before the elections. Caballero argued that Uyugan has always been his domicile because he was born and baptized there; that he studied, worked, and built his house in Uyugan; that he was a registered voter of said municipality and used to vote there; and, that he availed herself of RA 9225 on September 13, 2012 and renounced his Canadian citizenship on October 1, 2012.

In denying Caballero's petition, the Court En Banc speaking through Justice Diosdado P. Peralta and with no member dissenting, ruled that Caballero's reacquisition of Philippine citizenship under RA 9225 did not enable him to automatically regain his domicile in Uyugan. He must still prove that after reacquiring his Philippine citizenship, he had reestablished his domicile in Uyugan, Batanes for at least one year immediately preceding the May 13, 2013 elections. Thus:

> Petitioner was a natural-born Filipino who was born and raised in Uyugan, Batanes. Thus, it could be said that

> he had his domicile of origin in Uyugan, Batanes. However, he later worked in Canada and became a Canadian citizen. In Coquilla v. Comelec, we ruled that naturalization in a foreign country may result in an abandonment of domicile in the Philippines. This holds true in petitioner's case as permanent residence status in Canada is required for the acquisition of Canadian citizenship. Hence, petitioner had effectively abandoned his domicile in the Philippines and transferred his domicile of choice in Canada His frequent visits to Uyugan, Batanes during his vacation from work in Canada cannot be considered as waiver of such abandonment.
>
> The next question is what is the effect of petitioner's retention of his Philippine citizenship under RA No. 9225 on his residence or domicile?
>
> In Japzon v. Comelec, wherein respondent [Jaime S.] Ty reacquired his Philippine citizenship under RA. No. 9225 and [ran] for Mayor of General Macarthur, Eastern Samar and whose residency in the said place was put in issue, we had the occasion to state, thus:
> [Petitioner's] reacquisition of his Philippine citizenship under Republic Act No. 9225 had no automatic impact or effect on his residence/domicile. He could still retain his domicile in the USA, and he did not necessarily regain his domicile in the Municipality of General Macarthur, Eastern Samar, Philippines. Ty merely had the option to again establish his domicile in the Municipality of General Macarthur, Eastern Samar, Philippines, said place becoming his new domicile of choice. The length of his residence therein shall be determined from the time he made it his domicile of choice, and it shall not retroact to the time of his birth.

Hence, petitioner's retention of his Philippine citizenship under RA No. 9225 did not automatically make him regain his residence in Uyugan, Batanes. He must still prove that after becoming a Philippine citizen on September 13, 2012, he had reestablished Uyugan, Batanes as his new domicile of choice which is reckoned from the time he made it as such.

The COMELEC found that petitioner failed to present competent evidence to prove that he was able to reestablish his residence in Uyugan within a period of one year immediately preceding the May 13, 2013 elections. It found that it was only after reacquiring his Filipino citizenship by virtue of RA No. 9225 on September 13, 2012 that petitioner can rightfully claim that he reestablished his domicile in Uyugan, Batanes, if such was accompanied by physical presence thereat, coupled with an actual intent to re-establish his domicile there. However, the period from September 13, 2012 to May 12, 2013 was even less than the one year residency required by law.

x x x x

Records indeed showed that petitioner failed to prove that he had been a resident of Uyugan, Batanes for at least one year immediately preceding the day of elections as required under Section 39 of the Local Government Code.[283] (Underlining ours)

Contrary to petitioner's interpretation, we did not reckon the period of residency in Caballero from the time Caballero reacquired Philippine citizenship under RA 9225. We there held that since Caballero abandoned his Philippine domicile when he was naturalized abroad, he has to prove that he had reestablished his domicile in Uyugan. He likewise had to prove the date when he reestablished his domicile there for purposes of determining whether he met the one-year residency requirement. However, there being no other evidence showing his intent to reestablish his domicile in the Philippines and abandon his former domicile abroad, and since Caballero took his oath of allegiance under RA 9225 only on September 13, 2012 or less than one year prior to the May 13, 2013 elections, he could no longer possibly prove compliance with the one-year residency requirement.

Similarly, I find no sufficient evidence showing that petitioner intended to reestablish a new domicile in the Philippines prior to taking her Oath of Allegiance on July 7, 2006; as such petitioner still has to prove that after taking said oath she has reestablished the Philippines as her new domicile by demonstrating that her physical presence here is coupled with animus manendi and an undeniable and definite intention to abandon her old

domicile. However, since petitioner took her Oath of Allegiance in July 2006 and renounced her U.S. citizenship in October 2010, both events having occurred less than 10 years prior to the May 9, 2016 elections, the conclusion becomes inexorable that she could no longer possibly prove compliance with the 10-year residency requirement.

Petitioners evidence of animus non revertendi; earliest possible date that petitioners physical presence in the Philippines can be said to be coupled with animus non revertendi.

The element of intention to abandon an old domicile is as important as in the case of acquisition of new domicile.[284] Thus, if a person establishes a new dwelling place, but never abandons the intention of returning to the old dwelling place, the domicile remains at the old dwelling place.[285]

Upon this score, petitioner offered the following pieces of evidence:

- the affidavit of her adoptive mother attesting to the reasons which prompted petitioner to leave the U.S. and return permanently to the Philippines;

- the affidavit of Teodoro Misael Daniel V. Llamanzares, corroborating her adoptive mother's statement and narrating how he and petitioner were actively attending to the logistics of their permanent relocation to the Philippines;

- the documented communication between petitioner or her husband with the property movers regarding the relocation of their household goods, furniture, and cars from Virginia, U.S.A. to the Philippines;

- relocation of their household goods, furniture, cars and other personal property from Viginia, U.S.A. to the Philippines which were packed, collected for storage, and transported in February and April 2006;

- her husband's act of informing the U.S. Postal Service of the abandonment of their former U.S. address on March 2006;

- their act of selling their family home in the U.S. on April 27, 2006;

- her husband's resignation from his work in the U.S. in April 2006 and his return to the Philippines on May 4, 2006;

- Questionnaire - Information for Determining Possible Loss of U.S. Citizenship wherein petitioner indicated that she no longer considered herself a resident of the U.S. since May 2005 until the present.

At first blush, it would seem that petitioner's evidence did tend to prove her claimed intent to abandon her old domicile in the U.S. However, what prevents me from lending unqualified support to this posture is that all these pieces of evidence refer to dates after May 24, 2005. Such evidence could not, therefore, be of much help in establishing her claim that she changed domicile as of May 24, 2005.

Furthermore, petitioner's evidence cannot prove animus non revertendi prior to her renunciation of her U.S. citizenship on October 20, 2010. This is so because prior thereto, petitioner could return anytime to the U.S., stay there as its citizen and enjoy all the rights, privileges and protection the U.S. government extends to its nationals, including the right to a legal residence. In fact, from May 24, 2005 to October 20, 2010, petitioner did go back to the U.S. no less than five times: February 14, 2006, April 20, 2009, October 19, 2009, December 27, 2009 and March 27, 2010.[286] And when she went to the U.S. on those dates, she used her U.S. passport and stayed there not as an alien but as its citizen,. It should also be recalled that petitioner and her family still own and maintain two residential houses in the U.S. which they purchased in 1992 and in 2008, or two years after petitioner had taken her oath of allegiance to the Philippines. Hence the only clear and positive proof that petitioner abandoned

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her U.S. domicile was when she executed her Affidavit of Renunciation of Allegiance to the United States of America and Renunciation of American Citizenship[287] on October 20, 2010 because that was the point when she concretized and exteriorized her intention to abandon her U.S. domicile. It is this act that unequivocally and irremissibly sealed off any intent of her retaining her U.S. domicile. Prior to that, it cannot be said that she has complied with the third requirement.

This is not to say that I am adding a fourth requirement for relinquishing foreign citizenship as a condition to reestablishing domicile. My discussion is still premised on compliance with the third requirement of bona fide intent to abandon the former domicile. To be sure, petitioner could have established her animus non revertendi to the U.S. had she applied for a Philippine resident visa on May 24, 2005 or thereabouts, as earlier discussed. But since she did not, the only fact or circumstance that can be considered as indicative of her clear and positive act of abandoning U.S. domicile was when she renounced her U.S. citizenship. This conclusion is consistent with our ruling in the 2013 case of Reyes v. Commission on Elections[288] where this Court, speaking through Justice Jose P. Perez, said:

> As to the issue of residency, proceeding from the finding that petitioner has lost her natural-born status, we quote with approval the ruling of the COMELEC First Division that petitioner cannot be considered a resident of Marinduque:
> "Thus, a Filipino citizen who becomes naturalized elsewhere effectively abandons his domicile of origin. Upon re-acquisition of Filipino citizenship pursuant to RA 9225, he must still show that he chose to establish his domicile in the Philippines through positive acts, and the period of his residency shall be counted from the time he made it his domicile of choice.
>
> In this case, there is no showing whatsoever that [petitioner] had already re-acquired her Filipino citizenship pursuant to RA 9225 so as to conclude that she has regained her domicile in the Philippines. There being no proof that [petitioner] had re119unced her American citizenship, it follows that she has not abandoned her domicile of choice in the USA.
>
> The only proof presented by [petitioner] to show that she has met the one-year residency requirement of the law and never abandoned her domicile of origin in Boac, Marinduque is her claim that she served as Provincial Administrator of the province from January 18, 2011 to July 13, 2011. But such fact alone is not sufficient to prove her one-year residency. For, [petitioner] has never regained her domicile in Marindugue as she remains to be an American citizen. No amount of her stay in the said locality can substitute the fact that she has not abandoned her domicile of choice in the USA."[289] (Underlining ours)

Against this backdrop, petitioner's evidence relative to animus non revertendi becomes irrelevant for such evidence does not at all prove that she had in fact abandoned her U.S. domicile on May 24, 2005. Nonetheless, I still tried to evaluate the pieces of evidence that petitioner had submitted. However, I still find them wanting and insufficient.

As part of the evidence to prove her intent to abandon her old domicile, petitioner puts forward her husband's act of informing the U.S. Postal Service in March 2006 of the abandonment of their former U.S. address. I carefully studied the copy of the online acknowledgement from the U.S. Postal Service regarding this[290] and deduced therefrom that what petitioner's husband did was actually to request the U.S. Postal Service for a change of address and not to notify it of their abandonment of their U.S. address per se. At any rate, there was no showing that the change of address was from their old U.S. address to their new Philippine address. And, again, it must be mentioned that this was done only in March 2006.

Likewise submitted to prove animus non revertendi was the series of electronic correspondence between petitioner/her husband on one hand, and the Victory Van Corporation (Victory)/National Veterinary Quarantine

Service of the Bureau of Animal Industry of the Philippines, on the other, regarding the logistics for the transport of their personal properties and pet dog, respectively, from the U.S. to the Philippines. The first in the series of electronic mails (e-mails) from Victory was dated March 18, 2005.[291] Apparently, the communication was a reply to petitioner's inquiry about the rates for the packing, loading and transport of their household goods and two vehicles to Manila. Petitioner's animus non revertendi to the U.S. at least as of date of the said e-mail (March 18, 2005) cannot, however, be deduced from her mere act of making such inquiry. It must be stressed that the intent to abandon an old domicile must be established by clear and positive proof[292] While making such an inquiry may be construed as the initial step to the actual transport or transportation of the goods, that by itself, is short of the clear and positive proof required to establish animus non revertendi. At the most, all that can be inferred from the said e-mail is petitioner's mere "interest" at that point but not yet the "intent" or the resolve to have her family's personal properties shipped to the Philippines for purposes of relocation. It is true that petitioner's inquiry led to negotiations between her and/or her husband and Victory until the goods and effects were finally transported to the Philippines starting February 2006 as shown by the succeeding exchange of communication; however, these negotiations, based on the other e-mails submitted, did not start immediately after March 18, 2005 or on or before May 24, 2005. The negotiations only actually started the following year, or in January 2006, months after May 24, 2005. The same is true with respect to the e-mail relative to the transport of their pet dog which bears the date August 3, 2005.

Notably, even petitioner did not reckon this date, March 18, 2005, as the starting point of her animus non revertendi. Hence, it could be said that even petitioner herself could not categorically state that by March 18, 2005, she already had the intention to abandon her U.S. domicile.

Petitioners conduct tending to show animus manendi and animus non revertendi cannot be taken as part of an incremental process of/for changing domicile.

Petitioner invokes the cases of Mitra and of Sabili where this Court held that relocation to a new domicile is basically an incremental process. Thus, petitioner's counsel maintained during the oral arguments that their evidence consisted of documents that were executed, events that took place, and acts done, after May 24, 2005 precisely because they all form part of a process which began on May 24, 2005 and continued to be in progress thereafter.

Petitioner's case is nowhere nearly congruent to Mitra and Sabili because in those cases, the evidence of therein petitioners were plainly viewed by the Court as positive acts that formed part of the incremental process of changing domicile. That same perspective cannot, however, be applied to petitioner's case because, unlike in Mitra and Sabili, her change of domicile, as previously discussed, was inevitably and inextricably intertwined with her citizenship. It bears reiterating that as a naturalized U.S. citizen, petitioner is duty-bound to comply with our immigration laws before her stay in this country could be considered for purposes of the elections. Just because she thought of permanently staying in the Philippines does not mean that upon setting foot on this country she has instantly reestablished domicile here. As an alien wanting to reestablish a domicile here, petitioner must first reacquire Philippine citizenship (or at least ought to have secured a permanent resident visa) before the totality of her acts or actions tending to show animus manendi can be regarded part of an incremental process of establishing domicile. The same is true with respect to animus non revertendi: she must have first renounced her U.S. citizenship (or applied for a Philippine immigrant visa).

The records also show that petitioner has not only procrastinated in renouncing her U.S. citizenship; in fact she also did it unwittingly. It should be recalled that the President appointed her Chairperson of the MTRCB on

October 6, 2010. At that time, petitioner was still a dual citizen owing allegiance both to the Philippines and to the U.S. Hence she could not accept the said appointment without renouncing her U.S. citizenship first, conformably with Section 5(3) of RA 9225, which reads:

> 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:
> x x x x
>
> (3) Those appointed to any public office shall subscribe and swear to an oath of allegiance to the Republic of the Philippines and its duly constituted authorities prior to their assumption of office: Provided, That they renounce their oath of allegiance to the country where they took that oath.

When petitioner thus executed her Affidavit of Renunciation of Allegiance on October 20, 2010, there could be no two opinions about the fact that her primary purpose was to meet the requirement for her appointment as MTRCB Chairperson. This is buttressed by the fact that she assumed office the following day and by the answers she wrote in the Questionnaire/Information for Determining Possible Loss of U.S. Citizenship that she submitted with the Bureau of Consular Affairs of the U.S. Department of State. There she explicitly stated that she was relinquishing her U.S. citizenship because she was appointed Chairperson of the MTRCB and she wanted to comply with both U.S. and Philippine laws. Even then, it bears notice that in that document she made no categorical declaration at all that she was relinquishing her U.S. citizenship to transfer domicile here. In other words, petitioner did not renounce her U.S. citizenship upon her own volition with the deliberate intent or intention of reestablishing legal residence here. It only incidentally arose as an inevitable consequence of her having to comply with the requirements of Section 5(3) of RA 9225. Be that as it may, I consider her act of renouncing her foreign allegiance on October 20, 2010 as amounting to sufficient compliance with the third requirement in reestablishing domicile for it carried with it a waiver of her right to permanently reside in the U.S. Regrettably, this date does not jibe with what petitioner declared in her 2015 CoC for President.

Stronger proof is required in reestablishment of national domicile.

Petitioner protests that in Perez v. Commission on Elections[293] and Jalover v. Osmeña[294] the candidates were deemed to have transferred their domiciles based on significantly less evidence compared to what she has presented.

But there is a marked distinction between the present case and the cases cited. Perez and Jalover involved transfer of domicile within the same province or within the confines of our country. In Perez, a petition to disqualify Rodolfo E. Aguinaldo (Aguinaldo) as candidate for Congressman of the third district of Cagayan in the May 11, 1998 elections was filed on the ground that he, allegedly, is a resident of Gattaran which is in the first (not third) district of Cagayan. What was in question was Aguinaldo's residence in the third district of Cagayan, his residency in said province having been established beyond doubt. Jalover, on the other hand, emanated from a petition to deny due course and/or to cancel John Henry R. Osmeña's (Osmeña) CoC for Mayor of Toledo City on the ground that he made a false declaration in his CoC when he stated that he had been a resident of said city for 15 years prior to the May 13, 2013 elections. Notably, Osmeña previously served as Congressman of the third district of Cebu which includes Toledo City.

The present case, however, involves a personality who formerly abandoned the Philippines as her domicile, and renounced her Philippine citizenship by becoming a naturalized U.S. citizen. Thus, what is involved here is a transfer of domicile from one country to another by a naturalized U.S. citizen. Petitioner now tries to convince this Court that she had abandoned her U.S. domicile and had successfully reestablished her new domicile of

choice in this country. To stress, this case involves relocation by an alien of the national domicile from the U.S. to the Philippines, which requires much stronger proof, both as to fact and intent, than in the case of a change of domicile from one municipality, or subordinate subdivision of a country, to another, by a Filipino citizen who never renounced such citizenship.[295] "[I]t requires stronger and more conclusive evidence to justify the court in deciding that a man has acquired a new domicile in a foreign country, than would suffice to warrant the conclusion that he has acquired a new domicile in a country where he is not a foreigner."[296] In Perez and Jalover, for instance, it was no longer necessary for this Court to determine whether the candidates had the legal right to permanently reside in their chosen domicile because, being Filipinos, they can reside anywhere in the Philippines. In the case of the herein petitioner, however, it is not only the length of her stay in the Philippines that must be determined, but also the legality and nature thereof for, as heretofore discussed, the period of her physical presence here, as an alien, should not be included in the computation of the length of her residency as the same was temporary in character or not permitted by our immigration laws. Also, while citizenship and residency are different from and independent of each other, one may invariably affect the other. For instance, petitioner had to abandon her Philippine domicile when she applied for U.S. naturalization in 2001. Corollarily, she cannot reestablish domicile here unless she first reacquires her Philippine citizenship (or enter the Philippines as an immigrant). Thus, unlike in Perez and Jalover, the petitioner in this case has the added burden of proving, among others, the character and legitimacy of her presence here since she earlier abandoned her Filipino citizenship and Philippine domicile to become a U.S. citizen and its domiciliary.

Another important reason for the distinction is that demanded by the purpose of the residency requirement of election laws. Those living in the same province albeit in another district as in Perez and Jalover, can still maintain familiarity with the conditions and needs of nearby communities. They and the people there are exposed to the same environment, speak the same language, are similarly affected by the growth or fluctuation of local economy, and must brave and suffer the same natural calamities. These are beyond the immediate and direct senses and perceptions of foreigners or aliens living abroad.

Likewise misplaced is petitioner's reliance on the cases of Japzon and Rommel Apolinario Jalosjos v. Commission on Elections,[297] considering that said cases are not on all fours with her case. In said cases, the candidates who were charged with making false material representation in their CoC took their oath of allegiance more than one year before the elections, thereby making it possible for them to prove compliance with the one-year residency requirement of the Local Government Code. Thus, in Japzon, Jaime S. Ty reacquired his Philippine citizenship under RA 9225 on October 2, 2005 and ran for Mayor of General Macarthur, Eastern Samar in the May 14, 2007 election. While Rommel Apolinario Jalosjos reacquired his Philippine citizenship under RA 9225 on November 26, 2008, or four days after arrival in the Philippines, and ran for Governor of Zamboanga Sibugay in the May 10, 2010 elections.

In the case of petitioner, however, she took her oath of allegiance only on July 7, 2006. Therefore, she could not possibly prove that she has been residing in the Philippines for at least 10 years immediately preceding the May 9, 2016 elections. July 7, 2006 to May 9, 2016 is about two months short of 10 years.

Under these circumstances, the entry in petitioner's 2015 CoC for President that her period of residency in the Philippines as of May 9, 2016 is 10 years and 11 months is, false, as indeed it is.

C. Petitioners deliberate
attempt to deceive, mislead,
misinform, or hide a fact which
would otherwise render her
ineligible to run for the

position of President

It was pointed out to petitioner as early as June 2015 that the period of residence she entered in her 2012 CoC was six years and six months before May 13, 2013. Notwithstanding that her attention was called to such fact, petitioner never bothered to correct her 2012 CoC. Instead, she filed her 2015 CoC for President declaring therein a period of residency that is markedly different from and does not jibe with what she declared under oath in her 2012 CoC.

Petitioner then proceeded to make the point that the declaration about her period of residence in her 2015 CoC is correct. Explaining the discrepancy between her 2012 and 2015 CoCs, she asserts that her entry of six years and six months in her 2012 CoC was the result of an honest mistake. She claims that she accomplished her 2012 CoC without the assistance of counsel and that she did not know that what was required by the phrase "Period of Residence in the Philippines before May 13, 2013" is the period of her residence on the day right before the May 13, 2013 elections; that instead, she interpreted it to mean as her period of residence in the Philippines as of her filing of the 2012 CoC on October 2, 2012, which technically is also a period "before May 13, 2013." To convince the Court that the aforementioned phrase is susceptible of causing confusion, petitioner calls attention to the fact that the Comelec, after apparently realizing the same, had revised the CoC forms for the May 9, 2016 elections. The amended phrase which can now be found under Item No. 7 of the latest CoC form reads as follows:

> PERIOD OF RESIDENCE IN THE PHILIPPINES UP TO THE DAY BEFORE MAY 09, 2016:

I am not persuaded.

The import of the phrase "Period of Residence in the Philippines before May 13, 2013" as found in petitioner's 2012 CoC is too plain to be mistaken and too categorical to be misinterpreted. As can be observed, a fixed date was given as a reference point, i.e., May 13, 4013. Indeed, even an average person would be able to tell that what comes before May 13, 2013 is May 12, 2013. From a plain reading of the said phrase, therefore, it can readily be discerned or understood that what was being required by Item No. 11 is a candidate's period of residence in the Philippines until May 12, 2013.

To argue that any period which is not until May 12, 2013 but prior to May 13, 2013 is technically still a period "before May 13, 2013" is like clutching at straws. To an astute political aspirant like petitioner, filing a CoC necessarily presupposes knowledge on her part of the qualifications required by the office where she seeks to be elected. After all, it is presumed that a person takes ordinary care of his or her concerns.[298] For a senatorial candidate, the required qualifications are found under Section 3, Article VI of the Constitution which provides, viz.:

> Section 3. No person shall be a Senator unless he is a natural-born citizen of the Philippines, and, on the day of the election, is at least thirty-five years of age, able to read and write, a registered voter, and a resident of the Philippines for not less than two years immediately preceding the day of the election. (Emphasis supplied)

Thus, read in the light of the other material entries required in the 2012 CoC for Senator such as Age (Item No. 14), the fact of being a Natural-born Filipino Citizen (Item No. 8) and, of being a Registered Voter (Item No. 19), it is obvious that what the fo1m was trying to elicit were a senatorial candidate's qualifications in accordance with the above-quoted constitutional provision. And assuming that the phrase "Period of Residence in the Philippines before May 13, 2013" is indeed susceptible of causing confusion as to until what period before May 13, 2013 was being asked, such confusion can easily be dispelled by a quick reference to the constitutional provision which states in no uncertain terms that a Senator must be a resident of the Philippines for not less than two years immediately preceding the day of the election. Under this premise, the only logical interpretation that should have been available to petitioner at the time she was filling out her 2012 CoC is that what was required by Item No. 11

- the period of her residence in the Philippines as of the day immediately preceding May 13, 2013, which is May 12, 2013.

Totally unacceptable is the assertion that the change in the wording of the item respecting the period of residence as found in the latest CoC form is an acknowledgment by the Comelec that the previous version is indeed unclear. The change is a mere semantic exercise devoid of any serious significance.

Petitioner's personal circumstances and those surrounding the filing of her 2012 CoC provide little solace to her claim of honest mistake. As petitioner alleges, she pursued a college degree in Development Studies in one of the country's premiere universities - the University of the Philippines in Manila. In 1988, she went to Boston College in the U.S. where, as can reasonably be expected, she learned concepts on politics after graduating with a degree of Bachelor of Arts in Political Studies. When she filed her 2012 CoC, she was not technically a neophyte in the Philippine political arena, she having been on her adoptive father's side during the campaign for his presidential bid in 2004. At that time, she was, for two years, at the helm of MTRCB where her duties impacted not only media and entertainment culture but also society at large. Being the educated woman that she is, coupled by her brief but memorable stint in politics and relevant government experience, I find it hard to believe that she misinterpreted the clear and simple import of the phrase "Period of Residence in the Philippines before May 13, 2013" as pertaining to her period of residence in the Philippines as of the submission of her 2012 CoC on October 2, 2012. To repeat, the phrase is too plain to be mistaken and too categorical to be misinterpreted, more especially by one of her educational and professional stature.

That petitioner was not assisted by counsel when she accomplished her 2012 CoC is of no moment. For one, the plain and simple language used in the subject CoC form does not require a legal mind to be understood. For another, it was not as if petitioner had no choice but to accomplish the subject CoC without the assistance of counsel. Her own allegations revealed that she accomplished her 2012 CoC on September 27, 2012 and that she only filed the same five days thereafter or on October 2, 2012.[299] This shows that petitioner had.had ample time not only to reflect on the declarations she made in her 2012 CoC, but also to consult a lawyer regarding the entries that she provided therein should there be matters which were indeed unclear to her. After all, she is not expected to have simply taken the filling out of her CoC lightly since aside from its being a sworn document, a CoC is in the nature of a formal manifestation to the whole world of the candidate's political creed or lack thereof.[300] It is a statement by a person seeking to run for a public office certifying that he/she announces his/her candidacy for the office mentioned and that he/she is eligible for that office.[301] Indeed, a valid CoC, much like the sacred ballot that a voter casts in a free and honest elections is the bedrock of the electoral process. Its execution or accomplishment cannot be taken lightly, because it mirrors the character and integrity of the candidate who executes or accomplishes it - that candidate's uncompromising fidelity to truth and rectitude. Yes, indeed, especially if that candidate is aspiring to be elected to the highest office in the land: the Presidency, from whom only the best and finest attributes of the truly Filipino character, intellect, patriotism, allegiance and loyalty are sought after and expected. Verily, this explains why the law provides for grounds for the cancellation and denial of due course to CoC.[302] Here it appears, however, petitioner's actions evinced unusual regrettable tendency to becloud plain and simple truth concerning such commonplace things as the real time-stretch of her residence in this country. Petitioner chose not to secure a resident visa. She therefore knew that prior to her taking her oath of allegiance to the Republic and her abandoning her U.S. domicile, her stay here was merely temporary. This presumed knowledge is imposed upon every individual by Article 3 of the Civil Code which states that "[i]gnorance of the law excuses no one from compliance therewith."

Notably, when one runs for an elective public office, it is imperative to first know the qualifications required of the office and then to assess whether such qualifications have been met. Hence, petitioner is reasonably expected

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to know the requirements of the office she is running for, and to determine whether she satisfactorily meets those requirements. One cannot just aspire to occupy a position without making some self-examination whether he/she is qualified. In petitioner's case, precisely because her adoptive father's qualifications were then under question when he ran for President in 2004, then there is more reason for petitioner to carefully evaluate and assess her eligibility and qualifications so that she would not be trapped into the same quagmire her adoptive father fell into.

Petitioner invokes the case of Marcos. There, petitioner Imelda, in her CoC for Representative of the First District of Leyte for the May 8, 1995 elections, initially answered "seven" months on the space requiring information on her "residence in the constituency where she seeks to be elected immediately preceding the election." A couple of weeks after her filing of the said CoC and also following the initiation by her then would-be opponent Cirilo Roy Montejo (Montejo) of a Petition for Cancellation and Disqualification before the Comelec, Imelda sought to correct the said entry by changing it from "seven" to "since childhood" through an Amended/Corrected CoC. During the proceedings relative to the said petition, Imelda averred that the entry of the word "seven" in her original CoC was the result of an "honest misinterpretation" which she sought to rectify by adding the words "since childhood" in her Amended/Corrected CoC. Although debunked by the Comelec, Imelda's claim of honest representation was upheld when the case eventually reached the Court.

To be sure, petitioner cannot rely on Marcos to support her claim of honest mistake. There, what prompted Imelda to jot down the questioned entry in her CoC was the confusion caused by the attendant circumstances, viz.:

> [W]hen herein petitioner announced that she would be registering in Tacloban City to make her eligible to run in the First District, private respondent Montejo opposed the same, claiming that petitioner was a resident of Tolosa, not Tacloban City. Petitioner then registered in her place of actual residence in the First District which was Tolosa, Leyte, a fact which she subsequently noted down in her Certificate of Candidacy. A close look at said certificate would reveal the possible source of the confusion: the entry for residence (Item No. 7) is followed immediately by the entry for residence in the constituency where a candidate seeks election thus:
>
> - RESIDENCE (complete Address): Brgy. Olot, Tolosa, Leyte
>
> POST OFFICE ADDRESS FOR ELECTION PURPOSES: Brgy. Olot, Tolosa, Leyte
>
> - RESIDENCE IN THE CONSTITUENCY WHERE I SEEK TO BE ELECTED IMMEDIATELY PRECEDING THE ELECTION: _____ Years and Seven Months
>
> Having been forced by private respondent [Montejo] to register in her place of actual residence in Leyte instead of petitioner's claimed domicile, it appears that petitioner had jotted down her period of stay in her actual residence in a space which required her period of stay in her legal residence or domicile. The juxtaposition of entries in Item 7 and Item 8 - the first requiring actual residence and the second requiring domicile - coupled with the circumstances surrounding petitioner's registration as a voter in Tolosa obviously led to her writing down an unintended entry for which she could be disqualified.[303]

It was under the said factual milieu that this Court held that Imelda committed an honest mistake when she entered the word "seven" in the space for residence in the constituency where she seeks to be elected immediately preceding the election. In the case of petitioner, no analogous circumstance exists as to justify giving similar credit to her defense of honest mistake. No seemingly related item was juxtaposed to Item No. 11 of the 2012 COC as to cause confusion to petitioner. And as earlier discussed, Item No. 11 is clear and simple as to its meaning and import. More important, the question raised in Marcos was Imelda's lack of eligibility to run because she failed to comply with residency requirement. In contrast, the question raised in petitioner's case is her false material representations in the entries she made in her 2015 CoC. We also hasten to add that as correctly discerned by respondent Contreras:

> And unlike the petitioner in Romualdez Marcos whose false entry in her COC would disqw:llify her even as the correct period satisfies the requirement by law and would therefore render her qualified to become a member of the House of Representatives, the false entry in herein petitioner's COC would allow her to be qualified even as the true period of legal residence is deficient according to law and would render her unqualified for the position of President.[304]

It is in this context that l cannot accept petitioner's claim of honest mistake.

True, petitioner did try to correct her alleged mistakes through her public statements. But since her defense of honest mistake is now debunked, this becomes irrelevant. Besides, I cannot help but conclude that these public statements were for the purpose of representing to the general public that petitioner is eligible to run for President since they were made at a time when she was already contemplating on running for the position. They were not made at the earliest opportunity before the proper forum. These statements could even be interpreted as part of petitioner's continuing misrepresentation regarding her qualification and eligibility to run as President.

Based on the foregoing, it is my conclusion that petitioner knowingly made a false material representation in her 2015 CoC sufficient to mislead the electorate into believing that she is eligible and qualified to become a President.

No grave abuse of discretion on the part of the Comelec in denying due course to and/or cancelling petitioners 2015 CoC based on petitioner's material misrepresentation as to her period of residence in the Philippines.

In sum, I find that the Comelec committed no grave abuse of discretion, amounting to lack or excess of jurisdiction, in taking cognizance of the petitions and in denying due course to and cancelling petitioner's 2015 CoC. To my mind, it properly exercised its power to determine whether a candidate's CoC contains false material representation; its resolution was anchored on settled jurisprudence and fair appreciation of facts; and it accorded the parties ample opportunity to be heard and to present evidence. Conversely stated, it is my opinion that the Comelec did not usurp the jurisdiction of the SET, or the PET, or the DOJ or any other tribunal; it did not disregard or contravene settled jurisprudence; and it did not violate the parties' right to due process. Thus, I find that petitioner miserably failed to hurdle the bar set by this Court in Sabili, that is, to prove that the Comelec was so grossly unreasonable in its appreciation and evaluation of evidence as to amount to an error of jurisdiction. Petitioner miserably fell short of portraying that the Comelec had whimsically, arbitrarily, capriciously and despotically exercised its judgment as to amount to grave abuse of discretion.

Citizenship

Considering the conclusion I have reached relative to petitioner's material misrepresentation regarding her period of residence in the Philippines, and considering further that based even only thereon, her 2015 CoC should be cancelled and denied due course, I deem it wise and prudent to withhold passing judgment at this time regarding petitioner's citizenship. Indeed, it is tempting to seize this opportunity to sit in judgment on the issue of citizenship, which has generated so much attention, invited heated and vigorous discussion, and evoked heightened emotions; not only that, the issue at hand is novel and of first impression, However, a loftier interest dictates that we take pause and exhaust all possible avenues and opportunities to study the issue more dispassionately. After all, any judgment at this time upon this issue might directly impact on GR. No. 221538 (Rizalito Y. David v. Senate Electoral Tribunal), which is a Quo Warranto case seeking the removal of petitioner as a Senator of the Philippines wherein her natural-born citizenship status is directly assailed.

I believe that the resolution of the issue on petitioner's citizenship must be carefully studied and deliberated upon.

I venture to say that we may not only be dealing with foundlings per se. Any hasty or ill-considered ruling on this issue could open the floodgates to abuse by certain groups and individuals looking only after their own interest to the prejudice and undoing of our motherland. Non-Filipinos might use the ruling to advance their vested interests by simply posing as foundlings so that they would be presumed or cloaked with natural-born citizenship. They could use this as an avenue to obtain Filipino citizenship or natural-born status which they could not ordinarily gain through ordinary naturalization proceedings. I am not pretending to be a doomsayer, far from it, but I prefer to tread carefully. After all, it is no less than the supremely precious interest of our country that we wish both to defend and to protect. Our country must not only be defended and protected against outside invasion, it must also be secured and safeguarded from any internal threat against its sovereignty and security. I do not want to wake up someday and see my beloved country teeming with foreigners and aliens posing as natural-born Filipinos while the real natives are thrown into oblivion or relegated second or third class citizens who have become strangers in their own homeland. My objective is only to secure, protect and defend the Philippines from being ruled by non-Filipinos. This Court should stand firm on its own bearing and not allow itself to be swept by the tides of sentimentality and emotion. 'The Filipino people expect no less from us but to carefully, deliberately, objectively and dispassionately resolve the issue with national interest utmost in our heart and mind.

But there is more. For no less consequential is the Doctrine of Constitutional Avoidance, under which this Court may choose to ignore or side-step a constitutional question if there is some other ground upon which the case can be disposed of.[305] Such is the situation in this case.

It is not improbable, of course, that petitioner was born to Filipino parents; yet the fact remains that their identities are unknown. In short, petitioner's citizenship is uncertain. Thus, I feel that we should not overlook altogether her much publicized efforts to obtain deoxytibonucleic acid (DNA) evidence to prove her genealogy. She could use this breather to gather such evidence. Petitioner surely has biological parents. It is indeed surprising that these parents, or any close relatives, have not come forward to claim their ties to someone so highly respected and so well recognized as one of the worthy leaders of the country. While it defies human nature to resist the natural impulse to claim one's own child, the sad reality is that there are still many parents who abandon their child, depriving said child not only of parental love and care, but also identity and pedigree. Every opportunity should thus be given to the innocent child to trace his/her parentage and determine compliance with the Constitution. This opportunity and this privilege should not be time-bound, and should be afforded to every foundling at any stage of his/her life. Thus, even if the Court rules on her citizenship now, that ruling can be changed or altered any time when there is certainty or definiteness about her biological lineage because there is generally no res judicata in matters of citizenship. As the Court has declared in Moy Ya Lim Yao v. Commissioner of Immigration.[306] whenever the citizenship of a person is material or indispensable in a judicial or administrative case, the ruling therein as to the person's citizenship is generally not considered as res judicata. Thus, it may be threshed out again and again as the occasion demands,[307] stock being taken of the fact that the requisites enumerated in In re Petition for Naturalization of Zita Ngo Burca v. Republic,[308] reiterated in Go, Sr. v. Ramos,[309] are all present.

According unto petitioner ample opportunity to trace her genealogy is also better than a) creating a presumption that she is a natural-born citizen or fashioning a new specie/category of citizenship based on statistical probabilities; or b) denying her claim of citizenship outright. Aliens with known parents may just take advantage of such presumption by representing themselves as foundlings if only to be entitled to purchase real property, engage in nationalized business, or even run for public office where a natural-born status is required. On the other hand, we might unwittingly deny petitioner her rightful citizenship which she could very well establish via the exertion or employment of more deliberate, vigorous, and sustained efforts.

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Indeed, it is imperative for the Court to carefully tread on the issue of citizenship. As petitioner postulates in her Petitions, "[w]hat is at stake in this case is not only a foundling's right to run for high public offices, but the enjoyment of a host of even seemingly ordinary rights or positions which our laws reserve only for natural-born citizens."[310] After all, the issue of citizenship impacts not solely on petitioner but also on those similarly situated like her; it also involves the sovereignty and security of our country. We must not lose sight of the fact that the citizens of the country are the living soul and spirit of the nation, and the very reason and justification for its existence and its preservation. Our rights, prerogatives and privileges as Filipino citizens are the bedrock of our Constitution.

In ending, I wish to reiterate the very precept and principle that is at once the capstone and the polestar that had guided the undersigned in drafting his opinion in this landmark case: this statement from the December 1, 2015 Resolution of the Comelec's Second Division in SPA No. 15-001 (DC): "A person who aspires to occupy the highest position in the land must obey the highest law of the land."

This is as it should be.

For the foregoing reasons, I vote to DISMISS the petitions.

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[1] See December 1, 2015 Resolution of the Comelec's Second Division in SPA No. 15-001 (DC); rollo (G.R. No. 221697), Vol. I, p. 222.

[2] CONSTITUTION, Article XVIII, Section 5.

[3] CONSTITUTION, Article VII, Section 12.

[4] CONSTITUTION, Article VII, Section 18.

[5] CONSTITUTION, Article VII, Section 19.

[6] CONSTITUTION, Article VII, Section19.

[7] Rollo (GR. No. 221697), Vol. I, pp. 3-189,

[8] Id. at 190-223; signed by Presiding Commissioner Al A. Parreño and Commissioners Arthur D. Lim and Sheriff M. Ahas.

[9] Id. at 224-259; signed by Chairman J. Andres D. Bautista (with Separate Concurring and Dissenting Opinion), Commissioner Christian Robert S. Lim (inhibited), Commissioner Al A. Parreño (concurred in the result but maintained that there is no material misrepresentation as to citizenship), Commissioner Luie Tito F. Guia (with Separate Opinion), Commissioner Arthur D. Lim, Commissioner Ma. Rowena Amelia V. Guanzon (concurred in the result), and Commissioner Sheriff M. Abas.

[10] Rollo (GR. Nos. 221698-700), Vol. I, pp. 3-213.

[11] Id. at 214-264; signed by Presiding Commissioner Christian Robert S. Lim (with Dissenting Opinion), Commissioner Luie Tito F. Gi1ia (with Separate Concurring Opinion), and Commissioner Ma. Rowena Amelia V Guanzon.

[12] Id. at 352-381, signed by Chairman J. Andres D. Bautista (with Separate Concurring and Dissenting Opinion), Commissioner Christian Robe1t S. Lim (dissented), Commissioner Al A. Paireño (concurred with the result but maintained that there is no material misrepresentation as to citizenship), Commissioner Luie Tito F. Guia (with Separate Opinion), Commissioner Arthur O. Lim (opined that the earliest reckoning date as to

residency should be July 2006, still short of the 10-year residency requirement), Commissioner Ma. Rowena Amelia V. Guanzon and Commissioner Sheriff M. Abas (joined the opinion of Commissioner Arthur D. Lim that the earliest possible reckoning period for residency is July 2006).

[13] See Foundling Certificate, rollo (GR. Nos. 221698-700), Vol. II, p. 1138.

[14] Rollo (G.R. No. 221697), Vol. I, p. 16.

[15] Id. at 17.

[16] ld. at22.

[17] AN ACT MAKING THE CITIZENSHIP OF PHILIPPINE CITIZENS WHO ACQUIRED FOREIGN CITIZENSHIP PERMANENT AMENDING FOR THE PURPOSE COMMONWEALTH ACT NO. 63, AS AMENDED AND FOR OTHER PURPOSES OR THE CITIZENSHIP RETENTION AND REACQUISITION ACT OF 2003.

[18] Rollo (G.R. Nos. 221698-700), Vol. II, p. 1269.

[19] Id. at 1279.

[20] Id. at 1280-1302.

[21] Id. at 1305.

[22] Id. at 1308.

[23] Id. at 1309.

[24] Id. at 1315.

[25] Id. at 13 16.

[26] Rollo (GR. No. 221697), Vol. I, pp. 326-397.

[27] Id. at 340.

[28] Id. at 34 I.

[29] Id. at 344.

[30] Id. at 339.

[31] Id.

[32] Id. at 346.

[33] Id. at 342.

[34] Id. at 347.

[35] Id. at 348, 350.

[36] Id. at 354.

[37] Id.

[38] Id.

[39] Id.

[40] Id. at 359.

[41] Id. at 363.

[42] Id. at 364.

[43] Id. at 365.

[44] Id. at 366.

[45] Id. at 368.

[46] Id. at 370.

[47] Id. at 372.

[48] GR. No. 195649, April 16, 2013, 696 SCRA 420.

[49] GR. No. 210164, August 18, 2015.

[50] Rollo (GR. No. 221697), Vol. I, p. 379.

[51] Id. at 384,

[52] Id.

[53] Id.

[54] Id. at 385.

[55] Id. at 386.

[56] Id. at 387.

[57] Id. at 388.

[58] Id.

[59] Id.

[60] Id. at 389.

[61] Rollo (GR. Nos. 221698-700), Vol. I, pp. 397-399.

[62] Id. at 408.

[63] Id. at 412.

[64] Id. at 412-413.

[65] Id. at 413.

[66] Id. at 415.

[67] Id.

[68] Id. at 417.

[69] Id.

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[70] Id.

[71] Rollo (G.R. Nos. 221698-700), Vol. II, pp. 783-796.

[72] Id. at 784.

[73] Id. at 785.

[74] Id. at 785-786, 789.

[75] Id. at 786.

[76] Id. at 791.

[77] Id.

[78] Id. at 882-923.

[79] Id. at 884.

[80] Id. at 897-898.

[81] Id. at 898.

[82] Id. at 913.

[83] Id. at 891.

[84] Id. at 914.

[85] Id. at 903-904.

[86] Id. at 904.

[87] Id. at 910.

[88] Id.at915.

[89] Id. at 915-916.

[90] Id. at 917.

[91] Rollo (GR. No. 221697), Vol. II, p. 528.

[92] Id. at 529.

[93] 128 Phil. 815 (1967).

[94] Rollo (G.R. No. 221697), Vol. II, pp. 533-534.

[95] Id. at 552.

[96] Id. at 554.

[97] Id. at 558.

[98] Id. at 561-567.

[99] Id. at 572.

[100] Id. at 573.

[101] Id. at 577-580.

[102] Id. at 594.

[103] Id. at 592.

[104] Id. at606.

[105] Id. at 607.

[106] Id. at 535.

[107] Id. at 607, 611.

[108] Id. at 622.

[109] Id. at 623, 627.

[110] Id. at 627-631.

[111] Id. at 636.

[112] Id. at 645.

[113] Id. at 637.

[114] Id. at 642.

[115] Id. at 642-645.

[116] Id. at 645, 647.

[117] Id. at 648.

[118] Id.

[119] Id. at 649.

[120] Id. at 650.

[121] Id.

[122] Id. at 65 J.

[123] Id. at 657.

[124] Id. at 658.

[125] Id. at 659.

[126] Id. at 660.

[127] Rollo (GR. Nos. 221698-700), Vol. II, pp. 613-782.

[128] Batas Pambansa Blg. 881 (1985).

[129] Rollo (GR. Nos. 221698-700), Vol. H, p. 640.

[130] Id.

[131] Id. at 645.

[132] Id. at 646.

[133] Id. at 1044-1102.

[134] Id. at 1062.

[135] Id. at 1080.

[136] Id.

[137] Id. at I 088.

[138] Id. at 1055.

[139] Id. at 823-871.

[140] Id. at 835.

[141] Id. at 857, 860.

[142] Rollo (GR. No. 221697), Vol. I, pp. 190-223.

[143] Id. at 204-206.

[144] Id. at 207-211.

[145] Id. at21 l-212.

[146] ld.at213.

[147] Id. at 214·216.

[148] Id. at216-219.

[149] Id. at219-221.

[150] Id. at219-223.

[151] Rollo (GR. No. 221697), Vol. III, pp. 1945-1958.

[152] Rollo (GR. No. 221697), Vol. II, pp. 807-810, 819-822.

[153] Rollo (GR. No. 221697), Vol. I, pp. 224-259.

[154] Id. at 258.

[155] Id. at236.

[156] Id.

[157] Id.

[158] Id. at 241.

[159] Id.

[160] Id. at 242.

[161] Id.

[162] Id. at 243.

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[163] Id. at 249-250.

[164] Id. at 250.

[165] Id. at 251.

[166] Id. at 252-253.

[167] Id. at 253.

[168] Rollo (GR. Nos. 221698-700), Vol. I, pp. 216-264.

[169] Id. at 229.

[170] Section 1. Ground for Denial or Cancellation of Certificate of Candidacy. -A verified Petition to Deny Due Course to or Cancel a Certificate of Candidacy for any elective office may be filed by any registered voter or a duly registered political party, organization, or coalition of political parties on the exclusive ground that any material representation contained therein as required by law is false.

[171] Rollo (0.R Nos. 221698-700), Vol. I, pp, 231-232.

[172] Although the same was not explicitly stated in the Tatad Petition.

[173] Rollo (GR. Nos, 221698-700), Vol. I, pp. 233-234 citing Jalosjos, Jr. v. Commission on Elections, 696 Phil. 601 (2012), which likewise cited Fermin v. Commission on Elections, 595 Phil. 449 (2008).

[174] Id. at 238.

[175] Id. at 240.

[176] Id.

[177] Id. at24l.

[178] Id.

[179] Id. at 244.

[180] Id. at 247.

[181] Id. at 247-248.

[182] Id. at 257-258.

[183] Rollo (G.R. N(ls. 221698-700), Vol. IV, pp. 2250-2341.

[184] Rollo (G.R. Nos. 221698-700), Vol. I, pp. 352-381.

[185] Id. at 368.

[186] Id. at 381.

[187] Rollo (GR. No. 221697), Vol. I, pp. 3-189; Rollo (GR. Nos. 221698-700), Vol. I, pp. 3-213.

[188] Id. at 8; Id. at 12-13.

[189] Rollo (GR. No. 221697), Vol. III, pp. 2011-2013; Rollo (GR. Nos. 2;21698-700), Vol. IV, pp. (unpaginated).

[190] Rollo (GR. No. 221697), Vol. V, pp. 3084-A- 3084-C; Rollo (G.R. Nos. 221698-700), Vol. VI, pp. 3930-A-3930-D.

[191] 636 Phil. 753 (2010).

[192] Id.at777-778.

[193] 686 Phil. 649 (2012).

[194] Id. at 668.

[195] 621 Phil. 498 (2009).

[196] Id. at 510.

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

[198] Section 74. Contents of certificate of candidacy. - The certificate of candidacy shall state that the person filing it is announcing his candidacy for the office stated therein and that he is eligible for said office; if for Member of the [House of Representatives], the province, including its component cities, highly urbanized city or district or sector which he seeks to represent; the political party to which he belongs; civil status; his date of birth; residence; his post office address for all election purposes; his profession or occupation; that he will support and defend the Constitution of the Philippines and will maintain true faith and allegiance thereto; that he will obey the laws, legal orders, and decrees promulgated by the duly constituted authorities; that he is not a permanent resident or immigrant to a foreign country; that the obligation imposed by his oath is assumed voluntarily, without mental reservation or purpose of evasion; and that the facts stated in the certificate of candidacy are true to the best of his knowledge.

[199] Ugdoracion, Jr. v. Commission on Elections, 575 Phil. 253, 261 (2008).

[200] Fermin v. Commission on Elections, supra note 173 at 165.

[201] Section 1, Rule 6 of the COMELEC Rules of Procedure provides:

Sec. I. Commencement of Action or Proceedings by Parties. - Any natural or juridical person authorized by these rules to initiate any action or proceeding shall file with the Commission a protest or petition alleging therein his personal circumstances as well as those of the protestee or respondent, the jurisdictional facts, and a concise statement of the ultimate facts constituting his cause or causes of action and specifying the relief sought. He may add a general prayer for such further or other relief as may be deemed just or equitable.

[202] 595 Phil. 750 (2008).

[203] Id. at 754.

[204] Id. at 765.

[205] Supra note 173.

[206] Supra note 173 at 465-467.

[207] Bedol v. Commission on Elections, supra note 195 at 510,

[208] 2010 PET Rules, Rule 13. Jurisdiction. -The Tribunal shall be the sole judge of all contests relating to the election, returns, and qualifications of the President or Vice-President of the Philippines.

[209] 2010 PET Rules, Rule 14, How Initiated - - An election contest is initiated by the filing of an election protest or a petition for quo warrantv against the President or Vice-President. An election protest shall not include a petition for quv warranto. A petition for quo warranto shall not include an election protest.

[210] 2010 PET Rules, Rule 15. Election Protest, - The registered candidate for President or Vice-President of the Philippines who received the second or third highest number of votes may contest the election of the President or Vice-President, as the case may be, by filing a verified election protest with the Clerk of the Presidential Electoral Tribunal within thirty days after the proclamation of the winner.

[211] 2010 PET Rules, Rule 16. Quo Warranto. -A verified petition for quo warranto contesting the election of the President or Vice-President on the ground of ine1igibility or disloyalty to the Republic of the Philippines may be filed by any registered voter who has voted in the election concerned within ten days after the proclamation of the winner,

[212] 468 Phil. 421, 461-462 (2004).

[213] Dreamwork Construction, Inc. v. Janiola, 609 Phil. 245, 254 (2009); Spouses Algura v. Local Government Unit of the City of Naga, 536 Phil. 819, 835 (2006), citing Agpalo's Legal Words and Phrases (1997), 480.

[214] 1987 CONSTITUTION, Article VI, Section 17.

Section 17. The Senate and the House of Representatives shall each have an Electoral Tribunal which shall be the sole judge of all contests relating to the election, returns, and qualifications of their respective Members.

[215] Commissioner of Internal Revenue v. Michel J. Lhuiller Pawnshop, Inc., 453 Phil. 1043, l 059 (2003).

[216] Rollo (GR. No. 221697), Vol. I, p. 42-43; rollo (GR. Nos. 221698-700), Vol. I, p. 43.

[217] Moy Ya Lim Yao v. Commissioner of Immigration, 148-B Phil. 773, 855 (1971).

[218] 614 Phil. 451, 473 (2009).

[219] Rollo (GR. No. 221697), Vol. II, p. 828.

[220] Id.

[221] Rollo (GR. Nos. 221698-700), Vol. I, pp. 231-232.

[222] Supra note 198.

[223] 318Phil.329 (1995).

[224] 371 Phil. 377 (1999).

[225] Id. at 390.

[226] Id.

[227] 660 Phil. 225 (2011).

[228] See Ruben Agpalo, Statutory Construction, 4[th] ed., 1998, p. 338, as cited in Office of the Ombudsman v. Andutan, Jr., 670 Phil. 169, 178 (2011).

[229] SECTION 63. Qualifications for President and Vice-President of the Philippines. - - No person may be

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elected President or Vice-President unless he is a natural-born citizen of the Philippines, a registered voter, able to read and write, at least forty years of age on the day of election, and a resident of the Philippines for at least ten years immediately preceding such election.

[230] See Nuval v. Guray, 52 Phil. 64 5 (1928).

[231] Id. at 651.

[232] Aquino v. Commission on Elections, 318 Phil. 467 (1995).

[233] Id. at 499, citing Gallego v. Verra, 73 Phil. 453 (1941).

[234] Mitra v. Commission on Elections, supra note 191 at 764.

[235] 25 Am Jur 2d Domicil § 12-15,pp.12-13.

[236] Marcos v. Commission on Elections, supra note 223 at 386.

[237] Romualdez v. RTC, Branch 7, Tacloban City, G.R. No. 104960, September 14, 1993, 226 SCRA 408, 415; Mitra v. Commission on Elections, supra note 191 at 781; Japzon v. Commission on Elections, 596 Phil. 354, 372 (2009); Papandayan Jr. v. Commission on Elections, 430 Phil. 754, 770.

[238] Domino v. Commission on Elections, 369 Phil. 798, 819 (1999).

[239] Marcos v. Commission on Elections, supra note 223 at 386-387.

[240] Domino v. Commission on Elections, supra at 820.

[241] Villafuerte v. Commission on Elections, G.R. No. 206698, February 25, 2014, 717 SCRA 312, 323.

[242] 434 Phil. 861 (2002)

[243] Supra note 237.

[244] See Coquilla v. Comelec, supra at 872.

[245] AN ACT INSTITUTING A BALIKBAYAN PROGRAM.

[246] AN ACT AMENDING REPUBLIC ACT NUMBERED 6768, ENTITLED, "AN ACT INSTITUTING A BALIKBAYAN PROGRAM" BY PROVIDING ADDITIONAL BENEFITS AND PRIVILEGES TO BALIKBAYAN AND FOR OTHER PURPOSES.

[247] A balikbayan is a Filipino citizen who has been continuously out of the Philippines for a period of at least one (1) year, a Filipino overseas worker, or a former Filipino citizen and his or her family x x x who had been naturalized in a foreign country and comes or returns to the Philippines. (Section 2 of RA 6768.)

[248] Romualdez v. RTC, Branch 7, Tacloban City, supra note 237 at 415.

[249] Coquilla v. Commission on Elections, supra note 242 at 872.

[250] 123 Phil. 1017 (1966).

[251] Id. at 1019.

[252] Id. at 1020.

[253] Caballero v. Commission on Elections, GR. No. 209835, September 22, 2015.

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[254] Rollo (G.R. No. 221697), Vol. II, p. 511; rollo (GR. Nos. 221698.-700), Vol. II, p. 618; id. at 826; id. at 1048.

[255] Rollo (G.R. No. 221697), Vol. II, p. 804.

[256] GR. No. 193314, February 26, 2013, 691 SCRA 646.

[257] Id. at 659, citing Fernandez v. House of Representatives Electoral Tribunal, 623 Phil. 628, 655 (2009).

[258] Rollo (GR. Nos. 221698-700), Vol. II, pp. 917.

[259] Id. at l 055.

[260] Id. at I 049; Id. at I 075; Id. at 827, 850; Id. at 620, 761.

[261] Rollo (GR. Nos. 221698-700), Vol. IV, pp. 3852-3930.

[262] Id. at 3859.

[263] Id. at 3902.

[264] JUSTICE DEL CASTILLO:
What was she doing in the States, xx x was [she] already planning to come back here xxx for good[?] x x x [H]ow come she kept on returning to the States?

ATTY. POBLADOR:
They were still trying to sell their house, they were disposing of their assets, in fact they had to donate most of these assets. They were able to sell their house only in April 2006 and ... (interrupted).

JUSTICE DEL CASTILLO:
And what other properties do they have there in the States?

ATTY. POBLADOR:
As far as I know ... (inte1rnpted)

JUSTICE DEL CASTILLO:
Remember they stayed there for more than ten years, so they must have acquired tremendous amount of property there.

ATTY. POBLADOR:
I'm not aware of any other assets, Your Honor, but what I'm aware of is ... (interrupted)

JUSTICE DEL CASTILLO:
No bank accounts?

ATTY. POBLADOR:
I'm not aware of the bank accounts.

JUSTICE DEL CASTILLO:
Did she vote there in the States when she was staying there'? Did she vote for any public, for any official running for public office?

ATTY. POBLADOR:
Did she vote, I'm not aware, Your Honor.

JUSTICE DEL CASTILLO:

Did she acquire, for instance, a burial lot? This may sound funny but all of us would do this, burial lot?

ATTY. POBLADOR:
I'm not aware ... (interrupted)

JUSTICE DEL CASTILLO:
x x x [Y]ou 're not aware of that. Has she disposed of all her properties in the States?

ATTY. POBLADOR:
To our knowledge, Your Honor, in that period as part of her relocation process here, they disposed of all their assets, or most of their assets. (TSN, January 19, 2016, pp. 23-25).

[265] JUSTICE DEL CASTILLO:
Good evening, Counsel. Among the four respondents, you are the only one who mentioned about the 2014 assets and liabilities of the petitioner. X x x [Y]ou mentioned that the petitioner xx x maintains two residential houses in the U.S.; one which she purchased in 1992 and the other one in 2008, is that correct, Counsel?

ATTY. VALDEZ:
Yes, Your Honor. I did some internet research.

JUSTICE DEL CASTILLO:
And what was ....

ATTY. VALDEZ:
And this was continued by her own Statement of Assets and Liabilities.

JUSTICE DEL CASTILLO:
What was your purpose in bringing that to light?

ATTY. VALDEZ:
Well, we thought, Your Honor, please, that because there were two competing domiciles. We are looking at it from the stand point of private international law. When she reacquired Filipino citizenship without renouncing her American citizenship, during that very critical period, where she was [is] a status that is inimical to the interest of the country, as per the Constitution. There was a competing interest on the part of the U.S. claiming her as a domiciliary of the U.S. and the Philippines claiming her as a domiciliary of the Philippines, that's why it's very critical that your Decisions in Coquilla, in Caballero, in Japzon, and [in] the previous case [of] Jalosjos that the most relevant date when a person will be considered to be domicile[d] in this country is when he renounces his American citizenship because with that ...

JUSTICE DEL CASTILLO:
What was ....

ATTY. VALDEZ:
Because with that....

JUSTICE DEL CASTILLO:
Yes, I understand now what you are driving at. What I'm trying to clarify from you is, what is the relevance of your mentioning there that the Petitioner still maintains two residential houses in the States, one which was purchased in 1992 and the other one in 2008?

Does it have something to do with the Petitioner?

ATTY. VALDEZ:

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The animus ...

JUSTICE DEL CASTILLO:
... selling her family home in April of2006. In other wonjs, are you saying that, okay, so she sold her family home in the states in April of 2006 to show that her reacquisition of domicile in the Philippines is imbued with animus revertendi. ls that what you ....

ATTY. VALDEZ:
There is still the presence of animus non revertendi by the fact that she still maintain[s] substantial asset and these are residences in the United States plus the fact that she used her passport for five times and ....

JUSTICE DEL CASTILLO:
Yes, we know the other matters. I just want to focus on the real property that a ... because she sold, that's what she's saying, that she sold the family home in April of 2006, fine. It would really, it would seem that you are abandoning already for good your intention to remain in the states but then you still buy, you still bought a residential house in 2008.

Atty. Valdez:
Precisely.

JUSTlCE DEL CASTILLO:
Now, she is maintaining these two ... is it your position, are you trying to tell that she is still maintaining these two real properties in the States?

ATTY. VALDEZ:
Precisely, Your Honor, because she has been a resident of the US in fact for about 19 years so it could not be easily understandable that x x x selling her propeties and establishing a residence here yet leaving some properties that could be better signs of wanting to still remain in the US would negate whatever manifestations or acts on her part that she has chosen to stay in the Philippines. (TSN, February 16, 2016, pp. 230-233).

[266] 5-264. 18. In par. 98 of his petition in the proceedings a quo, Private Respondent Valdez alleged that Sen. Poe "still maintains two (2) residential houses in the US, one purchased in 1992, and the other in 2008." In her Verified Answer, Sen. Poe ;"DENIED" par. 98 "insofar as it is made to appear that (she) resides' in the 2 houses mentioned in said paragraph." Sen. Poe further explained that she "does not 'reside' in these houses, but in her family home in Corinthian Hills, Quezon City (where she has lived with her family for almost a decade). Private Respondent Valdez did not present any proof to controvert Sen. Poe's response to par. 98 of this petition.

5.264.19. The net result of this exchange is that Sen. Poe owns two houses in the U.S.A. which she does not reside in.

x x x x

5.264.21. If a candidate for public office is jurisprudentially allowed to simultaneously maintain several residences in different places without abandoning her domicile of choice, it follows that Sen. Poe could successfully establish her domicile in the Philippines despite the fact that she continues to own or acquires a house/sin the U.S.A. (which she does not even reside in). Contrary to Private Respondent Valdez's stance, the mere ownership of these houses in the U.S.A. cannot, by itself, prove that Sen. Poe does not possess animus non-revertendi to the U.S.A. The totality of the evidence and circumstances showing Sen. Poe's reestablishment of domicile in the Philippines since 24 May 2005 certainly ought to outweigh the singular fact that she also owns houses in the U.S.A.

5.264.22. Lastly, the rule is that a person could have only one domicile at any given time. Considering that Sen. Poe has been domiciled in the Philippines since 24 May 2005, it is a legal impossibility for her to simultaneously have any other domicile elsewhere. Rollo (GR. No. 221697), Vol. VI, pp. 4039-4041.

[267] Rollo (GR. Nos, 221698-700), Vol. VI, p, 3717.

[268] Rollo (GR. No. 221697), Vol. VI, p. 3654.

[269] Lacbayan v. Samay, 661 Phil. 306, 318 (2011).

[270] Id.

[271] Ormoc Sugar Company, Inc. v. Osco Workers Fraternity labor Union (OWFLU), 110 Phil. 627, 632 (1961).

[272] Manila Electric Company v. Heirs of Spouses Deloy, 710 Phil. 427, 441 (2013), citing Heirs of Bernardo Ulep v. Sps. Ducat and Kiong, 597 Phil. 5, 16 (2009).

[273] Rufina Patis Factory v. Alusitain, 478 Phil. 544, 558 (2004).

[274] Id. at 559.

[275] Id.

[276] Rollo (GR. No. 221697), Vol. VI, p. 3775.

[277] People v. Alberto, 625 Phil. 545, 556 (2010).

[278] AN ACT AMENDING SECTION THIRTEEN OF COMMONWEALTH ACT NUMBERED SIX HUNDRED THIRTEEN, OTHERWISE KNOWN AS "THE PHILIPPINE IMMIGRATION ACT OF 1940" SO AS TO INCLUDE AS NON-QUOTA IMMIGRANTS WHO MAY BE ADMITTED INTO THE PHILIPPINES, NATURAL BORN CITIZENS WHO HAVE BEEN NATURALIZED IN A FOREIGN COUNTRY AND DESIRE TO RETURN FOR PERMANENT RESIDENCE.

[279] Rollo (G.R. Nos, 221698-700), Vol. VI, p. 3721.

[280] Japzon v. Commission on Elections, supra note 237 at 367; Caballero v, Commission on Elections, supra note 253.

[281] Japzon v. Commission on Elections, id.

[282] Supra note 253.

[283] Caballero v. Commission on Elections, supra note 253.

[284] Kossuth Kent Kennan, LL.D., A Treatise on Residence and Domicile, 111e Lawyers Co-operative Publishing Company, Rochester, N.Y., 1934, § 95 pp. 200-201.

[285] 25 Am Jur 2d § 24, p. 19.

[286] Rollo (G.R. No. 221697), Vol. VI, p. 3830.

[287] Rollo (GR. No. 221697), Vol. I, p. 489.

[288] GR. No. 207264, June 25, 2013, 699 SCRA 522.

[289] Id. at 543.

[290] Rollo (G.R. No. 221697), Vol. II, pp. 815-816.

[291] Id. at 771.

[292] Jalosjos v. Commission on Elections, Supra note 256 at 657.

[293] 375 Phil. 1106 (1999).

[294] GR No. 209286, September 23, 2014, 736 SCRA267.

[295] Kossuth Kent Kennan, I.L.D., A Treatise on Residence and Domicile, 1934, The Lawyers Co-operative Publishing Company, Rochester, N. Y., § 92, p. 195.

[296] Id.

[297] 686 Phil. 563 (2012).

[298] RULES OF COURT, Rule 131, Section 3(d).

[299] Rollo (G.R. No. 221697), Vol. I, p. 27.

[300] Sinaca v. Mula, 373 Phil. 896, 908 (1999).

[301] Id.

[302] Miranda v. Abaya, 370 Phil. 642, 658 (1999).

[303] Id. at 381.

[304] Rollo (G.R. Nos. 221698-700), Vol. VI p. 3726.

[305] Dissenting Opinion of former Chief Justice Panganiban in Central Bank Employees Association, Inc. v. Bangko Sentral ng Pilipinas, 487 Phil. 531, 630 (2004), reads:

In the United States more than sixty years ago, Justice Brandeis delineated the famous canons of avoidance under which their Supreme Court had refrained from passing upon constitutional questions, One such canon is that the Court must "not anticipate a question of constitutional law in advance of the necessity of deciding it x x x. It is not the habit of the Court to decide questions of a constitutional nature unless absolutely necessary to a decision of the case." In addition, the Court must not "pass upon a constitutional question although properly presented by the record, if there is also present some other ground upon which the case may be disposed of"

Applying to this case the contours of constitutional avoidance Brandeis brilliantly summarized, this Court may choose to ignore the constitutional question presented by petitioner, since there is indeed some other ground upon which this case can be disposed of -- its clear lack of urgency, by reason of which Congress should be allowed to do its primary task of reviewing and possibly amending the law.

[306] Supra note 217 at 855.

[307] Id.

[308] 151-A Phil. 720. It was held that

[W]here the citizenship of a party in a case is definitely resolved by a court or by an administrative agency, as a material issue in the controversy, after a full-blown hearing, with the active participation of the Solicitor General or his authorized representative, and this finding on the citizenship of the party is affirmed by this Court, the decision on the matter shall constitute conclusive proof of such person's citizenship, in any other case or proceeding. But it is made clear that in no instance will a decision on the question of citizenship in such cases be considered conclusive or binding in any other case or proceeding, unless obtained in accordance with the

procedure herein stated. (Id. at, 730-731.)

[309] Supra note 218.

[310] Rollo (GR. No. 221697), Vol. I, p. 7.

CONCURRING OPINION
LEONEN, J.:

I am honored to concur with the ponencia of my esteemed colleague, Associate Justice Jose Portugal Perez. I submit this Opinion to further clarify my position.

Prefatory
The rule of law we swore to uphold is nothing but the rule of just law. The rule of law does not require insistence in elaborate, strained, irrational, and irrelevant technical interpretation when there can be a clear and rational interpretation that is more just and humane while equally bound by the limits of legal text.

The Constitution, as fundamental law, defines the mmtmum qualifications for a person to present his or her candidacy to run for President. It is this same fundamental law which prescribes that it is the People, in their sovereign capacity as electorate, to determine who among the candidates is best qualified for that position.

In the guise of judicial review, this court is not empowered to constrict the electorate's choice by sustaining the Commission on Elections' actions that show that it failed to disregard doctrinal interpretation of its powers under Section 78 of the Omnibus Election Code, created novel jurisprudence in relation to the citizenship of foundlings, misinterpreted and misapplied existing jurisprudence relating to the requirement of residency for election purposes, and declined to appreciate the evidence presented by petitioner as a whole and instead insisted only on three factual grounds which do not necessarily lead to its inference. The Commission on Elections' actions are a clear breach of its constitutional competence. It acted with grave abuse of discretion amounting to lack of as well as excess of jurisdiction.

It is our law that a child, abandoned by her parents and left at the doorsteps of a rural cathedral, can also dream to become President of the Republic of the Philippines. The minimum requirements of the Constitution is that she be a natural-born Filipina at the time of the filing of her Certificate of Candidacy and have domicile in the Philippines for at least ten (10) years prior to the elections.[1]

Given the facts of this case, petitioner has complied with these requirements.

When she filed her certificate of candidacy, this court has yet to squarely rule on the issue of whether a foundling-a child abandoned by her parents-is a natural-born Filipino citizen.

There are earlier rulings-Senate Electoral Tribunal Decision[2] and the Bureau of Immigration Order[3]-that clearly state that petitioner is a natural- born Filipina. She was elected as Senator of the Republic, garnering more than 20 million votes.[4] The position of Senator requires that the person be a natural-born Filipino.[5]

The assertion that petitioner made in her Certificate of Candidacy for President that she is a natural-born citizen is a grounded opinion. It does not constitute a material misrepresentation of fact. In much the same way, a Justice of this court does not commit material misrepresentation when he or she construes the Constitution in an opinion submitted for this case that a foundling is a natural-born citizen absent any clear and convincing evidence to the contrary. In the first place, this is an interpretation of law-not a statement of material fact.

Doing justice and discharging our duty to uphold the rule of law require that we conclude that foundlings are

natural-born Filipino citizens absent any evidence that proves the contrary. This is the inescapable conclusion when we read the provisions on citizenship in the context of the entire Constitution, which likewise mandates equality, human dignity, social justice, and care for abandoned children.

The Constitution requires that either the father or the mother is a Filipino citizen.[6] It does not require an abandoned child or a foundling to identify his or her biological parents.[7] It is enough to show that there is a convincing likelihood that one of the parents is a Filipino. Contrary to the respondents' submissions, it is not blood line that is required. One of the parents can be a naturalized Filipino citizen.[8] The reference is only one ascendant generation. The constitutional provision does not absolutely require being born to an indigenous ethnicity.

There is no rational basis to conclude that the loyalty to this country of a foundling, discovered in a rural area and adopted by well-to-do parents, will be more suspect than a child born to naturalized Filipino parents.

That a foundling is a natural-born Filipino, unless clear and convincing evidence is shown otherwise, is also the definitive inference from contemporaneous acts of Congress[9] and the Executive.[10] This is also the availing conclusion considering our binding commitments in international law.[11] There is clear and convincing evidence from the history of the actual text of the entire Constitution.

In the case at bar, petitioner discharged her burden to prove that she is natural-born when the parties stipulated as to her status as a foundling found in front of a church in Jaro, Iloilo.[12] When the yardsticks of common sense and statistics are used,[13] it borders on the absurd to start with the presumption that she was born to both a foreign father and a foreign mother. In all likelihood, she was born to at least a Filipino father or to a Filipino mother, or both.

Foundlings present the only ambiguous situation in our Constitution. There is no slippery slope. Malevolent actors that wish to avail themselves of this doctrine will have to prove that they are foundlings. They will have to do so with the requisite quantum of proof for immigration purposes. They will have to do so if it is also necessary for them for purposes of being candidates in a relevant election.

The Commission on Elections committed grave abuse of discretion amounting to lack of jurisdiction when it went beyond its competence under Section 78[14] of the Omnibus Election Code and the Constitution by not ruling exclusively on whether there was material misrepresentation. The questioned Resolutions of the Commission on Elections En Banc in these cases create a new and erroneous doctrine on this point of law. It is contrary to the text and spirit of the Constitution.

Likewise, this court has yet to decide on a case that squarely raises the issue as to whether the period of residency required by the Constitution of a candidate running for public office can only commence after he or she reacquires his or her Filipino citizenship. Neither has this court expressed the ratio decidendi that only when he or she has a resident visa can we commence to count his or her period of residency for election purposes. No ratio decidendi exists for these rules because there has not yet been a case that squarely raised these as issues. No ratio decidendi exists because this is not relevant nor organic to the purpose of residency as a requirement for elective public offices.

Our standing doctrines are that: (a) residency is a question of fact;[15] (b) residency, for election purposes, is equivalent to domicile;[16] and (c) domicile requires physical presence and animus manendi.[17] Animus manendi is negated by the absence of animus non-revertendi.

To require a new element for establishing residency in order to deny petitioner's Certificate of Candidacy is not only unfair; it communicates a suspicious animus against her. It may give rise to a fair implication that there is

partiality for one or another candidate running for the Office of President. It is a dangerous move on the part of this court. It will affect the credibility of the next administration and will undermine our standing as a sentinel for the protection of what is just and what is prescribed by the rule of law.

However, the grave abuse of discretion by the Commission on Elections does not end there. The Commission on Elections obviously did not appreciate all of the evidence presented by the parties in inferring when the residency of petitioner for the purpose of this election commenced. They relied on only three points: (a) a prior statement in an earlier Certificate of Candidacy for Senator submitted by petitioner;[18] (b) inferences from some of the actions of petitioner's husband;[19] and (c) the use of her United States passports.[20]

Petitioner has asserted that her statement in her present Certificate of Candidacy for President is accurate. She explains that her prior statement in her 2012 Certificate of Candidacy for Senator was a mistake committed in good faith. The Commission on Elections rejects these statements without valid evidence. It insists that it is the 2012 Certificate of Candidacy that is true and, thus, the present Certificate of Candidacy that is falsely represented. In doing so, the Commission on Elections acts arbitrarily and disregards the doctrine in Romualdez-Marcos v. Commission on Elections.[21] In effect, it proposes to overturn the precedent pronounced by this court.

It is true that petitioner is a political studies graduate.[22] However, it is likewise true that this court should not expect petitioner to have been thoroughly familiar with the precise interpretation of the legal concept of residence and to correctly apply it when she filed her Certificate of Candidacy for Senator. We do not expect that much even from our lawyers. We accept that there can be honest mistakes in interpretation and application. Otherwise, we should discipline any lawyer who loses a case with finality in any court filed in this country.

To imply petitioner's lack of intent to establish domicile from the actions of her husband is a willful misappreciation of the evidence presented by petitioner with the Commission on Elections. The Commission on Elections infers that the wife cannot establish domicile separated from the husband. This is clearly not the state of Philippine law, which requires fundamental equality between men and women. The Commission on Elections isolates the fact of her husband's continued-albeit short- presence in the United States when petitioner and her children returned to the Philippines. From there, the Commission on Elections infers that when petitioner and her children returned to the Philippines, they did not intend to establish their new permanent home.

The Commission on Elections did not appreciate the following established facts that established the context of petitioner's return to the Philippines on May 24, 2005:

First, the husband was both a Filipino and American citizen.[23]

Second, the husband and the wife uprooted their children, removed them from their schools in the United States, and enrolled them in schools in the Philippines.[24]

Third, one of their children, a baby, was likewise uprooted and brought to the Philippines to stay here permanently.[25]

Fourth, arrangements were made to transfer their household belongings in several container vans from the United States to the Philippines.[26]

Fifth, petitioner did not seek further employment abroad.[27]

Sixth, petitioner's husband resigned from his work and moved to the Philippines.[28]

Seventh, petitioner's husband was employed in the Philippines.[29]

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Eighth, they sold the place where they stayed in the United States.[30]

Ninth, they bought property in the Philippines and built a new family home.[31]

Tenth, petitioner registered as a voter again in the Philippines and actually voted.[32]

Eleventh, petitioner registered as a taxpayer in the Philippines and paid taxes.[33]

Lastly, petitioner and her husband formally made announcements with respect to their change of postal address.[34]

None of these facts suggested by the Dissenting Opinions can negate the inevitable conclusion of the intent attendant to the establishment of petitioner's presence in the Philippines on May 24, 2005.

That she had properties in the United States is not inconsistent with establishing permanent residence in the Philippines. One who is domiciled in the Philippines is not prohibited from owning properties in another country. Besides, petitioner's assertion that the properties they have in the United States are not their residence was not successfully refuted by private respondents.

Petitioner's reacquisition of Filipino citizenship in July 2006 does not negate physical presence and her intention to establish permanent residence in the country. It is not improbable that a foreigner may establish domicile in the Philippines. She is a returning balikbayan with roots in the Philippines who went through a process to establish her residency in the Philippines and then applied for the recognition of her dual citizenship.

Many of the 47 years that petitioner has lived was spent in the Philippines. Except for the 16 years that she was in the United States, the other 31 years of her life were spent here in the Philippines. The person who became her mother is of advanced age and is in the Philippines. She went to school in this country and made friendships as well as memories. She, together with her husband, now has significant property here in the Philippines. That she intended to come back to take care of her recognized mother is a tendency so culturally Filipino, but which may have been forgotten by the Commission on Elections.

Some of the Dissenting Opinions suggest a new doctrine: the failure of a balikbayan who is allowed to enter the Philippines visa-free to accomplish an application to get a resident visa is a requirement to establish residency for election purposes. This is a new element not contemplated in our current doctrines on domicile.

Residency for election purposes is different from residency for immigration purposes. Applying for an alien resident visa was not required of petitioner. She was legally allowed visa-free entry as a balikbayan pursuant to Republic Act No. 6768, as amended. Within the one-year period of her visa-free stay, there is no prohibition for a balikbayan to apply to reacquire Philippine citizenship under Republic Act No. 9225. This she did. At no time was her stay in the Philippines illegal.

More importantly, the purpose of the residency requirement is already doctrinally established. Torayno, Sr. v. Commission on Elections[35] explained that it is meant "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."[36]

The requirement to procure a resident visa has no rational relation to this stated purpose. It is a stretch to create a new doctrine. To require it now in this case will have considerable repercussions to the future of our country.

There is no evidence that can challenge the conclusion that on May 24, 2005, petitioner physically came back with the intention to establish her permanent home in the Philippines. In truth, the entire process of establishing

petitioner's permanent residence here was completed in April 2006, well before May 9, 2006, 10 years prior to the upcoming elections.

Neither would it be logical to assert that until July 2006, petitioner had not legally established domicile in the Philippines. Before May 2006, petitioner and her husband were already in the Philippines. Neither of them were employed in the United States. They had their family home here. Their children were enrolled in schools in the Philippines.

The Commission on Elections' proposed conclusion is simply too absurd.

Given the evidence on which petitioner reckoned her residency, she did not commit material misrepresentation. Thus, it was not only an error but grave abuse of discretion on the part of the Commission on Elections to trivialize the pieces of evidence presented by petitioner in order to justify its conclusion.

In a proceeding under Section 78 of the Omnibus Election Code, the Commission on Elections is neither constitutionally nor statutorily empowered to enunciate new legal doctrine or to reverse doctrines laid down by this court. It cannot, on the basis of new doctrines not known to the candidate, declare that his or her certificate of candidacy is infected with material misrepresentation.

The Commission on Elections is mandated by the Constitution to enforce and administer election laws. It cannot discharge this duty when there is any suspicion that it favors or disfavors a candidate. When it goes beyond its competency under Section 78 to deny a certificate of candidacy "exclusively on the ground that any material representation contained therein ... is false," it does not only display a tendency to abuse its power; it seriously undermines its neutrality. This is quintessentially grave abuse of discretion.

No effort should be spared so as to ensure that our political preferences for or against any present candidate for the Presidency do not infect our reading of the law and its present doctrines. We should surmount every real or imagined pressure, communicated directly or indirectly by reading the entire Constitution and jurisprudence as they actually exist.

The propositions of respondents require acceptance of doctrines not yet enunciated and inferences that do not arise from the evidence presented. This will have nothing to do with reality. It will be unfair to petitioner, and will amount to misusing our power of judicial review with an attitude less deferential to the sovereign People's choices expressed both in the Constitution and in elections. Upholding the Commission on Elections' Resolutions, which stand on shaky legal grounds, amounts to multiplying each of our individual political preferences more than a millionfold.

The Facts

Before this court are consolidated Petitions for Certiorari under Rule 64 in relation to Rule 65 of the Rules of Court filed by petitioner Mary Grace Natividad S. Poe-Llamanzares. She prays for the nullification of the Resolutions of the Commission on Elections, which cancelled her Certificate of Candidacy for President of the Republic of the Philippines in connection with the May 9, 2016 National and Local Elections.

The Petition docketed as G.R. No. 221697 assails the December 1, 2015 Resolution of the Commission on Elections Second Division, which granted the Petition to Deny Due Course to or Cancel Certificate of Candidacy filed by private respondent Estrella C. Elamparo (Elamparo) and the Commission on Elections En Banc's December 23, 2015 Resolution,[37] which denied petitioner's Motion for Reconsideration.[38]

On the other hand, the Petition docketed as G.R. No. 221698-700 assails the December 11, 2015 Resolution[39] of the Commission on Elections First Division, which granted the Petitions filed by private respondents Francisco

S. Tatad (Tatad), Antonio P. Contreras (Contreras), and Amado T. Valdez (Valdez) and the Commission on Elections En Banc's December 23, 2015 Resolution,[40] which denied petitioner's Motion for Reconsideration.[41]

The facts of the case are generally stipulated and well-known. Petitioner is a foundling. Her biological parents are unknown. All that is known about her origin is that at about 9:30 a.m. on September 3, 1968, she was found in the parish church of Jaro, Iloilo by one Edgardo Militar. Edgardo Militar opted to place petitioner in the care and custody of his relative Emiliano Militar and the latter's wife.[42]

Emiliano Militar reported the discovery to the Office of the Local Civil Registrar in Jaro, Iloilo on September 6, 1968.[43] A Foundling Certificate was issued. This Certificate indicated petitioner's date of birth to be September 3, 1968. Petitioner's full name was recorded as "Mary Grace Natividad Contreras Militar."[44]

When petitioner was five (5) years old, she was legally adopted by spouses Ronald Allan Poe (Fernando Poe, Jr.) and Jesusa Sonora Poe (Susan Roces). The Decision dated May 13, 1974 by the Municipal Trial Court of San Juan, Rizal granted the Petition for Adoption filed by Fernando Poe, Jr. and Susan Roces.[45] The court ordered that petitioner's name be changed "from Mary Grace Natividad Contreras Militar to Mary Grace Natividad Sonora Poe."[46]

On April 11, 1980, the Office of the Civil Registrar of Iloilo City received a copy of the May 13, 1974 Decision of the Municipal Trial Court of San Juan. It inscribed on petitioner's Foundling Certificate that she was adopted by Fernando Poe, Jr. and Susan Roces on May 13, 1974.[47] A hand- written notation was made on the right-hand side of petitioner's Foundling Certificate, as follows:

> NOTE: Adopted child by the Spouses Ronald Allan Poe and Jesusa Sonora Poe as per Court Order, Mun. Court, San Juan, Rizal, by Hon. Judge Alfredo M. Gorgonio dated May 13, 1974, under Sp. Proc. No. 138.[48]

In accordance with the May 13, 1974 Decision, the Office ofthe Civil Registrar of Iloilo City amended petitioner's Foundling Certificate so that her middle name ("Contreras") and last name ("Militar") were to be replaced with "Sonora" and "Poe," respectively. Further, the names "Ronald Allan Poe" and "Jesusa Sonora Poe" were entered into petitioner's Foundling Certificate in the spaces reserved for the names of the individuals who are legally considered as petitioner's parents.[49]

On December 13, 1986, when petitioner was 18 years old, the Commission on Elections issued her a Voter's Identification Card for Precinct No. 196, Greenhills, San Juan, Metro Manila.[50]

On April 4, 1988, petitioner was issued a Philippine passport by the then Ministry of Foreign Affairs. This passport stated that "(t)he Government of the Republic of the Philippines requests all concerned to permit the bearer, a citizen of the Philippines to pass safely and freely and, in case of need, to give (her) lawful aid and protection."[51]

This passport was valid for a period of five (5) years.[52] It was renewed on April 5, 1993, and subsequently on May 19, 1998, October 13, 2009, December 19, 2013, and March 18, 2014.[53]

Petitioner initially enrolled in the Development Studies Program of the University of the Philippines. However, in 1988, petitioner transferred to the Boston College in Chestnut Hill, Massachusetts, USA, where she obtained her Bachelor of Arts degree in Political Studies in 1991.[54]

On July 27, 1991, petitioner married Teodoro Misael V. Llamanzares (Teodoro Llamanzares), a citizen from birth[55] of both the Philippines and the United States.[56] Teodoro Llamanzares was then based in the United States. On July 29, 1991, petitioner went to the United States to live with her husband.[57]

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Petitioner and her husband bore three (3) children. Brian Daniel (Brian) was born in the United States on April 16, 1992, Hanna MacKenzie (Hanna) in the Philippines on July 10, 1998, and Jesusa Anika (Anika) in the Philippines on June 5, 2004.[58]

Ten years after having been based in the United States,[59] petitioner became a naturalized American citizen on October 18, 2001.[60] On December 19, 2001, she was issued United States Passport No. 017037793.[61]

On April 8, 2004, petitioner, who was then pregnant with her third child, returned to the Philippines.[62] She was accompanied by her daughter Hanna.[63] Petitioner asserted that her return had two purposes: first, to support her parents as Fernando Poe, Jr. was then running for President of the Philippines; and second, to give birth to her third child, Anika, in the Philippines.[64]

It was only on July 8, 2004, after Anika was born on June 5, 2004, that petitioner returned to the United States.[65]

On December 11, 2004, petitioner's father Fernando Poe, Jr. slipped into a coma and was confined at St. Luke's Medical Center in Quezon City. Rushing to return to the Philippines, petitioner arrived on December 13, 2004. Unfortunately, Fernando Poe, Jr. died before petitioner could reach the hospital.[66] Petitioner stayed until February 3, 2005 to allegedly "comfort her grieving mother and to assist [her] in taking care of the funeral arrangements and ... the settlement of her father's estate."[67]

In 2004, petitioner resigned from her work in the United States.[68] Following her resignation, she did not seek employment there again.[69]

Petitioner claims that in the first quarter of 2005, after her father's untimely death and to give moral support to her mother, she and her husband decided to return to the Philippines for good.[70]

Early in 2005, Brian and Hanna's schools in the United States were informed of their family's intention to transfer them to Philippine schools for the following semester.[71]

Beginning March 2005, petitioner and her husband began receiving cost estimates from property movers as regards the relocation of their properties from the United States to the Philippines. Among these were those from Victory Van International (Victory Van).[72] Petitioner noted that e-mails between her and her husband, on one hand, and Victory Van, on the other, "show the process that [she] and her family went through to permanently relocate and reestablish themselves in Philippines[.]"[73] As recalled by petitioner:

> 2.22.1. On 18 March 2005, with subject heading "Relocation to Manila Estimate", a representative of Victory Van replied to an inquiry made by Petitioner, and informed her that they would need at least three (3) forty foot containers to transport all of the family's household goods, furniture, and two (2) vehicles from Virginia, U.S.A. to Manila, Philippines. The service would include "packing, export wrapping, custom crating for chandeliers, marble top and glass tops, loading of containers ..., US customs export inspection for the vehicles, transportation to Baltimore, ocean freight and documentation to arrival Manila, customs clearance, delivery, ... unwrapping and placement of furniture, assisted unpacking, normal assembly ..., container return to port and same day debris removal based on three 40' containers."
>
> 2.22.2. Petitioner and her husband eventually engaged the services of Victory Van, and scheduled two (2) moving phases for the packing, collection and storage of their household goods for eventual transport to the Philippines. The "first phase" was scheduled sometime in February 2006, with Petitioner flying in to the U.S.A. to supervise the packing, storage, and disposal of their household goods in Virginia. The "second phase" was supervised by Petitioner's husband and completed sometime in April2006.[74] (Citations omitted)

Apart from making arrangements for the transfer of their properties, petitioner and her husband also asked

Philippine authorities about the procedure for bringing their dogs into the country.[75] They processed an application for import permit from the Bureau of Animal Industry-National Veterinary and Quarantine Service.[76]

Petitioner and her three (3) children returned to the Philippines on May 24, 2005.[77] Petitioner's husband was unable to join them and had to stay in the United States as, according to petitioner, he still had "to finish pending projects and to arrange for the sale of the family home there."[78]

In returning to the Philippines, petitioner and her children did not obtain visas. Petitioner emphasized that a visa was not legally required since she and her children availed themselves of the benefit allowed under the Balikbayan Program of one-year visa-free entry.[79]

Upon arrival in the Philippines, petitioner and her children initially lived with petitioner's mother Susan Roces at 23 Lincoln St., Greenhills West, San Juan City.[80] Petitioner emphasized that the living arrangements at her mother's house were modified to accommodate her and her children.[81] Further, her father's long-time driver was permanently assigned to her.[82]

For the academic year 2005-2006, petitioner enrolled Brian and Hanna in Philippine schools. Brian was enrolled at Beacon School in Taguig City,[83] while Hanna at Assumption College in Makati City.[84] In 2007, when she was old enough to go to school, Anika was enrolled in Learning Connection in San Juan City.[85] Brian subsequently transferred to La Salle Greenhills in 2006, where he finished his high school education in 2009.[86] Hanna finished her grade school and high school education at Assumption College,[87] where Anika also completed Kindergarten.[88] She is now a sixth grader in the same school.[89]

Shortly after her arrival in the Philippines, petitioner also registered as a taxpayer with the Bureau of Internal Revenue.[90] She was issued a Tax Identification Number by the Bureau of Internal Revenue on July 22, 2005.[91]

Petitioner asserted that sometime in the latter part of 2005, Susan Roces discovered that the lawyer in charge of petitioner's adoption in 1974 failed to secure from the Office of the Civil Registrar of Iloilo City a new Certificate of Live Birth indicating petitioner's adopted name and the names of her adoptive parents.[92] Thus, on November 8, 2005, she executed an affidavit attesting to the lawyer's omission and submitted it to the Office of the Civil Registrar of Iloilo City. On May 4, 2006, the Office of the Civil Registrar of Iloilo City issued a new Certificate of Live Birth indicating petitioner's name to be "Mary Grace Natividad Sonora Poe."[93]

In addition, around that time, petitioner and her husband "acquired Unit 7F of One Wilson Place Condominium in San Juan"[94] (along with a corresponding parking slot).[95] According to petitioner, this was to serve as their temporary residence until the completion of their family home in Corinthian Hills, Quezon City.[96]

On February 14, 2006, petitioner left for the United States allegedly to supervise the disposal her family's remaining belongings. She returned to the Philippines on March 11, 2006.[97]

On March 28, 2006, as the disposal of their remaining properties had been completed, petitioner's husband informed the United States Postal Service of their family's abandonment of their address in the United States.[98]

In April 2006, petitioner's husband resigned from his work in the United States.[99] The packing of petitioner's family's properties, which were to be transported to the Philippines, was also completed on or about April 25 to 26, 2006. Their home in the United States was sold on April 27, 2006.[100]

Petitioner's husband then returned to the Philippines on May 4, 2006. By July 2006, he found employment in the Philippines.[101]

In the meantime, in early 2006, petitioner and her husband acquired a 509-square-meter lot in Corinthian Hills, Barangay Ugong Norte, Quezon City. They built a house on this lot, which, as petitioner points out, remains to be their family home to this day.[102]

On July 7, 2006, petitioner took the Oath of Allegiance to the Republic of the Philippines[103] pursuant to Section 3 of Republic Act No. 9225, otherwise known as the Citizenship Retention and Re-acquisition Act of 2003. Three days later, on July 10, 2006, she likewise filed before the Bureau of Immigration a Petition for Reacquisition of Filipino Citizenship.[104] She also filed Petitions for Derivate Citizenship on behalf of her three children who were at that time all below 18 years old.[105]

On July 18, 2006, the Bureau of Immigration issued the Order granting all these Petitions.[106] The Order stated:

> A careful review of the documents submitted in support of the instant petition indicate that the petitioner was a former citizen of the Republic of the Philippines being born to Filipino parents and is presumed to be a natural born Philippine citizen; thereafter, became an American citizen and is now a holder of an American passport; was issued an ACT and ICR and has taken her oath of allegiance to the Republic of the Philippines on July 7, 2006 and so is thereby deemed to have re-acquired her Philippine Citizenship.[107]

The Bureau of Immigration issued Identification Certificates for petitioner and her three children.[108] Petitioner's Identification Certificate states that she is a "citizen of the Philippines pursuant to the Citizenship Retention and Re-acquisition Act of 2003 (RA 9225) in relation to Administrative Order No. 91, Series of 2004 and Memorandum Circular No. AFF-2-005 per Office Order No. AFF-06-9133 signed by Associate Commissioner Roy M. Almoro dated July 18, 2006."[109]

On August 31, 2006, petitioner registered as a voter of Barangay Santa Lucia, San Juan City.[110]

On October 13, 2009, the Department of Foreign Affair issued to petitioner a Philippine passport with Passport Number XX4731999.[111]

On October 6, 2010, President Benigno S. Aquino III appointed petitioner as Chairperson of the Movie and Television Review and Classification Board.[112] Petitioner asserts that she did not immediately accept this appointment as she was advised that Section 5(3) of the Citizenship Retention and Re-acquisition Act of 2003 required two things of her before assuming any appointive public office: first, to take the Oath of Allegiance to the Republic of the Philippines; and second, to renounce her American citizenship.[113]

Thus, on October 20, 2010, petitioner executed an Affidavit of Renunciation of Allegiance to the [United States of America] and Renunciation of American Citizenship,[114] stating:

> I, MARY GRACE POE-LLAMANZARES, Filipino, of legal age, and presently residing at No. 107 Rodeo Drive, Corinthian Hills, Quezon City, Philippines, after having been duly sworn to in accordance with the law, do hereby depose and state that with this affidavit, I hereby expressly and voluntarily renounce my United States nationality/ American citizenship, together with all rights and privileges and all duties and allegiance and fidelity thereunto pertaining. I make this renunciation intentionally, voluntarily, and of my own free will, free of any duress or undue influence.
>
> IN WITNESS WHEREOF, I have hereunto affixed my signature this 20[th] day of October 2010 at Pasig City, Philippines.[115]

An original copy of the Affidavit was submitted to the Bureau of Immigration on the same day.[116]

Petitioner took her Oath of Office as Chairperson of the Movie and Television Review and Classification Board on October 21, 2010.[117] She formally assumed office as Chairperson on October 26, 2010.[118]

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In addition to her Affidavit renouncing her American citizenship, petitioner executed on July 12, 2011 an Oath/Affirmation of Renunciation of Nationality of the United States before Somer E. Bessire-Briers, Vice-Consul ofthe Embassy ofthe United States of America in Manila.[119]

On the same day, she accomplished a Questionnaire Information for Determining Possible Loss of U.S. Citizenship,[120] where she stated that on October 21, 2010 she had taken her oath as Chairperson of the Movie and Television Review and Classification Board with the intent of relinquishing her American citizenship.[121] She further stated that she had been living in the Philippines from September 3, 1968 to July 29, 1991 and from May 2005 to this present day.[122] On page 4 of this Questionnaire, petitioner asserted that:

> I became a resident of the Philippines once again since 2005. My mother still resides in the Philippines. My husband and I are both employed and own properties in the Philippines. As a dual citizen (Filipino-American) since 2006, I've voted in two Philippine national elections. My three children study and reside in the Philippines at the time I performed the act as described in Part I item 6.[123]

On December 9, 2011, petitioner was issued a Certificate of Loss of Nationality by Jason Galian, Vice-Consul of the Embassy of the United States of America.[124] The Certificate was approved by the Overseas Citizen Service of the United States' Department of State on February 3, 2012.[125]

Petitioner ran for Senator of the Philippines in the May 2013 elections.[126] She executed her Certificate of Candidacy on September 27, 2012 and filed it before the Commission on Elections on October 2, 2012.[127] Petitioner "declared that she had been a resident of the Philippines for six (6) years and six (6) months immediately before the 13 May 2013 elections."[128]

On May 16, 2013, petitioner's election as Senator was formally proclaimed by the Commission on Elections.[129] Petitioner is currently serving her term as Senator.[130]

On December 19, 2013, the Department of Foreign Affairs issued petitioner a Diplomatic passport with Passport Number DE0004530 valid until December 18, 2018. Petitioner was also issued a Philippine passport with Passport No. EC0588861 valid until March 17, 2019.[131]

On October 15, 2015, petitioner filed her Certificate of Candidacy for President of the Republic of the Philippines in connection with the May 9, 2016 Elections.[132] She stated that she is a natural-hom Filipino citizen and that her "residence in the Philippines up to the day before May 9, 2016" was to be "10" years and "11" months.[133]

Petitioner attached to her Certificate of Candidacy the Affidavit Affirming Renunciation of U.S.A. Citizenship,[134] in which she emphasized that she never recanted the Affidavit of Renunciation of Allegiance to the United States of America and Renunciation of American Citizenship that she executed on October 20, 2010. Further, she stated that effective October 21, 2010, she was no longer an American citizen, even within the contemplation of the laws ofthe United States.[135] She further stated:

> Although I have long ceased to be a U.S.A. citizen, and without implying that my previous renunciation of U.S.A. citizenship was in any manner ineffective or recanted, but solely for the purpose of complying with the requirements for filing my Certificate of Candidacy ('COC') for President in the 9 May 2016 election (specifically. Item 10 of the COC) and in light of the pronouncement of the Supreme Court in Amado vs. COMELEC (G.R. No. 210164, 18 August 2015) that '(t)here is no law prohibiting (me) from executing an Affidavit of Renunciation every election period if only avert possible questions about (my) qualifications." I hereby affinn and reiterate that I personally renounce my previous U.S.A. citizenship, together with all rights, privileges, duties, allegiance and fidelity pertaining thereto. I likewise declare that, aside from that renounced U.S.A. citizenship, I have never possessed any other foreign citizenship.[136] (Citation omitted)

On October 16, 2015, Elamparo filed a Petition to Deny Due Course to or Cancel the Certificate of Candidacy of

petitioner.[137] The case was raffled to the Second Division of the Commission on Elections.[138] On October 19, 2015, Tatad filed a Verified Petition for Disqualification against petitioner.[139] On October 20, 2015, Contreras filed a Petition to Deny Due Course to or Cancel the Certificate of Candidacy of petitioner.[140] On November 9, 2015, Valdez also filed a Petition to Deny Due Course to or Cancel the Certificate of Candidacy of petitioner.[141] The Petitions of Tatad, Contreras, and Valdez were raffled to the Commission on Elections First Division.[142]

On November 25, 2015, a clarificatory hearing was conducted on the three Petitions before the Commission on Elections First Division.[143] The parties were directed to file their respective memoranda until December 3, 2015, 10 days from the date of the preliminary conference.[144] The case was deemed submitted for resolution on December 3, 2015, when the parties had submitted their respective Memoranda.[145]

The Petition filed by Elamparo was likewise submitted for resolution after the parties had submitted their respective memoranda.[146]

In the Order dated December 1, 2015, the Second Division of the Commission on Elections granted the Petition of Elamparo.[147]

On December 2, 2015, Elamparo filed an Urgent Motion to Exclude petitioner from the list of candidates for the Office of President in the official ballots to be printed for the May 2016 National Elections.[148]

Petitioner filed her Partial Motion for Reconsideration before the Commission on Elections En Banc on December 7, 2015.[149]

Meanwhile, in the Order dated December 11, 2015, the Commission on Elections First Division granted the Petitions of Tatad, Contreras, and Valdez and ordered the cancellation of the Certificate of Candidacy of petitioner for the position of President of the Republic of the Philippines.[150]

On December 16, 2015, petitioner moved for reconsideration before the Commission on Elections En Banc.[151]

In the resolutions dated December 23, 2015, the Commission on Elections En Banc denied petitioner's motions for reconsideration.[152]

On December 28, 2015, petitioner filed before this court the present Petitions with an accompanying Extremely Urgent Application for an Ex Parte Temporary Restraining Order/Status Quo Ante Order and/or Writ of Preliminary Injunction.[153]

On December 28, 2015, this court issued a temporary restraining order.[154] Respondents were similarly ordered to comment on the present Petitions.[155] The Petitions were later consolidated.[156]

Oral arguments were conducted from January 19, 2016 to February 16, 2016. Thereafter, the parties submitted their memoranda and the case was deemed submitted for resolution.

The Issues
For resolution are the following issues:

- Whether a review of the Commission on Elections' assailed Resolutions via the consolidated Petitions for certiorari under Rule 64, in relation to Rule 65 of the 1997 Rules of Civil Procedure is warranted;

- Whether Rule 23, Section 8 of the Commission on Elections' Rules of Procedure is valid;

(1) Whether Rule 23, Section 8 of the Commission on Election's Rules of Procedure violates Article IX-A, Section 7 of the 1987 Constitution;

(2) Whether the Commission on Elections may promulgate a rule-stipulating a period within which its decisions shall become final and executory-that is inconsistent with the rules promulgated by this court with respect to the review of judgments and final orders or resolutions of the Commission on Elections;

- Whether the Commission on Elections should have dismissed and not entertained the Petition filed by private respondent Francisco S. Tatad against petitioner Mary Grace Natividad S. Poe-Llamanzares:

(1) On the ground of failure to state the cause of action;

(2) For invoking grounds for a petition to cancel or deny due course to a certificate of candidacy under Section 78 of the Omnibus Election Code, in relation to Rule 23 of the Commission on Election's Rules of Procedure.

- Whether the Commission on Elections has jurisdiction over the Petitions filed by private respondents Estrella C. Elamparo, Francisco S. Tatad, Antonio P. Contreras, and Amado D. Valdez;

(1) Whether the Commission on Elections acted with grave abuse of jurisdiction and/or in excess of jurisdiction in ruling on petitioner's intrinsic eligibility, specifically with respect to her citizenship and residency;

- Whether grounds exist for the cancellation of petitioner's

Certificate of Candidacy for President;

(1) Whether petitioner made any material misrepresentation in her Certificate of Candidacy for President;

(a) Whether petitioner's statement that she is a natural-born Filipino citizen constitutes material misrepresentation warranting the cancellation of her Certificate of Candidacy for President;

- Whether the Commission on Elections' conclusion that petitioner, being a foundling, is not a Filipino citizen under Article IV, Section 1 of the 1935 Constitution, is warranted and sustains the cancellation of her Certificate of Candidacy for President;

Whether the Commission on Elections gravely abused its discretion in ruling that petitioner has the burden of provmg her natural-born citizenship in proceedings under Section 78 of the Omnibus Election Code in relation to Rule 23 of the Commission on Elections' Rules;

- Whether the Commission on Elections' conclusion that petitioner did not validly reacquire natural-born Philippine citizenship is warranted and sustains the cancellation of her Certificate of Candidacy for President;

(b) Whether petitioner's statement in her Certificate of Candidacy that her period of residence in the Philippines is ten (10) years and eleven (11) months until May 9, 2016 constitutes material misrepresentation warranting the cancellation of her Certificate of Candidacy for President;

- Whether the Commission on Elections' conclusion that petitioner did not meet the required period of residence is warranted and sustains the cancellation of her Certificate of Candidacy for President;

(2) Whether petitioner intended to mislead the electorate in the statements she made in her Certificate of Candidacy for President;

(1) Whether petitioner intended to mislead the electorate by stating in her Certificate of Candidacy that she is a natural-born Filipino Citizen; and

(2) Whether petitioner's statement in her Certificate of Candidacy that her period of residence by May 9, 2016 would be ten (10) years and eleven (11) months constitutes concealment of "ineligibility" for the Presidency and an attempt to mislead or deceive the Philippine electorate.

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The Petitions should be granted.

I
We clarify the mode of review and its parameters.

This court's power of judicial review is invoked through petitions for certiorari seeking to annul the Commission on Elections' resolutions which contain conclusions regarding petitioner Poe's citizenship, residency, and purported misrepresentation.

Under Rule 64, Section 2 of the Rules of Court, a judgment or final order or resolution of the Commission on Elections may be brought to this court on certiorari under Rule 65.[157] For a writ of certiorari to be issued under Rule 65, the respondent tribunal must have acted without or in excess of its jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction.[158]

The concept of judicial power under the 1987 Constitution recognizes this court's jurisdiction to settle actual cases or controversies. It also underscores this court's jurisdiction to determine whether a government agency or instrumentality committed grave abuse of discretion in the fulfillment of its actions. Judicial review grants this court authority to invalidate acts-of the legislative, the executive, constitutional bodies, and administrative agencies-when these acts are contrary to the Constitution.[159]

The term "grave abuse of discretion," while defying exact definition, generally refers to such arbitrary, capricious, or whimsical exercise of judgment that is equivalent to lack of jurisdiction:

> [T]he 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.[160]

In other words: arbitrary, capricious, or whimsical exercise of any constitutionally mandated power has never been sanctioned by the sovereign to any constitutional department, agency, or organ of government.

The Commission on Elections argues that alleged errors in its conclusions regarding petitioner's citizenship, residency, and purported misrepresentation were based on its findings and the evidence submitted by the parties. It emphasizes that even if its conclusions might have been erroneous, it nevertheless based these on its own appreciation of the evidence in relation to the law and the Constitution. It claims to have only exercised its constitutionally bounded discretion. Consequently, in its view, the Commission on Elections cannot be deemed to have acted without or in excess of its jurisdiction.[161]

Grave abuse of discretion exists when a constitutional body makes patently gross errors in making factual inferences such that critical pieces of evidence presented by a party not traversed or even stipulated by the other parties are ignored.[162] Furthermore a misinterpretation of the text of the Constitution or provisions of law, or otherwise a misreading or misapplication of the current state of jurisprudence, also amounts to grave abuse of discretion.[163] In such cases, decisions are arbitrary in that they do not relate to the whole corpus of evidence presented. They are arbitrary in that they will not be based on the current state of our law. Necessarily, these give the strongest suspicion of either capriciousness or partiality beyond the imagination of our present Constitution.

Thus, writs of certiorari are issued: (a) where the tribunal's approach to an issue is tainted with grave abuse of discretion, as where it uses wrong considerations and grossly misreads the evidence at arriving at its conclusion;[164] (b) where a tribunal's assessment is "far from reasonable[,] [and] based solely on very personal and subjective assessment standards when the law is replete with standards that can be used[;]"[165] "(c) where the tribunal's action on the appreciation and evaluation of evidence oversteps the limits of its discretion to the

point of being grossly unreasonable[;]"[166] and (d) where the tribunal uses wrong or irrelevant considerations in deciding an issue.[167]

Article VIII, Section 1 of the Constitution is designed to ensure that this court will not abdicate its duty as guardian of the Constitution's substantive precepts in favor of alleged procedural devices with lesser value.[168] Given an actual case or controversy and in the face of grave abuse, this court is not rendered impotent by an overgenerous application of the political question doctrine.[169] In general, the present mode of analysis will often require examination of the potential breach of the Constitution m a justiciable controversy.

II

Rule 23, Section 8 of the Commission on Elections' Rules of Procedure, insofar as it states that the Commission on Elections' decisions become final and executor five (5) days after receipt, is valid. It does not violate Article IX, Section 7 of the Constitution.

Article IX of the 1987 Constitution provides that any decision, order, or ruling of the Commission on Elections may be brought to this court on certiorari within thirty (30) days from receipt of a copy:

> Section 7. Each Commission shall decide by a majority vote of all its Members, any case or matter brought before it within sixty days from the date of its submission for decision or resolution. A case or matter is deemed submitted for decision or resolution upon the filing of the last pleading, brief, or memorandum required by the rules of the Commission or by the Commission itself. Unless otherwise provided by this Constitution or by law, any decision, order, or ruling of each Commission may be brought to the Supreme Court on certiorari by the aggrieved party within thirty days from receipt of a copy thereof (Emphasis supplied)

Rule 23, Section 8 of the Commission on Elections' Rules of Procedure, on the other hand, provides that decisions and rulings of the Commission on Elections En Banc are deemed final and executory if no restraining order is issued by this court within five (5) days from receipt of such a decision or resolution, thus:

> Section 8. Effect if Petition Unresolved. -
> . . . .
> A Decision or Resolution is deemed final and executory if, in case of a Division ruling, no motion for reconsideration is filed within the reglementary period, or in cases of rulings of the Commission En Banc, no restraining order is issued by the Supreme Court within five (5) days from receipt of the decision or resolution.

Under the 1987 Constitution, the Commission on Elections has the power to promulgate its own rules of procedure. Article IX-A provides:

> Section 6. Each Commission en banc may promulgate its own rules concerning pleadings and practice before it or before any of its offices. Such rules, however, shall not diminish, increase, or modify substantive rights.

Similarly, in Article IX-C:

> Section 3. The Commission on Elections may sit en banc or in two divisions, and shall promulgate its rules of procedure in order to expedite disposition of election cases, including pre-proclamation controversies. All such election cases shall be heard and decided in division, provided that motions for reconsideration of decisions shall be decided by the Commission en banc.

The interpretation of any legal provtston should be one that is in harmony with other laws on the same subject matter so as to form a complete, coherent, and intelligible system. "Interpretare et concordare legibus est optimus interpretand," or every statute must be so construed and harmonized with other statutes as to form a uniform system of jurisprudence.[170] Assessing the validity of the Commission on Elections' Rules of Procedure includes

a determination of whether these rules can co- exist with the remedy of certiorari as provided by Article IX, Section 7 of the Constitution.

A wide breadth of discretion is granted a court of justice in certiorari proceedings.[171] In exercising this power, this court is to be guided by all the circumstances of each particular case "as the ends of justice may require."[172] Thus, a writ of certiorari will be granted where necessary in order to prevent a substantial wrong or to do substantial justice.[173]

The Commission on Elections' Rules of Procedure are evidently procedural rules; they are remedial in nature. They cover only rules on pleadings and practice. They are the means by which its power or authority to hear and decide a class of cases is put into action.[174] Rule 23, Section 8 of the Commission on Elections' Rules of Procedure refers only to the pleadings and practice before the Commission on Elections itself, and does not affect the jurisdiction of this court.

Accordingly, that the Commission on Elections may deem a resolution final and executory under its rules of procedure does not automatically render such resolution beyond the scope of judicial review under Article IX of the 1987 Constitution. Rule 23, Section 8 of the Commission on Elections' Rules of Procedure merely guides the Commission as to the status of a decision for its own operations; it does not prevent this court from acting on the same decision via certiorari proceedings. In any event, while it is true that certiorari does not immediately stay a decision of a constitutional commission, a temporary restraining order can still be issued, as in this case.

Finally, it should be noted that in promulgating this rule, the Commission on Elections was simply fulfilling its constitutional duty to "promulgate its rules of procedure in order to expedite disposition of election cases."[175] Cases before the Commission on Elections must be disposed of without delay, as the date of the elections is constitutionally and statutorily fixed.[176] The five-day rule is based on a reasonable ground: the necessity to prepare for the elections.

III

Any interpretation of the scope of the statutory power granted to the Commission on Elections must consider all the relevant constitutional provisions allocating power to the different organs of government.

Reading the entirety of the Constitution leads to the inescapable conclusion that the Commission on Elections' jurisdiction, statutorily granted in Section 78 of the Omnibus Election Code, with respect to candidates for the Offices of President and Vice President, is only with respect to determining whether a material matter asserted in a candidate's certificate of candidacy is false. For purposes of Section 78, a matter may be true or false only when it is verifiable. Hence, the section only refers to a matter of fact. It cannot refer to a legal doctrine or legal interpretation. Furthermore, the false representation on a material fact must be shown to have been done with intent. It must be accompanied with intent to deceive. It cannot refer to an honest mistake or error made by the candidate.

III.A

A certificate of candidacy is filed to announce a person's candidacy and to declare his or her eligibility for elective office. Section 74 of the Omnibus Election Code enumerates the items that must be included m a certificate of candidacy:

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

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> Constitution of the Philippines and will maintain true faith and allegiance thereto; that he will obey the laws, legal orders, and decrees promulgated by the duly constituted authorities; that he is not a pennanent resident or immigrant to a foreign country; that the obligation imposed by his oath is assumed voluntarily, without mental reservation or purpose of evasion; and that the facts stated in the certificate of candidacy are true to the best of his knowledge.
>
> Unless a candidate has officially changed his name through a court approved proceeding, a candidate shall use in a certificate of candidacy the name by which he has been baptized, or if has not been baptized in any church or religion, the name registered in the office of the local civil registrar or any other name allowed under the provisions of existing law or, in the case of a Muslim, his Hadji name after perfonning the prescribed religious pilgrimage: Provided, That when there are two or more candidates for an office with the same name and surname, each candidate, upon being made aware or such fact, shall state his paternal and maternal surname, except the incumbent who may continue to use the name and surname stated in his certificate of candidacy when he was elected. He may also include one nickname or stage name by which he is generally or popularly known in the locality.
>
> The person filing a certificate of candidacy shall also affix his latest photograph, passport size; a statement in duplicate containing his bio-data and program of government not exceeding one hundred words, if he so desires.

Generally, the Commission on Elections has the ministerial duty to receive and acknowledge receipt of certificates of candidacy.[177] The Commission on Elections has the competence to deny acceptance of a certificate of candidacy when a candidate's lack of qualifications appears patent on the face of the certificate of candidacy and is indubitable.[178] This is in line with its power to "[e]nforce and administer all laws and regulations relative to the conduct of an election."[179]

For instance, if the date of birth in the certificate of candidacy clearly and patently shows that the candidate has not met the required age requirement for the office for which he or she is running, the Commission on Elections may motu proprio deny acceptance. Specifically, in such cases, the candidate has effectively made an admission by swearing to the certificate of candidacy. Therefore, in the interest of an orderly election, the Commission on Elections may simply implement the law.

This is not the situation in this case. Petitioner's Certificate of Candidacy did not patently show any disqualification or ineligibility. Thus, the denial of due course or cancellation of the certificate cannot be done motu proprio, but only when a petition is filed. The petition must be verified and based on the exclusive ground that a material representation in the certificate of candidacy is false.

Section 78 of the Omnibus Election Code provides:

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

III.B
The Commission on Elections' discretion with respect to Section 78 is limited in scope.

The constitutional powers and functions of the Commission on Elections are enumerated in Article IX-C, Section 2 of the 1987 Constitution:

SECTION 2. The Commission on Elections shall exercise the following powers and functions:

(1)

Enforce and administer all laws and regulations relative to the conduct of an election, plebiscite, initiative, referendum, and recall.

(2)

Exercise exclusive original jurisdiction over all contests relating to the elections, returns, and qualifications of all elective regional, provincial, and city officials, and appellate jurisdiction over all contests involving elective municipal officials decided by trial courts of general jurisdiction, or involving elective barangay officials decided by trial courts of limited jurisdiction.
Decisions, final orders, or rulings of the Commission on election contests involving elective municipal and barangay offices shall be final, executory, and not appealable.

(3)

Decide, except those involving the right to vote, all questions affecting elections, including determination of the number and location of polling places, appointment of election officials and inspectors, and registration of voters.

(4)

Deputize, with the concurrence of the President, law enforcement agencies and instrumentalities of the Government, including the Anned Forces of the Philippines, for the exclusive purpose of ensuring free, orderly, honest, peaceful, and credible elections.

(5)

Register, after sufficient publication, political parties, organizations, or coalitions which, in addition to other requirements, must present their platform or program of government; and accredit citizens' arms of the Commission on Elections. Religious denominations and sects shall not be registered. Those which seek to achieve their goals through violence or unlawful means, or refuse to uphold and adhere to this Constitution, or which are supported by any foreign government shall likewise be refused registration.
Financial contributions from foreign governments and their agencies to political parties, organizations, coalitions, or candidates related to elections constitute interference in national affairs, and, when accepted, shall be an additional ground for the cancellation of their registration with the Commission, in addition to other penalties that may be prescribed by law.

(6)

File, upon a verified complaint, or on its own initiative, petitions in court for inclusion or exclusion of voters; investigate and, where appropriate, prosecute cases of violations of election laws, including acts or omissions constituting election frauds, offenses, and malpractices.

(7)

Recommend to the Congress effective measures to minimize election spending, including limitation of places where propaganda materials shall be posted, and to prevent and penalize all forms of election frauds, offenses, malpractices, and nuisance candidacies.

(8)

Recommend to the President the removal of any officer or employee it has deputized, or the imposition of any other disciplinary action, for violation or disregard of, or disobedience to its directive, order, or decision.

(9)

Submit to the President and the Congress a comprehensive report on the conduct of each election, plebiscite, initiative, referendum, or recall.

Except for item (2), all the powers enumerated in Article IX-C, Section 2 are administrative in nature.[180] These powers relate to the Commission's general mandate to "[e]nforce and administer all laws and regulations relative to the conduct of an election." The Commission on Elections' adjudicatory powers are limited to having "exclusive original jurisdiction over all contests relating to the elections, returns, and qualifications of all elective regional, provincial, and city officials" and "appellate jurisdiction over all contests involving elective municipal officials decided by trial courts of general jurisdiction, or involving elective barangay officials decided by trial courts of limited jurisdiction."

The Commission on Elections has no jurisdiction over the elections, returns, and qualifications of those who are candidates for the Office of President. They also do not have jurisdiction to decide issues "involving the right to vote[.]"[181]

The Commission on Elections was originally only an administrative agency.[182] Under Commonwealth Act No. 607, it took over the President's function to enforce election laws.

Pursuant to amendments made to the 1935 Constitution, the Commission on Elections was transformed into a constitutional body "[having] exclusive charge of the enforcement and administration of all laws relative to the conduct of elections[.]"[183]

It was in the 1973 Constitution that the Commission on Elections was granted quasi-judicial powers in addition to its administrative powers. The Commission on Elections became the sole judge of all election contests relating to the elections, returns, and qualifications of members of the national legislature and elective provincial and city officials. Thus, in Article XII-C, Section 2(2) of the 1973 Constitution, the Commission on Elections was granted the power to:

SEC. 2....

....

(2) Be the sole judge of all contests relating to the elections, returns, and qualifications of all Members of the Batasang Pambansa and elective provincial and city officials. (Emphasis supplied)

At present, the quasi-judicial power of the Commission on Elections is found in item (2) of Article IX-C, Section 2 of the Constitution.

"Contests" are post-election scenarios.[184] Article IX-C, Section 2(2) of the Constitution speaks of "elective officials," not "candidates for an elective position." This means that the Commission on Elections may take cognizance of petitions involving qualifications for public office only after election, and this is only with respect to elective regional, provincial, city, municipal, and barangay officials.

With respect to candidates for President and Vice President, the Constitution reserved adjudicatory power with this court. Article VII, Section 4 of the 1987 Constitution outlines the dynamic relationship of the various constitutional organs in elections for President and Vice President, thus:

SECTION 4....

....

The returns of every election for President and Vice-President, duly certified by the board of canvassers of

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> each province or city, shall be ransmitted to the Congress, directed to the President of the Senate. Upon
>
> receipt of the certificates of canvass, the President of Senate shall, not later than thirty days after the day of the election, open all certificates in the presence of the Senate and the House of Representatives in joint public session, and the Congress, upon detennination of the authenticity and due execution thereof in the manner provided by law, canvass the votes.
>
> The person having the highest number of votes shall be proclaimed elected, but in case two or more shall have an equal and highest number of votes, one of them shall forthwith be chosen by the vote of a majority of all the Members of the Congress, voting separately.
>
> The Congress shall promulgate its rules for the canvassing of the certificates.
>
> The Supreme Court, sitting En Banc, shall be the sole judge of all contests relating to the election, returns, and q talifications of the President or Vice-President, and may promulgate its rules for the purpose. (Emphasis supplied)

Reading the text of similar provisions[185] relating to the House of Representatives Electoral Tribunal,[186] Former Associate Justice Vicente V. Mendoza observed in his Separate Opinion in Romualdez-Marcos that there are no "authorized proceedings for determining a candidate's qualifications for an office before his election."[187] He proposed that the Commission on Elections cannot remedy the perceived lacuna by deciding petitions questioning the qualifications of candidates before the election under its power to enforce election laws.[188]

This reading was later on qualified.

In Tecson v. Commission on Elections,[189] the petitions filed by Maria Jeanette Tecson and Zoilo Velez were dismissed for lack of jurisdiction. The petitions questioned directly before this court, before the elections were held, the qualifications of Fernando Poe, Jr. as a presidential candidate. With unanimity on this point, this court stated:

> The rules categorically speak of the jurisdiction of the tribunal over contests relating to the election, returns and qualifications of the "President" or "Vice President", of the Philippines, and not of "candidates for President or Vice President. A quo warranto proceeding is generally defined as being an action against a person who usurps, intrudes into, or unlawfully holds or exercises a public office. In such context, the election contest can only contemplate a post-election scenario. In Rule 14, only a registered candidate who would have received either the second or third highest number of votes could file an election protest. This rule again presupposes a post election scenario.
>
> It is fair to conclude that the jurisdiction of the Supreme Court, defined by Section 4, paragraph 7, of the 1987 Constitution, would not include cases directly brought before it, questioning the qualifications of a candidate for the presidency or vice-presidency before the elections are held.
>
> Accordingly, G.R. No. 161434, entitled "Maria Jeanette C. Tecson, et al., vs. Commission on Elections et al.," and G.R. No. 161634, entitled "Zoilo Antonio Velez vs. Ronald Allan Kelley Poe a.k.a. Fernando Poe, Jr." would have to be dismissed for want of jurisdiction.[190]

On the other hand, with respect to the petitions that questioned the resolutions of the Commission on Elections, which in tum were decided on the basis of Section 78 of the Omnibus Election Code, Tecson clarified, with respect to the Petition docketed as G.R. No. 161824:

> In seeking the disqualification of the candidacy of FPJ and to have the COMELEC deny due course to or cancel FPJ's certificate of candidacy for alleged misrepresentation of a material fact (i.e., that FPJ was a natural-born citizen) before the COMELEC, petitioner Fornier invoked Section 78 of the Omnibus Election Code-

> Section 78. Petition to deny due course to or cancel a certificate of candidacy. - A verified petition seeking to deny due course or to cancel a certificate of candidacy may be filed by any person exclusively on the ground that any material representation contained therein as required under Section 74 hereof is false.

in consonance with the general powers of COMELEC expressed in Section 52 of the Omnibus Election Code-

> Section 52. Powers and functions of the Commission on Elections. In addition to the powers and functions conferred upon it by the Constitution, the Commission shall have exclusive charge of the enforcement and administration of all laws relative to the conduct of elections for the purpose of ensuring free, orderly and honest elections.

and in relation to Article 69 of the Omnibus Election Code which would authorize "any interested party" to file a verified petition to deny or cancel the certificate of candidacy of any nuisance candidate.

Decisions of the COMELEC on disqualification cases may be reviewed by the Supreme Court per Rule 64 in an action for certiorari under Rule 65 of the Revised Rules of Civil Procedure. Section 7, Article IX, of the 1987 Constitution also reads-

> Each Commission shall decide by a majority vote of all its Members any case or matter brought before it within sixty days from the date of its submission for decision or resolution. A case or matter is deemed submitted for decision or resolution upon the filing of the last pleading, brief, or memorandum, required by the rules of the Commission or by the Commission itself. Unless otherwise provided by this Constitution or by law, any decision, order or ruling of each Commission may be brought to the Supreme Court on certiorari by the aggrieved party within thirty days from receipt of a copy thereof.

Additionally, Section 1, Article VIII, of the same Constitution provides that judicial power is vested in one Supreme Court and in such lower courts as may be established by law which power "includes the duty of the courts of justice to settle actual controversies involving rights which are legally demandable and enforceable, and to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government.

It is sufficiently clear that the petition brought up in G.R. No. 161824 was aptly elevated to, and cold well be taken cognizance of by, this Court. A contrary view would be a gross denial to our people of their fundamental right to be fully informed, and to make a proper choice, on who could or should be elected to occupy the highest government post in the land.[191] (Citations omitted)

A proper reading of the Constitution requires that every provision be given effect. Thus, the absurd situation where "contests" are entertained even if no petition for quo warranto was filed before the Presidential Electoral Tribunal,[192] the Senate Electoral Tribunal,[193] or the House of Representatives Electoral Tribunal [194] must be avoided. This will be the case should the Commission on Elections be allowed to take cognizance of all petitions questioning the eligibility of a candidate. The provisions of the Constitution on the jurisdiction of the electoral tribunals over election contests would be rendered useless.

More importantly, the Commission on Elections' very existence and effectiveness inherently depend on its neutrality. Scrutiny of the qualifications of candidates for electoral positions of national importance was intentionally and expressly delegated to special electoral tribunals. Clearly, the credibility-and perhaps even the legitimacy-of those who are elected to these important public offices will be undermined with the slightest suspicion of bias on the part of the Commission on Elections. This is why the pressure to determine the qualifications of candidates to these positions has been purposely removed from the Commission on Elections. After all, given Article IX-A, Section 7 of the Constitution, any "case or matter" decided by a constitutional commission "may be brought to the Supreme Court on certiorari by the aggrieved party within thirty days from

receipt of a copy thereof."[195] The Commission on Elections will find itself in a very difficult situation should it disqualify a candidate on reasons other than clearly demonstrable or factual grounds only for this court to eventually overturn its ruling. The Commission on Elections, wittingly or unwittingly, would provide justifiable basis for suspicions of partiality.

It is also this evil that we must guard against as we further sketch the contours of the jurisdiction of the Commission on Elections and of this court.

Before elections, the Commission on Elections, under Section 78 of the Omnibus Election Code, may take cognizance of petitions involving qualifications for public office regardless of the elective position involved, but only on the limited and exclusive ground that a certificate of candidacy contains a material representation that is false.

Intent to deceive should remain an element of Section 78 petitions. Otherwise, the only issue to be resolved in Section 78 petitions would be whether the candidate possesses the qualifications required under the law. If the Commission acts on these petitions, it acts in excess of its jurisdiction. As discussed, the Commission on Elections may validly take cognizance of petitions involving qualifications only if the petitions were filed after election and only with respect to elective regional, provincial, city, municipal, and barangay officials.

III.C
Thus, to successfully challenge a certificate of candidacy under Section 78, a petitioner must establish that:

First, that the assailed certificate of candidacy contains a representation that is false;

Second, that the false representation is material, i.e., it involves the candidate's qualifications for elective office,[196] such as citizenship[197] and residency; [198] and

Third, that the false material representation was made with a "deliberate attempt to mislead, misinform, or hide a fact that would otherwise render a candidate ineligible"[199] or "with an intention to deceive the electorate as to one's qualifications for public office."[200]

In using its powers under Section 78, the Commission on Elections must apply these requirements strictly and with a default preference for allowing a certificate of candidacy in cases affecting the positions of President, Vice President, Senator, or Member of the House of Representatives. Section 78 itself mentions that the ground of material misrepresentation is exclusive of any other ground. Furthermore, in the guise of this statutory grant of power, the Commission on Elections cannot usurp the functions of this court sitting as the Presidential Electoral Tribunal nor of the Senate Electoral Tribunal, and the House of Representatives Electoral Tribunal. Likewise, it cannot keep the most important collective of government-the People acting as an electorate-from exercising its most potent power: the exercise of its right to choose its leaders in a clean, honest, and orderly election.

As petitiOner suggests, "the sovereign people, in ratifying the Constitution, intended that questions of a candidate's qualification ... be submitted directly to them."[201] In the words of Former Chief Justice Reynato Puno in Frivaldo v. Commission on Elections,[202] the People, on certain legal issues, choose to be the "final power of final legal adjustment."[203]

Consistent with this legal order, only questions of fact may be resolved in Section 78 proceedings. Section 78 uses the word "false;" hence, these proceedings must proceed from doubts arising as to the truth or falsehood of a representation in a certificate of candidacy.[204] Only a fact is verifiable, and conversely, falsifiable, as opposed to an opinion on a disputed point of law where one's position is only as good as another's. Under Section 78, the Commission on Elections cannot resolve questions of law- as when it resolves the issue of whether a candidate is

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qualified given a certain set of facts-for it would arrogate upon itself the powers duly reserved to the electoral tribunals established by the Constitution.

Romualdez-Marcos v. Commission on Elections articulated the requirement of "deliberate attempt to mislead" in order that a certificate of candidacy may be cancelled.[205] In 1995, Imelda Romualdez-Marcos filed her Certificate of Candidacy for Representative of the First District of Leyte, alleging that she resided in the district for seven (7) months. She later amended her Certificate to state that she had resided in Tacloban City "since childhood,"[206] explaining that her original answer was an "honest mistake."[207] The Commission on Elections nonetheless cancelled her Certificate of Candidacy for her failure to meet the one-year residency requirement for the position she was seeking.[208]

Admitting the defense of honest mistake and finding that Imelda Romualdez-Marcos satisfied the required period of residence, this court reversed the Commission on Elections' ruling. It stated that:

> [I]t is the fact of residence, not a statement in certificate of candidacy which ought to be decisive in determining whether or not an individual has satisfied the constitution's residency qualification requirement. [The statement in the certificate of candidacy] becomes material only when there is or appears to be a deliberate attempt to mislead, misinform, or hide a fact which would otherwise render a candidate ineligible. It would be plainly ridiculous for a candidate to deliberately and knowingly make a statement in a certificate of candidacy which would lead to his or her disqualification.[209]

In Salcedo II v. Commission on Elections,[210] this court affirmed the proclamation of Ermelita Cacao Salcedo as Mayor of Sara, Iloilo despite the contention that her marriage to Neptali Salcedo was void and that she, therefore, had materially misrepresented her surname to be "Salcedo."[211]

This court ruled that the use of a specific surname in a certificate of candidacy is not the material representation contemplated in Section 78.[212]

There was no intent to deceive on the part of Ermelita Cacao Salcedo as she has been using "Salcedo" years before the election; hence, this court refused to cancel her Certificate of Candidacy.[213]

Intent to deceive has consistently been required to justify the cancellation of certificates of candidacy.[214] Yet, in 2013, this court in Tagolino v. House of Representatives Electoral Tribunal[215] stated that intent to deceive "is of bare significance to a Section 78 petition."[216] This statement must be taken in context.

In Tagolino, Richard Gomez (Gomez) filed his Certificate of Candidacy for Representative for the Fourth District of Leyte. An opposing candidate, Buenaventura Juntilla (Juntilla), filed a petition before the Commission on Elections, alleging that Gomez resided in Greenhills, San Juan City, contrary to his representation in his Certificate of Candidacy that he resided in Ormoc City. Juntilla prayed for the cancellation of Gomez's Certificate of Candidacy.[217]

In its Resolution dated February 17, 2010, the First Division of the Commission on Elections granted Juntilla's Petition and declared Gomez "disqualified as a candidate for the Office of Congressman, Fourth District of Leyte, for lack of residency requirement."[218] This Resolution was affirmed by the Commission on Elections En Banc, after which Gomez manifested that he accepted the finality of the Resolution.[219]

Thereafter, Lucy Torres-Gomez (Torres-Gomez) filed her Certificate of Candidacy as substitute candidate for her husband. The Liberal Party, to which Gomez belonged, endorsed Torres-Gomez's candidacy. Upon recommendation of its Law Department, the Commission on Elections En Banc allowed Torres-Gomez to substitute for Gomez in its Resolution dated May 8, 2010.[220]

The next day, on May 9, 2010, Juntilla moved for reconsideration. After the conduct of elections on May 10, 2010, Gomez, whose name remained on the ballots, garnered the highest number of votes among the candidates for representative.[221] In view of his substitution, the votes were counted in favor of Torres-Gomez. Torres-Gomez was then "proclaimed the duly elected Representative of the Fourth District of Leyte."[222]

To oust Torres-Gomez, Silverio Tagolino filed a petition for quo warranto before the House of Representatives Electoral Tribunal. Tagolino argued, among others, that Torres-Gomez failed to validly substitute Gomez, the latter's Certificate of Candidacy being void.[223]

The House of Representatives Electoral Tribunal dismissed the petition for quo warranto and ruled that Torres-Gomez validly substituted for her husband. According to the tribunal, the Commission on Elections declared Gomez disqualified; the Commission did not cancel Gomez's Certificate of Candidacy. Since Gomez was merely disqualified, a candidate nominated by the political party to which he belonged could validly substitute him.[224]

On certiorari, this court reversed and set aside the Decision of the House of Representatives Electoral Tribunal.[225] Juntilla's Petition prayed for the cancellation of Gomez's certificate of candidacy.[226] Although the Commission's First Division declared Gomez "disqualified" as a candidate for representative, the Commission nonetheless granted Juntilla's Petition "without any qualification."[227]

Juntilla's Petition was granted, resulting in the cancellation of Gomez's Certificate of Candidacy. Hence, Gomez was deemed a non-candidate for the 2010 Elections and could not have been validly substituted by Torres-Gomez. Torres-Gomez then could not have been validly elected as Representative of the Fourth District ofLeyte.

In deciding Tagolino, this court distinguished a petition for disqualification under Section 68 of the Omnibus Election Code from a petition to deny due course to or cancel a certificate of candidacy under Section 78.[228] As to whether intent to deceive should be established in a Section 78 petition, this court stated:

> [I]t must be noted that the deliberateness of the misrepresentation, much less one's intent to defraud, is of bare significance in a Section 78 petition as it is enough that the person's declaration of a material qualification in the [certificate of candidacy] be false. In this relation, jurisprudence holds that an express finding that the person committed any deliberate misrepresentation is of little consequence in the detennination of whether one's [certificate of candidacy] should be deemed cancelled or not. What remains material is that the petition essentially seeks to deny due course to and/or cancel the [certificate of candidacy] on the basis of one's ineligibility and that the same be granted without any qualification.[229] (Citations omitted)

Tagolino notwithstanding, intent to deceive remains an indispensable element of a petition to deny due course to or cancel a certificate of candidacy.

As correctly pointed out by petitioner, the contentious statement in Tagolino is mere obiter dictum.[230] That statement was not essential in resolving the core issue in Tagolino: whether a person whose certificate of candidacy was cancelled may be validly substituted. This had no direct relation to the interpretation of false material representations in the certificate of candidacy.

Moreover, this court En Banc affirmed the requirement after Tagolino.

In Villafuerte v. Commission on Elections,[231] Hayudini v. Commission on Election,[232] Jalover v. Osmeña,[233] and Agustin v. Commission on Election[234]—all decided after Tagolino—this court reaffirmed "intent to deceive" as an integral element of a Section 78 petition. Unlike Tagolino, this court's Decisions in Villafuerte, Hayudini, Jalover, and Agustin directly dealt with and squarely ruled on the issue of whether the

Commission on Elections gravely abused its discretion in granting or denying Section 78 petitions. Their affirmation of intent to deceive as an indispensable requirement was part of their very ratio decidendi and not mere obiter dicta. Since this ratio decidendi has been repeated, it now partakes of the status of jurisprudential doctrine. Accordingly, the statement in Tagolino that dispenses with the requirement of intent to deceive cannot be considered binding.

It is true that Section 78 makes no mention of "intent to deceive." Instead, what Section 78 uses is the word "representation." Reading Section 78 in this way creates an apparent absence of textual basis for sustaining the claim that intent to deceive should not be an element of Section 78 petitions. It is an error to read a provision of law.

"Representation" is rooted in the word "represent," a verb. Thus, by a representation, a person actively does something. There is operative engagement in that the doer brings to fruition what he or she is pondering-something that is abstract and otherwise known only to him or her, a proverbial "castle in the air." The "representation" is but a concrete product, a manifestation, or a perceptible expression of what the doer has already cognitively resolved to do. One who makes a representation is one who intends to articulate what, in his or her mind, he or she wishes to represent. He or she actively and intentionally uses signs conventionally understood in the form of speech, text, or other acts.

Thus, representations are assertions. By asserting, the person making a statement pushes for, affirms, or insists upon something. These are hardly badges of something in which intent is immaterial. On the contrary, no such assertion can exist unless a person actually wishes to, that is, intends, to firmly stand for something.

In Section 78, the requirement is that there is "material representation contained therein as required by Section 74 hereof is false."[235] A "misrepresentation" is merely the obverse of "representation." They are two opposite concepts. Thus, as with making a representation, a person who misrepresents cannot do so without intending to do so.

That intent to deceive is an inherent element of a Section 78 petition is reflected by the grave consequences facing those who make false material representations in their certificates of candidacy.[236] They are deprived of a fundamental political right to run for public office.[237] Worse, they may be criminally charged with violating election laws, even with perjury.[238] For these reasons, the false material representation referred to in Section 78 cannot "just [be] any innocuous mistake."[239]

Petitioner correctly argued that Section 78 should be read in relation to Section 74's enumeration of what certificates of candidacy must state. Under Section 74, a person filing a certificate of candidacy declares that the facts stated in the certificate "are true to the best of his [or her] knowledge." The law does not require "absolute certainty"[240] but allows for mistakes in the certificate of candidacy if made in good faith.[241] This is consistent with the "summary character of proceedings relating to certificates of candidacy."[242]

IV

From these premises, the Commission on Elections should have dismissed Tatad's Petition for Disqualification. The Commission on Elections showed bias and acted arbitrarily when it motu proprio converted the Petition into one which Tatad did not intend, contrary to the interest of the other party. While the Commission on Elections has the necessary and implied powers concomitant with its constitutional task to administer election laws, it cannot do so by favoring one party over the other.

Significantly, Tatad was not the only petitioner in those cases. There were three other petitions against one candidate, which already contained most if not all the arguments on the issues raised by Tatad. There was, thus,

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no discernable reason for the Commission on Elections not to dismiss a clearly erroneous petition. The Commission on Elections intentionally put itself at risk of being seen not only as being partial, but also as a full advocate of Tatad, guiding him to do the correct procedure.

On this matter, the Commission on Elections clearly acted arbitrarily. Section 68 of the Omnibus Election Code grants the Commission on Elections jurisdiction over petitions for disqualification. Section 68 enumerates the grounds for filing a disqualification petition:

> Sec. 68 Disqualifications. - Any candidate who, in action or protest in which he is a party is declared by final decision of a competent court guilty of, or found by the Commission of having (a) given money or other material consideration to influence, induce or corrupt the voters or public officials performing electoral functions; (b) committed acts of terrorism to enhance his candidacy; (c) spent in his election campaign an amount in excess of that allowed by this Code; (d) solicited, received or made any contribution prohibited under Sections 89, 95, 96, 97 and l04; or (e) violated any of Sections 80, 83, 85, 86 and 261, paragraphs d, e, k, v, and cc, sub-paragraph 6, shall be disqualified from continuing as a candidate, or if he has been elected, from holding the office. Any person who is a permanent resident of or an immigrant of a foreign country in accordance with the residence requirement provided for in the election laws.

Apart from the grounds provided in Section 68, the grounds in Section 12 of the Omnibus Election Code may likewise be raised in a petition for disqualification.[243] Section 12 of the Omnibus Election Code states:

> Sec. 12. Disqualifications.- Any person who has been declared by competent authority insane or incompetent, or has been sentenced by final judgment for subversion, insurrection, rebellion, or for any offense for which he has been sentenced to a penalty of more than eighteen months or for a crime involving moral turpitude, shall be disqualified to be a candidate and to hold any office, unless he has been given plenary pardon or granted amnesty.
>
> This disqualifications to be a candidate herein provided shall be deemed removed upon the declaration by competent authority that said insanity or incompetence had been removed or after the expiration of a period of five years from his service of sentence, unless within the same period he again becomes disqualified.

Although denominated as a Petition for Disqualification, Tatad's Petition before the Commission on Elections did not raise any ground for disqualification under Sections 12 and 68 of the Omnibus Election Code.

Instead, Tatad argued that petitioner lacked the required qualifications for presidency; hence, petitioner should not be allowed to run for president.

The law does not allow petitions directly questioning the qualifications of a candidate before the elections. Tatad could have availed himself of a petition to deny due course to or cancel petitioner's certificate of candidacy under Section 78 on the ground that petitioner made a false material representation in her certificate of candidacy. However, Tatad's petition before the Commission on Elections did not even pray for the cancellation of petitioner's certificate of candidacy.

The Commission on Elections gravely abused its discretion in either implicitly amending the petition or incorrectly interpreting its procedural device so as to favor Tatad and allow his petition. The Commission should have dismissed Tatad's petition for want of jurisdiction. In failing to do so, it acted arbitrarily, whimsically, and capriciously. The Commission on Elections on this point acted with grave abuse of discretion.

V

There was no material misrepresentation with respect to petitioner's conclusion that she was a natural-born Filipina. Her statement was not false.

The facts upon which she based her conclusion of law was laid bare through her allegations, and a substantial number of these were the subject of stipulation of the parties. Neither private respondents nor the Commission on Elections was able to disprove any of the material facts supporting the legal conclusion of the petitioner. Petitioner was entitled to make her own legal conclusion from her interpretation of the relevant constitutional and statutory provisions. This court has yet to rule on a case that-at the time of the filing of the certificate of candidacy until this moment-squarely raised the issue of the citizenship and the nature of citizenship of a foundling.

Thus, the Commission on Elections had no jurisdiction under Section 78 of the Omnibus Election Code to rule on the nature of citizenship of petitioner. Even assuming without granting that it had that competence, the Commission gravely abused its discretion when it cancelled petitioner's Certificate of Candidacy on this ground. There was no material misrepresentation as to a matter of fact. There was no intent to deceive. Petitioner, even as a foundling, presented enough facts to make a reasonable inference that either or both of her parents were Filipino citizens when she was born.

V.A

The Commission on Elections submits that since petitioner admitted that she is a foundling, the burden of evidence was passed on to her "to prove that her representation in her [Certificate of Candidacy]-that she is eligible to run for President-is not false."[244] The Commission argues that this declaration carried an admission that petitioner is of unknown parentage. Thus, private respondents do not need to prove that petitioner's parents are foreigners. Instead, it was petitioner's burden to show evidence that she is a natural-born Filipino citizen.[245]

Elamparo echoed the Commission on Elections' arguments. Petitioner's admission that she is a foundling was enough substantial evidence on the part of private respondents to discharge the burden that rested upon them as petitioners before the Commission on Elections. Petitioner's admission trumped all other evidence submitted to the Commission on Elections of government recognition of her citizenship.[246]

As opposed to burden of proof,[247] burden of evidence shifts between the parties.[248] The party who alleges must initially prove his or her claims.[249] Once he or she is able to show a prima facie case in his or her favor, the burden of evidence shifts to the other party.[250]

Thus, in an action for cancellation of a certificate of candidacy under Section 78 of the Omnibus Election Code, the person who filed the petition alleging material misrepresentation has the burden of proving such claim.[251] He or she must establish that there is material misrepresentation under the required standard of evidence. In cases before quasi-judicial bodies, the standard of evidence is "substantial evidence or that amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion."[252]

If, during the course of hearing, petitioner shows a prima facie case of material misrepresentation, the burden of evidence shifts. The opposing party will then need to controvert the claims made.[253]

Private respondents who initiated the action before the Commission on Elections failed to establish a prima facie case of material misrepresentation to warrant a shift of burden of evidence to petitioner. Based on this ground, the petitions for cancellation of certificate of candidacy should have already been dismissed at the level of the Commission on Elections.

Even assuming that the burden of proof and evidence shifted to petitioner, the Commission on Elections erred in only considering petitioner's statement that she is a foundling. It committed a grave error when it excluded all the other pieces of evidence presented by petitioner and isolated her admission (and the other parties' stipulation) that she was a foundling in order to conclude that the burden of evidence already shifted to her.

Petitioner's admission that she is a foundling merely established that her biological parents were unknown. It did

not establish that she falsely misrepresented that she was born of Filipino parents. It did not establish that both her biological parents were foreign citizens.

The Commission on Elections was blind to the following evidence alleged by petitioner and accepted by the other parties:

(1) She was found in a church in Jaro, Iloilo;

(2) When she was found, she was only an infant sufficient to be considered newborn;

(3) She was found sometime in September 1968; (4) She was immediately registered as a foundling;

(5) Jaro, Iloilo did not have an international airport; and

(6) The physical characteristics of petitioner are consistent with a large majority of Filipinos.

All these facts can be used to infer that at least one of her biological parents is Filipino. These should be sufficient to establish that she is natural-born in accordance with the relevant provisions of the Constitution. The Commission on Elections arbitrarily disregarded these pieces of evidence. It chose to rely only on the admitted fact that she was a foundling to claim that the burden of evidence has already shifted.

V.B
The Commission on Elections was mistaken when it concluded that the burden of evidence shifted upon admission of the status of a foundling.

For purposes of Section 78 of the Omnibus Election Code, private respondents still had the burden of showing that: (1) both of petitioner's biological parents were foreign citizens; (2) petitioner had actual knowledge of both her biological parents' foreign citizenship at the time of filing of her Certificate of Candidacy; and (3) she had intent to mislead the electorate with regard to her qualifications.

The Commission on Elections cited and relied heavily on Senior Associate Justice Antonio Carpio's Dissenting Opinion in Tecson. On the basis of this Dissent, the Commission on Elections concluded that petitioner cannot invoke any presumption of natural-born citizenship.[254] The Dissenting Opinion quoted Paa v. Chan,[255] in that "[i]t is incumbent upon a person who claims Philippine citizenship to prove to the satisfaction of the Court that he is really a Filipino. No presumption can be indulged in favor of the claimant of Philippine citizenship, and any doubt regarding citizenship must be resolved in favor of the State."[256]

Elementary in citing and using jurisprudence is that the main opinion of this court, not the dissent, is controlling. Reliance by the Commission on Elections on the dissent without sufficiently relating it to the pronouncements in the main opinion does not only border on contumacious misapplication of court doctrine; it is utterly grave abuse of discretion.

Tecson, correctly read, resolved the issue of citizenship using presumptions. From the death certificate of Fernando Poe, Jr.'s grandfather Lorenzo Pou, this court assumed that he was born sometime in 1870 or during the Spanish regime.[257] Lorenzo Pou's death certificate shows San Carlos, Pangasinan as his place of residence. On this basis, this court inferred that San Carlos, Pangasinan was also Lorenzo Pou's residence before death such that he would have benefitted from the Philippine Bill's "en masse Filipinization" in 1902:[258]

> In ascertaining, in G.R. No. 161824, whether grave abuse of discretion has been committed by the COMELEC, it is necessary to take on the matter of whether or not respondent FPJ is a natural-born citizen, which, in tum, depended on whether or not the father of respondent, Allan F. Poe, would have himself been a Filipino citizen and, in the affirmative, whether or not the alleged illegitimacy of respondent prevents him from taking after the

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> Filipino citizenship of his putative father. Any conclusion on the Filipino citizenship of Lorenzo Pou could only be drawn from the presumption that having died in 1954 at 84 years old, when the Philippines was under Spanish rule, and that San Carlos, Pangasinan, his place of residence upon his death in 1954, in the absence of any other evidence, could have well been his place of residence before death, such that Lorenzo Pou would have benefited from the "en masse Filipinization" that the Philippine Bill had effected in 1902. That citizenship (of Lorenzo Pou), if acquired, would thereby extend to his son, Allan F. Poe, father of respondent FPJ. The 1935 Constitution, during which regime respondent FPJ has seen first light, confers citizenship to all persons whose fathers are Filipino citizens regardless of whether such children are legitimate or illegitimate.[259]

The Commission on Elections acted with utter arbitrariness when it chose to disregard this finding and its analogous application to petitioner and, instead, chose to rely on one of the dissenting opinions.

Moreover, the 1967 case of Paa v. Chan cited by the dissent favored by the Commission on Elections does not apply to this case.

Paa involved a quo warranto petition questioning the eligibility of an elected councilor on the ground of being a Chinese citizen.[260] It did not involve a petition for cancellation of certificate of candidacy.

In Paa, the councilor's registration as alien before the Bureau of Immigration was undisputed. The councilor's father was also registered as an alien on April 30, 1946.[261]

In petitioner's case, private respondents only relied on her foundling status to prove her alleged material misrepresentation of her qualifications. They did not present evidence, direct or circumstantial, to substantiate their claims against petitioner's candidacy. In other words, unlike Paa where evidence existed to support a claim of foreign citizenship, private respondents in this case showed none.

Even assuming that it could apply to this case, the 2004 case of Tecson had already overturned the 1967 pronouncements in Paa.

The Commission on Elections further submits the 2009 case of Go v. Ramos,[262] which reestablished the ruling against the use of presumptions in favor of claimants of Filipino citizenship when it reiterated Paa.[263]

Go is likewise inapplicable to this case. It involved a deportation complaint with allegations that a person-Go, the petitioner-was an illegal and undesirable alien.[264] Unlike in this case, it involved birth certificates clearly showing that Go and his siblings were Chinese citizens.[265]

Furthermore, Go was also decided by this court sitting in Division. Thus, it cannot overturn Tecson, which was decided by this court sitting En Banc.

V.C

Tecson v. Commission on Election[266] involved a similar pehhon alleging material misrepresentation in the Certificate of Candidacy of Fernando Poe, Jr. who claimed to have been a natural-born Filipino citizen.[267] This court ruled in favor of Fernando Poe, Jr. and dismissed the petitions even though his natural-born citizenship could not be established conclusively. This court found that petitioner in that case failed to substantiate his claim of material misrepresentation.[268] Former Associate Justice Vitug, speaking for the majority, discussed:

But while the totality of the evidence may not establish conclusively that respondent FPJ is a natural-hom citizen of the Philippines, the evidence on hand still would preponderate in his favor enough to hold that he cannot be held guilty of having made a material misrepresentation in his certificate of candidacy in violation of Section 78, in relation to Section 74, of the Omnibus Election Code. Petitioner has utterly failed to substantiate his case before the Court, notwithstanding the ample opportunity given to the parties to present their position and evidence, and to prove whether or not there has been material misrepresentation, which, as so ruled in Romualdez-Marcos v.

COMELEC, must not only be material, but also deliberate and willful.[269] (Emphasis supplied)

V.D

Even if we assume that it was petitioner who had the burden of evidence, a complete and faithful reading of the provisions of the entire Constitution, together with the evidence that petitioner presented, leads to the inescapable conclusion that as a newborn abandoned by her parents in Jaro, Iloilo in 1968, she was at birth Filipina. Thus, being Filipina at birth, petitioner did not have to do anything to perfect her Filipino citizenship. She is natural-hom.

Furthermore, there is no shred of evidence to rebut the circumstances of her birth. There is no shred of evidence that can lead to the conclusion that both her parents were not Filipino citizens.

The whole case of private respondents, as well as the basis of the Commission on Elections' Resolutions, is a presumption that all newborns abandoned by their parents even in rural areas in the Philippines are presumed not to be Filipinos. Private respondents' approach requires that those who were abandoned—ven because of poverty or shame—must exert extraordinary effort to search for the very same parents who abandoned them and might not have wanted to be identified in order to have a chance to be of public service.

V.E

Constitutional construction mandates that we begin with the relevant text and give its words their ordinary meaning whenever possible, consistent with verba legis.[270] As much as possible, the language of the text must be understood in its common usage and sense so as to maintain its presence in the People's consciousness.[271] The language of the provision itself is the primary source from which this court determines constitutional intent.[272]

Thus:

> We look to the language of the document itself in our search for its meaning. We do not of course stop there, but that is where we begin. It is to be assumed that the words in which constitutional provisions are couched express the objective sought to be attained. They are to be given their ordinary meaning except where technical terms are employed in which case the significance thus attached to them prevails. As the Constitution is not primarily a lawyer's document, it being essential for the rule of law to obtain that it should ever be present in the people's consciousness, its language as much as possible should be understood in the sense they have in common use. What it says according to the text of the provision to be construed compels acceptance and negates the power of the courts to alter it, based on the postulate that the framers and the people mean what they say. Thus, these are the cases where the need for construction is reduced to a minimum.[273] (Emphasis supplied)

Reading the text of the Constitution requires that its place in the whole context of the entire document must be considered. The Constitution should be read as a whole-ut magis valeat quam pereat.[274] Thus, in Civil Liberties Union v. Executive Secretary:[275]

> It is a well-established rule in constitutional construction that no one provision of the Constitution is to be separated from all the others, to be considered alone, but that all the provisions bearing upon a particular subject are to be brought into view and to be so interpreted as to effectuate the great purposes of the instrument. Sections bearing on a particular subject should be considered and interpreted together as to effectuate the whole purpose of the Constitution and one section is not to be allowed to defeat another, if by any reasonable construction, the two can be made to stand together.
>
> In other words, the court must hannonize them, if practicable, and must lean in favor of construction which will render every word operative, rather than one which may make the words idle and nugatory.[276] (Citations omitted)

In granting reconsideration in La Bugal-B'laan Tribal Association, Inc. v. Ramos,[277] this court discussed that "[t]he Constitution should be read in broad, life-giving strokes. It should not be used to strangulate economic growth or to serve narrow, parochial interests."[278]

In Social Weather Stations, Inc. v. Commission on Elections,[279] this court's discussion on statutory construction emphasized the need to adhere to a more holistic approach in interpretation:

> [T]he assumption that there is, in all cases, a universal plain language is erroneous. In reality, universality and uniformity in meaning is a rarity. A contrary belief wrongly assumes that language is static.
>
> The more appropriate and more effective approach is, thus, holistic rather than parochial: to consider context and the interplay of the historical, the contemporary, and even the envisioned. Judicial interpretation entails the convergence of social realities and social ideals. The latter are meant to be effected by the legal apparatus, chief of which is the bedrock of the prevailing legal order: the Constitution. Indeed, the word in the vernacular that describes the Constitution - saligan - demonstrates this imperative of constitutional primacy.
>
> Thus, we refuse to read Section 5.2(a) of the Fair Election Act in isolation. Here, we consider not an abstruse provision but a stipulation that is part of the whole, i.e., the statute of which it is a part, that is aimed at realizing the ideal of fair elections. We consider not a cloistered provision but a nonn that should have a present authoritative effect to achieve the ideals of those who currently read, depend on, and demand fealty from the Constitution.[280] (Emphasis supplied)

Still faithful with the relevant text and its place in the entire document, construction of constitutional meaning allows a historical trace of the changes that have been made in the text-from the choice of language, the additions, the omissions, and the revisions. The present constitutional text can be compared to our earlier Constitutions. Changes or retention of language and syntax congeals meaning.

Article IV, Section 1 of the Constitution on who are citizens of the Philippines, for example, may be traced back to earlier organic laws,[281] and even farther back to laws of colonizers that were made effective in the Philippine Islands during their occupation.[282] Some influences of their history, as enshrined in their laws, were taken and reflected in our fundamental law.

We resort to contemporaneous construction and aids only when the text is ambiguous or capable of two or more possible meanings.[283] It is only when the ambiguity remains even after a plain and contemporary reading of the relevant words in the text and within the context of the entire document that legal interpretation requires courts to go further. This includes examining the contemporaneous construction contained in analogous cases, statutes, and international norms that form part of the law of the land. This also includes discerning the purpose of the constitutional provision in light of the facts under consideration. For this purpose, the original understanding of the provisions by the People that ratified the document, as well as the discussions of those that participated in the constitutional convention or commission that drafted the document, taken into its correct historical context, can be illuminating.

Discerning constitutional meaning is an exercise in discovering the sovereign's purpose so as to judge the more viable among competing interpretations of the same legal text. The words as they reside in the whole document should primarily provide the clues. Secondarily, contemporaneous construction may aid in illumination if verba legis fails. Contemporaneous construction may also validate the clear textual or contextual meaning of the Constitution.

Contemporaneous construction is justified by the idea that the Constitution is not exclusively read by this court. The theory of a constitutional order founded on democracy is that all organs of government and its People can read the fundamental law. Only differences in reasonable interpretation of the meaning of its relevant text,

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occasioned by an actual controversy, will be mediated by courts of law to determine which interpretation applies and would be final. The democratic character of reading the Constitution provides the framework for the policy of deference and constitutional avoidance in the exercise of judicial review. Likewise, this is implied in the canonical doctrine that this court cannot render advisory opinions. Refining it further, this court decides only constitutional issues that are as narrowly framed, sufficient to decide an actual case.[284]

Contemporaneous construction engages jurisprudence and relevant statutes in determining the purpose behind the relevant text.

In the hierarchy of constitutional interpretation, discerning purpose through inference of the original intent of those that participated in crafting the draft Constitution for the People's ratification, or discerning the original understanding of the past society that actually ratified the basic document, is the weakest approach.

Not only do these interpretative methodologies allow the greatest subjectivity for this court, it may also be subject to the greatest errors. For instance, those that were silent during constitutional conventions may have voted for a proposition due to their own reasons different from those who took the floor to express their views. It is even possible that the beliefs that inspired the framers were based on erroneous facts.

Moreover, the original intent of the framers of the Constitution is different from the original understanding of the People who ratified it. Thus, in Civil Liberties Union:

> While it is permissible in this jurisdiction to consult the debates and proceedings of the constitutional convention in order to arrive at the reason and purpose of the resulting Constitution, resort thereto may be had only when other guides fail as said proceedings are powerless to vary the tenns of the Constitution when the meaning is clear. Debates in the constitutional convention "are of value as showing the views of the individual members, and as indicating the reasons for their votes, but they give is no light as to the views of the large majority who did not talk, much less of the mass of our fellow citizens whose votes at the polls gave the instrument the force of fundamental law. We think it safer to construe the constitution from what appears upon its face." The proper interpretation therefore depends more on how it was understood by the people adopting it than in the framer's understanding thereof.[285] (Emphasis supplied)

We apply these considerations in the interpretation of the provisions of the Constitution relevant to this case.

V.F
Petitioner is natural-born under any of two possible approaches.

The first approach is to assume as a matter of constitutional interpretation that all foundlings found in the Philippines, being presumptively born to either a Filipino biological father or a Filipina biological mother, are natural-born, unless there is substantial proof to the contrary. There must be substantial evidence to show that there is a reasonable probability that both, not just one, of the biological parents are not Filipino citizens.

This is the inevitable conclusion reached when the entirety of the provisions of the Constitution is considered alongside the contemporary construction based on statutes and international norms that form part of the law of the land. It is also the most viable conclusion given the purpose of the requirement that candidates for President must be natural-hom.

The second approach is to read the definition of natural-hom in Section 2 in relation to Article IV, Section 1(2). Section 1(2) requires that the father or the mother is a Filipino citizen.[286]

There is no requirement that the father or mother should be natural- born Filipino citizens. It is possible that one or both of the parents are ethnically foreign. Thus, physical features will not be determinative of natural-born citizenship.

There is no requirement of citizenship beyond the first degree of ascendant relationship. In other words, there is no necessity to prove indigenous ethnicity. Contrary to the strident arguments of the Commission on Elections, there is no requirement of Filipino bloodline.

Significantly, there is also no requirement that the father or mother should be definitively identified. There can be proof of a reasonable belief that evidence presented in a relevant proceeding substantially shows that either the father or the mother is a Filipino citizen.

V.G

The minimum constitutional qualifications for President are clearly enumerated in Article VII, Section 2:

> Section 2. No person may be elected President unless he is a natural born citizen of the Philippines, a registered voter, able to read and write, at least forty years of age on the day of the election, and a resident of the Philippines at least ten years immediately preceding such election.

Parsing the provision's clear meaning in the order enumerated, the qualifications are:

One, he or she must be "a natural born citizen"; Two, he or she must be "a registered voter"; Three, he or she must be "able to read and write";

Four, he or she must be "at least forty years of age on the day of the election" and

Five, he or she must be "a resident of the Philippines at least ten years immediately preceding such election."

Petitioner's possession of the second, third, and fourth mmtmum qualifications are not in issue in this case. A closer analysis of this provision makes certain conclusions apparent.

The phrase, "ten years immediately preceding such election" qualifies "a resident of the Philippines" as part of the fifth minimum constitutional requirement. It does not quality any of the prior four requirements. The ten-year requirement does not qualify "able to read and write." Likewise, it cannot textually and logically qualify the phrase, "at least forty years of age" or the phrase, "a registered voter."

Certainly then, the ten-year requirement also does not qualify "a natural born citizen." Being natural-born is an inherent characteristic. Being a citizen, on the other hand, may be lost or acquired in accordance with law. The provision clearly implies that: (a) one must be a natural-born citizen at least upon election into office, and (b) one must be a resident at least ten years prior to the election. Citizenship and residency as minimum constitutional requirements are two different legal concepts.

In other words, there is no constitutional anchor for the added requirement that within the entire ten-year period prior to the election when a candidate is a resident, he or she also has to have reacquired his or her natural-born citizen status.

Citizenship refers to political affiliation. It is a fiction created by law. Residence, on the other hand, refers to one's domicile. It is created by one's acts, which is indicative of his or her intentions.

To require her natural-born citizenship status in order to legally consider the commencement of her residency is, therefore, to add and amend the minimum requirements of the Constitution.

Furthermore, the Constitution intends minimum qualifications for those who wish to present themselves to be considered by the People for the Office of President. No educational attainment, profession, or quality of character is constitutionally required as a minimum. Inherent in the text of the Constitution is an implied dynamic. The electorate, acting collectively during a specific election, chooses the weight of other considerations. It is not for the Commission on Elections or this court to discreetly implant and, therefore, dictate on the electorate in the

guise of interpreting the provisions of the Constitution and declaring what is legal, the political wisdom of considerations. This is consistent also with Article II, Section 1 of the constitution.[287]

Thus, that petitioner once lost and then reacquired her natural-born citizenship is not part of the minimum constitutional requirements to be a candidate for President. It is an issue that may be considered by the electorate when they cast their ballots.

On a second level of constitutional interpretation, a contemporaneous construction of Article VII, Section 2 with Republic Act No. 9225, otherwise known as the Citizenship Retention and Re-acquisition Act on 2003,[288] supports this reading.

The Constitution provides that "Philippine citizenship may be lost or reacquired in the manner provided by law."[289] On July 7, 2006, petitioner took her Oath of Allegiance under Section 3 of Republic Act No. 9225. On July 10, 2006, she filed a Petition for Reacquisition of her Philippine citizenship before the Bureau of Immigration and Deportation, and her Petition was granted.[290]

Section 3 of Republic Act No. 9225 provides for the Oath of Allegiance to the Republic that may be taken by natural-born citizens of the Philippines who lost their Philippine citizenship when they became naturalized citizens of another country, in order to reacquire their Philippine citizenship:

> 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 on 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 £he Philippines who, after the effectivity of this Act, become citizens of a foreign country shall retain their Philippine citizenship upon taking the aforesaid oath.[291]

Upon taking this Oath, those who became citizens of another country prior to the effectivity of Republic Act No. 9225 reacquire their Philippine citizenship, while those who became citizens of another country after to the effectivity of Republic Act No. 9225 retain their Philippine citizenship.

Taking the Oath enables the enjoyment of full civil and political rights, subject to all attendant liabilities and responsibilities under existing laws and the different solemnities under Section 5 of Republic Act No. 9225. Different conditions must be complied with depending on whether one intends to exercise the right to vote, seek elective public office, or assume an appointive public office, among others:

> 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:
>
> (1) Those intending to exercise their right of suffrage must meet the requirements under Section 1, Article V of the Constitution, Republic Act No. 9189, otherwise known as the Overseas Absentee Voting Act of 2003' and other existing laws;
>
> (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

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> candidacy, make a personal and sworn remmciation of any and all foreign citizenship before any public officer authorized to administer an oath;
>
> (3) Those appointed to any public office shall subscribe and swear to an oath of allegiance to the Republic of the Philippines and its duly constituted authorities prior to their ass11mption of office; Provided, That they renounce their oath of allegiance to the country where they took that oath;
>
> (4) Those intending to practice their profession in the Philippines shall apply with the proper authority for a license or pennit to engage in such practice; and
>
> (5) That the right to vote or be elected or appointed to any public office in the Philippines cannot be exercised by, or extended to, those who:
>
> - are candidates for or are occupying any public office in the country of which they are naturalized citizens; and/or
>
> - are in active service as commissioned or non- commissioned officers in the armed forces of the country which they are naturalized citizens. (Emphasis supplied)

Sobejana-Condon v. Commission on Election[292] discussed the mandatory nature of the required sworn renunciation under Section 5 of Republic Act No. 9225. This provision was intended to complement Article XI, Section 18 of the Constitution in that "[p]ublic officers and employees owe the State and this Constitution allegiance at all times and any public officer or employee who seeks to change his citizenship or acquire the status of an immigrant of another country during his tenure shall be dealt with by law."[293]

Republic Act No. 9225 only requires that the personal and sworn renunciation of foreign citizenship be made "at the time of the filing of the certificate of candidacy" for those seeking elective public position. It does not require a ten-year period similar to the residency qualification.

V.H

The concept of natural-born citizens is in Article IV, Section 2:

> Sec. 2. Natural born citizens are those who are citizens of the Philippines from birth without having to perform any act to acq11ire or perfect their Philippine citizenship. Those who elect Philippine citizenship in accordance with paragraph (3), Section I hereof shall be deemed natural-born citizens. (Emphasis supplied)

Citizens, on the other hand, are enumerated in Section 1 of the same Article:

> Section 1. The following are citizens of the Philippines:
>
> (1) Those who are citizens of the Philippines at the time of the adoption of this Constitution;
> (2) Those whose fathers or mothers are citizens of the Philippines;
> (3) Those born before January 17, 1973, of Filipino mothers, who elect Philippine citizenship upon reaching the age of majority; and
> (4) Those who are naturalized in accordance with law.[294]

The critical question is whether petitioner, as a foundling, was Filipina at birth.

Citizenship essentially is the "right to have rights."[295] It is one's "personal and more or less permanent membership in a political community. . . . The core of citizenship is the capacity to enjoy political rights, that is, the right to participate in government principally through the right to vote, the right to hold public office[,] and the right to petition the government for redress of grievance."[296]

Citizenship also entails obligations to the community.[297] Because of the rights and protection provided by the

state, its citizens are presumed to be loyal to it, and even more so if it is the state that has protected them since birth.

V.I

The first level of constitutional interpretation permits a review of the evolution of these provisions on citizenship in the determination of its purpose and rationale.

This court in Tecson detailed the historical development of the concept of Philippine citizenship, dating back from the Spanish occupation.[298] During the Spanish regime, the native inhabitants of the Islands were denominated as "Spanish subjects" or "subject of Spain" to indicate their political status.[299] The Spanish Constitution of 1876 declared persons born in Spanish territory as Spaniards, but this was never extended to the Philippine Islands due to the mandate of Article 89 in that the Philippines would be governed by speciallaws.[300] The Civil Code of Spain became effective in this jurisdiction on December 18, 1889, making the first categorical listing on who were Spanish citizens,[301] thus:

> (a) Person born in Spanish territory,
> (b) Children of a Spanish father or mother, even if they were born outside of Spain,
> (c) Foreigners who have obtained naturalization papers,
> (d) Those who, without such papers, may have become domiciled inhabitants of any town of the Monarchy.[302]

The Philippine Revolution in 1898 marked the end of the Spanish era and the entry of the Americans. Spain was forced to cede the Philippine colony to the United States. Pursuant to the Treaty of Paris between the two countries on December 10, 1989, the native inhabitants were not automatically converted to American citizens.[303] Since they also ceased to be "Spanish subjects," they were "issued passports describing them to be citizens of the Philippines entitled to the protection of the United States":[304]

> Spanish subject, natives of the Peninsula, residing in the territory over which Spain by the present treaty relinquishes or cedes her sovereignty may remain in such territory or may remove therefrom . . .. In case they remain in the territory they may preserve their allegiance to the Crown of Spain by making . . . a declaration of their decision to preserve such allegiance; in default of which declaration they shall be held to have renounced it and to have adopted the nationality of the territory in which they may reside.
>
> Thus—
>
> The civil rights and political status of the native inhabitants of the territories hereby ceded to the United States shall be determined by Congress.[305]

The concept of "Philippine citizens" crystallized with the adoption of the Philippine Bill of 1902,[306] where the term "citizens of the Philippine Islands" first appeared:[307]

> Section 4. That all inhabitants of the Philippine Islands continuing to reside therein, who were Spanish subjects on the eleventh day of April, eighteen hundred and ninety-nine, and then resided in said Islands, and their children born subsequent thereto, shall be deemed and held to be citizens of the Philippine Islands and as such entitled to the protection of the United States, except such as shall have elected to preserve their allegiance to the Crown of Spain in accordance with the provisions of the treaty of peace between the United States and Spain signed at Paris December tenth, eighteen hundred and ninety-eight. (Emphasis supplied)

The United States Congress amended this section on March 23, 1912 to include a proviso for the enactment by the legislature of a law on acquiring citizenship. This was restated in the Jones Law of 1916, otherwise known as the Philippine Autonomy Act.[308] The proviso in the 1912 amendment reads:

> Provided, That the Philippine Legislature, herein provided for, is hereby authorized to provide by law for the acquisition of Philippine citizenship by those natives of the Philippine Islands who do not come within the foregoing provisions, the natives of the insular possessions of the United States, and such other persons residing in the Philippine Islands who are citizens of the United States, or who could become citizens of the United States under the laws of the United States if residing therein.[309]

Thus, the Jones Law of 1916 provided that native-born inhabitants of the Philippines were deemed Philippine citizens as of April 11, 1899 if he or she was "(1) a subject of Spain on April 11, 1899, (2) residing in the Philippines on said date, and (3) since that date, not a citizen of some other country."[310]

While common law used by the United States follows jus soli as the mode of acquiring citizenship, the 1935 Constitution adopted jus sanguinis or blood relations as basis for Philippine citizenship,[311] thus:

> SECTION 1. The following are citizens of the Philippines:
>
> (1) Those who are citizens of the Philippine Islands at the time of the adoption of this Constitution
> (2) Those bom in the Philippines Islands of foreign parents who, before the adoption of this Constitution, had been elected to public office in the Philippine Islands.
> (3) Those whose fathers are citizens of the Philippines.
> (4) Those whose mothers are citizens of the Philippines and upon reaching the age of majority, elect Philippine citizenship.
> (5) Those who are naturalized in accordance with law.[312]

Subsection (4), when read with then civil law provisions on the automatic loss of Filipino citizenship by women who marry foreign husbands and automatically acquire his foreign citizenship, posed a discriminatory situation for women and their children.[313] Thus, the 1973 Constitution addressed this concern with the following revisions:

> SECTION 1. The following are citizens ofthe Philippines:
>
> (1) Those who are citizens of the Philippines at the time of the adoption of this Constitution.
> (2) Those whose fathers or mothers are citizens of the Philippines.
> (3) Those who elect Philippine citizenship pursuant to the provisions of the Constitution of nineteen hundred and thirty-five.
> (4) Those who are naturalized in accordance with law.
>
> SEC. 2. A female citizen of the Philippines who marries an alien shall retain her Philippine citizenship, unless by her act or omission she is deemed, under the law, to have renounced her citizenship.[314]

The 1973 Constitution also provided a definition for "natural-born citizens" since the 1935 Constitution, similar to the United States Constitution, required the President to be a "natural-born citizen" without defining the term. Prior to the 1935 Constitution, public offices were filled through appointment by the colonizer.[315] Thus, Article III, Section 4 of the 1973 Constitution added a definition for natural-born citizen, as follows:

> SEC. 4. A natural-born Citizen is one who is a cttlzen of the Philippines from birth without having to perform any act to acquire or perfect his Philippine citizenship.[316]

The current Constitution adopted most of the provisions of the 1973 Constitution on citizenship, with further amendment in subsection (3) for purposes of correcting the irregular situation created by the 1935 Constitution.

V.J

Natural-born citizenship is an American concept that we adopted in our Constitution. This term appears only once in the United States Constitution-in the presidential qualification clause[317] and has no definition in American

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laws. No explanation on the origin or purpose of the presidential qualification clause can even be found in the Convention's recorded deliberations.[318] Since the United States was under British rule prior to their independence, some theories suggest that the concept was introduced in the text as a check against foreign infiltration in the administration of national government, thus:

> It has been suggested, quite plausibly, that this language was inserted in response to a letter sent by John Jay to George Washington, and probably to other delegates, on July 25, 1787, which stated:
> Permit me to hint, whether it would be wise and seasonable to provide a strong check to the admission of Foreigners into the administration of our national Government; and to declare expressly that the Command in Chief of the American anny shall not be given to nor devolve on, any but a natural born Citizen.

Possibly this letter was motivated by distrust of Baron Von Steuben, who had served valiantly in the Revolutionary forces, but whose subsequent loyalty was suspected by Jay. Another theory is that the Jay letter, and the resulting constitutional provision, responded to rumors that the Convention was concocting a monarchy to be ruled by a foreign monarch.[319]

The 1935 Constitution borrowed the term "natural-born citizen" without defining the concept. It was only the 1973 Constitution that provided that "[a] natural-born citizen is one who is a citizen of the Philippines from birth without having to perform any act to acquire or perfect his Philippine citizenship."

V.K

There are only two categories of citizens: natural-hom and naturalized.

A natural-born citizen is defined in Article IV, Section 2 as one who is a citizen of the Philippines "from birth without having to perform any act to acquire or perfect Philippine citizenship." On the other hand, a naturalized citizen is one who is not natural-born.

In Bengson v. House of Representatives Electoral Tribunal,[320] this court ruled that if a person is not naturalized, he or she is considered a natural-hom citizen of the Philippines

> [O]nly naturalized Filipinos are considered not natural-born citizens. It is apparent from the enumeration of who are citizens under the present Constitution that there are only two classes of citizens: ... A citizen who is not a naturalized Filipino, i.e., did not have to undergo the process of naturalization to obtain Philippine citizenship, necessarily is a natural-born Filipino.[321]

Former Associate Justice Panganiban clarifies this concept in his Concurring Opinion in Bengson. Naturalized citizens are "former aliens or foreigners who had to undergo a rigid procedure, in which they had to adduce sufficient evidence to prove that they possessed all the qualifications and none of the disqualifications provided by law in order to become Filipino citizens."[322]

A person who desires to acquire Filipino citizenship is generally required to file a verified petition.[323] The applicant must prove, among others, that he or she is of legal age, with good moral character, and has the capacity to adapt to Filipino culture, tradition, and principles, or otherwise has resided in the Philippines for a significant period of time.[324] The applicant must prove himself or herself not to be a threat to the state, the public, and to the Filipinos' core beliefs.[325]

Petitioner did not undergo the naturalization process. She reacquired her Filipino citizenship through Republic Act No. 9225.

The Commission on Elections contends that in availing herself of the benefits under Republic Act No. 9225, petitioner reacquired Philippine citizenship by naturalization, not natural-born citizenship, since she had to perform several acts to perfect this citizenship.[326] Moreover, the earliest time Philippine residency can be

reestablished for those who reacquire Philippine citizenship under Republic No. 9225 ts upon reacquisition of citizenship.[327]

Our jurisprudence holds otherwise. Those who avail themselves of the benefits under Republic Act No. 9225 reacquire natural-born citizenship. Bengson ruled that repatriation involves the restoration of former status or the recovery of one's original nationality:

> Moreover, repatriation results in the recovery of the original nationality. This means that a naturalized Filipino who lost his citizenship will be restored to his prior status as a naturalized Filipino citizen. On the other hand, if he was originally a natural-born citizen before he lost his Philippine citizenship, he will be restored to his former status as a natural-born Filipino.[328]

While Bengson involved Commonwealth Act No. 63, its ruling is still consistent with the declared policy under the current system of reacquiring Philippine citizenship pursuant to Republic Act No. 9225. One's status as a natural-born Filipino is immutable: "all Philippine citizens of another country shall be deemed not to have lost their Philippine citizenship."[329] Republic Act No. 9225 requires certain solemnities, but these requirements are only for the purpose of effecting the incidents of the citizenship that a naturalized Filipino never lost. These requirements do not operate to make new citizens whose citizenship commences only from the time they have been complied with.

To consider petitioner, a foundling, as not natural-born will have grave consequences. Naturalization requires that petitioner is of legal age. While it is true that she could exert time and extraordinary expense to find the parents who might have abandoned her, this will not apply to all foundlings. Thus, this approach will concede that we will have a class of citizens who are stateless due to no fault of theirs.

V.L

There is no need for an express statement in the Constitution's citizenship provisions that foundlings are natural-born Filipino citizens. A contrary interpretation will be inconsistent with the other provisions of the Constitution. The Constitution should be interpreted as a whole to "effectuate the whole purpose of the Constitution."[330]

Article II, Section 13 and Article XV, Section 3 of the 1987 Constitution enjoin the state to defend children's well-being and protect them from any condition that is prejudicial to their development. This includes preventing discriminatory conditions in fact as well as in law:

> Article II, SECTION 13. The State recognizes the vital role of the youth in nation-building and shall promote and protect their physical, moral, spiritual, intellectual, and social well-being. It shall inculcate in the youth patriotism and nationalism, and encourage their involvement in public and civic affairs.
>
> Article XV, SECTION 3. The State shall defend:
> ....
>
> (2) The right of children to assistance, including proper care and nutrition, and special protection from all forms of neglect, abuse, cruelty, exploitation, and other conditions prejudicial to their development[.] (Emphasis supplied)

Crucial government positions are exclusive to natural-born citizens of the Philippines. The 1987 Constitution requires the following positions to be filled by natural-born citizens:

> (1) President;[331]
> (2) Vice president;[332]
> (3) Senator; [333]

(4) Member of the House ofRepresentatives;[334]
(5) Member of the Supreme Court or any lower collegiate court;[335]
(6) Chairperson and Commissioners of the Civil Service Commission;[336]
(7) Chairperson and Commissioners of the Commission on Elections;[337]
(8) Chairperson and Commissioners of the Commission on Audit;[338]
(9) Ombudsman and his deputies;[339]
(10) Board of Governors of the Bangko Sentral ng Pilipinas;[340] and
(11) Chairperson and Members of the Commission on Human Rights.[341]

Other positions that are required to be filled by natural-born citizens include, among others, city fiscals,[342] assistant city fiscals,[343] Judges and Associate Judges of the Sandiganbayan, other public offices[344] and some professions.[345] Other incentives are also limited to natural-born citizens.[346]

An interpretation that foundlings are not natural-born Filipino citizens would mean that we should teach our foundling citizens to never aspire to serve the country in any of the above capacities.

This is not only inconsistent with the text of our Constitution's citizenship provisions, which required only evidence of citizenship and not of the identities of the parents. It unnecessarily creates a classification of citizens with limited rights based on the circumstances of their births. This is discriminatory.

Our Constitution provides that citizens shall have equal protection of the law and equal access to opportunities for public service. They are protected from human indignities and political inequalities:

> Article II, SECTION 26. The State shall guarantee equal access to opportunities for public service, and prohibit political dynasties as may be defined by law.
>
> Article III, SECTION 1. No person shall be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the laws.
>
> Article XIII, SECTION l. The Congress shall give highest priority to the enactment of measures that protect and enhance the right of all the people to human dignity, reduce social, economic, and political inequalities, and remove cultural inequities by equitably diffusing wealth and political power for the common good. (Emphasis supplied)

The equal protection clause guarantees that "persons under like circumstances and falling within the same class are treated alike, in terms of 'privileges conferred and liabilities enforced.' It is a guarantee against 'undue favor and individual or class privilege, as well as hostile discrimination or oppression of inequality.'"[347]

Apart from the anonymity of their biological parents, there is no substantial distinction[348] between foundlings and children with known Filipino parents, all of whom are protected by the state from birth. The foundlings' fortuitous inability to identify their biological parents who abandoned them cannot be the basis of a law or an interpretation that has the effect of treating them as less entitled to the rights and protection given by the state. To base a classification on this circumstance would be to sanction statelessness and the marginalization of a particular class who, by force of chance, was already made to start life under tragic circumstances.

This court, as an agent of the state, is constitutionally mandated to defend the well-being and development of children. We have no competence to reify classes that discriminate children based on the circumstances of their births. These classifications are prejudicial to a child's development.

Further, inasmuch as foundlings are citizens of the Philippines, they are human beings whose dignity we value and rights we respect. Thus:

> Article II, SECTION 11. The State values the dignity of every human person and guarantees full respect for

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> human rights. (Emphasis supplied)

V.M

Contemporaneous construction by other constitutional organs deserves consideration in arriving at a correct interpretation of the Constitution.

Illuminating guidance from how other constitutional organs interpret the fundamental legal document is premised on the understanding of a basic principle: the Constitution as law is legible to all of government as well as its People. Its plain reading, therefore, is accessible to all. Thus, interpretation and application of its provision are not the sole prerogative of this court, although this court's interpretation is final for each actual case or controversy properly raised.

The legislature has provided statutes essentially based on a premise that foundlings are Filipino citizens at birth.

It is also our state policy to protect children's best interest. In Republic Act No. 9344, otherwise known as the Juvenile Justice and Welfare Act of 2006:

> SEC. 2. Declaration of State Policy. - The following State policies shall be observed at all times:
> ....
> (b) The State shall protect the best interests of the child through measures that will ensure the observance of international standards of child protection, especially those to which the Philippines is a party. Proceedings before any authority shall be conducted in the best interest of the child and in a manner which allows the child to participate and to express himself/herself freely. The participation of children in the program and policy fonnulation and implementation related to juvenile justice and welfare shall be ensured by the concerned government agency. (Emphasis supplied)

The "best interest of the child" is defined as the "totality of the circumstances and conditions which are most congenial to the survival, protection and feelings of security of the child and most encouraging to the child's physical, psychological and emotional development."[349]

Consistent with this law is the Philippines' ratification[350] of the United

Nations Convention on the Rights of the Child. This treaty has the effect of law and requires the domestic protection of children's rights to immediate registration and nationality after birth, against statelessness, and against discrimination based on their birth status.[351] Pertinent provisions of the treaty read:

> Preamble
>
> The State Parties to the present Convention,
>
> Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,
>
> Bearing in mind that the peoples of the United Nations have, in the Charter, reaffirmed their faith in fundamental human rights and in the dignity and worth of the human person, and have detennined to promote social progress and better standards of life in larger freedom,
>
> Recognizing that the United Nations has, in the Universal Declaration of Human Rights and in the International Covenants on Human Rights, proclaimed and agreed that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,
>
> Recalling that, in the Universal Declaration of Human Rights, the United Nations has proclaimed that

childhood is entitled to special care and assistance,

....

Have agreed as follows:

....

Article 2

- State parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.

- States Parties shall take appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.

Article 3

- In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

- States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.

....

Article 7

- The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and as far as possible, the right to know and be cared for by his or her parents.

- States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless. (Emphasis supplied)

The Philippines also ratified[352] the 1966 International Covenant on Civil and Political Rights. This treaty, which has the effect of law, also requires that children have access to immediate registration and nationality, and defends them against discrimination, thus:

Article 24....

1. Every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State.

2. Every child shall be registered immediately after birth and shall have a name.

3. Every child has the right to acquire a nationality.

....

Article 26. All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language,

> religion, political or other opinion, national or social origin, property, birth or other status. (Emphasis supplied)

Treaties are "international agreement[s] concluded between states in written form and governed by international law, whether embodied in a single instrument or in two or more related instruments and whatever its particular designation."[353] They require concurrence by the Senate before they become binding upon the state. Thus, Article VII, Section 21 of the Constitution provides:

> SECTION 21. No treaty or international agreement shall be valid and effective unless concurred in by at least two-thirds of all the Members of the Senate.

Ratification of treaties by the Senate makes it legally effective and binding by transformation. It is treated similar to a statute. In Pharmaceutical and Health Care Association of the Philippines v. Duque III, et al.:[354]

> Under the 1987 Constitution, international law can become part of the sphere of domestic law either by transfonnation or incorporation. The transformation method requires that an international law be transformed into a domestic law through a constitutional mechanism such as local legislation. The incorporation method applies when, by mere constitutional declaration, international law is deemed to have the force of domestic law.
>
> Treaties become part of the law of the land through transformation pursuant to Article VII, Section 21 of the Constitution which provides that "[n]o treaty or international agreement shall be valid and effective unless concurred in by at least two-thirds of all the members of the Senate." Thus, treaties or conventional international law must go through a process prescribed by the Constitution for it to be transformed into municipal law that can be applied to domestic conflicts.[355](Emphasis supplied)

No further legislative act apart from ratification is necessary. Government-including the judiciary-is obligated to abide by these treaties in accordance with the Constitution and with our international obligations captured in the maxim pacta sunt servanda.

Foundlings, by law and through our Constitution, cannot be discriminated against. They are legally endowed with rights to be registered and granted nationality upon birth. Statelessness unduly burdens them, discriminates against them, and is detrimental to their development.

V.N

Republic Act No. 8552, otherwise known as the Domestic Adoption Act of 1998, is entitled An Act Establishing the Rules and Policies on Domestic Adoption of Filipino Children and for Other Purposes. It was enacted as a means to "provide alternative protection and assistance through foster care or adoption of every child who is neglected, orphaned, or abandoned."[356]

Abandoned children may include foundlings:[357]

> SECTION 5. Location of Unknown Parent(s). It shall be the duty of the Department or the child-placing or child-caring agency which has custody of the child to exert all efforts to locate his/her unknown biological parent(s). If such efforts fail, the child shall be registered as a foundling and subsequently be the subject of legal proceedings where he/she shall be declared abandoned. (Emphasis supplied)

Similarly, Republic Act No. 8043, otherwise known as the Inter- Country Adoption Act of 1995, is entitled An Act establishing the Rules to Govern Inter-Country Adoption of Filipino Children, and For Other Purposes. It includes foundlings among those who may be adopted:

> SECTION 8. Who May Be Adopted.- Only a legally free child may be the subject of inter-country adoption. In order that such child may be considered for placement, the following documents must be submitted to the Board:

a) Child study;

b) Birth certificate/foundling certificate;

c) Deed of voluntary commitment/decree of abandonment/death certificate of parents;

d) Medical evaluation/history;

e) Psychological evaluation, as necessary; and

f) Recent photo of the child. (Emphasis supplied)

Further, foundling certificates may be presented in lieu of authenticated birth certificates as requirement for the issuance of passports to foundlings to be adopted by foreign parents under Republic Act No. 8043:

SECTION 5. If the applicant is an adopted person, he must present a certified true copy of the Court Order of Adoption, certified true copy of his original and amended birth certificates as issued by the OCRG. If the applicant is a minor, a Clearance from the DSWD shall be required. In case the applicant is for adoption by foreign parents under R.A. No. 8043, the following, shall be required:

a) Certified true copy ofthe Court Decree of Abandonment of Child, the Death Certificate of the child's parents, or the Deed of Voluntary Commitment executed after the birth of the child.

b) Endorsement of child to the Intercountry Adoption Board bytheDSWD.

c) Authenticated Birth or Foundling Certificate.[358]

(Emphasis supplied)

The statutes providing for adoption only allow the recognition of filiation for children who are Filipinos. They allow adoption of foundlings. Therefore, foundlings are, by law, presumed to be Filipino.

The executive branch has also assumed petitioner's natural-born status as Filipina.

Petitioner's citizenship status was never questioned throughout her entire life until she filed her Certificate of Candidacy for President in 2015. Until the proceedings that gave rise to these consolidated cases, her natural-born status was affirmed and reaffirmed through different government acts.

Petitioner was granted an order of reacquisition of natural-born citizenship under Republic Act No. 9225 by the Bureau of Immigration on July 18, 2006. The President of the Philippines appointed her as Chairperson of the Movie and Television Review and Classification Board-a government position that requires natural-born citizenship[359] on October 6, 2010. The Commission on Elections also allowed her to run for Senator in the 2013 Elections despite public knowledge of her foundling status. Petitioner's natural-born status was recognized by the People when she was elected, and by the Senate Electoral Tribunal when it affirmed her qualifications to run for Senator on November 17, 2015.

Petitioner was likewise provided a foundling certificate after she was found. She was also the subject of an adoption process.

V.O

Even if there is no legal presumption of natural-born status for all foundlings, enough evidence was presented by petitioner before the Commission on Elections to prove that at least one-if not both-of her parents were Filipino citizens.

Petitioner's Filipino biological lineage cannot be proven easily by direct evidence such as birth certificates or

witness testimonies of her birth. Her status as an abandoned child makes it improbable, if not too expensive, to prove her citizenship through DNA evidence.

Our rules, however, allow different manners of proving whether any one of her biological parents were Filipinos.

Aside from direct evidence, facts may be proved by usmg circumstantial evidence. In Suerte-Felipe v. People:[360]

> Direct evidence is that which proves the fact in dispute without the aid of any inference or presumption; (Lack County vs. Neilon, 44 Or. 14, 21, 74 P. 212) while circumstantial evidence is the proof of fact or facts from which, taken either singly or collectively, the existence of a particular fact in dispute may be inferred as a necessary or probable consequence (State vs. Avery, 113 Mo. 475, 494, 21 S.W. 193; Reynolds Trial Ev., Sec. 4, p. 8).[361]

Circumstantial evidence is further defined in People v. Raganas:[362]

> Circumstantial evidence is that which relates to a series of facts other than the fact in issue, which by experience have been found so associated with such fact that in a relation of cause and effect, they lead us to a satisfactory conclusion.[363] (Citation omitted)

Rule 133, Section 4 of the Rules of Court provides when circumstantial evidence is sufficient for conviction:

> Section 4. Circumstantial evidence, when sufficient.- Circumstantial evidence is sufficient for conviction if:
>
> (a) There is more than one circumstances;
>
> (b) The facts from which the inferences are derived are proven; and
>
> (c) The combination of all the circumstances is such as to produce a conviction beyond reasonable doubt.

Circumstantial evidence is generally used for criminal cases. This court, however, has not hesitated to use circumstantial evidence in other cases.[364] There is no reason not to consider circumstantial facts as evidence as a method of proof.

If circumstantial evidence may be sufficient to satisfY conviction on the basis of the highest standard of proof, i.e. beyond proof beyond reasonable doubt, then it can also satisfy the less stringent standard of proof required in cases before the Commission on Elections. As a quasi-judicial body, the Commission on Elections requires substantial evidence, or "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion."[365]

Petitioner was found in Jaro, Iloilo at a parish church on September 3, 1968.[366] Iloilo, as in most if not all provinces of the Philippines, had a population composed mostly of Filipinos.[367] Petitioner is described as having "brown almond-shafed eyes, a low nasal bridge, straight black hair and an oval-shaped face."[368] She is only 5 feet and 2 inches tall.[369]

Petitioner wants this court to take judicial notice that majority of Filipinos are Roman Catholics. Many Filipinos are poor. Poverty and shame may be dominant reasons why infants are abandoned.[370]

There was also no international airport in Jaro, Iloilo at the time when petitioner was born.

These circumstances provide substantial evidence to infer the citizenship of her biological parents. Her physical characteristics are consistent with that of many Filipinos. Her abandonment at a Catholic Church is consistent with the expected behavior of a Filipino in 1968 who lived in a predominantly religious and Catholic environment. The nonexistence of an international airport in Jaro, Iloilo can reasonably provide context that it is

illogical for a foreign father and a foreign mother to visit a rural area, give birth and leave their offspring there.

The Solicitor General adds that petitioner is, in terms of probability, more likely born a Filipina than a foreigner with the submission of this table:[371]

NUMBER OF FOREIGN AND FILIPINO CHILDREN BORN IN THE PHILIPPINES: 1965-1975 AND 2010-2014

YEAR

FOREIGN CHILDREN BORN IN THE PHILIPPINES

FILIPINO CHILDREN BORN IN THE PHILIPPINES

1965

1,479

795,415

1966

1,437

823,342

1967

1,440

840,302

1968

1,595

898,570

1969

1,728

946,753

1970

1,521

966,762

1971

1,401

963,749

1972

1,784

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968,385

1973

1,212

1,045,290

1974

1,496

1,081,873

1975

1,493

1,223,837

2010

1,244

1,782,877

2011

1,140

1,746,685

2012

1,454

1,790,367

2013

1,315

1,751,523

2014

1,351

1,748,782

Source: Philippine Statistics Authority
[illegible]

Based on the above data, out of the 900,165 recorded births in the Philippines in 1968, only 1,595 or 0.18% of newborns were foreign. This translates to roughly 99.8% chance that petitioner was born a Filipina at birth.

VI

Petitioner committed no material misrepresentation with respect to her residency. The facts that can reasonably be inferred from the evidence presented clearly show that she satisfied the requirement that she had residency 10 years immediately preceding the election.

VI.A

The requirement for residency is stated in the 1987 Constitution as: "[n]o person may be elected President unless he is . . . a resident of the Philippines for at least ten years immediately preceding such election."[372]

In this jurisdiction, "residence" does not admit of a singular definition. Its meaning varies to relate to the purpose. The "term 'resides,' like the terms 'residing' and 'residence,' is elastic and should be interpreted in light of the object or purpose of the statute or rule in which it is employed."[373] Residence, thus, is different under immigration laws, the Civil Code or the Family Code, or election laws.

Article 50 of the Civil Code spells out a distinction between "residence" and "domicile":

> Article 50. For the exercise of civil rights and the fulfillment of civil obligations, the domicile of natural persons is the place of their habitual residence.

This distinction has been further explained, as follows:

> There is a difference between domicile and residence. 'Residence' is used to indicate the place of abode, whether permanent or temporary' 'domicile' denotes a fixed permanent residence to which, when absent, one has the intention of returning. A man may have a residence in one place and a domicile in another.' 'Residence is not domicile, but domicile is residence coupled with intention to remain for an unlimited time. A man can have but one domicile for one and the same purpose at any time, but he may have numerous places of residence. His place of residence generally is his place of domicile, but is not by any means necessarily so, since no length of residence without intention of remaining will constitute domicile.[374]

Procedural law on venue follows this conception of residence as "the place of abode, whether permanent or temporary"[375] and which is distinct from domicile (also referred to as "legal residence") as "fixed permanent residence."[376] In Ang Kek Chen v. Spouses Calasan: [377]

The crucial distinction that must be made is between "actual residence" and "domicile." The case of Garcia Fule v. Court of Appeals had already made the distinction in 1976. The pertinent portion of the case reads as follows:

> But, the far-ranging question is this: What does the term "resides" mean? ... We lay down the doctrinal rule that the term "resides" connotes ex vi termini "actual residence" as distinguished from "legal residence or domicile." This term "resides," like the terms "residing" and "residence," is elastic and should be interpreted in the light of the object or purpose of the statute or rule in which it is employed. In the application of venue statutes and rules -... residence rather than domicile is the significant factor. Even where the statute uses the word "domicile" still it is construed as meaning residence and not domicile in the technical sense. Some cases make a distinction between the terms "residence" and "domicile" but as generally used in statutes fixing venue, the terms are synonymous, and convey the same meaning as the term "inhabitant." In other words, "resides" should be viewed or understood in its popular sense, meaning the personal, actual or physical habitation of a person, actual residence or place of abode. It signifies physical presence in a place and actual stay thereat. In this popular sense, the term means merely residence, that is personal residence, not legal residence or domicile. Residence simply requires bodily presence as an inhabitant in a given place, while domicile requires bodily presence in that place and also an intention to make it one's domicile. No particular length of time of residence is required though; however, the residence must be more than temporary.[378]
>
> It is clear that in granting respondents' Motion for Reconsideration, the CA accepted the argument of respondent Atty. Calasan that "residence" is synonymous with "domicile."
>
> In Saludo, Jr. v. American Express International, Inc., the term "residence" was equated with "domicile" as far as election law was concerned. However, the case also stated that:
> [F]or purposes of venue, the less technical definition of "residence" is adopted. Thus, it is understood to mean as "the personal, actual or physical habitation of a person, actual residence or place of abode. It signifies

> physical presence in a place and actual stay thereat. In this popular sense, the term means merely residence, that is, personal residence, not legal residence or domicile. Residence simply requires bodily presence as an inhabitant in a given place, while domicile requires bodily presence in that place and also an intention to make it one's domicile."[379] (Citations omitted)

In this jurisdiction, it is settled doctrine that for election purposes, the term "residence" contemplates "domicile."[380]

As early as 1928, when the Jones Law of 1916 was still in effect, this court noted in Nuval v. Guray[381] that the term residence "is so used as synonymous with domicile."[382] The 1941 case of Gallego v. Vera,[383] which was promulgated when the 1935 Constitution was in effect, cited Nuval and maintained the same position. Under the auspices of the present 1987 Constitution, this court stated in Co v. Electoral Tribunal of the House of Representatives[384] that "the term residence has been understood as synonymous with domicile not only under the previous Constitutions but also under the 1987 Constitution."[385]

For the same purpose of election law, the question of residence is mainly one ofintention.[386] In Gallego v. Vera:[387]

> The term "residence" as used in the election law is synonymous with "domicile," which imports not only intention to reside in a fixed place but also personal presence in that place, coupled with conduct indicative of such intention. In order to acquire a domicile by choice, there must concur (1) residence or bodily presence in the new locality, (2) an intention to remain there, and (3) an intention to abandon the old domicile. In other words, there must be an animus non revertendi and an animus manendi. The purpose to remain in or at the domicile of choice must be for an indefmite period of time. The acts of the person must conform with his purpose. The change of residence must be voluntary; the residence at the place chosen for the domicile must be actual; and to the fact of residence there must be added the animus manendi.[388]

Jurisprudence has established three (3) fundamental principles governing domicile: "first, that a man [or woman] must have a residence or domicile somewhere; second, that where once established it remains until a new one is acquired; and third, a man [or woman] can have but one domicile at a time."[389]

Domicile may be categorized as: "(1) domicile of origin, which is acquired by every person at birth; (2) domicile of choice, which is acquired upon abandonment of the domicile of origin; and (3) domicile by operation of law, which the law, attributes to a person independently of his residence or intention."[390]

Domicile of origin is acquired at birth and continues until replaced by the acquisition of another domicile. In effect, one's domicile of origin is the domicile of one's parents or of the persons upon whom one is legally dependent at birth.[391]

Building on this concept, this court has emphasized that as a rule, "domicile of origin is not easily lost and that it is lost only when there is an actual removal or change of domicile, a bona fide intention of abandoning the former residence and establishing a new one, and acts which correspond with such purpose."[392] Consistent with this, it has held that there is a "presumption in favor of a continuance of an existing domicile."[393]

Controversies adverting to loss of domicile must overcome the presumption that domicile is retained.[394] The burden of proof is, thus, on the party averring its loss.[395] This presum tion is "particularly strong"[396] when what is involved is domicile of origin.[397]

The rationale for this was explained in this court's citation in In re Eusebio v. Eusebio:[398]

> It is often said, particularly in the English cases, that there is a stronger presumption against change from a domicile of origin than there is against other changes of domicile. 'Domicile of origin ... differs from domicile

> of choice mainly in this -that is character is more enduring, its hold stronger, and less easily shaken off.' The English view was forcibly expressed in a Pennsylvania case in which Lewis, J., said: 'The attachment which every one feels for his native land is the foundation of the rule that the domicile of origin is presumed to continue until it is actually changed by acquiring a domicile elsewhere. No temporary sojourn in a foreign country will work this change.' In a federal case in Pennsylvania the same point was emphasized.[399]

Likewise, in Faypon v. Quirino:[400]

> It finds justification in the natural desire and longing of every person to return to the place of his birth. This strong feeling of attachment to the place of one's birth must be overcome by positive proof of abandonment for another.[401]

Domicile may be lost and reacquired. Domicile of choice "is a domicile chosen by a person to replace his or her former domicile."[402] It is the domicile acquired by a person through the exercise of his or her own free will and shown by his or her specific acts and conduct.

The election of a new domicile must be shown by clear and convincing evidence that: one, there is an actual removal or an actual change of domicile; two, there is a bona fide intention of abandoning the former place of residence and establishing a new one; and three, there must be definite acts which correspond to the purpose of establishing a new domicile.[403]

As mentioned, domicile by operation of law is the "domicile that the law attributes to a person independent of a person's residence or intention."[404] This court has previously stated that "a minor follows the domicile of his parents."[405] Thus, a minor's domicile of origin is replaced (by operation of law) when the minor's parents take the minor along with them in reestablishing their own domicile.

VI.B

This jurisdiction's imposition of residency as a qualification for elective public office traces its roots from the United States' own traditions relating to elections. These traditions were imparted to the Philippines as it transitioned from Spanish colonial rule to American colonial rule, evolving alongside the Philippines' passage from a colony to a commonwealth of the United States, and ultimately, to an independent state.

The fifth paragraph of Article II, Section 1 of the United States Constitution[406] sets forth the eligibility requirements for President of the United States:

> No Person except a natural hom Citizen, or a Citizen of the United States, at the time of the Adoption of this Constitution, shall be eligible to the Office of President; neither shall any Person be eligible to that Office who shall not have attained to the Age of thirty-five Years, and been fourteen Years a Resident within the United States.[407] (Emphasis supplied)

The residency requirement was included in order that the People may "have a full opportunity to know [the candidate's] character and merits, and that he may have mingled in the duties, and felt the interests, and understood the principles and nourished the attachments, belonging to every citizen in a republican government."[408] Under the framework of the United States Constitution, residence was "to be understood as not an absolute inhabitancy within the United States during the whole period; but such an inhabitancy, as includes a permanent domicile in the United States."[409]

In the Philippines, residency as a requirement for elective public office was incorporated into the Jones Law of 1916, pertinent provisions of which provided:

> Section 13. - Election and Qualification of Senators. That the members of the Senate of the Philippines, except as herein provided, shall be elected for terms of six and three years, as hereinafter provided, by the qualified

> electors of the Philippines. Each of the senatorial districts defined as hereinafter provided shall have the right to elect two senators. No person shall be an elective member of the Senate of the Philippines who is not a qualified elector and over thirty years of age, and who is not able to read and write either the Spanish or English language, and who has not been a resident of the Philippines for at least two consecutive years and an actual resident of the senatorial district from which chosen for a period of at least one year immediately prior to his election.
>
> Section 14. - Election and Qualifications of Representatives. That the members of the House of Representatives shall, except as herein provided, be elected triennially by the qualified electors of the Philippines. Each of the representative districts hereinafter provided for shall have the right to elect one representative. No person shall be an elective member of the House of Representatives who is not a qualified elector and over twenty-five years of age, and who is not able to read and write either the Spanish or English language, and who has not been an actual resident of the district from which elected for at least one year immediately prior to his election: Provided, That the members of the present Assembly elected on the first Tuesday in June, nineteen hundred and sixteen, shall be the members of the House of Representatives from their respective districts for the term expiring in nineteen hundred and nineteen.[410] (Emphasis supplied)

Under the Jones Law of 1916, the requirement was relevant solely to members of the Legislature as it was only the positions of Senator and Member of the House of Representatives that were susceptible to popular election. Executive power was vested in the Governor-General who was appointed by the President of the United States with the advice and the consent of the Senate ofthe United States.[411]

The Independence Act of 1934, otherwise known as the Tydings- McDuffie Act, paved the way for the Philippines' transition to independence. Under this Act, the 1935 Constitution was adopted. The residency requirement, which under the Jones Law already applied to legislators, was extended to the President and the Vice President. Relevant provisions of the 1935 Constitution stated:

> Article VI. Section 2. No person shall be a Member of the National Assembly unless he has been five years a citizen of the Philippines, is at least thirty years of age, and, at the time of his election, a qualified elector, and a resident of the province in which he is chosen for not less than one year immediately prior to his election.
>
> Article VII. Section 3. No person may be elected to the office of President or Vice-President, unless he be a natural-born citizen of the Philippines, a qualified voter, forty years of age or over, and has been a resident of the Philippines for at least ten years immediately preceding the election. (Emphasis supplied)

When the 1973 Constitution was adopted, the same residency requirement of 10 years was retained for the position of President. The 1973 Constitution abolished the position of Vice President. Article VII, Section 2 of the 1973 Constitution provided:

> No person may be elected President unless he is a natural-hom citizen of the Philippines. a registered voter, able to read and write, at least fifty years of age on the day of election for President, and a resident of the Philippines for at least ten years immediately preceding such election. (Emphasis supplied)

The 1973 Constitution also retained the residency requirement for those seeking to become members of the Batasang Pambansa. Article VIII, Section 4 of the 1973 Constitution provided:

> No person shall be a Member of the Batasang Pambansa as a regional representative unless he is a natural-born citizen of the Philippines and, on the day of the election, is at least twenty-five years of age, able to read and write, a registered voter in the Region in which he shall be elected, and a resident thereof for a period of not less than one year immediately preceding the day of the election.
>
> A sectoral representative shall be a natural-born citizen, able to read and write, and shall have such other qualifications as may be provided by law. (Emphasis supplied)

The present 1987 Constitution retains the residency requirement for elective officials both in the executive (i.e., President and Vice President) and legislative (i.e., Senators and Members of the House of Representatives) branches:

> Article VI. Section 3. No person shall be a Senator unless he is a natural-hom citizen of the Philippines, and, on the day of the election, is at least thirty-five years of age, able to read and write, a registered voter, and a resident of the Philippines for not less than two years immediately preceding the day of the election.
>
> Article VI. Section 6. No person shall be a Member of the House of Representatives unless he is a natural-born citizen of the Philippines and, on the day of the election, is at least twenty-five years of age, able to read and write, and, except the party-list representatives, a registered voter in the district in which he shall be elected, and a resident thereof for a period of not less than one year immediately preceding the day of the election.
>
> Article VII. Section 2. No person may be elected President unless he is a natural-hom citizen of the Philippines, a registered voter, able to read and write, at least forty years of age on the day of the election, and a resident of the Philippines for at least ten years immediately preceding such election.
>
> Article VII. Section 3. There shall be a Vice-President who shall have the same qualifications and term of office and be elected with and in the same manner as the President. He may be removed from office in the same manner as the President.
>
> The Vice-President may be appointed as a Member of the Cabinet. Such appointment requires no confirmation. (Emphasis supplied)

Similarly, Section 39(a) of the Local Government Code[412] provides that, in order to be eligible for local elective public office, a candidate must possess the following qualifications: (1) a citizen of the Philippines; (2) a registered voter in the barangay, municipality, city, or province or in the case of a member of the Sangguniang Panlalawigan, Sangguniang Panlungsod, or Sangguniang Bayan, the district where he or she intends to be elected; (3) a resident therein for at least one (1) year immediately preceding the day of the election; and (4) able to read and write Filipino or any other local language or dialect.

VI.C

This jurisdiction's requirement of residency for elective public office seeks to ensure that a candidate is acquainted with the conditions of the community where he or she seeks to be elected and to serve.[413] It is meant "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."[414] Stated differently, it 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[.]"[415] As Aquino v. Commission on Election[416] added, it is also a safeguard against candidates "from taking advantage of favorable circumstances existing in that community for electoral gain."[417]

The length of residency required for an elective post is commensurate with what is deemed to be the period necessary to acquire familiarity with one's intended constituency and sensitivity to their welfare.

VI.D

Both requirements for elective public office, citizenship and residency, are two distinct concepts. One is not a function of the other; the latter is not contingent on the former. Thus, the loss or acquisition of one does not necessarily result in the loss or acquisition of the other. Change of domicile as a result of acquiring citizenship elsewhere is neither inevitable nor inexorable. This is the clear import of Japzon v. Commission on Elections,[418] where this court dissociated domicile from citizenship by explaining that the reacquisition of one

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does not ipso facto result in the reacquisition of the other:

> As has already been previously discussed by this Court herein, Ty's reacquisition of his Philippine citizenship under Republic Act No. 9225 had no automatic impact or effect on his residence I domicile. He could still retain his domicile in the USA, and he did not necessarily regain his domicile in the Municipality of General Macarthur, Eastern Samar, Philippines. Ty merely had the option to again establish his domicile in the Municipality of General Macarthur, Eastern Samar, Philippines, said place becoming his new domicile of choice. The length of his residence therein shall be determined from the time he made it his domicile of choice, and it shall not retroact to the time of his birth.[419]
> (Emphasis supplied)

Though distinct, residency and citizenship may both consider locus. They both have geographical aspects: citizenship entails inclusion in a political community, which generally has established territory; residency pertains to one's place of abode.

Thus, in Caballero v. Commission on Elections,[420] citing Coquilla v. Commission on Elections,[421] we noted that the acquisition of citizenship in a foreign country may result in an abandonment of domicile in the Philippines. This statement was premised on the specific observation that in Canada, permanent residence was a requirement for naturalization as a Canadian citizen. Caballero's naturalization as a Canadian citizen, therefore, also necessarily meant that he was a resident of Canada:

> Petitioner was a natural born Filipino who was born and raised in Uyugan, Batanes. Thus, it could be said that he had his domicile of origin in Uyugan, Batanes. However, he later worked in Canada and became a Canadian citizen. In Coquilla v. COMELEC we ruled that naturalization in a foreign country may result in an abandonment of domicile in the Philippines. This holds true in petitioner's case as permanent resident status in Canada is required for the acquisition of Canadian citizenship. Hence, petitioner had effectively abandoned his domicile in the Philippines and transferred his domicile of choice in Canada. His frequent visits to Uyugan, Batanes during his vacation from work in Canada cannot be considered as waiver of such abandonment.[422]
> (Emphasis supplied)

VI.E

Even as this court has acknowledged that citizenship may be associated with residency, the decisive factor in determining whether a candidate has satisfied the residence requirement remains to be the unique "fact of residence."[423]

There is no shortcut to determining one's domicile. Reference to formalities or indicators may be helpful-they may serve as guideposts-but these are not conclusive. It remains that domicile is a matter of intention. For domicile to be lost and replaced, there must be a manifest intention to abandon one's existing domicile. If one does not manifestly establish his or her (new) domicile of choice, his or her (old) domicile of origin remains.

The primacy of intention is settled. In Limbona v. Commission on Elections,[424] this court stated in no uncertain terms that "for purposes of election law, the question [of] residence is mainly one of intention."[425]

This primacy is equally evident in the requisites for acquisition of domicile of choice (and concurrent loss of one's old domicile):

> In order to acquire a domicile by choice, these must concur: (1) residence or bodily presence in the new locality, (2) an intention to remain there[in], and (3) an intention to abandon the old domicile.[426]

These requisites were refined in Romualdez-Marcos:[427]

> [D]omicile of origin is not easily lost. To successfully effect a change of domicile, one must demonstrate:

- An actual removal or an actual change of domicile;

- A bona fide intention of abandoning the former place of residence and establishing a new one; and

- Acts which correspond with the purpose.[428]

Intention, however, is a state of mind. It can only be ascertained through overt acts. Ascertaining the second requirement—a bona fide intention to abandon and replace one's domicile with another—further requires an evaluation of the person's "acts, activities and utterances."[429] Romualdez-Marcos' inclusion of the third requirement demonstrates this; bona fide intention cannot stand alone, it must be accompanied by and attested to by "[a]cts which correspond with the purpose."[430]

Examining a person's "acts, activities and utterances"[431] requires a nuanced approach. It demands a consideration of context. This court has made it eminently clear that there is no expedient solution as to how this is determined: "There is no hard and fast rule by which to determine where a person actually resides."[432] Domicile is ultimately a factual matter and is not so easily resolved by mere reference to whether formalities have been satisfied or whether preconceived a priori indicators are attendant.

The better considered cases delved deeply and analytically into the overt acts of the person whose domicile is under scrutiny.

For instance, in Co v. Electoral Tribunal of the House of Representatives,[433] respondent Jose Ong, Jr. was proclaimed by the Commission on Elections as the duly elected Representative of the Second Congressional District of Sarna;. Petitioner Antonio Co protested Ong's proclamation, but the House of Representatives Electoral Tribunal upheld his election. This court sustained the ruling of the House of Representatives Electoral Tribunal. Adverting to the concept of animus revertendi, this court noted that Ong's prolonged stay in Manila to study and to practice his profession as an accountant was not tantamount to abandoning his domicile of origin in Laoang, Samar. Instead, the court appreciated his many trips back to Laoang, Samar as indicative of animus revertendi:

> [T]he private respondent stayed in Manila for the purpose of finishing his studies and later to practice his profession. There was no intention to abandon the residence in Laoang, Samar. On thecontrary, the periodical journeys made to his home province reveal that he always had the animus revertendi.[434]

In Mitra v. Commission on Elections,[435] this court considered as grave abuse of discretion the Commission on Elections' use of "highly subjective non-legal standards" in determining whether an individual has established a new domicile.[436]

To hearken to Japzon, naturalization has no automatic effect on domicile. One who changes his or her citizenship merely acquires an option to establish his or her new domicile of choice.[437]

Romualdez-Marcos[438] emphasized that "it is the fact of residence, not a statement in a certificate of candidacy which ought to be decisive in determining whether or not an individual has satisfied the constitution's residency qualification requirement."[439] A singular statement in a prior certificate of candidacy should "not, however, be allowed to negate the fact of residence . . . if such fact were established by means more convincing than a mere entry on a piece of paper."[440]

Likewise, this court has held that being a registered voter in a specific district does not ipso facto mean that a candidate must have been domiciled in that district, thereby precluding domicile in another district.[441] So too, it has been held that the exercise of the right of suffrage does not sufficiently establish election of residency in a specific place, although it engenders a strong presumption of residence.[442]

In appropriate cases, this court has not shied away from laboring to scrutinize attendant facts. This court's

pronouncements in Dumpit-Michelena v. Commission on Elections[443] hinged on the observation that a beach house can hardly be considered a place of residence as it is at most a place of temporary relaxation.[444] In Sabili v. Commission on Elections,[445] this court noted that apart from the presence of a place (i.e., a house and lot) where one can actually live in, actual physical presence may also be established by "affidavits of various person ... and the Certification of [the] barangay captain."[446]

Even less does the residence requirement justify reference to misplaced, inordinate standards. A person is not prohibited from travelling abroad lest his or her domicile be considered lost. This court has clarified that, if at all, return to the Philippines after travelling abroad affirms one's animus manendi and animus revertendi.[447] So too, this court has emphasized that the establishment of a new domicile does not require one to be in that abode 24 hours a day, seven (7) days a week.[448] It has been stressed that ultimately, what matters is the candidate's demonstration of intention to establish domicile through clear acts.

Blanket reliance on pre-determined indicators of what suffices to establish or retain domicile is misguided. Each case arises from a unique context. A nuanced, context-based examination of each case is imperative.

VI.F

Ideally, one can point to a singular definitive moment when new residence is acquired and previous residence is simultaneously lost. Good sense, however, dictates that this situation is hardly availing. This is especially true when a person is not acting out of a premeditated design to establish formalistic compliance with legal requirements.

Thus, this court has acknowledged that establishing residence may be an "incremental process"[449] that may last for an extended period. This highlights the factual nature of residency questions. Acknowledging that establishing residence may be effected through a step-by-step process requires a careful examination of the acts of the person whose residence is in question.

This court has expressly acknowledged that "initial"[450] and "preparatory moves"[451] count. Thus, residence is deemed acquired (or changed) as soon as these moves are established. Equally vital are the context in which he or she accomplished such actions and even seemingly innocuous nuances that could have actually tilted the course of that person's actions.

This court's Decision in Mitra[452] illustrates how the acquisition or establishment of residence may transpire through an incremental process. This court agreed with the position of gubernatorial candidate Abraham Mitra that he had established a new domicile in Aborlan, Palawan as early as 2008. This court, thus, disagreed with the Commission on Elections' observation that "the Maligaya Feedmill building could not have been Mitra's residence because it is cold and utterly devoid of any indication of Mitra's personality and that it lacks loving attention and details inherent in every home to make it one's residence."[453]

The following actions of Mitra were instead particularly notable: in January 2008, he "started a pineapple growing project in a rented farmland near Maligaya Feedmill and Farm located in Barangay lsaub, Aborlan";[454] a month later, he "leased the residential portion of the said Maligaya Feedmill."[455] In March 2008, he "started to occupy and reside in said premises."[456]

Holding that the Commission on Elections committed grave abuse of discretion in concluding that Mitra failed to satisfY the residence requirement to qualifY him as a candidate for Governor of Palawan, this court explained:

> The respondents significantly ask us in this case to adopt the same faulty approach of using subjective norms, as they now argue that given his stature as a member of the prominent Mitra clan of Palawan, and as a three term congressman, it is highly incredible that a small room in a feed mill has served as his residence since

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2008.

> We reject this suggested approach outright for the same reason we condemned the COMELEC's use of subjective non-legal standards. Mitra's feed mill dwelling cannot be considered in isolation and separately from the circumstances of his transfer of residence, specifically, his expressed intent to transfer to a residence outside of Puerto Princesa City to make him eligible to run for a provincial position; his preparatory moves starting in early 2008; his initial transfer through a leased dwelling; the purchase of a lot for his permanent home; and the construction of a house in this lot that, parenthetically, is adjacent to the premises he leased pending the completion of his house. These incremental moves do not offend reason at all, in the way that the COMELEC's highly subjective non-legal standards do.[457] (Emphasis supplied, citations omitted)

Sabili v. Commission on Elections[458] similarly acknowledged that establishing residence may be an incremental process. In sustaining petitioner Meynardo Sabili's position that he has been a resident of Lipa City for two (2) years and eight (8) months leading to the May 2010 Elections, thereby qualifYing him to run for Mayor of Lipa City, this court explained:

> [A] transfer of domicile/residence need not be completed in one single instance. Thus, in Mitra v. Commission on Elections, where the evidence showed that in 2008, petitioner Mitra had leased a small room at Maligaya Feedmills located in Aborlan and, in 2009 purchased in the same locality a lot where he began constructing his house, we recognized that petitioner "transferred by incremental process to Aborlan beginning 2008 and concluded his transfer in early 2009" and thus, he transferred his residence from Puerto Princesa City to Aborlan within the period required by law. We cannot treat the transfer to the Pinagtong-ulan house any less than we did Mitra's transfer to the Maligaya Feedmills room.[459]

In approaching residence questions, therefore, what is crucial is a comprehensive or holistic, rather than a myopic or isolationist, appreciation of the facts. Not only must all the pertinent facts be considered, so too must be their relationships and synergies. To do otherwise would be to render lip service to the basic imperative of an exacting consideration of facts in residence controversies.

VI.G

Applying these doctrinal principles, petitioner satisfied the residence requirement provided in Article VII, Section 2 of the 1987 Constitution. It was grave abuse of discretion for the Commission on Elections to hold that she committed a material misrepresentation in her Certificate of Candidacy for President.

The Commission on Elections committed a grievous error when it invoked the date petitioner's Philippine citizenship was reacquired (i.e., July 7, 2006) as the earliest possible point when she could have reestablished residence in the Philippines. This erroneous premise was the basis for summarily setting aside all the evidence submitted by petitioner which pointed to the reestablishment of her residence at any point prior to July 7, 2006. Thus, by this faulty premise, the Commission on Elections justified the evasion of its legally enjoined and positive duty to treat petitioner's residence controversy as a factual matter and to embark on a meticulous and comprehensive consideration of the evidence.

At the onset, the Commission on Elections flat-out precluded the timely reestablishment of petitioner's residence in the Philippines because it held that "the earliest possible date that the respondent could have re-established her residence in the Philippines is when she reacquired her Filipino Citizenship on July 2006."[460] In doing so, it relied on this court's Decisions in Coquillia v. Commission on Elections,[461] Japzon v. Commission on Elections,[462] and Caballero v. Commission on Elections.[463]

In its assailed December 23, 2015 Resolution denying petitioner's Motion for Reconsideration with respect to the Petition filed by Elamparo, the Commission on Elections explained:

> Foremost, the Commission is not convinced that the Second Division "chose to rely on a single piece of evidence" - respondent's 2013 COC, to the exclusion of all others, in resolving the issue of residence. It does not persuade us that as the Second Division "entirely omitted" to mention the evidence of respondent enumerated in Respondent's Motion, it did not consider them at all. A judge is not bound to mention in his decision every bit of evidence on record. He is presumed to have regularly discharged his duty to consider and weigh all evidence formally offered by the parties which are admissible.
> ....
>
> To indulge respondent, however, the Commission now looks, one by one on the pieces of evidence allegedly ignored by the Second Division which are, along with their purpose for offer, are enumerated in Respondent's Motion. Unfortunately, an examination of these evidence leads to but one crucial and fatal conclusion: that all of them were executed before July 2006, and/or are offered to prove that she can reckon her residency before July 2006 - the date of reacquisition by respondent of her Filipino citizenship. This is fatal because, following the cases of Coquilla v. COMELEC, Japzon v. COMELEC, and Caballero v. COMELEC, the earliest possible date that respondent could have re- established her residence in the Philippines is when she re-acquired her Filipino Citizenship on July 2006. Yes, on this finding, we affirm the Second Division for the reasons that follow.[464]

In its assailed December 23, 2015 Resolution denying petitioner's Motion for Reconsideration with respect to the petitions filed by Tatad, Contreras, and Valdez, the Commission on Elections explained:

As a US citizen and a foreigner, Respondent was allowed only temporary residence in the Philippines, Respondent's alien citizenship remained a legal impediment which prevented her from establishing her domicile in the Philippines. To establish permanent residence in the Philippines, it was necessary for Respondent to secure prior authorization from the Bureau of Immigration and Deportation ""BID"), such as in the form of a permanent resident visa issued by the Republic of the Philippines showing that she was authorized to permanently reside in the Philippines. This is the rule en:.mciated by the Supreme Court in the case of Coquilla vs. Commission on Elections et al.[465]

It is this dogmatic reliance on formal preconceived indicators that this court has repeatedly decried is grave abuse of discretion. Worse, the Commission on Elections relied on the wrong formal indicators of residence.

The Commission on Elections ignored the basic distinction between citizenship and residence. Likewise, it erroneously considered a visa-a mere permission to enter-as a badge of residence, and equated an immigrant with one who is domiciled in the Philippines. So too, the Commission on Elections' indiscriminate reliance on Coquilla, Japzon, and Caballero indicates a failure in properly appreciating the factual nuances of those cases as against those of this case.

Citizenship and residency are distinct, mutually exclusive concepts. One is not a function of the other. Residence is not necessarily contingent on citizenship. The loss or acquisition of one does not mean the automatic loss or acquisition of the other. Change of domicile as a result of acquiring citizenship elsewhere is neither inevitable nor inexorable.

Japzon v. Commission on Elections[466] could not have been more emphatic: "[R]eacquisition of . . . Philippine citizenship . . . [has] no automatic impact or effect on residence/domicile."[467]

Residence, as does citizenship, entreats a consideration of locus or geography. It is true that they may be related or connected, but association is different from causation.

Caballero v. Commission on Elections[468] was extremely careful in its syntax: "naturalization in a foreign country may result in an abandonment of domicile in the Philippines."[469] The use of the word "may" reveals

this court's recognition that citizenship is not conclusive of domicile. In controversies relating to a candidate's residence, citizenship may be considered and it may engender implications, but these implications are never to be considered infallible.

VI.H
As with citizenship, non-possession of a permanent resident or immigrant visa does not negate residency for election purposes.

A visa is but a travel document given by the issuing country to travelers for purposes of border control.[470] Holders of a visa are "conditionally authorised to enter or leave a territory for which it was issued, subject to permission of an immigration official at the time of actual entry."[471] Conditions of entry usually include date of validity, period of stay, number of allowed entry, and territory covered.[472]

In this jurisdiction, visas are issued by a consular officer of the Philippine Embassy or Consulate as a permit to go to the Philippines and seek permission to enter the country at its port of entry. The decision to admit or disallow entry into the country belongs to immigration authorities at the port of entry.[473] Hence, the mere issuance of a visa does not denote actual admission into, let alone prolonged stay, i.e., domicile, in the country.

The statutory definition of "immigrant," as provided in Section 50 (j) of Commonwealth Act No. 613, otherwise known as the Philippine Immigration Act of 1940, sustains the distinction between an immigrant and one who is actually domiciled in the Philippines:

> SEC. 50. As used in this Act:-
> ....
>
> (j) The term "immigrant" means any alien departing from any place outside the Philippines destined for the Philippines, other than a nonimmigrant. (Emphasis supplied)

The definition's operative terms are contained in the phrases "departing from" and "destined for." These phrases, which are but different sides of the same coin, attest to how an immigrant is not necessarily one who establishes domicile in the Philippines, but merely one who travels from a foreign country into the Philippines. As with a visa, the fivotal consideration is entry into, not permanent stay, in the Philippines.[474]

In fact, a former Filipino may obtain an immigrant visa without even intending to reside or actually residing in the Philippines. As petitioner pointed out:

> 5.289.5. Thus, a former Filipino who has previously been allowed entry into the Philippines may secure a "non-quota immigrant visa" provided he or she submits the following documentary requirements: (a) "Letter request addressed to the Commissioner;" (b) "Duly accomplished CGAF (BI Form CGAF-001-Rev 2);" (c) "Photocopy of passport bio-page and latest admission with valid authorized stay;" (d) "Birth Certificate of the applicant;" (e) "Valid National Bureau of Investigation [NBI] Clearance, if application is filed six (6) months ormore from the date of first arrival in the Philippines;" (f) "BI Clearance Certificate;" and (g) "Original or certified true copy of Bureau of Quarantine Medical Clearance, if applicant is a national of any of the countries listed under Annex 'A' of Immigration Operations order No. SBM-14-059-A who arrived in the Philippines on or after June 2014."
>
> 5.289.6. None of the 7 documentary requirements listed above would indicate whether the applicant intends to make the Philippines his or her "permanent home." None of these documents would show whether he or she, indeed, necessarily intends to abandon his or her foreign domicile. Indeed, a foreigner may want to be an permanent resident here, but would always want to return to his or her home country, which intent to return is determinative of what domicile is under election law.

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> 5.289.7. It is highly probable, therefore, for a former Filipino to secure an "immigrant" visa, without really being a "resident" of the Philippines, as the term is understood in election law.[475] (Emphasis supplied)

The Commission on Elections insists that petitioner should have obtained a visa that supposedly evidences permanent resident status. However, it failed to acknowledge that petitioner did not even need a visa to accomplish the purpose that a visa serves, that is, to enter the Philippines.

Beginning May 24, 2005, petitioner's entries to the Philippines were through the visa-free Balikbayan Program provided for by Republic Act No. 6768, as amended by Republic Act No. 9174. Section 3(c) of Republic Act No. 6768, as amended, provides:

> SEC. 3 Benefits and Privileges of the Balikbayan. - The balikbayan and his or her family shall be entitled to the following benefits and privileges:
>
> ....
>
> (c) Visa-free entry to the Philippines for a period of one (1) year for foreign passport holders, with the exception of restricted nationals;

Petitioner falls within the definition of a balikbayan, under Section 2(a) of Republic Act No. 6768, as amended.[476] She is a "Filipino citizen ... who had been naturalized in a foreign country [who came] or return[ed] to the Philippines."[477] She was, thus, well-capacitated to benefit from the Balikbayan Program.

The Balikbayan Program is not only a scheme that dispenses with the need for visas; it is a system that affirmatively works to enable balikbayans to reintegrate themselves into the Philippines. Alternatively stated, it works to enable balikbayans to reestablish domicile in the Philippines. Pertinent provisions of Republic Act No. 6768, as amended, spell out a "Kabuhayan Program":

> Section 1. Balikbayan Program. - ...
>
> The program shall include a kabuhayan shopping privilege allowing tax-exempt purchase of livelihood tools providing the opportunity to avail of the necessary training to enable the balikbayan to become economically self-reliant members of society upon their return to the country. The program shall likewise showcase competitive and outstanding Filipino-made products.
>
> Sec. 6. Training Programs. - The Department of Labor and Employment (DOLE) through the OWWA, in coordination with the Technology and Livelihood Resource Center (TLRC), Technical Education and Skills Development Authority (TESDA), livelihood corporation and other concerned government agencies, shall provide the necessary entrepreneurial training and livelihood skills programs and marketing assistance to a balikbayan, including his or her immediate family members, who shall avail of the kabuhayan program in accordance with the existing rules on the government's reintegration program.
>
> In the case of non-OFW balikbayan, the Department of Tourism shall make the necessary arrangement with the TLRC and other training institutions for possible livelihood training.

Enabling balikbayans to establish their livelihood in the Philippines, Republic Act No. 6768, as amended, can have as a logical result their reestablishment here of their permanent abodes.

VI.I

The Commission on Elections' erroneous reliance on Coquilla, Japzon, and Caballero demonstrates its evasion of its duty to engage in the required meticulous factual analysis. A closer examination of these cases as well as of a similar case that private respondents Elamparo and Valdez invoked in the February 16, 2016 oral arguments-Reyes v. Commission on Elections[478]-reveals that the conclusions in those cases were reached not because of a practically spellbound invocation of citizenship.

Rather, they were reached because: first, the persons whose residence were in question failed to present any evidence at all of reestablishing residence of choice in the Philippines before their repatriation was effected (or if they did, their evidence were deemed negligible); and second, the countervailing evidence presented against them demonstrated that they failed to reestablish residence ahead of their repatriation.

Coquilla involved only two (2) pieces of evidence in favor of Teodulo Coquilla:[479] first, his Community Tax Certificate; and second, his own verbal statements regarding his intent to run for public office. With only these in support of his cause, the more reasonable conclusion was that Coquilla did not intend to return for good to the Philippines, but only to temporarily vacation.[480]

Japzon was not even about reestablishing residence ahead of reacquiring natural-born citizenship pursuant to Republic Act No. 9225. Japzon even militates against the Commission on Elections' position as it expressly stated that "reacquisition of his Philippine citizenship under Republic Act No. 9225 had no automatic impact or effect on [the candidate's] residence/domicile"[481] and, thus, should be taken as an indicator of when residence may or may not be reckoned.

In Reyes, Regina Ongsiako-Reyes argued that she never lost her domicile of origin (i.e., Boac, Marinduque).[482] As to her claim that she satisfied the residence requirement, this court approvingly quoted the following observations of the Commission on Elections First Division:

> The only proof presented by [petitioner] to show that she has met the one-year residency requirement of the law and never abandoned her domicile of origin in Boac, Marinduque is her claim that she served as Provincial Administrator of the province from January 18, 2011 to July 13, 201 L But such fact alone is not sufficient to prove her one-year residency. For, [petitioner] has never regained her domicile in Marinduque as she remains to be an American citizen. No amount of her stay in the said locality can substitute the fact that she has not abandoned her domicile of choice in the USA.[483] (Citations omitted)

Caballero cited Coquilla and, as previously discussed, took pains to dissociate residence from citizenship. In any case, Rogelio Batin Caballero, candidate for Mayor of Uyugan, Batanes, himself admitted that he only had an actual stay of nine (9) months in Uyugan, Batanes prior to the 2013Elections, albeit claiming that it was substantial comgliance with the Local Government Code's one-year residence requirement.[484]

In contrast with Coquilla, Japzon, Reyes, and Caballero, petitioner here presented a plethora of evidence attesting to the reestablishment of her domicile well ahead of her reacquisition of Philippine citizenship on July 7, 2006:

(1)

United States Passport No. 017037793 issued to petitioner on December 18, 2001, indicating that she travelled back to the Philippines on May 24, 2005, consisting of 13 pages

(2)

E-mail exchanges on various dates from March 18, 2005 to September 29, 2006 between petitioner and her husband and representatives of Victory Van Corporation, and National Veterinary Quarantine Service of the Bureau of Animal Industry of the Philippines, consisting of 23 pages

(3)

Official Transcript of Records of Brian Daniel Poe Llamanzares, issued by the Beacon School, consisting of one (1) page

(4)

Certification issued by the Registrar of La Salle Green Hills dated April 15, 2015, consisting of one (1) page

(5)

Elementary Pupil's Permanent Record for Hanna Mackenzie Llamanzares, issued by Assumption College, consisting of two (2) pages

(6)

Secondary Student's Permanent Record for Hanna Mackenzie Llamanzares, issued by Assumption College, consisting of two (2) pages

(7)

Certificate of Attendance dated April 8, 2015, issued by the Directress of . the Learning Connection, Ms. Julie Pascual Penaloza, consisting of one (1) page

(8)

Certification dated April 14, 2015 issued by the Directress of the Green Meadows Learning Center, Ms. Anna Villaluna- Reyes, consisting of one (1) page

(9)

Elementary Pupil's Permanent Record for Jesusa Anika Carolina Llamanzares, issued by Assumption College, consisting of one (1) page

(10)

Identification Card, issued by the Bureau of Internal Revenue to petitioner on July 22, 2005, consisting of one (1) page

(11)

Condominium Certificate of Title No. 11985-R covering Unit 7F of One Wilson Place, issued by the Registry ofDeeds of San Juan City on February 20, 2006, consisting of four (4) pages

(12)

Condominium Certificate of Title No. 11986-R covering the parking slot for Unit 7F of One Wilson Place, issued by the Registry of Deeds of San Juan City on February 20, 2006, consisting of two (2) pages

(13)

Declaration ofReal Property No. 96-39721 covering Unit 7F of One Wilson Place, issued by the Office of the City Assessor of San Juan City on April25, 2006, consisting of one (1) page

(14)

Declaration of Real Property No. 96-39722 covering the parking slot of Unit 7F of One Wilson Place, issued by the Office of the City Assessor of San Juan City on April 25, 2006, consisting of one page

(15)

Receipt No. 8217172, issued by the Salvation Army on February 23,2006, consisting of one (1) page

(16) Receipt No. 8220421, issued by the Salvation Army on February 23, 2006, consisting of one (1) page

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(17)

E-mail from the U.S.A. Postal Service, sent on March 28, 2006 to petitioner's husband, confirming the latter's submission of a request for change of address to the U.S.A. Postal Service, consisting of one (1) page

(18)

Final Statement issued by the First American Title Insurance Company, which indicates as Settlement Date: "04-27/2006", consisting of two (2) pages

(19)

Transfer Certificate of Title No. 290260 covering a 509-square meter lot at No. 106, Rodeo Drive, Corinthian Hills, Barangay Ugong Norte, Quezon City, issued by the Registry of Deeds of Quezon City on June 1, 2006, consisting of four (4) pages

(20)

Questionnaire Information for Determining Possible Loss of U.S. Citizenship issued by the U.S. Department of State, Bureau of Consular Affairs, accomplished by petitioner on July 12, 2011

(21)

Affidavit of Jesusa Sonora Poe dated November 8, 2015, consisting of three (3) pages

(22)

Affidavit of Teodoro Llamanzares dated November 8, 2015, consisting of three (3) pages[485]

The Commission on Elections chose to ignore all these pieces of evidence showing reestablishment of residence prior to July 7, 2006 by the mere invocation of petitioner's then status as one who has not yet reacquired Philippine citizenship. The Commission on Elections relied on a manifestly faulty premise to justify its position that all of petitioner's evidence relating to the period before July 7, 2006 deserved no consideration. Clearly, this was grave abuse of discretion on the part of the Commission on Elections in two (2) respects: first, in using citizenship as a shortcut; and second, in evading its positive duty to scrutinize the facts and evidence.

VI.J

As with Mitra and Sabili, petitioner has shown by substantial evidence that the incremental process of establishing her residence in the Philippines commenced on May 24, 2005 and was completed in the latter part of April 2006. The Constitution requires that a candidate for the May 9, 2016[486] Presidential Elections must establish residency at least by May 9, 2006.

Her evidence satisfies the three (3) requisites for establishing domicile of choice in the Philippines:

First, bodily presence in the Philippines is demonstrated by her actual arrival in the country on May 24, 2005.

Second, animus manendi or intent to remam in the Philippines is demonstrated by:

(1)

Petitioner's travel records, which indicate that even as she could momentarily leave for a trip abroad, she nevertheless constantly returned to the Philippines;

(2)

Affidavit of Jesusa Sonora Poe, which attests to how, upon their arrival in the Philippines on May 24, 2005,

petitioner and her children first lived with her at 23 Lincoln St., Greenhills West, San Juan City, thereby requiring a change in the living arrangements at her own residence;

(3)

The school records of petitioner's children, which prove that they have been continuously attending Philippine schools beginning in June 2005;

(4)

Petitioner's Tax Identification Number Identification Card, which indicates that "shortly after her return in May 2005, she considered herself a taxable resident and submitted herself to the Philippines' tax jurisdiction";[487] and

(5)

Two condominium certificates of title (one for Unit 7F, One Wilson Place, and another for a corresponding parking slot which were both purchased in early 2005), and along with corresponding Declarations of Real Property Tax Declarations which establish intent to permanently reside in the Philippines.

Lastly, animus non revertendi or intent to abandon domicile in the United States is demonstrated by:

(1)

Affidavit of Jesusa Sonora Poe, which "attests to, among others, the reasons which prompted [petitioner] to leave the [United States] and return permanently to the Philippines";[488]

(2)

Affidavit of petitioner's husband, which affirms petitioner's explanations of how they made arrangements for their relocation to the Philippines as early as March 2005;

(3)

Petitioner and her husband's documented inquiries and exchanges with property movers as regards the transfer of their effects and belongings from the United States to the Philippines, which affirms their intent to permanently leave the United States as early as March 2005;

(4)

The actual relocation and transfer of effects and belongings, "which were packed and collected for storage and transport to the Philippines on February and April2006";[489]

(5)

Petitioner's husband's act of informing the United States Postal Service that he and his family are abandoning their address in the United States as of March 2006;

(6)

Petitioner and her husband's sale of their family home in the United States on April 27, 2006;

(7)

Petitioner's husband's resignation from his work in the United S tates effective April 2006; and

(8)

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Petitioner's husband's actual return to the Philippines on May 4, 2006.

With due recognition to petitioner's initial and preparatory moves (as was done in Mitra and Sabili), it is clear that petitioner's residence in the Philippines was established as early as May 24, 2005.

Nevertheless, even if we are to depart from Mitra and Sahili and insist on reckoning the reestablishment of residence only at that point when all of its steps have been consummated, it remains that petitioner has proven that she has satisfied Article VII, Section 2 of the 1987 Constitution's ten-year residence requirement.

VI.K
The evidence relied upon by the Commission on Elections fail to controvert the timely reestablishment of petitioner's domicile.

Insisting that petitioner failed to timely reestablish residence, the Commission on Elections underscores three (3) facts: first, her husband, Teodoro Llamanzares, "remained a resident of the US in May 2005, where he kept and retained his employment";[490] second, petitioner, using her United States passport, supposedly travelled frequently to the United States from May 2005 to July 2006; and third, a statement in the Certificate of Candidacy she filed for Senator indicating that she was a resident of the Philippines for only six (6) years and six (6) months as of May 13, 2013, which must mean that: first, by May 9, 2016, she shall have been a resident of the Philippines for a cumulative period of nine (9) years and six (6) months; and second, she started to be a resident of the Philippines only in November 2006.

None of these facts sustain the Commission on Elections' conclusions. Relying on the residence of petitioner's husband is simply misplaced.

He is not a party to this case. No incident relating to his residence (or even citizenship) binds the conclusions that are to be arrived at in this case. Petitioner was free to establish her own residence.

The position that the residence of the wife follows that of the husband is antiquated and no longer binding. Article 110 of the Civil Code[491] used to provide that "[t]he husband shall fix the residence of the family." But it has long been replaced by Article 152 of the Family Code,[492] which places the wife on equal footing as the husband.

To accept the Commission on Elections' conclusions is to accept an invitation to return to an antiquated state of affairs. The Commission's conclusions not only run counter to the specific text of Article 152 of the Family Code; it renounces the entire body of laws upholding "the fundamental equality before the law of women and men."[493]

Chief of these is Republic Act No. 7192, otherwise known as the Women in Development and Nation Building Act. Section 5 of this Act specifically states that "[w]omen of legal age, regardless of civil status, shall have the capacity to act . . . which shall in every respect be equal to that of men under similar circumstances." As underscored by Associate Justice Lucas P. Bersamin in the February 9, 2016 oral arguments, a wife may choose "to have her own domicile for purposes of conducting her own profession or business":[494]

> JUSTICE BERSAMIN:
> Yes. Is the position of the COMELEC like this, that a dual citizen can only have one domicile or ...
>
> COMMISSIONER LIM:
> Yes, definitely because that is the ruling in jurisprudence,
> "A person can have only one domicile at that time."
>
> JUSTICE BERSAMIN:

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Alright, who chooses that domicile for her?

COMMISSIONER LIM:
In the ... (interrupted)

JUSTICE BERSAMIN:
At that time when he or she was a dual citizen.

COMMISSIONER LIM:
In the context of marriage, it's a joint decision of husband and wife, Yes, Your Honor.

JUSTICE BERSAMIN:
Okay, we have a law, a provision in the Civil Code reiterated in the Family Code ... (interrupted)

COMMISSIONER LIM:
Yes ...

JUSTICE BERSAMIN:
. . . that it is the husband who usually defmes the situs of the domicile?

COMMISSIONER LIM:
Yes, Your Honor.

JUSTICE BERSAMIN:
Except if the wife chooses to have her own domicile for purposes of conducting her own profession or business.

COMMISSIONER LIM:
Yes, Your Honor.

JUSTICE BERSAMIN:
That's under the Women in Nation Building Act.

COMMISSIONER LIM:
Yes, Your Honor.[495]

Reliance on petitioner's husband's supposed residence reveals an even more basic flaw. This presupposes that residence as used in the Civil Code and the Family Code is to be equated with residence as used in the context of election laws. Even if it is to be assumed that the wife follows the residence fixed by the husband, it does not mean that what is reckoned in this sense as residence, i.e., the family home, is that which must be considered as residence for election purposes.

In any case, petitioner amply demonstrated that their family home had, in fact, been timely relocated from the United States. Initially, it was in her mother's residence at 23 Lincoln St., Greenhills West, San Juan City. Later, it was transferred to Unit 7F, One Wilson Place; and finally to Corinthian Hills, Quezon City.

Apart from the sheer error of even invoking a non-party's residence, petitioner's evidence established the purpose for her husband's stay in the United States after May 24, 2005: that it was "for the sole and specific purpose of 'finishing pending projects, and to arrange for the sale of the family home there.'"[496] This assertion is supported by evidence to show that a mere seven (7) days after their house in the United States was sold, that is, as soon as his reason for staying in the United States ceased, petitioner's husband returned to the Philippines on May 4, 2006.[497]

Equally unavailing are petitioner's travels to the United States from May 2005 to July 2006.

In the first place, petitioner travelled to the United States only twice within this period. This hardly qualifies as "frequent," which is how the Commission on Elections characterized her travels.[498] As explained by petitioner:

> Her cancelled U.S.A. Passport shows that she travelled to the U.S.A. only twice during this period. Moreover, each trip (from 16 December 2005 to 7 January 2006 and from 14 February 2006 to 11 March 2006) did not last more than a month.[499]

The Commission on Elections' choice to characterize as "frequent" petitioner's two trips, neither of which even extended longer than a month, is a red flag, a badge of how it gravely abused its discretion in refusing to go about its task of meticulously considering the evidence.

Moreover, what is pivotal is not that petitioner travelled to the United States. Rather, it is the purpose of these trips. If at all, these trips attest to the abandonment of her domicile in the United States and her having reestablished it in the Philippines. As petitioner explained, it was not out of a desire to maintain her abode in the United States, but it was precisely to wrap up her affairs there and to consummate the reestablishment of her domicile in the Philippines:

> 5.258.1. In her Verified Answers, Sen. Poe explained why she bad to travel to the U.S.A. on 14 February 2006, and it bad, again, nothing to do with supposedly maintaining her domicile in the U.S.A.
>
> 5.258.2. To reiterate, Sen. Poe's trip to the U.S.A. in February 2006 was "for the purpose of supervising the disposal of some of the family's remaining household belongings." The circumstances that lead to her travel to the U.S.A. were discussed in detail in pars. 5.241 to 5.243 above. During this February 2006 trip to the U.S.A., Sen. Poe even donated some of the family's household belongings to the Salvation Army.
>
> 5.258.3. On the other hand, Sen. Poe's trip to the U.S.A. from 16 December 2005 to 7 January 2006 was also intended, in part, to "to attend to her family's ongoing relocation."[500]

The Commission on Elections' begrudging attitude towards petitioner's two trips demonstrates an inordinate stance towards what animus non revertendi or intent to abandon domicile in the United States entails. Certainly, reestablishing her domicile in the Philippines cannot mean a prohibition against travelling to the United States. As this court emphasized in Jalover v. Osmena,[501] the establishment of a new domicile does not require a person to be in his home 24 hours a day, seven (7) days a week.[502]

To hold otherwise is to sustain a glaring absurdity.

The statement petitioner made in her Certificate of Candidacy for Senator as regards residence is not fatal to her cause.

The assailed Commission on Elections' Resolution m G.R. No. 221697 stated that:

> Respondent cannot fault the Second Division for using her statements in the 2013 COC against her. Indeed, the Second Division correctly found that this is an admission against her interest. Being such, it is 'the best evidence which affords the greatest certainty of the facts in dispute. The rationale for the rule is based on the presumption that no man would declare anything against himself unless such declaration was true. Thus, it is fair to presume that the declaration corresponds with the truth, and it is his fault if it does not.
>
> Moreover, a [Certificate of Candidacy], being a notarial document, has in its favor the presumption of regularity. To contradict the facts stated therein, there must be evidence that is clear, convincing and more than merely preponderant. In order for a declarant to impugn a notarial document which he himself executed, it is not enough for him to merely execute a subsequent notarial document. After executing an affidavit voluntarily wherein admissions and declarations against the affiant's own interest are made under the solemnity of an oath, the affiant cannot just be allowed to spurn them and undo what he has done.

> Yes, the statement in the 2013 COC, albeit an admission against interest, may later be impugned by respondent. However, she cannot do this by the mere expedient of filing her 2016 COC and claiming that the declarations in the previous one were "honest mistakes". The burden is upon her to show, by clear, convincing and more than preponderant evidence, that, indeed, it is the latter COC that is correct and that the statements made in the 2013 COC were done without bad faith. Unfortunately for respondent, she failed to discharge this heavy burden.[503]

Untenable is the Commission on Elections' conclusion that a certificate of candidacy, being a notarized document, may only be impugned by evidence that is clear, convincing, and more than merely preponderant because it has in its favor a presumption of regularity. Notarizing a document has nothing to do with the veracity of the statements made in that document. All that notarization does is to convert a private document into a public document, such that when it is presented as evidence, proof of its genuineness and due execution need no longer be shown.[504] Notarization does not sustain a presumption that the facts stated in notarized documents are true and correct.

More importantly, Romualdez-Marcos[505] has long settled that "[i]t is the fact of residence, not a statement in a certificate of candidacy which ought to be decisive in determining whether or not an individual has satisfied the constitution's residency qualification requirement."[506] It further stated that an "honest mistake should not, however, be allowed to negate the fact of residence ... if such fact were established by means more convincing than a mere entry on a piece ofpaper."[507]

The facts-as established by the evidence-will always prevail over whatever inferences may be drawn from an admittedly mistaken declaration. Jurisprudence itself admits of the possibility of a mistake. Nevertheless, the mistaken declaration serves neither as a perpetually binding declaration nor as estoppel. This is the unmistakable import of Romualdez.

This primacy of the fact of residence, as established by the evidence, and how it prevails over mere formalistic declarations, is illustrated in Perez v. Commission Elections.[508]

In Perez, the petitioner Marcita Perez insisted that the private respondent Rodolfo Aguinaldo, a congressional candidate in the 1998 Elections, remained a resident of Gattaran, Cagayan, and that he was unable to establish residence in Tuguegarao, Cagayan. In support of her claims, she "presented private respondent's [previous] certificates of candidacy for governor of Cagayan in the 1988, 1992, and 1995 elections; his voter's affidavit which he used in the 1987, 1988, 1992, 1995, and 1997 elections; and his voter registration record dated June 22, 1997, in all of which it is stated that he is a resident of Barangay Calaoagan Dackel, Municipality of Gattaran."[509]

This court did not consider as binding "admissions" the statements made in the documents presented by Perez. Instead, it sustained the Commission on Elections' appreciation of other evidence proving that Aguinaldo managed to establish residence in Tuguegarao. It also cited Romualdez-Marcos and affirmed the rule that the facts and the evidence will prevail over prior (mistakenly made) declarations:

> In the case at bar, the COMELEC found that private respondent changed his residence from Gattaran to Tuguegarao, the capital of Cagayan, in July 1990 on the basis of the following: (1) the affidavit of Engineer Alfredo Ablaza, the owner of the residential apartment at 13-E Magallanes St., Tuguegarao, Cagayan, where private respondent had lived in 1990; (2) the contract of lease between private respondent, as lessee, and Tomas T. Decena, as lessor, of a residential apartment at Kamias St., Tanza, Tuguegarao, Cagayan, for the period July 1, 1995 to June 30, 1996; (3) the marriage certificate, dated January 18, 1998, between private respondent and Lenna Dumaguit; (4) the certificate of live birth of private respondent's second daughter; and (5) various letters addressed to private respondent and his family, which all show that private respondent was a resident of Tuguegarao, Cagayan for at least one (1) year immediately preceding the elections on May 11,

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> 1998.
>
> There is thus substantial evidence supporting the finding that private respondent had been a resident of the Third District of Cagayan and there is nothing in the record to detract from the merit of this factual finding.
> ....
>
> Moreover, as this Court said in Romualdez-Marcos v. COMELEC:
>
> It is the fact of residence, not a statement in a certificate of candidacy, which ought to be decisive in determining whether or not an individual has satisfied the constitution's residency qualification requirement. The said statement becomes material only when there is or appears to be a deliberate attempt to mislead, misinform, or hide a fact which would otherwise render a candidate ineligible.
>
> In this case, although private respondent declared in his certificates of candidacy prior to the May 11, 1998 elections that he was a resident of Gattaran, Cagayan, the fact is that he was actually a resident of the Third District not just for one (1) year prior to the May 11, 1998 elections but for more than seven (7) years since July 1990. His claim that he had been a resident of Tuguegarao since July 1990 is credible considering that he was governor from 1988 to 1998 and, therefore, it would be convenient for him to maintain his residence in Tuguegarao, which is the capital of the province of Cagayan.[510]

Even assuming that an "admission" is worth considering, the mere existence of any such admission does not imply its conclusiveness. "No doubt, admissions against interest may be refuted by the declarant."[511] This is true both of admissions made outside of the proceedings in a given case and of"[a]n admission, verbal or written, made by the party in the course of the proceedings in the same case."[512] As regards the latter, the Revised Rules on Evidence explicitly provides that "[t]he admission may be contradicted ... by showing that it was made through palpable mistake." Thus, by mistakenly "admitting," a party is not considered to have brought upon himself or herself an inescapable contingency. On the contrary, that party is free to present evidence proving not only his or her mistake but also of what the truth is.

Petitioner here has established her good faith, that is, that she merely made an honest mistake. In addition, she adduced a plethora of evidence, "more convincing than a mere entry on a piece of paper,"[513] that proves the fact of her residence, which was reestablished through an incremental process commencing on May 24, 2005.

The fact of petitioner's honest mistake is accounted for. Working in her favor is a seamless, consistent narrative. This controverts any intent to deceive. It is an honest error for a layperson.

Firstly, her Certificate of Candidacy for Senator must be appreciated for what it is: a document filed in relation to her candidacy for Senator, not for President. Under Article VI, Section 3 of the 1987 Constitution, all that election to the Senate requires is residence in the Philippines for "not less than two years immediately preceding the day of the election." For purposes of her Certificate of Candidacy for Senator, petitioner needed to show residence for only two (2) years and not more. As petitioner explained, she accomplished this document without the assistance of a lawyer.[514] Thus, it should not be taken against her (and taken as a badge of misrepresentation) that she merely filled in information that was then apropos, though inaccurate.

As Commission on Elections Chairperson Andres Bautista noted in his Concurring and Dissenting Opinion to the assailed Commission on Elections' Resolution in G.R. No. 221697:

> [The] residency requirement for Senator is two (2) years. Hence, when [petitioner] stated in her 2013 COC that she was a resident ... for [6 years and 6 months], it would seem that she did so without really considering the legal or constitutional requirement as contemplated by law. After all, she had already fully complied with the two-year residence requirement.[515]

The standard form for the certificate of candidacy that petitioner filed for Senator required her to specify her "Period of Residence in the Philippines before May 13, 2013."[516] This syntax lent itselfto some degree of confusion as to what the "period before May 13, 2013" specifically entailed. It was, thus, quite possible for a person filling out a blank certificate of candidacy to have merely indicated his or her period of residence as of the filing of his or her Certificate of Candidacy. This would not have been problematic for as long as the total period of residence relevant to the position one was running for was complied with.

Affirming the apparent tendency to confuse, the Commission on Elections itself revised the template for certificates of candidacy for the upcoming 2016 Elections. As petitioner pointed out, the certificate of candidacy prepared for the May 9, 2016 Elections is now more specific. It now requires candidates to specify their "Period of residence in the Philippines up to the day before May 09, 2016."[517]

It is true that reckoning six (6) years and six (6) months from October 2012, when petitioner filed her Certificate of Candidacy for Senator, would indicate that petitioner's residence in the Philippines commenced only in April 2006. This seems to belie what petitioner now claims: that her residence in the Philippines commenced on May 24, 2005. This, however, can again be explained by the fact that petitioner, a layperson, accomplished her own Certificate of Candidacy for Senator without the better advice of a legal professional.

To recall, jurisprudence appreciates the establishment of domicile as an incrementalfrocess. In this incremental process, even initial, preparatory moves count.[518] Residence is deemed acquired (or changed) as soon as these moves are demonstrated.[519] Nevertheless, the crucial fact about this manner of appreciating the establishment of domicile is that this is a technical nuance in jurisprudence. Laypersons can reasonably be expected to not have the acumen to grasp this subtlety. Thus, as petitioner explained, it was reasonable for her to reckon her residency from April 2006, when all the actions that she and her family needed to undertake to effect their transfer to the Philippines were consummated.[520] Indeed, as previously pointed out, the latter part of April leading to May 2006 is the terminal point of the incremental process of petitioner's reestablishing her residence in the Philippines.

Insisting on November 2006 as petitioner's supposedly self-declared start of residence in the Philippines runs afoul of the entire corpus of evidence presented. Neither petitioner's evidence nor the entirety of the assertions advanced by respondents against her manages to account for any significant occurrence in November 2006 that explains why petitioner would choose to attach her residency to this date. In the face of a multitude of countervailing evidence, nothing sustains November 2006 as a starting point.

There were two documents-a 2012 Certificate of Candidacy for Senator and a 2015 Certificate of Candidacy for President-that presented two different starting points for the establishment of residency. Logic dictates that if one is true, the other must be false.

The Commission on Elections insisted, despite evidence to the contrary, that it was the 2015 Certificate of Candidacy for President that was false. Petitioner admitted her honest mistake in filling out the 2012 Certificate of Candidacy for Senator. She explained how the mistake was made. She further presented evidence to show that it is the 2015 Certificate of Candidacy that more accurately reflects what she did and intended.

By itself, the Commission on Elections' recalcitrance may reasonably raise public suspicion that its conclusions in its Resolutions were preordained despite the compendium of evidence presented. It was clearly unfounded and arbitrary-another instance of the Commission on Elections' grave abuse of discretion.

Accordingly, the conclusion warranted by the evidence stands. The fact of petitioner's residence as having commenced on May 24, 2005, completed through an incremental process that extended until April/May 2006, was "established by means more convincing than a mere entry on a piece of paper."[521]

VI.L

Another fact cited against petitioner is her continuing ownership of two (2) real properties in the United States. Specifically, Valdez noted that petitioner "still maintains two (2) residential houses in the US, one purchased in 1992, and the other in 2008."[522]

This fails to controvert the timely reestablishment of petitioner's residence in the Philippines.

First, Valdez's characterization of the two properties as "residential" does not mean that petitioner has actually been using them as her residence. ClassifYing real properties on the basis of utility (e.g., as residential, agricultural, commercial, etc.) is merely a descriptive exercise. It does not amount to an authoritative legal specification of the relationship between the real property owner and the property. Thus, one may own agricultural land but not till it; one may own a commercial property but merely lease it out to other commercial enterprises.

To say that petitioner owns "residential" property does not mean that petitioner is actually residing in it.

In the Answer[523] she filed before the Commission on Elections, petitioner has even explicitly denied Valdez's assertion "insofar it is made to appear that (she) 'resides' in the 2 houses mentioned."[524] As against Valdez's allegation, petitioner alleged and presented supporting evidence that her family's residence has been established in Corinthian Hills, Quezon City. As pointed out by petitioner, all that Valdez managed to do was to make an allegation, considering that he did not present proof that any of the two (2) properties in the United States has been and is still being used by petitioner's family for their residence.

Second, even on the assumption that the remaining properties in the United States may indeed be characterized as petitioner's residence, Valdez's assertion fails to appreciate the basic distinction between residence and domicile. It is this distinction that permits a person to maintain a separate residence simultaneously with his or her domicile.

Ultimately, it does not matter that petitioner owns residential properties in the United States, or even that she actually uses them as temporary places of abode. What matters is that petitioner has established and continues to maintain domicile in the Philippines.

Romualdez-Marcos[525] is on point:

> Residence, in its ordinary conception, implies the factual relationship of an individual to a certain place. It is the physical presence of a person in a given area, community or country. The essential distinction between residence and domicile in law is that residence involves the intent to leave when the purpose for which the resident has taken up his abode ends. One may seek a place for purposes such as pleasure, business, or health. If a person's intent be to remain, it becomes his domicile; if his intent is to leave as soon as his purpose is established it is residence. It is thus, quite perfectly nonnal for an individual to have different residences in various places. However, a person can only have a single domicile, unless, for various reasons, he successfully abandons his domicile in favor of another domicile of choice. In Uytengsu vs. Republic, we laid this distinction quite clearly:
> "There is a difference between domicile and residence. 'Residence['] is used to indicate a place of abode, whether permanent or temporary; 'domicile' denotes a fixed permanent residence to which, when absent, one has the intention of returning. A man may have a residence in one place and a domicile in another. Residence is not domicile, but domicile is residence coupled with the intention to remain for an unlimited time. A man can have but one domicile for the same purpose at any time, but he may have numerous places of residence. His place of residence is generally his place of domicile, but it is not by any means necessarily so since no length of residence without intention of remaining will constitute domicile."[526]
> (Citations omitted)

There is nothing preventing petitioner from owning properties in the United States and even from utilizing them for residential purposes. To hold that mere ownership of these is tantamount to abandonment of domicile is to betray a lack of understanding of the timelessly established distinction between domicile and residence.

VII
It was grave abuse of discretion for the Commission to Elections to cancel petitioner's Certificate of Candidacy on grounds that find no support in law and jurisprudence, and which are not supported by evidence. Petitioner made no false representation in her Certificate of Candidacy, whether in respect of her citizenship or in respect of her residence. She is a natural-hom Filipina at the time ofher filing of her Certificate of Candidacy. She satisfies the requirement of having been a resident of the Philippines 10 years prior to the upcoming elections.

The burden of evidence rests on the person who makes the affirmative allegation. In an action for cancellation of certificate of candidacy under Section 78 of the Omnibus Election Code, it is the person who filed the action who has the burden of showing that the candidate made false representations in his or her certificate of candidacy.

To prove that there is misrepresentation under Section 78, the person claiming it must not only show that the candidate made representations that are false and material. He or she must also show that the candidate intentionally tried to mislead the electorate regarding his or her qualifications. Without showing these, the burden of evidence does not shift to the candidate.

Private respondents failed to show the existence of false and material misrepresentation on the part of petitioner. Instead, it relied on petitioner's admission that she is a foundling.

Relying on the single fact of being an abandoned newborn is unreasonable, arbitrary, and discriminatory. It fails to consider all other pieces of evidence submitted by petitioner for the fair and unbiased consideration of the Commission on Elections.

The principles of constitutional construction favor an interpretation that foundlings like petitioner are natural-hom citizens of the Philippines absent proof resulting from evidence to the contrary. Such proof must show that both-not only one--of petitioner's parents were foreigners at the time of her birth.

Without conceding that foundlings are not-even presumptively- j natural-hom Filipinos, petitioner has presented substantial evidence that her biological parents are Filipinos.

The Constitution provides for only two types of citizens: (1) natural- born, and (2) naturalized citizens. Natural-born citizens are specifically defined as persons who do not have to perform any act to acquire or perfect their Filipino citizenship. These acts refer to those required under our naturalization laws. More particularly, it involves the filing of a petition as well as the establishment of the existence of all qualifications to become a Filipino citizen.

Petitioner never had to go through our naturalization processes. Instead, she has been treated as a Filipino citizen upon birth, subject to our laws. Administrative bodies, the Commission on Elections, the President, and most importantly, the electorate have treated her as a Filipino citizen and recognized her natural-born status.

Not being a Filipino by naturalization, therefore, petitioner could have acquired Filipino citizenship because her parentis, from her birth, has/have always been considered Filipino citizen/s who, in accordance with our jus sanguinis principle, bestowed natural-born citizenship to her under Article IV, Section 1(1) to (3) of the Constitution.

Our Constitution and our domestic laws, including the treaties we have ratified, enjoin us from interpreting our citizenship provisions in a manner that promotes exclusivity and an animus against those who were abandoned

and neglected.

We have adopted and continue to adopt through our laws and practice policies of equal protection, human dignity, and a clear duty to always seek the child's well-being and best interests. We have also obligated ourselves to defend our People against statelessness and protect and ensure the status and nationality of our children immediately upon birth.

Therefore, an interpretation that excludes foundlings from our natural- born citizens is inconsistent with our laws and treaty obligations. It necessarily sanctions unequal treatment of a particular class through unnecessary limitation of their rights and capacities based only on their birth status.

Petitioner cannot be expected to present the usual evidence of her lineage. It is precisely because she is a foundling that she cannot produce a birth record or a testimony on the actual circumstances and identity of her biological parents.

However, the circumstances of and during her birth lead to her parentis' Filipino citizenship as the most probable inference.

Petitioner was born in Jaro, Iloilo, the population of which consisted mainly of Filipinos. Her physical features are consistent with the physical features of many Filipinos. She was left in front of a Catholic Church, no less-consistent with the expectation from a citizen in a predominantly Catholic environment. There was also no international airport in Jaro, Iloilo to and from which foreigners may easily come and go to abandon their newborn children. Lastly, statistics show that in 1968, petitioner had a 99.8% chance of being born a Filipino.

For these reasons, a claim of material misrepresentation of natural- born status cannot be based solely on a candidate's foundling status. Private respondents should have been more diligent in pursuing their claim by presenting evidence other than petitioner's admission of foundling status.

The conclusion that she is a natural-born Filipina is based on a fair and reasonable reading of constitutional provisions, statutes, and international norms having the effect of law, and on the evidence presented before the Commission on Elections.

Petitioner has shown by a multitude of evidence that she has been domiciled in the Philippines beginning May 24, 2005. Her reestablishment of residence was not accomplished in a singular, definitive episode but spanned an extended period. Hers was an incremental process of reestablishing residence.

This incremental process was terminated and completed by April 2006 with the sale of her family's former home in the United States and the return of her husband to the Philippines following this sale. Specifically, her husband returned to the Philippines on May 4, 2006.

Whichever way the evidence is appreciated, it is clear that petitioner has done all the acts necessary to become a resident on or before May 9, 2006, the start of the ten-year period for reckoning compliance with the 1987 Constitution's residence requirement for presidential candidates.

The Commission on Elections did not examine the evidence deliberately and with the requisite analytical diligence required by our laws and existing jurisprudence. Instead, it arbitrarily ignored petitioner's evidence. It chose to anchor its conclusions on formalistic requirements and technical lapses; reacquisition of citizenship, issuance of a permanent resident or immigrant visa, and an inaccuracy in a prior Certificate of Candidacy.

Misplaced reliance on preconceived indicators of what suffices to establish or retain domicile-a virtual checklist of what one should, could, or would have done-is precisely what this court has repeatedly warned against. This is tantamount to evasion of the legally ordained duty to engage in a meticulous examination of the facts attendant to

residency controversies.

Worse, the Commission on Elections went out of its way to highlight supposedly damning details-the circumstances of petitioner's husband, her intervening trips to the United States-to insist upon its conclusions. This conjectural posturing only makes more evident how the Commission on Elections gravely abused its discretion. Not only did it turn a blind eye to the entire body of evidence demonstrating the restoration of petitioner's domicile; it even labored at subverting them.

Clearly, the Commission on Elections' actions constituted grave abuse of discretion amounting to utter lack of jurisdiction. These actions being unjust as well as unchristian, we have no choice except to annul this unconstitutional act.

Admittedly, there is more to democracy than having a wider choice of candidates during periodic elections. The quality of democracy increases as people engage in meaningful deliberation often moving them to various types of collective action to achieve a better society. Elections can retard or aid democracy. It weakens society when these exercises reduce the electorate to subjects of entertainment, slogans, and empty promises. This kind of elections betrays democracy.They transform the exercise to a contest that puts premium on image rather than substance. The potential of every voter gets wasted. Worse, having been marginalized as mere passive subjects, voters are then manipulated by money and power.

Elections are at their best when they serve as venues for conscious and deliberate action. Choices made by each voter should be the result of their own reasoned deliberation. These choices should be part of their collective decision to choose candidates who will be accountable to them and further serious and workable approaches to the most pressing and relevant social issues. Elections are at their best when the electorate are not treated simply as numbers in polling statistics, but as partners in the quest for human dignity and social justice.

This case should be understood in this context. There are no guarantees that the elections we will have in a few months will lead us to more meaningful freedoms. How and when this comes about should not solely depend on this court. In a working constitutional democracy framed by the rule of just law, how we conceive and empower ourselves as a people should also matter significantly.

ACCORDINGLY, I vote to GRANT the consolidated Petitions for Certiorari. The assailed Resolutions dated December 1, 2015 of the Commission on Elections Second Division and December 23, 2015 of the Commission on Elections En Banc in SPA No. 15-001 (DC), and the assailed Resolutions dated December 11, 2015 of the Commission on Elections First Division and December 23, 2015 of the Commission on Elections En Banc in SPA No. 15-002 (DC), SPA No. 15-007 (DC), and SPA No. 15-139 (DC) must be ANNULLED and SET ASIDE.

Petitioner Mary Grace Natividad S. Poe-Llamanzares made no material misrepresentation in her Certificate of Candidacy for President in connection with the May 9, 2016 National and Local Elections. There is no basis for the cancellation of her Certificate of Candidacy.

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[1] Const., art. VII, sec. 2 provides:

ARTICLE VII. Executive Department

....

SECTION 2. No person may be elected President unless he is a natural-born citizen of the Philippines, a registered voter, able to read and write, at least forty years of age on the day of the election, and a resident of the Philippines for at least ten years immediately preceding such election.

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[2] Rollo (G.R. No. 221697), pp. 2706-2736. The Decision was concurred in by Senators Paolo Benigno "Bam" A. Aquino IV, Pilar Juliana "Pia" S. Cayetano, Cynthia A. Villar, Vicente C. Sotto III, and Loren B. Legarda, and dissented from by Senior Associate Justice Antonio T. Carpio, Associate Justices Teresita J. Leonardo-De Castro and Arturo D. Brion, and Senator Maria Lourdes Nancy S. Binay.

[3] Id. at 3827, Petitioner's Memorandum.

[4] COMELEC Official May 13, 2013 National and Local Elections Results <http://www.comelec.gov.ph/?r=Archives/RegularElections/2013NLE/Results/SenatorialElections2013> (visited March 7, 2016).

[5] Const., art. VI, sec. 3 provides:

ARTICLE VI. The Legislative Department
....
SECTION 3. SECTION 3. No person shall be a Senator unless he is a natural-born citizen of the Philippines, and, on the day of the election, is at least thirty-five years of age, able to read and write, a registered voter, and a resident of the Philippines for not less than two years immediately preceding the day of the election.

[6] CONST., art. IV, sec. 1 provides: ARTICLE IV. Citizenship

SECTION I. The following are citizens of the Philippines:

(1) Those who are citizens of the Philippines at the time of the adoption ofthis Constitution; (2) Those whose fathers or mothers are citizens of the Philippines;

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

(4) Those who are naturalized in accordance with law.

[7] CONST., art. IV, sec. 1.

[8] CONST., art. IV, sec. 1.

[9] See Rep. Act No. 8552 (1998) and Rep. Act No. 8043 (1995).

[10] See Rollo (G.R. No. 221697), pp. 22-26, Petition. Petitioner was granted an order of reacquisition of natural-born citizenship under Republic Act No. 9225 by the Bureau oflmmigration on July 18, 2006.

The President of the Philippines appointed her as Chairperson of the Movie and Television Review and Classification Board-a government position that requires natural-born citizenship--on October 6, 2010.

[11] On August 21, 1990, we ratified the United Nations Convention on the Rights of the Child. We also ratified the 1966 International Covenant on Civil and Political Rights on October 23, 1986.

[12] Rollo (G.R. No. 221697), p. 5, Petition.

[13] Rollo (G.R. No. 221698 221700), p. 4566, Annex C of the Solicitor General's Memorandum, Certification issued on February 9, 2016 by the Philippine Statistics Office, signed by Deputy National Statistician Estela T. De Guzman.

[14] Batas Big. 881 (1985), Omnibus Election Code, sec. 78 provides:

SECTION 78. Petition to deny due course to or cancel a certificate of candidacy. - A verified petition seeking to

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

[15] Romualdez-Marcos v. COMELEC, 318 Phil. 329,377 (1995) [Per J. Kapunan, En Banc].

[16] Gallego v. Vera, 73 Phil. 453,455-456 (1941) [Per J. Ozaeta, En Banc].

[17] Id. at 456.

[18] Rollo (G.R. No. 221698-221700), p. 254, COMELEC First Division Resolution (SPA Nos. 15-002 (DC), 15-007 (DC), and 15-139 (DC)).

[19] Id.

[20] Id.

[21] 318 Phil. 329,386 (1995) [Per J. Kapunan, En Banc].

[22] Rollo (G.R. No. 221 697), p. 3816, Petitioner's Memorandum.

[23] Id.; Rollo (G.R. No. 221698-221700), p. 218, COMELEC First Division Resolution (SPA Nos. 15-002 (DC), 15-007 (DC), and 15-139 (DC)).

[24] Rollo (G.R. No. 221697), pp. 3821-3822, Petitioner's Memorandum; Rollo (G.R. No. 221698-221700), p. 218, COMELEC First Division Resolution (SPA Nos. 15-002 (DC), 15-007 (DC), and 15-139 (DC)).

[25] Rollo (G.R. No. 221697), p. 3822, Petitioner's Memorandum; Rollo (G.R. No. 221698-221700), p. 218, COMELEC First Division Resolution (SPA Nos. 15-002 (DC), 15-007 (DC), and 15-139 (DC)).

[26] Rollo (G.R. No. 221697), pp. 3819-3820 and 3824, Petitioner's Memorandum; Rollo (G.R. No. 221698-221700), p. 218, COMELEC First Division Resolution (SPA Nos. 15-002 (DC), 15-007 (DC), and 15-139 (DC)).

[27] Rollo (G.R. No. 221697), p. 3819, Petitioner's Memorandum.

[28] Rollo (G.R. No. 221697), pp. 3824-3825, Petitioner's Memorandum; Rollo (G.R. No. 221698-221700), p. 220, COMELEC First Division Resolution (SPA Nos. 15-002 (DC), 15-007 (DC), and 15-139 (DC)).

[29] Rollo (G.R. No. 221697), p. 3825, Petitioner's Memorandum; Rollo (G.R. No. 221698-221700), p. 220, COMELEC First Division Resolution (SPA Nos. 15-002 (DC), 15-007 (DC), and 15-139 (DC)).

[30] Rollo (G.R. No. 221697), p. 3824, Petitioner's Memorandum; Rollo (G.R. No. 221698-221700), p. 219, COMELEC First Division Resolution (SPA Nos. 15-002 (DC), 15-007 (DC), and 15-139 (DC)).

[31] Rollo (G.R. No. 221697), p. 3825, Petitioner's Memorandum; Rollo (G.R. No. 221698-221700), p. 220, COMELEC First Division Resolution (SPA Nos. 15-002 (DC), 15-007 (DC), and 15-139 (DC)).

[32] Rollo (G.R. No. 221697), pp. 3816 and 3833, Petitioner's Memorandum; Rollo (G.R. No. 221698-221700), p. 220, COMELEC First Division Resolution (SPA Nos. 15-002 (DC), 15-007 (DC), and 15-139 (DC)).

[33] Rollo (G.R. No. 221697), p. 3822, Petitioner's Memorandum.

[34] Id. at 3824; Rollo (G.R. No. 221698-221700), p. 219, COMELEC First Division Resolution (SPA Nos. 15-002(DC), 15-007 (DC), and 15-139 (DC)).

[35] 392 Phil. 342 (2000) [Per J. Panganiban, En Banc].

[36] Id. at 345.

[37] Rollo (G.R. No. 221697), pp. 224-259, COMELEC En Banc Resolution (SPA Nos. 15-001 (DC) was signed by Commissioners J. Andres D. Bautista (Chair), Christian RobertS. Lim, AI A. Parreño, Luie Tito F. Guia, Arthur D. Lim, Ma. Rowena Amelia V. Guanzon, and SheriffM. Abas.

[38] Id. at 258.

[39] Rollo (G.R. No. 221698-221700), pp. 216-264, COMELEC First Division Resolution (SPA Nos. 15-002 (DC), 15-007 (DC), and 15-139 (DC)) was signed by Presiding Commissioner Christian Robert S. Lim, and Commissioners Luie Tito F. Guia, and Ma. Rowena Amelia V. Guanzon.

[40] Id. at 352-381.

[41] Id. at 381.

[42] Rollo (G.R. No. 221697), p. 3814, Petitionds Memorandum.

[43] Rollo (G.R. No. 221698-221700), p. 217, COMELEC First Division Resolution (SPA Nos. 15-002 (DC), 15-007 (DC), and 15-139 (DC)).

[44] Rollo (G.R. No. 221697), p. 3814, Petitioner's Memorandum.

[45] Id. at 3815.

[46] Id.

[47] Id.

[4s] Id.

[49] Id.

[50] Id. at 3816.

[51] Id. Emphasis supplied.

[52] Id.

[53] Id. at 2707, SET Decision (SET Case No. 001-15).

[54] Id. at 3816, Petitioner's Memorandum.

[55] Id.

[56] Rollo (G.R. No. 221698-221700), p. 218, COMELEC First Division Resolution (SPA Nos. 15- 002 (DC), 15-007 (DC), and 15-139 (DC)).

[57] Id.

[58] Rollo (G.R. No. 221697), p. 3817, Petitioner's Memorandum.

[59] Id.

[60] Rollo (G.R. No. 221698-221700), p. 218, COMELEC First Division Resolution (SPA Nos. 15-002 (DC), 15-007 (DC), and 15-139 (DC)).

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[61] Id.

[62] Rollo (G.R. No. 221697), pp. 3817-3818, Petitioner's Memorandum.

[63] Id. at 3817.

[64] Id. at 3818.

[65] Id.

[66] Id.

[67] Rollo (G.R. No. 221698-221700), p. 218, COMELEC First Division Resolution (SPA Nos. 15-002 (DC), 15-007 (DC), and 15-139 (DC)).

[68] Rollo (G.R. No. 221697), p. 3819, Petitioner's Memorandum; Rollo (G.R. No. 221698-221700), p. 218, COMELEC First Division Resolution (SPA Nos. 15-002 (DC), 15-007 (DC), and 15-139 (DC)).

[69] Rollo (G.R. No. 221697), p. 3819, Petitioner's Memorandum.

[70] Id.

[71] Id.

[72] Id.; Rollo (G.R. No. 221698-221700), p. 218, COMELEC First Division Resolution (SPA Nos. 15-002 (DC), 15-007 (DC), and 15-139 (DC)).

[73] Rollo (G.R. No. 221697), p. 3819, Petitioner's Memorandum.

[74] Id. at 3819-3820.

[75] Rollo (G.R. No. 221698-221700), pp. 218-219, COMELEC First Division Resolution (SPA Nos. 15-002 (DC), 15-007 (DC), and 15-139 (DC)).

[76] Rollo (G.R. No. 221697), p. 3820, Petitioner's Memorandum.

[77] Id. at 3820-3821.

[78] Id. at 3821.

[79] Id. Rep. Act No. 6768, sec. 3(c), as amended by Rep. Act No. 9174, sec. 3 provides:

SEC. 3 Benefits and Privileges of the Balikbayan. - The balikbayan and his or her family shall be entitled to the following benefits and privileges:
....
(c) Visa-free entry to the Philippines for a period of one (1) year for foreign passport holders, with the exception of restricted nationals;

[80] Rollo (G.R. No. 221697), p. 3821, Petitioner's Memorandum.

[81] Id.

[82] Id.

[83] Rollo (G.R. No. 221697), p. 3822, Petitioner's Memorandum; Rollo (G.R. No. 221698-221700), p. 219, COMELEC First Division Resolution (SPA Nos. 15-002 (DC), 15-007 (DC), and 15-139 (DC)).

[84] Id.

[85] Id.

[86] Rollo (G.R. No. 221697), p. 3822, Petitioner's Memorandum.

[87] Id.

[88] Id.

[89] Id.

[90] Id.

[91] Id. at 2707, SET Decision (SET Case No. 001-15).

[92] Rollo (G.R. No. 221698-221700), p. 219, COMELEC First Division Resolution (SPA Nos. 15-002 (DC), 15-007 (DC), and 15-139 (DC)).

[93] Rollo (G.R. No. 221697), p. 3822, Petitioner's Memorandum.

[94] Rollo (G.R. No. 221698-221700), p. 219, COMELEC First Division Resolution (SPA Nos. 15-002 (DC), 15-007 (DC), and 15-139 (DC)).

[95] Rollo (G.R. No. 221697), p. 3822, Petitioner's Memorandum.

[96] Id.

[97] Id. at 3824.

[98] Id.

[99] Id.

[100] Id.

[101] Id. at 3824-3825.

[102] Id. at 3825.

[103] Rollo (G.R. No. 221698-221700), p. 220, COMELEC First Division Resolution (SPA Nos. 15-002 (DC), 15-007 (DC), and 15-139 (DC)).

[104] Id.

[105] Id.

[106] Id.

[107] Rollo (G.R. No. 221697), p. 3827, Petitioner's Memorandum.

[108] Rollo (G.R. No. 221698-221700), p. 220, COMELEC First Division Resolution (SPA Nos. 15-002 (DC), 15-007 (DC), and 15-139 (DC)).

[109] Rollo (G.R. No. 221697), p. 3827, Petitioner's Memorandum.

[110] Rollo (G.R. No. 221698-221700), p. 220, COMELEC First Division Resolution (SPA Nos. 15-002 (DC), 15-007 (DC), and 15-139 (DC)).

[111] Id.

[112] Id.

[113] Rollo (G.R. No. 221697), p. 3828, Petitioner's Memorandum.

[114] Rollo (G.R. No. 221698-221700), p. 220, COMELEC First Division Resolution (SPA Nos. 15-002 (DC), 15-007 (DC), and 15-139 (DC)).

[115] Rollo (G.R. No. 221697), p. 3828, Petitioner's Memorandum.

[116] Id. at 2708, SET Decision (SET Case No. 00 l-15).

[117] Id. at 23, Petition.

[118] Id.

[119] Rollo (G.R. No. 221697), p. 2708, SET Decision {SET Case No. 001-15).

[120] Id.

[121] Id. at 3832.

[122] Id.

[123] Id. at 3833.

[124] Id. at 2708, SET Decision (SET Case No. 001-15).

[125] Id.

[126] Rollo (G.R. No. 221698-221700), p. 221, COMELEC First Division Resolution (SPA Nos. 15-002 (DC), 15-007 (DC), and 15-139 (DC)).

[127] Rollo (G.R. No. 221697), p. 3823, Petitioner's Memorandum.

[128] Rollo (G.R. No. 221698-221700), p. 221, COMELEC First Division Resolution (SPA Nos. 15-002 (DC), 15-007 (DC), and 15-139 (DC)).

[129] Rollo (G.R. No. 221697), p. 3824, Petitioner's Memorandum.

[130] Id. at 2708, SET Decision (SET Case No. 001-15), p. 3.

[131] Rollo (G.R. No. 221698-221700), p. 221, COMELEC First Division Resolution (SPA Nos. 15-002 (DC), 15-007 (DC), and 15-139 (DC)).

[132] Id.

[133] Id. at 222.

[134] Id.

[135] Rollo (G.R. No. 221697), p. 3835, Petitioner's Memorandum.

[136] Id.

[137] Id. at 9, Petition.

[138] Id. at 4.

[139] Rollo (G.R. No. 221698-221700), p. 222, COMELEC First Division Resolution (SPA Nos. 15-002 (DC),

15-007 (DC), and 15-139 (DC)) dated December 11.

[140] Id.

[141] Id.

[142] Id.at 217.

[143] Id. at 222.

[144] Id.

[145] Id.

[146] Rollo (G.R. No. 221697), p. 3556-B, Supreme Court Resolution dated February 16, 2016.

[147] Id. at 29-30, Petition.

[148] Id. at 33.

[149] Id.

[150] Rollo (G.R. No. 221698-221700), p. 263, COMELEC First Division Resolution (SPA Nos. 15-002 (DC), 15-007 (DC), and 15-139 (DC)).

[151] Id. at 357, COMELEC En Banc Resolution (SPA Nos. 15-002 (DC), 15-007 (DC), and 15-139 (DC)).

[152] Id. at 381.

[153] Rollo (G.R. No. 221697), p. 3.

[154] Id. at 2011-2013.

[155] Id. at 2012.

[156] Id. at 3084-P, Supreme Court Advisory.

[157] RULES OF COURT, Rule 64 provides:

Sec. 2. Mode of review. A judgment or final order or resolution of the Commission on Elections and the Commission on Audit may be brought by the aggrieved party to the Supreme Court on certiorari under Rule 65, except as hereinafter provided.

[158] RULES OF COURT, Rule 65 provides:

Section 1. Petition for certiorari. When any tribunal, board or officer exercising judicial or quasi- judicial functions has acted without or in excess of its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, and there is no appeal, or any plain, speedy, and adequate remedy in the ordinary course of law, a person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered annulling or modifying the proceedings of such tribunal, board or officer, and granting such incidental reliefs as law and justice may require.

The 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.

[159] Araullo v. Aquino III, G.R. No. 209287, February 3, 2015,

<http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2015/february2015/209287.pdf> 8-9 [Per J. Bersamin, En Banc].

[160] Mitra v. Commission on Elections, 636 Phil. 753,777 (2010) [Per J. Brion, En Banc].

[161] Rollo (G.R. No. 221698-221700), p. 4590, COMELEC Memorandum.

[162] Abasta Shipmanagement Corporation, 670 Phil. 136, 151 (2011) [Per J. Brion, Second Division].

[163] Nightowl Watchman & Security Agency, Inc. v. Lumahan, G.R. No. 212096, October 14, 2015,<http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2015/october2015/212096.pdf> 7 [Per J. Brion, Second Division].

[164] Mitra v. Commission on Elections, 636 Phil. 753, 777-778, 782 (2010) [Per J. Brion, En Banc].

[165] Id.at 787.

[166] Id. at 778.

[167] Varias v. Commission on Elections, 626 Phil. 292, 314 (2010) [Perl. Brion, En Banc].

[168] Lambino v. Commission on Elections, 536 Phil. 1, 111 (2006) [Per J. Carpio, En Banc].

[169] Diocese of Bacolod v. COMELEC, G.R. No. 205728, January 21, 2015, <http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2015/january2015/205728.pdf> [Per J. Leonen, En Banc].

[170] Lim v. Gamosa, G.R. No. 193964, December 2, 2015 Normal 0 false false false EN-PH X-NONE X-NONE MicrosoftInternetExplorer4 /* Style Definitions */ table.MsoNormalTable {mso-style-name:"Table Normal"; mso-tstyle-rowband-size:0; mso-tstyle-colband-size:0; mso-style-noshow:yes; mso-style-priority:99; mso-style-qformat:yes; mso-style-parent:""; mso-padding-alt:0in 5.4pt 0in 5.4pt; mso-para-margin-top:0in; mso-para-margin-right:0in; mso-para-margin-bottom:10.0pt; mso-para-margin-left:0in; line-height:115%; mso-pagination:widow-orphan; font-size:11.0pt; font-family:"Calibri","sans-serif"; mso-ascii-font-family:Calibri; mso-ascii-theme-font:minor-latin; mso-hansi-font-family:Calibri; mso-hansi-theme-font:minor-latin; mso-bidi-font-family:"Times New Roman"; mso-bidi-theme-font:minor-bidi;} <http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2015/december2015/ 193964.pdf> 15 [Per J. Perez, First Division].

[171] Gutib v. Court of Appeals, 371 Phil. 293,307 (1999) [Per J. Bellosillo, Second Division].

[172] Id. at 308.

[173] Id.

[174] Department of Agrarian Reform Aqjudication Board v. Lubrica, 497 Phil. 313, 326 (2005) [Per J. Tinga, Second Division].

[175] CONST., art. IX-C, sec. 3.

[176] CONST., art. VI, sec. 8 and art. VII, sec. 4.

[177] Batas Blg. 881 (1985), Omnibus Election Code, sec. 76.

[178] Cipriano v. Comelec, 479 Phil. 677, 689 (2004) [Per J. Puno, En Banc].

[179] CONST., art. IX-C, sec. 2(1) provides:

ARTICLE IX. Constitutional Commissions

....

C. The Commission on Elections

SECTION 2. The Commission on Elections shall exercise the following powers and functions:

(1) Enforce and administer all laws and regulations relative to the conduct of an election, plebiscite, initiative, referendum, and recall.

[Note however paragraph (2), which limits its quasi judicial power.]

[180] Baytan v. Commission on Elections, 444 Phil. 812, 824 (2003) [Per J. Carpio, En Banc].

[181] CONST., art. IX-C, sec. 2(3).

[182] Loong v. Commission on Elections, 365 Phil. 386, 423 (1999) [Per J. Puno, En Banc].

[183] Id.

[184] See Tecson v. Commission on Elections, 468 Phil. 421,461 (2004) [Per J. Vitug, En Banc].

[185] CONST., art. VI, sec. 17.

[186] CONST., art. VI, sec. 17 provides:

ARTICLE VI. The Legislative Department

....

SECTION 17. The Senate and the House of Representatives shall each have an Electoral Tribunal which shall be the sole judge of all contests relating to the election, returns, and qualifications of their respective Members. Each Electoral Tribunal shall be composed of nine Members, three of whom shall be Justices of the Supreme Court to be designated by the Chief Justice, and the remaining six shall be Members of the Senate or the House of Representatives, as the case may be, who shall be chosen on the basis of proportional representation from the political parties and the parties or organizations registered under the party-list system represented therein. The senior Justice in the Electoral Tribunal shall be its Chairman.

[187] J. Mendoza, Separate Opinion in Romualdez-Marcos v. Commission on Elections, 318 Phil. 329, 457 (1995) [Per J. Kapunan, En Banc].

[188] Id. at 461-462.

[189] 468 Phil. 421 (2004) [Per J. Vitug, En Banc].

[190] Id. at 462.

[191] Id. at 458-460.

[192] CONST., art. VII, sec. 4 partly provides: ARTICLE VII. Executive Department

SECTION 4....

....

The Supreme Court, sitting en banc, shall be the sole judge of all contests relating to the election, returns, and qualifications of the President or Vice-President, and may promulgate its rules for the purpose.

[193] CONST., art. VI, sec. 17 provides:

ARTICLE VI. The Legislative Department

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....
SECTION 17. The Senate and the House of Representatives shall each have an Electoral Tribunal which shall be the sole judge of all contests relating to the election, returns, and qualifications of their respective Members. Each Electoral Tribunal shall be composed of nine Members, three of whom shall be Justices of the Supreme Court to be designated by the Chief Justice, and the remaining six shall be Members of the Senate or the House of Representatives, as the case may be, who shall be chosen on the basis of proportional representation from the political parties and the parties or organizations registered under the party-list system represented therein. The senior Justice in the Electoral Tribunal shall be its Chairman.

[194] CONST., art. VI, sec. 17.

[195] CONST., art. IX-A, sec. 7. See discussion in part II.

[196] See Jalover v. Osmeila, G.R. No. 209286, September 23, 2014, 736 SCRA 267 [Per J. Brion, En Banc]; Hayudini v. Commission on Elections, G.R. No. 207900, April22, 2014, 723 SCRA 223 [Per J. Peralta, En Banc]; Villafuerte v. Commission on Elections, G.R. No. 206698, February 25, 2014, 717 SCRA 312 [Per J. Peralta, En Banc]; Gonzalez v. Commission on Elections, 660 Phil. 225 (2011) [Per J. Villarama, Jr., En Banc]; Mitra v. Commission on Elections, 636 Phil. 753 (2010) [Per J. Brion, En Banc]; Maruhom v. Commission on Elections, 611 Phil. 501 (2009) [Per J. Chieo-Nazario, En Banc]; Velasco v. Commission on Elections, 595 Phil. 1172 (2008) [Per J. Brion, En Banc]; Justimbaste v. Commission on Elections, 593 Phil. 383 (2008) [Per J. Carpio Morales, En Banc]; Lluz v. Commission on Elections, 551 Phil. 428 (2007) [Per J. Carpio, En Banc]; and Salcedo II v. Commission on Elections, 371 Phil. 377,389 (1999) (Per J. Gonzaga-Reyes, En Banc].

[197] See Gonzalez v. Commission on Elections, 660 Phil. 225 (2011) [Per J. Villarama, En Banc]; Juslimbaste v. Commission on Elections, 593 Phil. 383 (2008) [Per J. Carpio Morales, En Banc]; Tecson v. Commission on Elections, 468 Phil. 421 (2004) [Per J. Vitug, En Banc]

[197] See Jalover v. Osmena, G.R. No. 209286, September 23, 2014, 736 SCRA 267 [Per J. Brion, En Banc]; Hayudini v. Commission on Elections, G.R. No. 207900, April22, 2014, 723 SCRA 223 [Per J. Peralta, En Banc]; Mitra v. Commission on Elections, 636 Phil. 753 (2010) [Per J. Brion, En Banc]; Velasco v. Commission on Elections, 595 Phil. 1172 (2008) [Per J. Brion, En Banc]; and Ugdoracion. Jr. v. Commission on Elections, 575 Phil. 253 (2008) [Per J. Naehura, En Banc].

[199] Romualdez-Marcos v. Commission on Elections, 318 Phil. 329,380 (1995) [Per J. Kapunan, En Banc].

[200] Salcedo II v. Commission on Elections, 371 Phil. 377,390 (1999) [Per J. Gonzaga-Reyes, En Banc].

[201] Rollo (G.R. No. 221697), p. 3871, Petitioner's Memorandum..

[202] 327 Phil. 521 (1996) [Per J. Panganiban, En Banc].

[203] J. Puno, Concurring Opinion in Frivaldo v. Commission on Elections, 327 Phil. 521, 578 (1996) [Per J. Panganiban, En Banc].

[204] Guzman v. Commission on Elections, 614 Phil. 143, 153 (2009) [Per J. Bersamin, En Banc].

[205] Romualdez-Marcos v. Commission on Elections, 318 Phil. 329, 380 (1995) [Per J. Kapunan, En Banc].

[206] Id. at. 366.

[207] Id. at 367.

[208] CONST., art. VI, sec. 6 provides:

ARTICLE VI. The Legislative Department

....

SECTION 6. No person shall be a Member of the House of Representatives unless he is a natural-born citizen of the Philippines and, on the day of the election, is at least twenty-five years of age, able to read and write, and, except the party-list representatives, a registered voter in the district in which he shall be elected, and a resident thereof for a period of not less than one year immediately preceding the day of the election.

[209] Romua ldez-Marcos v. Commission on Elections, 318 Phil. 329, 380 (1995) [Per J. Kapunan, En Banc].

[210] 371 Phil. 377 (1999) [PerJ. Gonzaga-Reyes, En Banc].

[211] Id. at 381.

[212] Id.at 390-391.

[213] Id. at 391.

[214] See Talaga v. Commission on Elections, 696 Phil. 786 (2012) [Per J. Bersamin, En Banc]; Gonzalez v. Commission on Elections, 660 Phil. 225 (2011) [Per J. Villarama, Jr., En Banc]; Mitra v. Commission on Elections, 636 Phil. 753 (2010) [Per J. Brion, En Banc]; Maruhom v. Commission on Elections, 611 Phil. 501 (2009) [Per J. Chieo-Nazario, En Banc]; Velasco v. Commission on Elections, 595 Phil. 1172 (2008) [Per J. Brion, En Banc]; Justimbaste v. Commission on Elections, 593 Phil. 383 (2008) [Per J. Carpio Morales, En Banc]; and Tecson v. Commission on Elections, 468 Phil. 421 (2004) [Per J. Vitug, En Banc].

[215] 706 Phil. 534 (2013) [Per J. Perlas-Bernabe, En Banc].

[216] Id. at 551.

[217] Id. at 542-543.

[218] Id. at 543.

[219] Id.

[220] Id. at 544.

[221] Id. at 545.

[222] Id. at 546.

[223] Id. at 546.

[224] Id. at 547.

[225] Id. at 561

[226] Id. at 543.

[227] Id.

[228] Id. at 550-551.

[229] Id. at 551.

[230] Rollo (G.R. No. 221697), p. 3860, Petitioner's Memorandum.

[231] G.R. No. 206698, February 25, 2014, 717 SCRA 312, 322-323 [Per J. Peralta, En Banc].

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[232] G.R. No. 207900, April22, 2014, 723 SCRA 223, 246 [Per J. Peralta, En Banc].

[233] G.R. No. 209286, September 23, 2014, 736 SCRA 267, 282 [Per J. Brion, En Banc].

[234] G.R. No. 207105, November 10, 2015 Normal 0 false false false EN-PH X-NONE X-NONE MicrosoftInternetExplorer4 /* Style Definitions */ table.MsoNormalTable {mso-style-name:"Table Normal"; mso-tstyle-rowband-size:0; mso-tstyle-colband-size:0; mso-style-noshow:yes; mso-style-priority:99; mso-style-qformat:yes; mso-style-parent:""; mso-padding-alt:0in 5.4pt 0in 5.4pt; mso-para-margin-top:0in; mso-para-margin-right:0in; mso-para-margin-bottom:10.0pt; mso-para-margin-left:0in; line-height:115%; mso-pagination:widow-orphan; font-size:11.0pt; font-family:"Calibri","sans-serif"; mso-ascii-font-family:Calibri; mso-ascii-theme-font:minor-latin; mso-hansi-font-family:Calibri; mso-hansi-theme-font:minor-latin; mso-bidi-font-family:"Times New Roman"; mso-bidi-theme-font:minor-bidi;} <http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2015/november2015/207105.pdf> 8-9 [Per J. Bersamin, En Banc].

[235] Batas Pambansa Blg. 881 (1985), Omnibus Election Code, sec. 78.

[236] Salcedo II v. Commission on Elections, 371 Phil. 377,389 (1999) [Per J. Gonzaga-Reyes, En Banc].

[237] Id.

[238] Id. See also Lluz v. Commission on Elections, 551 Phil. 428,445-446 (2007) [Per J. Carpio, En Banc).

[239] Salcedo II v. Commission on Elections, 371 Phil. 377,389 (1999) [Per J. Gonzaga-Reyes, En Banc].

[240] Rollo (G.R. No. 221697), p. 3862, Petitioner's Memorandum.

[241] See Romualdez-Marcos v. Commission on Elections, 318 Phil. 329 (1995) [Per J. Kapunan, En Banc].

[242] J. Mendoza, Separate Opinion in Romualdez-Marcos v. Commission on Elections, 318 Phil. 329, 463 (1995) [Per J. Kapunan, En Banc].

[243] The grounds under Section 40 of the Local Government Code may likewise be raised against a candidate for a local elective position.

[244] Rollo (G.R. No. 221698-221700), p. 4619, COMELEC Memorandum.

[245] Id.

[246] Id. at 5092-5093, Respondent's Memorandum.

[247] See RULES OF COURT, Rule 131. See also Matugas v. Commission on Elections, 465 Phil. 299, 307 (2004) [Per J. Tinga, En Banc], citing Cortes v. Court of Appeals, 443 Phil. 42 (2003) [Per J. Austria- Martinez, Second Division] in that "one who alleges a fact has the burden of proving it."

[248] See J. Tinga, Dissenting Opinion in Tecson v. Commission on Elections, 468 Phil. 421,612 (2004) [Per J. Vitug, En Banc], citing Bautista v. Judge Sarmiento, 223 Phil. 181, 185-186 (1985) [Per J. Cuevas, Second Division].

[249] See Advincula v. Atty. Macabata, 546 Phil. 431, 446 (2007) [Per J. Chico-Nazario, Third Division], citing Uytengsu III v. Baduel, 514 Phil. 1 (2005) [Per J. Tinga, Second Division] in that "the burden of proof lies on the party who makes the allegations - ei incumbit probation, qui decit, non qui negat; cum per rerum naturam factum negantis probation nulla sit."

[250] See Jison v. Court of Appeals, 350 Phil. 138 (1998) [Per J. Davide, Jr., First Division].

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[251] See, for example, Salcedo II v. Commission on Elections, 371 Phil. 377 (1999) [Per J. Gonzaga-Reyes, En Banc].

[252] RULES OF COURT, Rule 133, sec. 5.

[253] See Jison v. Court of Appeals, 350 Phil. 138 (1998) [Per J. Davide, Jr., First Division].

[254] Rollo (G.R. No. 221698-221700), p. 4627, COMELEC Memorandum.

[255] 128 Phil. 815 (1967) [Per J. Zaldivar, En Banc].

[256] J. Carpio, Dissenting Opinion in Tecson v. Commission on Elections, 468 Phil. 421, 634 (2004) [Per J. Vitug, En Banc].

[257] Tecson v. Commission on Elections, 468 Phil. 421, 473-474 (2004) [Per J. Vitug, En Banc].

[258] Id. at 473-474 and 488.

[259] Id. at 487-488.

[260] Paa v. Chan, 128 Phil. 815, 817 (1967) [Perl. Zaldivar, En Banc].

[261] Id. at 823.

[262] 614 Phil. 451,479 (2009) [Per J. Quisumbing, Second Division].

[263] Rollo (G.R. No. 221698-221700), p. 4627, COMELEC Memorandum.

[264] Go v. Ramos, 614 Phil. 451, 458 (2009) [Per J. Quisumbing, Second Division].

[265] Id. at 475.

[266] 468 Phil. 421 (2004) [Per J. Vitug, En Banc]. C.J. Davide, Jr. with separate opinion, concurring; J. Puno was on leave but was allowed to vote, with separate opinion; J. Panganiban was on official leave; was allowed to vote but did not send his vote on the matter; J. Quisumbing joins the dissent of Justices Tinga and Morales; case should have been remanded; J. Ynares-Santiago concurs, and also with J. Puno separate opinion; J. Sandoval-Gutierrez concurs; with separate opinion; J. Carpio, with dissenting opinion; J. Austria-Martinez, concurs; with separate opinion; J. Corona, joins the dissenting opinion of Justice Morales; J. Carpio Morales, with dissenting opinion; J. Callejo, Sr, with concurring opinion; J. Azcuna, concurs in a separate opinion; J. Tinga, dissents per separate opinion.

[267] Id. at 456.

[268] Id. at 488.

[269] Id.

[270] See J. Leonen, Dissenting Opinion in Chavez v. Judicial and Bar Council, G.R. No. 202242, April 16, 2013, 696 SCRA 496, 530 [Per J. Mendoza, En Banc].

[271] See Atty. Macalintal v. Presidential Electoral Tribunal, 650 Phil. 326, 340 (2010) [Per J. Nachura, En Banc], citing J.M. Tuason & Co, Inc. v. Land Tenure Administration, 142 Phil. 393 (1970) [Per J. Fernando, Second Division].

[272] Ang Bagong Bayani-OFW Labor Party v. Commission on Elections, 412 Phil. 308, 338 (2001) [Per J. Panganiban, En Banc].

[273] Francisco v. House of Representatives, 460 Phil. 830, 885 (2003) [Per J. Carpio Morales, En Banc], citing J.M Tuason & Co., Inc. v. Land Tenure Administration, 142 Phil. 393 (1970). This was also cited in Saguisag v. Ochoa, G.R. No. 212426, January 12, 2016 <http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2016/january2016/212426.pdf> [Per C.J. Sereno, En Banc].

[274] Francisco v. House of Representatives, 460 Phil. 830, 886 (2003) [Per J. Carpio Morales, En Banc].

[275] 272 Phil. 147 (1991) [Per C.J. Feman, En Banc].

[276] Id. at 162, as cited in Atty. Macalintal v. Presidential Electoral Tribunal, 650 Phil. 326, 341 (2010) [Per J. Nachura, En Banc].

[277] 486 Phil. 754 (2004) (Resolution) [Per J. Panganiban, En Banc].

[278] Id. at 773.

[279] G.R. No. 208062, April 7, 2015 <http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2015/april2015/208062.pdf> [Per J, Leonen, En Banc].

[280] Id. at 26.

[281] The adoption of the Philippine Bill of 1902, otherwise known as the Philippine Organic Act of 1902, crystallized the concept of "Philippine citizens." See Tecson v. Commission on Elections, 468 Phil. 421,467-468 (2004) [Per J. Vitug, En Banc].

[282] For example, the Civil Code of Spain bef'ame effective in the jurisdiction on Decetnber 18, 1889, making the first categorical listing on who were Spanish citizens. See Tecson v. Commission on Elections, 468 Phil. 421,465 (2004) [Per J. Vitug, En Banc).

[283] Sobejana-Condon v. Commission on Elections, 692 Phil. 407 (2012) [Per J. Reyes, En Banc]: "Ambiguity is a condition of admitting two or more meanings, of being understood in more than one way, or of referring to two or more things at the same time. For a statute to be considered ambiguous, it must admit of two or more possible meanings."

[284] See, for example, In the Matter of" Save the Supreme Court Judicial Independence and Fiscal Autonomy Movement v. Abolition of'Judiciary Development Fund, UDK-15143, January 21, 2015 <http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2015/january2015/15143.pdf> [Per J. Leonen, En Banc], citing J. Leonen, Concurring Opinion in Belgica v. Ochoa, G.R. No. 208566, November 19, 2013, 710 SCRA 1, 278-279 [Per J. Perlas-Bernabe, En Banc].

[285] Francisco, Jr. v. House of Representatives, 460 Phil. 830, 887 [Per J. Carpio Morales, En Banc], citing Civil Liberties Union v. Executive Secretary, 272 Phil. 147, 169-170 (1991) [Per C.J. Feman, En Banc].

[286] CONST., art. IV, sec. 1(2) provides:

ARTICLE IV. Citizenship

SECTION I. The following are citizens of the Philippines:
....
(2) Those whose fathers or mothers are citizens of the Philippines[.]

[287] CONST., art. II, sec. 1 provides:

ARTICLE II. Declaration of Principles and State Policies Principles

SECTION I. The Philippines is a democratic and republican State. Sovereignty resides in the people and ALL government authority emanates from them. (Emphasis supplied).

[As the source of all governmental power, it must be presumed that certain powers are to be exercised by the people when it conflicts with any competence of a constitutional organ like the judiciary or the COMELEC.)

[288] Rep. Act No. 9225 was approved on August 29, 2003.

[289] CONST. art. IV, sec. 3.

[290] Rollo (G.R. No. 221698-221700), p. 4578, COMELEC Memorandum.

[291] Rep. Act No. 9225 (2003), sec. 3.

[292] 692 Phil. 407 (2012) [Per J. Reyes, En Banc].

[293] See Sobejana-Condon v. Commission on Elections, 692 Phil. 407 (2012) [Per J. Reyes, En Banc].

[294] The 1935 Constitution was in effect when petitioner was born. However, the provisions are now substantially similar to the present Constitution, except that the present Constitution provides clarity for "natural born" status. For comparison, the 1935 provisions state:

SECTION 1. The following are citizens of the Philippines.

(1) Those who are citizens of the Philippine Islands at the time of the adoption of this Constitution.
(2) Those born in the Philippine Islands of foreign parents who, before the adoption of this Constitution, had been elected to public office in the Philippine Islands.
(3) Those whose fathers are citizens of the Philippines.
(4) Those whose mothers are citizens of the Philippines and, upon reaching the age of majority, elect Philippine citizenship.
(5) Those who are naturalized in accordance with law.

SECTION 2. Philippine citizenship may be lost or reacquired in the manner provided by law.

[295] C.J. Warren, Dissenting Opinion in Perez v. Brownwell, 356 U.S. 44 (1958).

[296] Go v. Republic of the Philippines, G.R. 202809, July 2, 2014, 729 SCRA 138, 149 [Per J. Mendoza, Third Division], citing BERNAS, THE 1987 CONSTITUTION OF THE REPUBLIC OF THE PHILIPPINES, A COMMENTARY (2009 ed.).

[297] Id.

[298] Tecson v. Commission on Elections, 468 Phil. 421, 464-470 (2004) [Per J. Vitug, En Banc].

[299] Id. at 464.

[300] Id. at 465.

[301] Id.

[302] Id. at 465-466, citing The Civil Code of Spain, art. 17.

[303] Id. at 466-467, citing RAMON M. VELAYO, PHILIPPHINE CITIZENSHIP AND NATURALIZATION, 22-23 (1965).

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[304] Id. at 467.

[305] Id. at 466, citing RAMON M. VELAYO, PHILIPPINE CITIZENSHIP AND NATURALIZATION 22-23 (1965).

[306] The Philippine Bill of 1902 is otherwise known as the Philippine Organic Act of 1902.

[307] Tecson v. Commission on Elections, 468 PhiL 421,467-468 (2004) [Per J. Vitug, En Banc).

[308] Id. at 468.

[309] Tecson v. Commission on Elections, 468 Phil. 421 (2004) [Per J. Vitug, En Banc].

[310] Tecson v. Commission on Elections, 468 Phil. 421,469 (2004) [Per J. Vitug, En Banc].

[311] Id.

[312] CONST. (1935), art. III, sec. I.

[313] Tecson v. Commission on Elections, 468 Phil. 421, 469 (2004) [Per J. Vitug, En Banc].

[314] CONST. (1973), art. III, secs. 1 and 2.

[315] See, for example, Philippine Bill of 1902, sec. I, which provides that the highest positions were to be filled through appointment by the United States President:

Section 1. That the action of the President of the United States in creating the Philippine Commission and authorizing said Commission to exercise the powers of government to the extent and in the manner and fonn and subject to the regulation and control set forth in the instructions of the President to the Philippine Commission, dated April seventh, nineteen hundred, and in creating the offices of Civil Governor and Vice-Governor of the Philippine Islands, and authorizing said Civil Governor and Vice- Governor to exercise the powers of govefllment to the extent and in the manner and tonn set torth in the Executive Order dated June twenty-first, nineteen hundred and one, and in establishing tour Executive Departments of government in said Islands as set forth in the Act of the Philippine Commission, entitled "An Act providing an organization for the Departments of the Interior, of Commerce and Police, of Finance and Justice, and of Public Instruction," enacted September sixth, nineteen hundred and one, is hereby approved, ratified, and confirmed, and until otherwise provided by law the said Islands shall continue to be governed as thereby and herein provided, and all laws passed hereafter by the Philippine Commission shall have an enacting clause as follows. "By authority of the United States, be it enacted by the Philippine Commission." The provisions of section eighteen hundred and ninety-one of the Revised Statutes of eighteen hundred and seventy-eight shall not apply to the Philippine Islands.

Future appointments of Civil Governor, Vice-Governor, members of said Commission and heads of Executive Departments shall be made by the President, by and with the advice and consent of the Senate.

[316] CONST. (1973), art. Ill, sec. 4.

[317] See Charles Gordon, Who Can Be President of the United States: The Unresolved Enigma, 28 Md. L. Rev. 1, 5 (1968).

[318] Id. at 3-4.

[319] Id. at 5.

[320] 409 Phil. 633 (200 I) [Per J. Kapunan, En Banc].

[321] Id. at 651.

[322] Id. at 656.

[323] See Rep. Act No. 9139 (2000), sec. 5 provides:

SECTION 5. Petition for Citizenship. - (1) Any person desiring to acquire Philippine citizenship under this Act shall file with the Special Committee on Naturalization created under Section 6 hcrcot: a petition of five (5) copies legibly typed and signed, thumbmarked and verified by him/her, with the latter's passport-sized photograph attached to each copy of the petition, and setting forth the following:

....

Com. Act No. 473, sec.7 provides:

SECTION 7. Petition for Citizenship. - Any person desiring to acquire Philippine citizenship shall file with the competent court, a petition in triplicate, accompanied by two photographs of the petitioner, setting forth his name and surname; his present and former places of residence; his occupation; the place and date of his birth; whether single or married and if the father of children, the name, age, birthplace and residence of the wife and of the children; the approximate date of his or her arrival in the Philippines, the name of the port of debarkation, and, if he remembers it, the name of the ship on which he came; a declaration that he has the qualifications required by this Act, specifying the same, and that he is not disqualified for naturalization under the provisions of this Act; that he has complied with the requirements of section five of this Act; and that he will reside continuously in the Philippines from the date of the tiling of the petition up to the time of his admission to Philippine citizenship. The petition must be signed by the applicant in his own handwriting and be supported by the affidavit of at least two credible persons, stating that they arc citizens of the Philippines and personally know the petitioner to be a resident of the Philippines for the period of time required by this Act and a person of good repute and morally irreproachable, and that said petitioner has in their opinion all the qualifications necessary to become a citizen of the Philippines and is not in any way disqualified under the provisions of this Act. The petition shall also set forth the names and post-office addresses of such witnesses as the petitioner may desire to introduce at the hearing of the case. The certificate of arrival, and the declaration of intention must be made part of the petition.

[324] See Rep. Act No. 9139 (2000), sec. 3 provides:

SECTION 3. Qualifications. - Subject to the provisions of the succeeding section, any person desiring to avail of the benefits of this Act must meet the following qualifications:

(a) The applicant must be born in the Philippines and residing therein since birth;
(b) The applicant must not be less than eighteen (18) years of age, at the time of tiling of his/her petition;
(c) The applicant must be of good moral character and believes in the underlying principles of the Constitution, and must have conducted himself/herself in a proper and irreproachable manner during his/her entire period of residence in the Philippines in his relation with the duly constituted government as well as with the community in which he/she is living;
(d) The applicant must have received his/her primary and secondary education in any public school or private educational institution duly recognized by the Department of Education, Culture and Sports, where Philippine history, government and civics arc taught and prescribed as part of the school curriculum and where enrollment is not limited to any race or nationality: Provided, That should he/she have minor children of school age, he/she must have enrolled them in similar schools;
(e) The applicant must have a known trade, business, profession or lawful occupation, from which he/she derives income sufficient for his/her support and if he/she is married and/or has dependents, also that of his/her family: Provided, however, That this shall not apply to applicants who are college degree holders but arc unable to

practice their profession because they arc disqualified to do so by reason of their citizenship;
(f) The applicant must be able to read, write and speak Filipino or any of the dialects of the Philippines; and
(g) The applicant must have mingled with the Filipinos and evinced a sincere desire to learn and embrace the customs, traditions and ideals of the Filipino people.

Comm. Act No. 473, scc. 2 provides:

SECTION 2. Qualifications. - Subject to section four of this Act, any person having the following qualifications may become a citizen of the Philippines by naturalization:

First. He must be not less than twenty-one years of age on the day of the hearing of the petition;

Second. He must have resided in the Philippines for a continuous period of not less than ten years; / Third. He must be of good moral character and believes in the principles underlying the Philippine Constitution, and must have conducted himself in a proper and irreproachable manner during the entire period of his residence in the Philippines in his relation with the constituted government as well as with the community in which he is living.

Fourth. He must own real estate in the Philippines worth not less than five thousand pesos, Philippine currency, or must have some known lucrative trade, profession, or lawful occupation;

Fifth. He must be able to speak and write English or Spanish and any of the principal Philippine languages;

Sixth. He must have enrolled his minor children of school age, in any of the public schools or private schools recognized by the Office of Private Education of the Philippines, where Philippine history, government and civics are taught or prescribed as part of the school curriculum, during the entire period of the residence in the Philippines required of him prior to the hearing of his petition for naturalization as Philippine citizen.

[325] Rep. Act No. 9139 (2000), sec. 4 provides:
SECTION 4. Disqualifications. -The following are not qualified to be naturalized as Filipino citizens under this Act:
(a) Those opposed to organized government or affiliated with any association or group of persons who uphold and teach doctrines opposing all organized governments;
(b) Those defending or teaching the necessity of or propriety of violence, personal assault or assassination for the success or predominance of their ideas;
(c) Polygamists or believers in the practice of polygamy; (d) Those convicted of crimes involving moral turpitude;
(c) Those suffering from mental alienation or incurable contagious diseases;
(t) Those who, during the period of their residence in the Philippines, have not mingled socially with Filipinos, or who have not evinced a sincere desire to learn and embrace the customs, traditions and ideals of the Filipinos;
(g) Citizens or subjects with whom the Philippines is at war, during the period of such war; and
(h) Citizens or subjects of a foreign country whose laws do not grant Filipinos the right to be naturalized citizens or subjects thereof.
Com. Act No. 473 (1939), sec. 4 provides:
SECTION 4. Who are Disqualified. The following can not be naturalized as Philippine citizens:
(a) Persons opposed to organized government or affiliated with any association or group of persons who uphold and teach doctrines opposing all organized governments;
(b) Persons defending or teaching the necessity or propriety of violence, personal assault, or assassination for the success and predominance of their ideas;
(c) Polygamists or believers in the practice of polygamy;

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(d) Persons convicted of crimes involving moral turpitude;
(e) Persons suffering from mental alienation or incurable contagious diseases;
(f) Persons who, during the period of their residence in the Philippines, have not mingled socially with the Filipinos, or who have not evinced a sincere desire to learn and embrace the customs, traditions, and ideals of the Filipinos;
(g) Citizens or subjects of nations with whom the United States and the Philippines are at war, during the period of such war;
(h) Citizens or subjects of a foreign country other than the United States, whose laws do not grant Filipinos the right to become naturalized citizens or subjects thereof.

[326] Rollo (G.R. No. 221698-221700), p. 4627, COMELEC Memorandum.

[327] Id. at 4636.

[328] Bengson v. House of Representatives Electoral Tribunal, 409 Phil. 633 (2001) [Per J. Kapunan, En Banc].

[329] Rep. Act No. 9225 (2003), sec. 2.

[330] Civil Liberties Union v. Executive Secretary, 272 Phil. 147, 162 (1991) [Per C.J. Fernan, En Banc].

[331] CONST., art. VII, sec. 2 provides:
ARTICLE VII. Executive Department
....
SECTION 2. No person may be elected President unless he is a natural-born citizen of the Philippines, a registered voter, able to read and write, at least forty years of age on the day of the election, and a resident of the Philippines for at least ten years immediately preceding such election.

[332] CONST., art. VII, sec. 3.

[333] CONST., art. VI, sec. 3 provides:

ARTICLE VI. The Legislative Department
....
SECTION 3. No person shall be a Senator unless he is a natural-born citizen of the Philippines, and, on the day of the election, is at least thirty-five years of age, able to read and write, a registered voter, and a resident of the Philippines for not less than two years immediately preceding the day of the election.

[334] CONST., art. VI, sec. 6 provides:

ARTICLE VI. The Legislative Department
....
SECTION 6. No person shall be a Member of the House of Representatives unless he is a natural-born citizen of the Philippines and, on the day of the election, is at least twenty-five years of age, able to read and write, and, except the party-list representatives, a registered voter in the district in which he shall be elected, and a resident thereof for a period of not less than one year immediately preceding the day of the election.

[335] CONST., art. VIII, sec. 7(1) provides:

ARTICLE VIII. Judicial Department
....
SECTION 7. (1) No person shall be appointed Member of the Supreme Court or any lower collegiate court unless he is a natural-born citizen of the Philippines. A Member of the Supreme Court must be at least forty years of age,

and must have been for fifteen years or more a judge of a lower court or engaged in the practice of law in the Philippines.

[336] CONST., art. IX-B, sec. 1(1) provides:
ARTICLE IX. Constitutional Commissions
....
B. The Civil Service Commission

SECTION l. (I) The Civil Service shall be administered by the Civil Service Commission composed of a Chairman and two Commissioners who shall be natural-born citizens of the Philippines and, at the time of their appointment, at least thirty-five years of age, with proven capacity tor public administration, and must not have been candidates for any elective position in the elections immediately preceding their appointment.

[337] CONST., art. IX-C, sec. 1(1) provides:
ARTICLE IX. Constitutional Commissions
....
C. The Commission on Elections
SECTION 1. (I) There shall be a Commission on Elections composed of a Chairman and six Commissioners who shall be natural-born citizens of the Philippines and, at the time of their appointment, at least thirty-five years of age, holders of a college degree, and must not have been candidates tor any elective position in the immediately preceding elections. However, a majority thereot:including the Chairman, shall be Members of the Philippine Bar who have been engaged in the practice of law for at least ten years.

[338] CONST., art. IX-D, sec. 1(1) provides:

ARTICLE IX. Constitutional Commissions
....
D. Commission on Audit
SECTION 1. (1) There shall be a Commission on Audit composed of a Chairman and two Commissioners, who shall be natural-born citizens of the Philippines and, at the time of their appointment, at least thirty-tive years of age, certified public accountants with not less than ten years of auditing experience, or members of the Philippine Bar who have been engaged in the practice of law tor at least ten years, and must not have been candidates for any elective position in the elections immediately preceding their appointment. At no time shall all Members of the Commission belong to the same profession.

[339] CoNST., art. XI, sec.8 provides:

ARTICLE XI. Accountability of Public Officers
....
SECTION 8. The Ombudsman and his Deputies shall be natural-born citizens of the Philippines, and at the time of their appointment, at least forty years old, of recognized probity and independence, and members of the Philippine Bar, and must not have been candidates for any elective office in the immediately preceding election. The Ombudsman must have tor ten years or more been a judge or engaged in the practice of law in the Philippines.

[340] CONST., art. XII, sec. 20 provides:

ARTICLE XII. National Economy and Patrimony
....
SECTION 20. The Congress shall establish an independent central monetary authority, the members of whose

governing board must be natural-born Filipino citizens, of known probity, integrity, and patriotism, the majority of whom shall come from the private sector. They shall also be subject to such other qualifications and disabilities as may be prescribed by law. The authority shall provide policy direction in the areas of money, banking, and credit. It shall have supervision over the operations of banks and exercise such regulatory powers as may be provided by law over the operations of finance companies and other institutions performing similar functions.

[341] CONST., art. XIII, sec. 17(2) provides:

ARTICLE XIII. Social Justice and Human Rights
....
Human Rights
SECTION 17....

(2) The Commission shall be composed of a Chainnan and four Members who must be natural-born citizens of the Philippines and a majority of whom shall be members of the Bar. The term of office and other qualifications and disabilities of the Members of the Commission shall be provided by law.

[342] Rep. Act No. 3537 (1963), sec. 1. Section thirty-eight of Republic Act Numbered Four hundred nine, as amended by Republic Act Numbered Eighteen hundred sixty and Republic Act Numbered Three thousand ten, is further amended to read as follows:

Sec. 38. The City Fiscal and Assistant City Fiscals. - There shall be in the Oftice of the City Fiscal one chief to be known as the City Fiscal with the rank, salary and privileges of a Judge of the Court of First Instance, an assistant chief to be known as the first assistant city fiscal, three second assistant city tiscals who shall be the chiefs of divisions, and fifty-seven assistant fiscals, who shall discharge their duties under the general supervision of the Secretary of Justice. To be eligible for appointment as City Fiscal one must be a natural born citizen of the Philippines and must have practiced law in the Philippines for a period of not less than ten years or held during a like period of an office in the Philippine Government requiring admission to the practice of law as an indispensable requisite. To be eligible for appointment as assistant fiscal one must be a natural born citizen of the Philippines and must have practiced law for at least five years prior to his appointment or held during a like period an office in the Philippine Government requiring admission to the practice of law as an indispensable requisite. (Emphasis supplied)

[343] Rep. Act No. 3537 (1963).

[344] Examples of these are: the Land Transportation Office Commissioner, the Mines and Geosciences Bureau Director, the Executive Director of Bicol River Basin, the Board Member of the Energy Regulatory Commission, and the National Youth Commissioner, among others.

[345] Examples of these are pharmacists and officers of the Philippine Coast Guard, among others.

[346] Among these incentives are state scholarships in science and certain investment rights.

[347] Sameer v. Cabiles, G.R. No. 170139, August 5, 2014 <http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2014/august2014/170139.pdf> 18 [Per J. Leonen, En Banc].

[348] People v. Cayat, 68 Phil. 12, 18 (1939) [Per J. Moran, First Division].

[349] Section 4(b).

[350] Ratified on August 21, 2000.

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[351] See United Nations Treaty Collection, Convention on the Rights of the Child <http://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-11&chapter=4<=en> (visited March 7, 2016).

[352] Ratified on October 23, 1986.

[353] See Bayan v. Zamora, 396 Phil. 623, 657-660 (2000) [Per J. Buena, En Banc], citing the Vienna Convention on the Laws of Treaties.

[354] 561 Phil. 386 (2007) [Per J. Austria-Martinez, En Banc].

[355] Id. at 397-398.

[356] Rep. Act No. 8552 (1998), sec. 2(b) provides:
Section 2 (b). In all matters relating to the care, custody and adoption of a child, his/her interest shall be the paramount consideration in accordance with the tenets set forth in the United Nations (UN) Convention on the Rights of the Child; UN Declaration on Social and Legal Principles Relating to the Protection and Welfare of Children with Special Reference to Foster Placement and Adoption, Nationally and Internationally; and the Hague Convention on the Protection of Children and Cooperation in Respect of Intercountry Adoption. Toward this end, the State shall provide alternative protection and assistance through foster care or adoption for every child who is neglected, orphaned, or abandoned.

[357] See also Rep. Act No. 9523 (2009), An Act Requiring the Certification of the Department of Social Welfare and Development (DSWD) to Declare a "Child Legally Available tor Adoption" as a Prerequisite for Adoption Proceedings, Amending for this Purpose Certain Provision of Rep. Act No. 8552, otherwise known as the Inter-country Adoption Act of 1995, Pres. Dec. No. 603, otherwise known as the Child and Youth Welfare Code, and for Other Purposes.
SECTION 2. Definition of Terms.— As used in this Act, the following terms shall mean:

(1) Department of Social Welfare and Development (DSWD) is the agency charged to implement the provisions of this Act and shall have the sole authority to issue the certification declaring a child legally available for adoption.
....
(3) Abandoned Child refers to a child who has no proper parental care or guardianship, or whose parent(s) have deserted him/her for a period of at least three (3) continuous months, which includes a foundling.

[358] DFA Order No. 11-97, Implementing Rules and Regulations for Rep. Act No. 9239 (1997), Philippine Passport Act.

[359] Pres. Decree No. 1986, sec. 2 provides:

Section 2. Composition; qualifications; benefits. - The BOARD shall be composed of a Chairman, a Vice-Chairman and thirty (30) members, who shall all be appointed by the President of the Philippines. The Chairman, the Vice-Chairman, and the members of the BOARD, shall hold office for a term of one (1) year, unless sooner removed by the President for any cause; Provided, That they shall be eligible for re-appointment after the expiration of their term. If the Chairman, or the Vice-Chairman or any member of the BOARD fails to complete his term, any person appointed to fill the vacancy shall serve only for the unexpired portion of the term ofthe BOARD member whom he succeeds.

No person shall be appointed to the BOARD, unless he is a natural-born citizen of the Philippines, not less than twenty-one (21) years of age, and of good moral character and standing in the community; Provided, That in the

selection of the members of the BOARD due consideration shall be given to such qualifications as would produce a multi-sectoral combination of expertise in the various areas of motion picture and television; Provided, further, That at least five (5) members of the BOARD shall be members of the Philippine Bar. Provided, finally That at least fifteen (15) members of the BOARD may come from the movie and television industry to be nominated by legitimate associations representing the various sectors of said industry.

The Chairman, the Vice-Chairman and the other members of the BOARD shall be entitled to transportation, representation and other allowances which shall in no case exceed FIVE THOUSAND PESOS (P5,000.00) per month.

[360] 571 Phil. 170 (2008) [Per J. Chico-Nazario, Third Division].

[361] Id. at 189-190.

[362] 374 Phil. 810 (1999) [Per J. Quisumbing, Second Division].

[363] Id. at 822.

[364] See Lua v. O'Brien, et al., 55 Phil. 53 (1930) [Per J. Street, En Banc]; Vda. De Laig, et al. v. Court of Appeals, 172 Phil. 283 (1978) [Per J. Makasiar, First Division]; Baloloy v. Huller, G.R. No. 157767, September 9, 2004, 438 SCRA 80 [Per J. Callejo, Sr., Second Division]; and Heirs of Celestial v. Heirs of Celestial, G.R. No. 142691, August 5, 2003, 408 SCRA 291 [Per J. Ynares-Santiago, First Division].

[365] Ang Tibay v. Court of Industrial Relations, 69 Phil. 635 (1940) [Per J. Laurel, En Banc].

[366] Rollo (G.R. No. 221697), p. 5, Petition.

[367] Rollo (G.R. No. 221698-221700), p. 4874, Petitioner's Memorandum.

[368] Id.

[369] Id.

[370] Id.

[371] Rollo (G.R. No. 221698-221700), p. 4566, Annex C of the Solicitor General's Memorandum, Certification issued on February 9, 2016 by the Philippine Statistics Office, signed by Deputy National Statistician Estela T. De Guzman.

[372] CONST., art. VII, sec. 2.

[373] Fule v. Court of Appeals, 165 Phil. 785,797 (1976) [Per J. Martin, First Division].

[374] KENNAN ON RESIDENCE AND DOMICILE 26, 31-35, as cited in In re: Wilfred Uytengsu v. Republic of the Philippines, 95 Phil. 890 (1954) [Per J. Concepcion, En Banc].

[375] Id.

[376] Id.

[377] 555 Phil. 115 (2007) [Per J. Velasco, Jr, Second Division].

[378] Id. at 123-124.

[379] Id. at 601.

[380] Gallego v. Vera, 73 Phil. 453, 455-456 (1941) [Per J. Ozaeta, En Banc]; Romualdez-Marcos v. Commission

on Elections, 318 Phil. 329 (1995) [Per J. Kapunan, En Banc]; and Co v. Electoral Tribunal of the House of Representatives, 276 Phil. 758 (1991) [Per J. Gutierrez, Jr., En Banc].

[381] 52 Phil. 645 (1928) [Per J. Villareal, En Banc].

[382] Id at 651.

[383] Gallego v. Vera, 73 Phil. 453 (1941) [Per J. Ozaeta, En Banc).

[384] Co v. Electoral Tribunal of the House of Representatives, 276 Phil. 758 (1991) [Per J. Gutierrez, Jr., En Banc].

[385] Id at 792.

[386] Limbona v. Commission on Elections, 578 Phil. 364, 374 (2008) [Per J. Ynares-Santiago, En Banc].

[387] 73 Phil. 453 (1941) [Per J. Ozaeta, En Banc].

[388] Id. at 455-456, citing Nuval vs. Guray, 52 PhiL 645 (1928) [Per J. Villareal, En Banc] and 17 Am. Jur., section 16, pp. 599-601.

[389] Limbona v. Commission on Elections, 578 Phil. 364, 374 (2008) [Per J. Ynares-Santiago, En Banc]. Gender bias corrected.

[390] Ugroracion, Jr. v. Commission on Elections, 515 Phil. 253, 263 (2008) [Per. J. Nachura, En Banc].

[391] Macalintal v. Commission on Elections, 453 Phil. 586, 634-635 (2003) [Per J. Austria-Martinez, En Banc].

[392] Ugroracion v. Commission on Elections, 575 Phil. 253, 264 (2008) [Per J. Nachura, En Banc].

[393] Sabili v. Commission on Elections, 686 Phil. 649,701 (2012) [Per J. Sereno, En Banc].

[394] In re Eusebio v. Eusebio, 100 Phil. 593,598 (1956) [Per J. Concepcion, En Banc].

[395] Id.

[396] Id. at 598.

[397] Id. See also Romualdez-Marcos v. COMELEC, 318 Phil. 329 (1995) [Per J. Kapunan. En Banc].

[398] 100 Phil. 593 (1956) [Per J. Concepcion, En Banc].

[399] Id. at 598-599, citing I BEALE, THE CONFLICTS OF LAW 129.

[400] 96 Phil. 294 (1956) [Per J. Padilla, Second Division].

[401] Id. at 300.

[402] J. Puno, Concurring and Dissenting Opinion in Macalintal v. Commission on Elections, 453 Phil. 586, 719 (2003) [Per J. Austria-Martinez, En Banc].

[403] Romualdez- Marcos v. Commissio!l on Elections, 318 Phil. 329 (1995) [Per J. Kapunan, En Banc].

[404] Macalintal v. Commission on Elections, 453 Phil. 586 (2003) [Per J. Austria-Martinez, En Banc].

[405] Romualdez-Marcos v. Commission on Elections, 318 PhiL 329 (1995) [Per J. Kapunan, En Banc].

[406] U.S. CONST, art. 2, sec. 1: "... No person except a natural born citizen, or a citizen of the United States, at the time of the adoption of this Constitution, shall be eligible to the office of President; neither shall any person be

eligible to that office who shall not have attained to the age of thirty five years, and been fourteen Years a resident within the United States[.]"

[407] U.S. CONST, art. 2, sec. 1: "... No person except a natural born citizen, or a citizen of the United States, at the time of the adoption of this Constitution, shall be eligible to the office of President; neither shall any person be eligible to that office who shall not have attained to the age of thirty five years, and been fourteen Years a resident within the United States[.]"

[408] 3 JOSEPH STORY, COMMENTARIES ON THE CONSTITUTION 1472-1473 (1833).

[409] Id.

[410] Philippine Autonomy Act of 1916, Sections 13 - Election and Qualification of Senators.That the members of the Senate of the Philippines, except as herein provided, shall be elected for terms of six and three years, as hereinafter provided, by the qualified electors of the Philippines. Each of the senatorial districts defined as hereinafter provided shall have the right to elect two senators. No person shall be an elective member of the Senate of the Philippines who is not a qualified elector and over thirty years of age, and who is not able to read and write either the Spanish or English language, and who has not been a resident of the Philippines for at least two consecutive years and an actual resident of the senatorial district from which chosen for a period of at least one year immediately prior to his election; and 14 Election and Qualifications of Representatives. That the members of the House of Representatives shall, except as herein provided, be elected triennially by the qualified electors of the Philippines. Each of the representative districts hereinafter provided for shall have the right to elect one representative. No person shall be an elective member of the House of Representatives who is not a qualified elector and over twenty-five years of age, and who is not able to read and write either the Spanish or English language, and who has not been an actual resident of the district from which elected for at least one year immediately prior to his election: Provided, That the members of the present Assembly elected on the first Tuesday in June, nineteen hundred and sixteen, shall be the members of the House of Representatives from their respective districts for the term expiring in nineteen hundred and nineteen.

[411] Philippine Autonomy Act of 1916, Section 21 (a).Title, appointment, residence.-That the supreme executive power shall be vested in an executive officer, whose official title shall be "The Governor-General of the Philippine Islands." He shall be appointed by the President, by and with the advice and consent of the Senate ofthe United States, and hold his office at the pleasure ofthe President and until his successor is chosen and qualified. The Governor-General shall reside in the Philippine Islands during his official incumbency, and maintain his office at the seat of Government.

[412] LOC. GOV. CODE, sec. 39 provides:

SECTION 39. Qualifications. (a) An elective local official must be a citizen of the Philippines; a registered voter in the barangay, municipality, city, or province or, in the case of a member of the sangguniang panlalawigan, sangguniang panlungsod, or sangguniang bayan, the district where he intends to be elected; a resident therein for at least one (1) year immediately preceding the day of the election; and able to read and write Filipino or any other local language or dialect.

(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, or 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.

[413] Gallego v. Vera, 73 Phil. 453, 459 (1941) [Per J. Ozaeta, En Banc].

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

[415] Gallego v. Vera, 73 Phil. 453,459 (2000) [Per J. Ozaeta, En Banc].

[416] Aquino v. Commission on Elections, 318 Phil. 467 (1995) [Per J. Kapunan, En Banc].

[417] Id. at 449.

[418] 596 Phil. 354 (2009) [Per J. Chico-Nazario, En Banc].

[419] Japzon v. Commission on Elections, 596 Phil. 354, 369-370 (2009) [Per J. Chico-Nazario, En Banc].

[420] Caballero v. Commission on Elections, G.R. No. 209835, September 22, 2015 <http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2015/september2015/209835.pdf> [Per J. Peralta, En Banc].

[421] Coquilla v. Commission on Elections, 434 Phil. 861 (2002) [Per J. Mendoza, En Banc].

[422] Caballero v. Commission on Elections, G.R. No. 209835, September 22, 2015 <http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2015/september2015/209835.pdf> [Per J. Peralta, En Banc].

[423] Romualdez-Marcos v. Commission on Elections, 318 Phil. 329 (1995) [Per J. Kapunan, En Banc].

[424] 578 Phil. 364 (2008) [Per J. Ynares-Santiago, En Banc].

[425] Limbona v. COMELEC, 518 Phil. 364, 374 (2008) [Per J. Ynares-Santiago, En Banc].

[426] Gallego v. Vera, 13 Phil. 453,456 (1941) [Per J. Ozaeta, En Banc].

[427] 318 Phil. 329 (1995) [Per J. Kapunan, En Banc].

[428] Id.

[429] Faypon v. Quirino, 96 Phil. 294,298 (1956) [Per J. Padilla, Second Division].

[430] Romualdez-Marcos v. COMELEC, 318 Phil. 329 (1995) [Per J. Kapunan, En Banc].

[431] Faypon v. Quirino, 96 Phil. 294,298 (1956) [Per J. Padilla, Second Division].

[432] Limbona v. COMELEC, 578 Phil. 364, 374 (2008) [Per J. Ynares- Santiago, En Banc]

[433] 276 Phil. 758 (1991) [Per J. Gutierrez, Jr., En Banc].

[434] Id. at 794.

[435] 636 Phil. 753 (20 I 0) [Per J. Brion, En Banc].

[436] See Mitra v. COMELEC, 636 Phil. 753 (2010) [Per J. Brion, En Banc].

[437] 596 Phil. 354 (2009) [Per J. Chieo-Nazario, En Banc].

[438] 318 Phil. 329 (1995) [Per J. Kapunan, En Banc].

[439] Id.

[440] Id.

[441] See Perez v. COMELEC, 375 Phil. 1106 (1999) [Per J. Mendoza,En Banc].

[442] See Pundaodaya v. COMELEC, 616 Phil. 167 (2009) [Per J. Ynares-Santiago, En Banc].

[443] See Dumpit-Michelena v. COMELEC, 511 Phil. 720 (2005) [Per J. Carpio, En Banc].

[444] See Dumpit-Michelena v. COMELEC, 511 Phil. 720 (2005) [Per J. Carpio, En Banc].

[445] Sabili v. Commission on Elections, 686 Phil. 649 (2012) [Per J. Sereno, En Banc].

[446] Id.

[447] See Japzon v. COMELEC, 596 Phil. 354 (2009) [Per J. Chico- Nazario, En Banc].

[448] Jalover v. Osmeña, G.R. No. 209286, September 23, 2014, 736 SCRA 267, 284 [Per J. Brion, En Banc], citing Fernandez v. HRET, G.R. No. 187478, December 21, 2009, 608 SCRA 733.

[449] Mitra v. Commission on Elections, 636 Phil. 753--815 (2010) [Per J. Brion, En Banc].

[450] Id.

[451] Id.

[452] Id.

[453] Id.

[454] Id. at 772.

[455] Id.

[456] Id.

[457] Id. at 789.

[458] Sabili v. Commission on Elections, 686 Phil. 649 (2012) [Per J. Sereno, En Banc].

[459] Id. at 685.

[460] Rollo (G.R. No. 221697, Vol. V) p. 3667, COMELEC Comment.

[461] 434 Phil. 861 (2002) [Per J.Mendoza, En Banc].

[462] See Japzon v. COMELEC, 596 Phil. 354 (2009) [Per J. Chico-Nazario, En Banc].

[463] Caballero v. COMELEC, G.R. No. 209835, September 22, 2015 <http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2015/september2015/209835.pdf> [Per J. Peralta, En Banc].

[464] Rollo (G.R. No. 221697, Vol. I), pp. 236-237, Resolution of the COMELEC En Banc dated December 23,

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[465] Rollo (G.R. No. 221698-221700, Vol. I), pp. 372-373, Resolution of the COMELEC En Banc dated December 23, 2015.

[466] 596 Phil. 354 (2009) [Per J. Chico-Nazario, En Banc].

[467] Id. at 369-370.

[468] Caballero v. Commission on Elections, G.R. No. 209835, September 22, 2015, http://scjudiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2015/september2015/209835.pdf [Per J. Peralta, En Banc].

[469] Id.

[470] See Department of Foreign Affairs, Visa Guidelines/Requirements <http://www.dfa.gov.ph/guidelines-requirements> (visited March 7, 2016).

[471] RONGXING GUO, CROSS-BORDER MANAGEMENT: THEORY, METHOD, AND APPLICATION 368 (2015).

[472] Id.

[473] See Department of Foreign Affairs, Visa Guidelines/Requirements <http://www.dfa.gov.ph/guidelines-requirements> (visited March 7, 2016).

[474] Section 50(j) references or distinguishes an "immigrant" from a "nonimmigrant." This may tempt one into concluding that an "immigrant" must be exclusively or wholly equated with a "permanent resident." However, the concept of a nonimmigrant, provided in Section 9, also encompasses returning permanent residents. Thus, a line cannot be drawn between "immigrants" and "nonimmigrants" that exclusively and wholly equates an "immigrant" with a "permanent resident." Section 9(e) of the Philippine Immigration Act of 1940 states:

> SEC. 9. Aliens departing from any place outside the Philippines, who are otherwise admissible and who qualifY within one ofthe following categories, may be admitted as nonimmigrants:
>
> (e) A person previously lawfully admitted into the Philippines for permanent residence, who is returning from a temporary visit abroad to an unrelinquished residence in the Philippines; and

[475] Rollo (G.R. No. 221697, Vol. VI), pp. 4064-4065, Petitioner's Memorandum, citing BJ Form V-I-011- Rev, Conversion to Non-Quota Immigrant Visa of a Former Filipino Citizen Naturalize in a Foreign Country (taken from www.immigration.gov.ph).

[476] Rep. Act No. 6768 (1989), sec. 2 provides:

SEC. 2. Definition ofTerms. - For purposes of this Act:

(a) The term "balikbayan" shall mean a Filipino citizen who has been continuously out of the Philippines for a period of at least one (1) year, a Filipino overseas worker, or former Filipino citizen and his or her family, as this term is defined hereunder, who had been naturalized in a foreign country and comes or returns to the Philippines;

[477] Rep. Act No. 6768 (1989), sec. 2(a), as amended.

[478] G.R. No. 207264, October 22,2013, 708 SCRA 197 [Per J. Perez, En Banc].

[479] Coquilla v. COMELEC, 434 Phil. 861,875 (2002) [Per J. Mendoza, En Banc].

[480] Id.

[481] Japzon v. COMELEC, 596 Phil. 354, 369-370 (2009) [Per J. Chico-Nazario, En Banc].

[482] Reyes v. COMELEC, G.R. No. 207264, June 25, 2013, 699 SCRA 522 [Per J. Perez, En Banc].

[483] Id. at 543.

[484] Caballero v. Commission on Elections, G.R. No. 209835, September 22, 2015 <http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2015/september2015/209835.pdf> [Per J. Peralta, En Banc].

[485] Rollo (G.R. No. 221698-221700), pp.151-157, Petition.

[486] CONST., art. VII, sec. 4, par. 3 states: "Unless otherwise provided by law, the regular election or President and Vice President shall be held on the second Monday of May."

[487] Rollo (G.R. No. 221697, Vol. VI), p. 4016, Petitioner's Memorandum.

[488] Id. at 4017.

[489] Id.

[490] Rollo (G.R. No. 221698-221700), p. 254, COMELEC First Division Resolution (SPA Nos. 15 002 (DC), 15-007 (DC), and 15 139 (DC)).

[491] Article 110. The husband shall fix the residence of the family. But the court may exempt the wife from living with the husband if he should live abroad unless in the service of the Republic.

[492] Art. 152. The family home, constituted jointly by the husband and the wife or by an unmarried head of a family, is the dwelling house where they and their family reside, and the land on which it is situated.

[493] CONST., art. II, sec. 14.

[494] TSN, February 9, 2016 Oral Arguments, pp. 101-102.

[495] Id.

[496] Rollo (G.R. No. 221697), p. 4026, Petitioner's Memorandum.

[497] Id. at 21.

[498] Rollo (G.R. No. 221698-700), p. 254.

[499] Id. at 4027.

[500] Id. at 4028.

[501] G.R. No. 209286, September 23, 2014, 736 SCRA 267 [Per J. Brion, En Banc].

[502] Id. at 284.

[503] Rollo (G.R. No. 221697), p. 241, COMELEC Resolution dated December 23, 2015.

[504] See Elena Leones vda. de Miller v. Atty. Rolando Miranda, A.C. 8507, November 10, 2015 <http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2015/november2015/8507.pdf> (Per J. Perlas-Bernabe, First Division].

[505] 318 Phil. 329 {1995) [Per J. Kapunan, En Banc].

[506] Id. at 380.

[507] Id.

[508] 375 Phil. 1106 (1999) [Per J. Mendoza, En Banc].

[509] Id.

[510] Id.at 1117-1119.

[511] Rufina Patis Factory v. Alusitain, 478 Phil. 544, 558 (2004) [Per J. Carpio Morales, Third Division].

[512] RULES OF COURT, Rule 129, sec. 4.

[513] Romualdez-Marcos v. COMELEC, 318 Phil. 329, 382 (1995) [Per J. Kapunan, En Banc].

[514] Rollo (G.R. No. 221697), p. 29, Petition.

[515] Id. at 290.

[516] Id.

[517] Rollo (G.R. No. 221697), p. 4037, Petitioner's Memorandum. Emphasis supplied.

[518] Mitra v. COMELEC, 636 Phil. 753,786 (2010) [Per J. Brion, En Banc].

[519] Id. at 788.

[520] Rollo (G.R. No. 221697), p. 4047-4048.

[521] Id.

[522] Id.

[523] Id.

[524] Id.

[525] 318 Phil. 329 (1995) [Per J. Kapunan, En Banc].

[526] Id. at 377-378.

DISSENTING OPINION
PERLAS-BERNABE, J.:

I dissent.

Amid the complexity of the legal issues and political implications involved, this Court, in ruling on this matter - as in every other similar matter before it - must always harken back to its parameters of review over rulings of the Commission on Elections (COMELEC). It is on this basic but resolute premise that I submit this dissent.

I.
In Mitra v. COMELEC[1] (Mitra), it was explained that "[t]he basis for the Court's review of COMELEC rulings under the standards of Rule 65 of the Rules of Court is Section 7, Article IX-A of the [1987] Constitution which provides that '[u]nless otherwise provided by the Constitution or by law, any decision, order, or ruling of each

Commission may be brought to the Supreme Court on certiorari by the aggrieved party within thirty [(30)] days from receipt of a copy thereof.' For this reason, the Rules of Court provide for a separate rule (Rule 64) specifically applicable only to decisions of the COMELEC and the Commission on Audit. This Rule e"pressly refers to the application of Rule 65 in the filing of a petition for certiorari, subject to the exception clause- 'except as hereinafter provided.'"[2]

"The purpose of a petition for certiorari is to determine whether the challenged tribunal has acted without or in excess of its jurisdiction or with grave abuse of discretion amounting to lack or excess of jurisdiction. Thus, any resort to a petition for certiorari under Rule 64 in relation to Rule 65 of the 1997 Rules of Civil Procedure is limited to the resolution of jurisdictional issues."[3]

In Miranda v. Abaya,[4] this Court held that "an act of a court or tribunal may only be considered to have been done in grave abuse of discretion when the same was performed in a capricious or whimsical exercise of judgment which is equivalent to lack of jurisdiction. The abuse of discretion must be so patent and gross as to amount to an evasion of positive duty or to a virtual refusal to perform a duty enjoined 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 or personal hostility x x x. An error of judgment committed in the exercise of its legitimate jurisdiction is not the same as 'grave abuse of discretion.' An abuse of discretion is not sufficient by itself to justify the issuance of a writ of certiorari. The abuse must be grave and patent, and it must be shown that the discretion was exercised arbitrarily and despotically x x x."[5]

In this case, the COMELEC held that petitioner Mary Grace Natividad S. Poe-Llamanzares (petitioner) made false representations in her certificate of candidacy (CoC) for President filed on October 15, 2015[6] (2015 CoC) when she declared under oath that she is a natural-born citizen of this country and would be a resident thereof for ten (10) years and eleven (11) months on the day immediately preceding the May 9, 2016 Elections.[7] Accordingly, the COMELEC cancelled petitioner's CoC. [8]

Finding the verdict to be "deadly diseased with grave abuse of discretion from root to fruits,"[9] the ponencia nullifies the COMELEC's assailed rulings,[10] and even goes to the extent of declaring petitioner as an eligible candidate.[11]

As to its first reason, the ponencia posits that the COMELEC, in ruling on a petition to deny due course to or cancel a CoC, is restrained "from going into the issue of the qualifications of the candidate for the position, if, as in this case, such issue is yet undecided or undetermined by the proper authority."[12] Consequently, "(t]he COMELEC cannot itself, in the same cancellation case, decide the qualification or lack thereof of the candidate."[13]

I disagree.

The COMELEC's power to deny due course to or cancel a candidate's CoC stems from Section 2, Article IX-C of the 1987 Constitution which grants it the authority to "[e]nforce and administer all laws and regulations relative to the conduct of an election, plebiscite, initiative, referendum, and recall" and to "[d]ecide, except those involving the right to vote, all questions affecting elections x x x." In Loong v. COMELEC,[14] it was elucidated that:

> Section 2(1) of Article IX(C) ofthe Constitution gives the COMELEC the broad power "to enforce and administer all laws and regulations relative to the conduct of an election, plebiscite, initiative, referendum[,] and recall." Undoubtedly, the text and intent of this provision is to give COMELEC all the necessary and incidental powers for it to achieve the objective of holding free, orderly, honest, peaceful, and credible elections. Congruent to this intent, this Court has not been niggardly in defining the parameters of powers of COMELEC in the conduct of our elections.[15] (Emphasis and underscoring supplied)

Likewise, in Bedol v. COMELEC (Bedol):[16]

> The quasi-judicial power of the COMELEC embraces the power to resolve controversies arising from the enforcement of election laws, and to be the sole judge of all pre-proclamation controversies; x x x.[17] (Emphasis and underscoring supplied)

Based on the text of the Constitution, and bearing in mind the import of cases on the matter, there is no perceivable restriction which qualifies the exercise of the COMELEC's adjudicatory power to declare a candidate ineligible and thus, cancel his/her CoC with the need of a prior determination coming from a "proper authority."

Contrary to the ponencia's interpretation, the COMELEC, under Rule 25 of its Resolution No. 9523[18] dated September 25, 2012, may disqualify any candidate found by the Commission to be suffering from any disqualification provided by law or the Constitution:

> Rule 25 - Disqualification of Candidates
>
> Section 1. Grounds. - Any candidate who, in an action or protest in which he is a party, is declared by final decision of a competent court, guilty of, or found by the Commission to be suffering from any disqualification provided by law or the Constitution.
>
> x x x x (Emphasis supplied)

It is confounding that the ponencia ignores the second prong of the provision and myopically zeroes-in on the first which but procedurally reflects the COMELEC's power to disqualify a candidate already declared by final decision of a competent court guilty of any disqualification, such as those accessory to a criminal conviction.[19]

As edified in Bedol, it is the COMELEC which is the "sole judge of all pre-proclamation controversies."[20] Thus, it would greatly emasculate the COMELEC's constitutionally-conferred powers by treating it as a mere administrative organ relegated to the task of conducting perfunctory reviews only to spot falsities on the face of CoCs or ministerially enforce declarations from a prior authority.

As in this case, a "pre-proclamation controversy" may arise from a petition to deny due course to or cancel a CoC. This remedy - which is filed before and falls under the adjudicatory jurisdiction of the COMELEC is governed by Section 78, Article IX of Batas Pambansa Bilang 881, otherwise known as the "Omnibus Election Code of the Philippines"[21] (OEC):

> Section 78. Petition to deny due course to or cancel a certificate of candidacy. - A verified petition seeking to deny due course or to cancel a certificate of candidacy may be filed by the person exclusively on the ground that any material representation contained therein as required under Section 74[22] hereof is false. The petition may be filed at any time not later than twenty-five days from the time of the filing of the certificate of candidacy and shall be decided, after due notice and hearing, not later than fifteen days before the election. (Emphasis and underscoring supplied)

As worded, a Section 78 petition is based exclusively on the ground that a CoC contains a material representation that is false. "The false representation contemplated by Section 78 of the [OEC] pertains to [a] material fact, and is not simply an innocuous mistake. A material fact refers to a candidate's qualification for elective office such as one's citizenship and residence."[23]

While there are decided cases wherein this Court has stated that "a false representation under Section 78 must consist of 'a deliberate attempt to mislead, misinform, or hide a fact, which would otherwise render a candidate ineligible,'"[24] nowhere does the proviSion mention this requirement. In Tagolino v. House of Representatives Electoral Tri?unal (Tagolino),[25] this Court enunciated that:

> [T]he deliberateness of the misrepresentation, much less one's intent to defraud, is of bare significance in a Section 78 petition as it is enough that the person's declaration of a material qualification in the CoC be false. In this relation, jurisprudence holds that an express finding that the person committed any deliberate misrepresentation is of little consequence in the determination of whether one's CoC should be deemed cancelled or not. What remains material is that the petition essentially seeks to deny due course to and/or cancel the CoC on the basis of one's ineligibility and that the same be granted without any qualification.[26] (Emphasis and underscoring supplied)

Albeit incorporating the intent requirement into their respective discussions, a survey of certain cases decided after Tagolino only prove to demonstrate the "bare significance" of the said requisite.

For instance, in Villafuerte v. COMELEC,[27] this Court echoed precedent, when it stated that "a false representation under Section 78" must be made "with an intention to deceive the electorate as to one's qualifications for public office."[28] However, this Court never looked into the circumstances that surrounded the candidate's representation. Instead, it equated deliberateness of representation with the materiality of the fact being represented in the CoC. Thus, it held therein that "respondent's nickname 'LRAY JR. MIGZ' written in his COC is [not] a material misrepresentation," reasoning that the nickname "cannot be considered a material fact which pertains to his eligibility and thus qualification to run for public office."[29]

In Hayudini v. COMELEC,[30] this Court, while dealing with a case that involved material representations pertaining to residency and voter registration, did not discuss the circumstances which would demonstrate the intent of the candidate behind his CoC representations. It again parroted precedent without any devoted discussion on the matter of intent.[31]

Similarly, in Jalover v. Osmeña[32] (Jalover) this Court just repeated precedent when it said that "[s]eparate from the requirement of materiality, a false representation under Section 78 must consist of a 'deliberate attempt to mislead, misinform, or hide a fact, which would otherwise render a candidate ineligible,"[33] but did not apply the same. In fact, a closer scrutiny of Jalover, which cited Mitra, would lead to the reasonable conclusion that jurisprudence has all the while presumed deliberateness of intent from the materiality of the falsity. The quoted passage from Mitra reads: "[t]he deliberate character of the misrepresentation necessarily follows from a consideration of the consequences of any material falsity x x x."[34] The "separateness" of the requirement of intent from the requisite of materiality is hence, more apparent than real. The bottom line according to Jalover, citing Mitra, is that "a candidate who falsifies a material fact cannot run."[35]

This statement therefore demonstrates that the intent requirement is but a fictional superfluity, if not anomaly, which is actually devoid of its own conceptual relevance. As such, its existence in jurisprudence only serves as a perplexing, if not, hazardous, mirage.

In the more recent case of Agustin v. COMELEC,[36] this Court, while again quoting the same passages from Mitra, upheld "the declaration by the COMELEC En Banc" - which was, by the way, acting on a Section 78 petition- "that [therein] petitioner was ineligible to run and be voted for as Mayor of the Municpality of Marcos, Ilocos Norte" on the ground that he "effectively repudiated his oath of renunciation" by the use of his US passport and, thus, "reverted him to his earlier status as a dual citizcn."[37] Interestingly, this Court, consistent with the above-cited passage from Tagolino, stated that "[e]ven if it made no finding that the petitioner deliberately attempted to mislead or misinform as to warrant the cancellation of his CoC, the COMELEC could still declare him disqualified for not meeting the required eligibility under the Local Government Code."[38]

Again, the plain text of Section 78 reads that the remedy is based "on the ground that any material representation contained therein as required under Section 74 hereof is false." It pertains to a material representation that is false

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and not a "material misrepresentation." In my view, the latter is a semantic but impactful misnomer which tends to obfuscate the sense of the provision as it suggests- by employing the word "misrepresent," ordinarily understood to mean as "to give a false or misleading representation of usually with an intent to deceive or be unfair"[39] - that intent is crucial in a Section 78 petition, when, in fact, it is not.

Notably, the Dissenting Opinion of former Supreme Court Associate Justice Dante O. Tinga (Justice Tinga) in Tecson v. COMELE[40] (Tecson) explains the irrelevance of the candidate's intention or belief in ruling on a Section 78 petition. There, he even pointed out the jurisprudential missteps in the cases of Romualdez-Marcos v. COMELEC[41] (Romualdez-Marcos) and Salcedo II v. COMELEC[42] (Salcedo II) wherein the phantom requirement of "deliberate intention to mislead" was first foisted:

> [I]n accordance with Section 78, supra, the petitioner in a petition to deny due course (to or] cancel a certificate of candidacy need only prove three elements. First, there is a representation contained in the certificate of candidacy. Second, the representation is required under Section 74. Third, the representation must be "material," which, according to jurisprudence, means that it pertains to the eligibility of the candidate to the office. Fourth, the representation is false.
>
> Asserting that proof of intent to conceal is also necessary for a petition under Section 78 to prosper, Mr. Justice Kapunan wrote in Romualdez-Marcos v. [COMELEC], thus:It is the fact of residence, not a statement in a certificate of candidacy which ought to be decisive in determining whether or not an individual has satisfied the [C]onstitution's residency qualification requirement. The said statement becomes material only when there is or appears to be a deliberate attempt to mislead, misinform, or hide a fact which would otherwise render a candidate ineligible. It would be plainly ridiculous for a candidate to deliberately and knowingly make a statement in a certificate of candidacy which would lead to his or her disqualification. [Italics in the original]

The Court, reiterated the Kapunan pronouncement in Salcedo II v. [COMELEC].

Adverting to Romualdez-Marcos and Salcedo II, the COMELEC En Banc ruled that while the element of materiality was not in question the intent to deceive was not established, not even the knowledge of falsity, thus:

> Undeniably, the question on the citizenship [of] respondent falls within the requirement of materiality under Section 78. However, proof of misrepresentation with a deliberate attempt to mislead must still be established. In other words, direct and substantial evidence showing that the person whose certificate of candidacy is being sought to be cancelled or denied due course, must have known or have been aware of the falsehood as appearing on his certificate. [Italics in the original]

The pronouncements in Romualdez-Marcos and Salcedo II, however, are clearly not supported by a plain reading of the law. Nowhere in Section 78 is it stated or implied that there be an intention to deceive for a certificate of candidacy to be denied due course or be cancelled. All the law requires is that the "material representation contained [in the certificate of candidacy] as required under Section 74 x x x is false." Be it noted that a hearing under Section 78 and Rule 23 is a quasi-judicial proceeding where the intent of the respondent is irrelevant. Also drawing on the principles of criminal law for analogy, the "offense" of material representation is malum prohibitum not malum in se. Intent is irrelevant. When the law speaks in clear and categorical language, there is no reason for interpretation or construction, but only for application.

The reason for the irrelevance of intent or belief is not difficult to divine. Even if a candidate believes that he is eligible and purports to be so in his certificate of candidacy, but is subsequently proven in a Rule 23 proceeding to be, in fact or in law, not eligible, it would be utterly foolish to allow him to proceed with his candidacy. The electorate would be merely squandering its votes for - and the COMELEC, its resources in counting the ballots cast in favor of-a candidate who is not, in any case, qualified to hold public office.

The Kapunan pronouncement in the Romualdez-Marcos case did not establish a doctrine. It is not supported bv law, and it smacks of judicial legislation. Moreover, such judicial legislation becomes even more egregious[,] considering that it arises out of the pronouncement of only one Justice, or 6% of a Supreme Court. While several other Justices joined Justice Kapunan in upholding the residence qualification of Rep. Imelda Romualdez-Marcos, they did not share his dictum. It was his by his lonesome. Justice Puno had a separate opinion, concurred in by Justices Bellosillo and Melo. Justice Mendoza filed a separate opinion too, in which Chief Justice Narvasa concurred. Justices Romero and Francisco each had separate opinions. Except for Chief Justice Narvasa and Justice Mendoza, the Justices in the majority voted to grant Rep. [Marcos's] petition on the ground that she reestablished her domicile in Leyte upon being widowed by the death of former President Marcos.

On the other hand, the reiteration of the Kapunan pronouncement in Salcedo is a mere obiter dictum. The Court dismissed the disqualification case on the ground that the respondent's use of the surname "Salcedo" in her certificate of candidacy is not a material representation since the entry does not refer to her qualification for elective office. Being what it is, the Salcedo obiter cannot elevate the Kapunan pronouncement to the level of a doctrine regardless of how many Justices voted for Salcedo. Significantly, Justice Puno concurred in the result only.

Thus, in this case, it does not matter that respondent knows that he was not a natural-born Filipino citizen and, knowing such fact, proceeded to state otherwise in his certificate of candidacy, with an intent to deceive the electorate. A candidate's citizenship eligibility in particular is determined by law, not by his good faith. It was, therefore, improper for the COMELEC to dismiss the petition on the ground that petitioner failed to prove intent to mislead on the part of respondent.[43] (Emphases and underscoring supplied)

I could not agree more with Justice Tinga's exposition. Truly, "[n]owhere in Section 78 is it stated or implied that there be an intention to deceive for a certificate of candidacy to be denied due course or be cancelled."[44] At the risk of belaboring the point, the candidate's intent to mislead or misinform on a material fact stated in his/her CoC is of no consequence in ruling on a Section 78 petition. To premise a Section 78 petition on a finding of intent or belief would create a legal vacuum wherein the COMELEC becomes powerless under the OEC to enjoin the candidacy of ineligible presidential candidates upon a mere showing that the material representations in his/her CoC were all made in good faith. It should be emphasized that "[a] candidate's citizenship eligibility in particular is determined by law, not by his good faith."[45] With this, the Romulaldez- Marcos and Salcedo II rulings which "judicially legislated" this requirement should, therefore, be abandoned as legal aberrations.

Neither is it acceptable to think that the matter of eligibility particularly, that of a candidate for President - can only be taken up before the Presidential Electoral Tribunal (PET) after a candidate has already been voted for. The COMELEC's constitutional mandate cannot be any clearer: it is empowered to "[e]nforce and administer all laws and regulations relative to the conduct of an election, plebiscite, initiative, referendum, and recall" and to "[d]ecide, except those involving the right to vote, all questions affecting elections x x x."[46] As observed by Senior Associate Justice Antonio T. Carpio in his own opinion in Tecson:

> This broad constitutional power and function vested in the COMELEC is designed precisely to avoid any situation where a dispute affecting elections is left without any legal remedy. If one who is obviously not a natural-born Philippine citizen, like Arnold [Schwarzenegger], runs for President, the COMELEC is certainly not powerless to cancel the certificate of candidacy of such candidate. There is no need to wait until after the elections before such candidate may be disqualified.[47]

Verily, we cannot tolerate an absurd situation wherein a presidential candidate, who has already been determined by the COMELEC to have missed a particular eligibility requirement and, thus, had made a false representation in his/her CoC by declaring that he/she is eligible, is still allowed to continue his/her candidacy, and eventually be

voted for. The proposition[48] that the matter of eligibility should be left to the PET to decide only after the elections is a dangerous one for not only does it debase the COMELEC's constitutional powers, it also effectively results in a mockery of the electoral process, not to mention the disenfranchisement of the voters. Clearly, the votes of the Filipino people would be put to waste if we imprudently take away from the COMELEC its capability to avert the fielding of ineligible candidates whose votes therefor shall be only considered stray. The Filipino people deserve to know prior to the elections if the person they intend to vote for is ineligible. In all reasonable likelihood, they would not have cast their votes for a particular candidate who would just be ousted from office later on.

At any rate, the jurisdictional boundaries have already been set: the COMELEC's jurisdiction ends, and that of the PET begins, only when a candidate therefor has already been elected, and thereafter, proclaimed.[49] In Tecson, this Court explained that the PET's jurisdiction under Section 4, Article VII of the 1987 Constitution is limited only to a post-election scenano:

> The Supreme Court, sitting en banc, shall be the sole judge of all contests relating to the election, returns, and qualifications of the President or Vice-President, and may promulgate its rules for the purpose.
>
> x x x x

Ordinary usage would characterize a "contest" in reference to a post-election scenario. Election contests consist of either an election protest or a quo warranto which, although two distinct remedies, would have one objective in view, i.e., to dislodge the winning candidate from office. A perusal of the phraseology in Rule 12, Rule 13, and Rule 14 of the "Rules of the Presidential Electoral Tribunal," promulgated by the Supreme Court en banc on 18 April 1992, would support this premise -

> Rule 12. Jurisdiction. -The Tribunal shall be the sole judge of all contests relating to the election, returns, and qualifications of the President or Vice-President of the Philippines.
>
> Rule 13. How Initiated. - An election contest is initiated by the filing of an election protest or a petition for quo warranto against the President or Vice-President. An election protest shall not include a petition for quo warranto. A petition for quo warranto shall not include an election protest.
>
> Rule 14. Election Protest. - Only the registered candidate for President or for Vice-President of the Philippines who received the second or third highest number of votes may contest the election of the President or the Vice-President, as the case may be, by filing a verified petition with the Clerk of the Presidential Electoral Tribunal within thirty (30) days after the proclamation of the winner.

The rules categorically speak of the jurisdiction of the tribunal over contests relating to the election, returns and qualifications of the "President" or "Vice-President," of the Philippines, and not of "candidates" for President or Vice-President. A quo warranto proceeding is generally defined as being an action against a person who usurps, intrudes into, or unlawfully holds or exercises a public office. In such context, the election contest can only contemplate a post-election scenario. In Rule 14, only a registered candidate who would have received either the second or third highest number of votes could file an election protest. This rule again presupposes a post-election scenario.

It is fair to conclude that the jurisdiction of the Supreme Court, defined by Section 4, paragraph 7, [Article VII] of the 1987 Constitution, would not include cases directly brought before it, questioning the qualifications of a candidate for the presidency or vice-presidency before the elections are held.[50] (Emphases supplied)

Thus, I respectfully object to the ponencia's enfeebling take on the COMELEC's power to determine the eligibility of a candidate prior to the elections.

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In fact, the ponencia's view is also inconsistent with its declaration that petitioner is "QUALIFIED to be a candidate for President in the National and Local Elections of 9 May 2016."[51] If the COMELEC had no power to determine the eligibility of petitioner, then this Court - which is only tasked to exercise its power of review under the parameters of a petition for certiorari and, thus, should have either nullified or affirmed the assailed rulings - could not proceed and assume jurisdiction outside of the context of the case before it and make this ad hoc pronouncement. The declaration not only serves to confuse the true powers of the COMELEC, it also distorts the manner of our review.

II.

The central question in this case, to which the analysis of grave abuse of discretion is applied, is whether or not the representations of petitioner regarding her residency - particularly, that she would be a resident of this country for ten (10) years and eleven (11) months on the day immediately preceding the May 9, 2016 Elections - and her citizenship particdarly, that she is a natural-born citizen of the Philippines in her 2015 CoC are false. Notably, a finding of falsity even as to one representation would already be enough for the COMELEC to deny due course to or cancel her 2015 CoC. To recount, Section 74- to which the false representation ground under Section 78 of the OEC relates to- provides that "[t]he certificate of candidacy shall state that the person filing it is announcing his candidacy for the office stated therein and that he is eligible for said office x x x." A candidate is eligible to run for the post of President for as long as he or she is a natural-born citizen of the Philippines and a resident thereof for at least ten (10) years immediately preceding the elections, among other requirements. These citizenship and residency requirements are delineated in Section 2, Article VII of the 1987 Constitution:

> Section 2. No person may be elected President unless he is a natural-born citizen of the Philippines, a registered voter, able to read and write, at least forty years of age on the day of the election, and a resident of the Philippines for at least ten years immediately preceding such election.

All of the requirements must concur. Otherwise, the candidate is ineligible to run for President; and, hence, a contrary declaration therefor, already amounts to a false material representation within the ambit of Section 78 of the OEC.

On the issue of residency, the ponencia claims that the COMELEC gravely abused its discretion in concluding that petitioner falsely represented in her 2015 CoC that she is a resident of the Philippines for at least ten (10) years and eleven (11) months immediately preceding the May 9, 2016 Elections as, in fact, it found her representation to be true.[52] In so finding, the ponencia gave credence to the voluminous and undisputed evidence which petitioner presented showing that she and her family abandoned their US domicile and relocated to the Philippines for good, which began on her arrival on May 24, 2005.[53] It also pointed out that petitioner's entry in the Philippines visa-free as a balikbayan should not be taken against her since, consistent with the purpose of the law, she actually reestablished life here.[54] Finally, the ponencia disregarded petitioner's prior statement in her 2012 CoC for Senator wherein she declared to be a resident of the Philippins for six years (6) years and six (6) months before May 13, 2013, thus implying that she started being a Philippine resident only in November 2006.[55]

I beg to differ.

"To successfully effect a change of domicile[,] one must demonstrate an actual removal or an actual change of domicile; a bona fide intention of abandoning the former place of residence and establishing a new one and definite acts which correspond with the purpose. In other words, there must basically be animus manendi coupled with animus non revertendi. The purpose to remain in or at the domicile of choice must be for an indefinite period of time; the change of residence must be voluntary; and the residence at the place chosen for the new domicile must be actual."[56]

In ruling that petitioner failed to reestablish her domicile in the Philippines on May 24, 2005 as she claimed, the COMELEC primarily observed that all of the evidence presented by petitioner were executed before July 2006, which is the date of reacquisition of her Filipino citizenship. Citing the cases of Coquilla v. COMELEC (Coquilla),[57] Jafzon v. COMELEC (Japzon),[58]and Caballero v. COMELEC (Caballero),[59] the COMELEC pronounced that the earliest possible date that she could have reestablished her residence in the Philippines was when she reacquired her Filipino citizenship in July 2006.

In Coquilla, the Court ruled that an alien, such as petitioner, may waive his/her status as a non-resident and thus, become a resident alien by obtaining an immigrant visa under the Philippine Immigration Act of 1948 and an Immigrant Certificate of Residence. Prior to this waiver, he/she is a visitor, a non-resident alien.[60] Hence, without this waiver, petitioner remained to be a visitor or a non-resident alien until July 2006.

On the other hand, in Japzon, the Court declared that reacquisition under Republic Act No. (RA) 9225,[61] otherwise known as the "Citizenship Retention and Reacquisition Act of 2003," has no automatic impact on a candidate's domicile as he/she only had the option to again establish his/her domicile.[62]

Meanwhile, in Caballero, this Court held that a candidate must still prove that after becoming a Philippine citizen, he/she had reestablished his new domicile of choice.[63]

To my mind, the COMELEC's reliance on Coquilla is apt. As the records disclose, petitioner returned to the Philippines on May 24, 2005 under the Balikbayan Program,[64] and therefore, only obtained the status of a temporary resident. Specifically, Section 3 ofRA 6768,[65] as amended by RA 9174,[66] merely accorded her the benefit of visa-free entry to the Philippines for a period of one (1) year:

> Section 3. Benefits and Privileges of the Balikbayan. - The balikbayan and his or her family shall be entitled to the following benefits and privileges:
> x x x x
>
> (c) Visa-free entry to the Philippines for a period of one (1) year for foreign passport holders, with the exception of restricted nationals[.] (Emphasis and underscoring supplied)

As such, since she did not waive her status of being a non-resident alien, her stay here upon her return on May 24, 2005 up until she reacquired Philippine citizenship in July 2006 should only be considered as temporary.

While it is not entirely indispensable that one first acquires the status of a permanent resident in order to reestablish his/her domicile in the Philippines, it is, nonetheless, highly indicative of his/her animus manendi and animus non revertendi. While it is undisputed that petitioner resigned from her work in the US in 2004; acquired, together with her husband, quotations and estimates from property movers regarding the relocation of all their goods, furniture, and cars from the US to the Philippines as early as March 2005; enrolled two (2) of her children in Philippine Schools for the school year 2005 to 2006; and purchased a condominium unit in the Philippines in the second half of 2005,[67] petitioner never bothered applying for permanent residency up until July 2006,[68] which is the date when she reacquired Filipino citizenship under RA 9225, and consequently, waived her status as a non-resident alien. This means that from her return on May 24, 2005 up until July 2006, she, despite the above-mentioned overt acts, stayed in the Philippines only as a temporary resident. If at all, her inattention to legitimize her so-called "permanent residence" in the Philippines in accordance with our Immigration Laws stamps a significant question mark on her animus manendi and animus non revertendi on May 24, 2005. Thus, the COMELEC can hardly be blamed from reaching its ruling as petitioner's intention to permanently reside in the Philippines and to abandon the US as her domicile on May 24, 2005 were, based on reasonable premises, shrouded in doubt.

At any rate, the overt acts on which petitioner premises her claims are insufficient to prove her animus manendi and animus non-revertendi. In fact, same as her failure to promptly address her permanent residency status, some of these overt acts might even exhibit her ambivalence to reestablish her domicile in the Philippines on May 24, 2005. For instance, while she purchased a condominium unit in the Philippines in the second half of 2005 (which period is even past May 24, 2005), records unveil that petitioner had other real properties in the US, one of which was purchased in 1992 and another in 2008.[69] Relevantly, these dates are before and after May 24, 2005. Likewise, petitioner's correspondence with the property movers in the US in the first half of 2005 falters, in light of the fact that she and her husband commenced actual negotiations for their transfer only in the following year, or in January 2006, months after May 24, 2005.[70] Similarly, after this date, it was only in March 2006 when petitioner's husband informed the US Postal Service of a change of address, without even specifying their new address in the Philippines.[71] While it is true that the visa-free entry of petitioner under the Balikbayan Program should not automatically hinder her ability to as the ponencia would say - "reestablish her life here," it remains that the parameters of domicile reestablishment under the auspices of political law have not been clearly proven. Hence, because all the overt acts prior to that time had no impact in establishing her animus manendi and animus non- revertendi, the earliest date that petitioner could have reestablished her residence was in July 2006. The overall conclusion of the COMELEC was therefore correct.

At this juncture, let me express my assent to the view that "[s]tronger proof is required in the reestablishment of national domicile."[72] This is because a person who has been domiciled in another country has already established effective legal ties with that country that are substantially distinct and separate from ours. Such a situation hardly obtains when what is involved is the change of domicile between localities within the same country.

I further observe that the need for stronger proof becomes more apparent when the person involved is one who has been domiciled in another country as part of his/her naturalization as a citizen therein. As such, while citizenship and residency are different from and independent of each other - this, being the key premise in the Court's rulings in Japzon and Caballero- I do believe that "one may invariably affect the other."[73] Being still a citizen of the US at the time of her return to the Philippines on May 24, 2005, petitioner remained entitled to the rights, privileges, and the protection the US government extends to its nationals, including the right to residence. In fact, from May 24, 2005 to October 20, 2010, petitioner availed of this privilege when she returned to the US, on separate dates, significantly, for no less than five times.[74] To my mind, the ability to enjoy the privileges of foreign citizenship at any time, while remaining under that status, conjures a reasonable presumption that the latter continues to avail of these privileges, which, among others, include the privilege to reside in that foreign country. Hence, absent compelling evidence to show that he/she had reestablished domicile in another country, it should therefore be presumed that he/she continues to be domiciled in the country he/she is a citizen of.

Moreover, the necessity of presenting stronger proof as herein discussed is impelled by the very reason underlying the residency requirement.[75] The discernment of pervading realities in the place where one seeks to be elected is objectively farther from a person who has been domiciled in a foreign country. Thus, a higher standard of proof should be applied to a candidate previously domiciled in a foreign country for he/she has been out of touch with the needs of the electoral constituency he/she seeks to represent.

For another, the COMELEC cannot be faulted for relying on petitioner's admission in her 2012 CoC for Senator that her period of residence from May 13, 2013 is "6 years and 6 months," which, hence, implies that she started being a Philippine resident only in November 2006. While it is true that "[i]t is the fact of residence, not a statement in a certificate of candidacy which ought to be decisive in determining whether or not an individual has satisfied the [C]onstitution's residency qualification requirement,"[76] the COMELEC cannot be said to gravely

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abuse its discretion when it considered petitioner's admission against interest as another circumstance which militates against her claim's legitimacy. It is certainly not patent and grave error for the COMELEC to regard a CoC as a notarized document and accord it the presumption of regularity.[77] Also, while petitioner may later impugn an admission against interest, the COMELEC found that her residency declaration in her 2012 CoC could not be borne out of an "honest mistake," in light of the following considerations: (a) the bulk, if not all, of the evidence she presented were executed before she reacquired her Philippine citizenship, which cannot be done in light of Coquilla, among others; (b) while she made statements acknowledging that there was a mistake in her 2015 CoC, they were nonetheless delivered at a time when, at the very least, the possibility of her running for President was already a matter of public knowledge; and (c) petitioner was a well-educated woman and a high-ranking official with a competent staff and a band of legal advisers and is not entirely unacquainted with Philippine politics, and thus, would know how to fill-up a pro-forma CoC in 2012. As I see it, these reasons are not barren of any considerable merit. At the very least, they are plausible enough to negate the finding that the conclusion amounted to grave abuse of discretion. Besides, I believe that the falsity of the material representation already justifies the cancellation of petitioner's CoC. As above-intimated, a candidate's intent is immaterial to a Section 78 analysis.

III.
Neither did the COMELEC gravely abuse its discretion in ruling that petitioner made a false material representation in her 2015 CoC when she declared that she was a natural-born citizen of the Philippines.

I depart from the ponencia's stand that petitioner's blood relationship with a Filipino citizen is demonstrable on account of statistical probability, and other circumstantial evidence, namely, her abandonment as an infant in a Roman Catholic Church in Iloilo City, as well as her typical Filipino features.[78]

A run-through of the basic tenets on citizenship is apropros.

"There are two ways of acquiring citizenship: (1) by birth, and (2) by naturalization. These ways of acquiring citizenship correspond to the two kinds of citizens: the natural-born citizen, and the naturalized citizen."[79]

"A person who at the time of his birth is a citizen of a particular country, is a natural-born citizen thereof."[80] As defined under the present Constitution, "[n]atural-born citizens are those who are citizens of the Philippines from birth without havinto perform any act to acquire or perfect their Philippine citizenship."[81] "On the other hand, naturalized citizens are those who have become Filipino citizens through naturalization X X X."[82]

"[I]t is the inherent right of every independent nation to determine for itself and according to its own constitution and laws what classes of persons shall be entitled to its citizenship x x x."[83] With respect to citizenship by birth, a particular jurisdiction generally subscribes to either the principle of jus sanguinis or the principle of jus soli, although it may adopt a mixed system with features ofboth.

"The Philippine law on citizenship adheres to the principle of jus sanguinis. Thereunder, a child follows the nationality or citizenship of the parents regardless of the place of his/her birth, as opposed to the doctrine of jus soli which determines nationality or citizenship on the basis of place of birth."[84] In Valles v. COMELEC, this Court held that "[t]he signing into law of the 1935 Philippine Constitution has established the principle ofjus sanguinis as basis for the acquisition of Philippine citizenship x x x. So also, the principle of jus sanguinis, which confers citizenship by virtue of blood relationship, was subsequently retained under the 1973 and 1987 Constitutions."[85] Following this principle, proof of blood relation to a Filipino parent is therefore necessary to show that one is a Filipino citizen by birth.

In this case, petitioner has shown no evidence of blood relation to a Filipino parent to prove that she acquired

Filipino citizenship by birth under the jus sanguinis principle. While petitioner did not bear the initial burden of proving that she made a false material representation on her citizenship in her 2015 CoC, as that burden belonged to those who filed the petitions to deny due course to or cancel her CoC before the COMELEC,[86] the burden of evidence shifted to her[87] when she voluntarily admitted her status as a foundling. Under Section 1, Article IV of the 1935 Constitution, which governs petitioner's case,[88] foundlings are not included in the enumeration of who are considered as Filipino citizens:

Section 1. The following are citizens ofthe Philippines:

> (1) Those who are citizens of the Philippine Islands at the time of the adoption of this Constitution.
> (2) Those born in the Philippine Islands of foreign parents who, before the adoption of this Constitution, had been elected to public office in the Philippine Islands.
> (3) Those whose fathers are citizens of the Philippines.
> (4) Those whose mothers are citizens of the Philippines and, upon reaching the age of majority, elect Philippine citizenship.
> (5) Those who are naturalized in accordance with law.

A "'foundling' refers to a deserted or abandoned infant or child whose parents, guardian or relatives are unknown; or a child committed to an orphanage or charitable or similar institution with unknown facts of birth and parentage and registered in the Civil Register as a 'foundling.'"[89] The fact that a candidate's parents are unknown directly puts into question his/her Filipino citizenship because the candidate has no prima facie link to a Filipino parent from which he/she could have traced her Filipino citizenship. This is why the burden of evidence shifted to petitioner.

Without any proof of blood relation to a Filipino parent, and without any mention in the 1935 Constitution that foundlings are considered or are even presumed to be Filipino citizens by birth, the COMELEC's finding that petitioner was not a natural-born citizen cannot be taken as patently unreasonable and grossly baseless so as to amount to grave abuse of discretion. As it is apparent, the COMELEC, with good reason, relied on the plain text of the 1935 Constitution based on the statutory construction axioms of expressio unius est exclusio alterius[90] and verba legis non est recedendum,[91] as well as firmly abided by the jus sanguinis principle which, as repeatedly stated, necessitates proof of blood relation, of which petitioner presented none. Accordingly, its analysis was grounded on sound legal basis and therefore unreflective of grave abuse of discretion.

Further, while petitioner argues that foundlings should be considered as natural-born Filipinos based on the intent of the framers of the 1935 Constitution,[92] it should be pointed out that the 1935 Constitution, as it was adopted in its final form, never carried over any proposed provision on foundlings being considered or presumed to be Filipino citizens. Its final exclusion is therefore indicative of the framers' prevailing intent. Besides, in Civil Liberties Union v. The Executive Secretary,[93] this Court remarked that:

> Debates in the constitutional convention "are of value as showing the views of the individual members, and as indicating the reasons for their votes, but they give us no light as to the views of the large majority who did not talk, much less of the mass of our fellow citizens whose votes at the polls gave that instrument the force of fundamental law. We think it [is] safer to construe the constitution from what appears upon its face."[94] (Emphases and underscoring supplied)

I also find no merit in petitioner's invocation of international covenants[95] which purportedly evince a generally accepted principle in international law that foundlings are presumed to be citizens of the country where they are found. Since the 1935 Constitution, and the 1973 and 1987 Constitutions thereafter, consistently subscribe to the jus sanguinis principle, it is axiomatic that no international agreement or generally-accepted principle of international law even assuming that there is a binding one which supports petitioner's averred presumption -

could contravene the same. "Under the 1987 Constitution, international law can become part of the sphere of domestic law either by transformation or incorporation."[96] Thus, in our legal hierarchy, treaties and international principles belong to the same plane as domestic laws and, hence, cannot prevail over the Constitution.

Finally, I oppose petitioner's resort to statistical probability as basis to presume natural-born citizenship in this case. Allow me to point out that these statistics surfaced only in the proceedings before this Court and hence, could not have been weighed and assessed by the COMELEC En Banc at the time it rendered its ruling. Be that as it may, the constitutional requirements for office, especially for the highest office in the land, cannot be based on mere probability. "[M]atters dealing with qualifications for public elective office must be strictly complied with."[97] The proof to hurdle a substantial challenge against a candidate's qualifications must therefore be solid. We cannot make a definitive pronouncement on a candidate's citizenship when there is a looming possibility that he/she is not Filipino. Also, the circumstances surrounding petitioner's abandonment, as well as her physical characteristics, hardly assuage this possibility. By parity of reasoning, they do not prove that she was born to a Filipino: her abandonment in the Philippines is just a restatement of her foundling status, while her physical features only tend to prove that her parents likely had Filipino features and yet it remains uncertain if their citizenship was Filipino.

For all of these reasons, I dissent to the majority's ruling that the COMELEC gravely abused its discretion. In the final analysis, my conscience reminds me that the high duty demanded of me - to apply the law according to the parameters set by our previous rulings transcends politics or controversy, popularity or personality. It is a public trust which values nothing higher than fidelity to the Constitution. I, therefore, vote to DISMISS the petitions.

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[1] 648 Phil. 165 (2010).

[2] Id. at 182, citing Pates v. COMELEC, 609 Phil. 260, 265 (2009); emphasis and underscoring supplied.

[3] Ocate v. COMELEC, 537 Phil. 584, 594-595 (2006); emphasis and underscoring supplied.

[4] Miranda v. Abaya, 370 Phil. 642 (1999).

[5] Id. at 663; emphases and underscoring supplied, citations omitted.

[6] See COMELEC En Banc's Resolutions dated December 23, 2015 in SPA No. 15-001 (DC), rollo (G.R. No. 221697), Vol. I, p. 229; and in SPA Nos. 15-002 (DC), 15-007 (DC), and 15-139 (DC), rollo (G.R. Nos. 221698-700), Vol. I, p. 356.

[7] See discussions in COMELEC Second Division's Resolution dated December 1, 2015 in SPA No. 15-001 (DC), rollo (G.R. No. 221697), Vol. I, P·206-211; and in COMELEC First Division's Resolution dated December 11, 2015 in SPA Nos. 15-002 (DC), 15-007 (DC), and 15-139 (DC), rollo (G.R. Nos. 221698-700), Vol. I, pp. 251-258.

[8] See COMELEC En Banc's Resolutions dated December 23, 2015 in SPA No. 15-001 (DC), rollo (G.R. No. 221697), Vol. I, p. 258; and in SPA Nos. 15-002 (DC), 15-007 (DC), and 15-139 (DC), rollo (G.R. Nos. 221698-700), Vol. I, p. 381.

[9] Ponencia, p. 44.

[10] The assailed rulings are as follows: (a) COMELEC Second Division's Resolution dated December 1, 2015 in SPA No. 15-001 (DC), rollo (G.R. No. 221697), Vol. I, pp. 190-223; (b) COMELEC En Banc's Resolution dated

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December 23,2015 in SPA No. 15-001 (DC), rollo (G.R. No. 221697), Vol. I, pp. 224-259; (c) COMELEC First Division's Resolution dated December 11,2015 in SPA Nos. 15-002 (DC), 15-007 (DC), and 15-139 (DC), rollo (G.R. Nos. 221698-700), Vol. I, pp. 216-264; and (d) COMELEC En Banc's Resolution dated December 23,2015 in SPA Nos. 15-002 (DC), 15-007 (DC), and 15-139 (DC), rollo (G.R. Nos. 221698-700), Vol. I, pp. 352-381.

[11] See ponencia, p. 45.

[12] Id. at 16.

[13] Id.

[14] 365 Phil. 386 (1999).

[15] Id. at 419-420.

[16] 621 Phil. 498 (2009).

[17] Id. at 510.

[18] Entitled "IN THE MATTER OF THE AMENDMENT TO RULES 23,24 AND 25 OF THE COMELEC RULES OF PROCEDURE FOR PURPOSES OF THE 13 MAY 2013 NATIONAL, LOCAL AND ARMM ELECTIONS AND SUBSEQUENT ELECTIONS."

[19] "Even without a petition under either Section 12 or Section 78 of the Omnibus Election Code, or under Section 40 of the Local Government Code, the COMELEC is under a legal duty to cancel the certificate of candidacy of anyone suffering from the accessory penalty of perpetual special disqualification to run for public office by virtue of a final judgment of conviction. The final judgment of conviction is notice to the COMELEC of the disqualification of the convict from running for public office. The law itself bars the convict from running for public office, and the disqualification is part of the final judgment of conviction. The final judgment ofthe court is addressed not only to the Executive branch, but also to other government agencies tasked to implement the final judgment under the law.

Whether or not the COMELEC is expressly mentioned in the judgment to implement the disqualification, it is assumed that the portion of the final judgment on disqualification to run for elective public office is addressed to the COMELEC because under the Constitution the COMELEC is duty bound to '[e]nforce and administer all laws and regulations relative to the conduct of an election.' 24 The disqualification of a convict to run for public office under the Revised Penal Code, as affirmed by final judgment of a competent court, is part of the enforcement and administration of 'all laws' relating to the conduct of elections." (Jalosjos, Jr. v. COMELEC, 696 Phil. 601, 634 [2012].)

[20] Bedol v. COMELEC, supra note 16, at 510.

[21] (December 3, 1985).

[22] Section 74. Contents of certificate of candidacy. The certificate of candidacy shall state that the person filing it is announcing his candidacy for the office stated therein and that he is eligible for said office; if for Member of the Batasang Pambansa, the province, including its component cities, highly urbanized city or district or sector which he seeks to represent; the political party to which he belongs; civil status; his date of birth; residence; his post office address for all election purposes; his profession or occupation; that he will support and defend the Constitution of the Philippines and will maintain true faith and allegiance thereto; that he will obey the laws, legal orders, and decrees promulgated by the duly constituted authorities; that he is not a permanent resident or immigrant to a foreign country; that the obligation imposed by his oath is assumed voluntarily, without mental

reservation or purpose of evasion; and that the facts stated in the certificate of candidacy are true to the best of his knowledge.

Unless a candidate has officially changed his name through a court approved proceeding, a certificate shall use in a certificate of candidacy the name by which he has been baptized, or if has not been baptized in any church or religion, the name registered in the office of the local civil registrar or any other name allowed under the provisions of existing law or, in the case of a Muslim, his Hadji name after performing the prescribed religious pilgrimage: Provided, That when there are two or more candidates for an office with the same name and surname, each candidate, upon being made aware or (sic) such fact, shall state his paternal and maternal surname, except the incumbent who may continue to use the name and surname stated in his certificate of candidacy when he was elected. He may also include one nickname or stage name by which he is generally or popularly known in the locality.

The person filing a certificate of candidacy shall also affix his latest photograph, passport size; a statement in duplicate containing his bio-data and program of government not exceeding one hundred words, if he so desires.

[23] Ugdoracion, Jr. v. COMELEC, 575 Phil. 258,261 (2008).

[24] Jalover v. Osmeña, G.R. No. 209286, September 23, 2014, 736 SCRA 267, 282, citing Velasco v. COMELEC, 595 Phil. 1172, 1185 (2008).

[25] G.R. No. 202202, March 19, 2013, 693 SCRA 574.

[26] Id. at 592.

[27] See G.R. No. 206698, February 25,2014, 717 SCRA 312.

[28] Id. at 320-321, citing Salcedo II v. COMELEC, 371 Phil. 390, 389-390 (1999).

[29] See Id. at 323.

[30] G.R. No. 207900, April 22, 2014, 723 SCRA 223.

[31] See id. at 246, citing Velasco v. COMELEC (supra note 24, at 1185), which, in turn cited, among others, Salcedo II v. COMELEC (supra note 28, at 390).

[32] Supra note 24.

[33] Id. at 282, citing Ugdoracion, Jr. v. COMELEC (supra note 23, at 261-262), further citing, among others, Salcedo II v. COMELEC (supra note 28, 385-390).

[34] Id., citing Mitra v. COMELEC, 636 Phil. 753, 780 (2010).

[35] Id.

[36] See G.R. No. 207105, November 10,2015.

[37] Id.

[38] Id.

[39] <http://www.merriam-webster.com/dictionary/misrepresent> (last visited March 5, 2016).

[40] 468 Phil. 421 (2004).

[41] G.R. No. 119976, September 18, 1995, 248 SCRA 300, 326.

[42] Supra note 28.

[43] Tecson v. COMELEC, supra note 40, at 606-609; citations omitted.

[44] Id. at 607.

[45] ld. at 608-609.

[46] See paragraphs (1) and (2), Section 2, Article IX-C ofthe 1987 Constitution.

[47] Tecson v. COMELEC, supra note 40, at 626.

[48] See Separate Concurring Opinion of Associate Justice Alfredo Benjamin S. Caguioa, joined by Associate Justice Diosdado M. Peralta, p. 3.

[49] See Rules 15 and 16 of the 2010 RULES OF THE PRESIDENTIAL ELECTORAL TRIBUNAL, A.M. No. 10-4-29-SC dated May 4, 2010. See also Dissenting Opinion of Associate Justice Mariano C. Del Castillo (Justice Del Castillo), p. 28.

[50] Tecson v. COMELEC, supra note 40, at 460-462.

[51] Ponencia, p. 45.

[52] Ponencia, pp. 37-38.

[53] Id.

[54] See id. at 39-40.

[55] See id. at 40-41.

[56] Domino v. COMELEC, 369 Phil. 798, 819 (1999).

[57] 434 Phil. 861 (2002).

[58] 596 Phil. 354 (2009).

[59] See G.R. No. 209835, September 22, 2015.

[60] See Coquilla v. COMELEC, supra note 57, at 873-874.

[61] Entitled "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," approved on August 29, 2003.

[62] Japzon v. COMELEC, supra note 58, at 369.

[63] See Caballero v. COMELEC, supra note 59.

[64] See ponencia, pp.39-40. See also Associate Justice Arturo D. Brion's Dissenting Opinion, p. 5.

[65] Entitled "AN ACT INSTITUTING A BALIKBA YAN PROGRAM," approved on November 3, 1989.

[66] Entitled "AN ACT AMENDING REPUBLIC ACT NUMBERED 6768, ENTITLED, 'AN ACT INSTITUTING A BALIKBAYAN PROGRAM, BY PROVIDING ADDITIONAL BENEPITS AND PRIVILEGES TO BALIKBAY AN AND FOR OTHER PURPOSES,'" approved on November 7, 2002.

[67] See Petitions in G.R. No. 221697, rollo (G.R. No. 221697), Vol. I, pp. 18-20; and in G.R. Nos. 221698-700,

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rollo (G.R. Nos. 221698 700), Vol. I, pp. 22-24.

[68] See Petitions in G.R. No. 221697, rollo (G.R. No. 221697), Vol. I, p. 22; and in G.R. Nos. 221698-700, rollo (G.R. Nos. 221698 700), Vol. I, p. 27.

[69] See rollo (G.R. No. 221698-700), Vol. II, p. 917.

[70] See rollo (G.R. No. 221697), Vol. II, pp. 778-794.

[71] Id. at 815-816.

[72] See Dissenting Opinion of Justice Del Castillo, p. 59.

[73] Id. at 60.

[74] "In fact, from May 24, 2005 to October 20, 20l0, petitioner did go back to the US no less than five times: February 14, 2006, April 20, 2009, October 19, 2009, December 27, 2009, and March 27, 2010." See id. at 55. See also rollo (G.R. Nos. 221698 700), Vol. I, pp. 30-31.

[75] The purpose is "to ensure that the person elected is familiar with the needs and problems of his constituency x x x ."(See Perez v. COMELEC, 375 Phil. 1106, 1119 [1999].)

[76] Romualdez-Marcos v. COMELEC, supra note 41, at 326.

[77] "[G]enerally, a notarized document carries the evidentiary weight conferred upon it with respect to its due execution, and documents acknowledged before a notary public have in their favor the presumption of regularity. In other words, absent any clear and convincing proof to the contrary, a notarized document enjoys the presumption of regularity and is conclusive as to the truthfulness of its contents. (See Vda. de Rojales v. Dime, G.R. No. 194548, February 10, 2016.)

[78] See ponencia, pp. 22-23.

[79] Bengson III v. House of Representatives Electoral Tribunal, 409 Phil. 633, 646 (2001).

[80] Id.

[81] See Section 2, Article IV of the 1987 Constitution; emphases and underscoring supplied.

[82] Bengson III v. House of Representatives Electoral Tribunal, supra note 79, at 646.

[83] Roa v. Collector of Customs, 23 Phil. 315, 320-321 (1912).

[84] Valles v. COMELEC, 392 Phil. 327, 335 (2000); emphasis and underscoring supplied.

[85] ld. at 336-337; emphases and underscoring supplied.

[86] "[T]he burden of proof is, in the first instance, with the plaintiff who initiated the action." (Republic v. Vda. de Neri, 468 Phil. 842, 862 [2004].)

[87] "[H]e who alleges the affirmative of the issue has the burden of proof, and upon the plaintiff in a civil case, the burden of proof never parts. However, in the course of trial in a civil case, once plaintiff makes out a prima facie case in his [favour], the duty or the burden of evidence shifts to defendant to controvert plaintiff's prima facie case, otherwise, a verdict must be returned in favor of plaintiff." (Vitarich Corporation v. Locsin, 649 PhiL 164, 173 (2010], citing Jison v. Court of Appeals, 350 Phil. 138, 173 [1998].)

[88] Petitioner was born on September 3, 1968. See Petitions in G.R. No. 221697, rollo (G.R. No. 221697), Vol. I,

p. 14; and in G.R. Nos. 221698-700, rollo (G.R. Nos. 221698-700), Vol. I, p. 17.

[89] See Section 3 (e) of "RULE ON ADOPTION," A.M. No. 02-6-02-SC (August 22, 2002); emphasis supplied.

[90] See COMELEC Second Division's December 1, 2015 Resolution in SPA No. 15 001 (DC), rollo (G.R. No. 221697), Vol. I, pp. 213-214.

[91] See COMELEC Second Division's December 1, 2015 Resolution in SPA No. 15-001 (DC), rollo (G.R. No. 221697), Vol. I, p. 393. See also COMELEC En Banc's December 23, 2015 Resolution in SPA No. 15-001 (DC), id. at 254.

[92] See Petitions in G.R. No. 221697, rollo (G.R. No. 221697), Vol. I, pp. 114-116; and in G.R. Nos. 221698-700, rollo (G.R. Nos. 221698-700), Vol. I, pp. 84-86.

[93] 272 Phil. 147 (1991).

[94] Id. at 169-170.

[95] Particularly, the 1989 United Nations Convention on the Rights of the Child (UNCRC), the 1966 International Covenant on Civil and Political Rights (ICCPR), the 1948 Universal Declaration of Human Rights (UDHR), the 1930 Hague Convention on Certain Questions Relating to the Conflict of Nationality Law (1930 Hague Convention), and the 1961 United Nations Convention on the Reduction of Statelessness (UNCRS), among others, positing that it is a generally accepted principle in international law. (See discussions in the Petitions in G.R. No. 221697, rollo (G.R. No. 221697), Vol. I, pp. 137-144 and 151-152; and in G.R. Nos. 221698-700, rollo (G.R. Nos. 221698-700), Vol. I, pp. 109-117 and 124-125.

[96] Pharmaceutical and Health Care Association of the Philippines v. Health Secretary Duque III, 561 Phil. 386, 397-398 (2007).

[97] See Arnado v. COMELEC, G.R. No. 210164, August 18, 2015.

CONCURRING OPINION
JARDELEZA, J.:

The Philippine Constitution requires that a person aspiring for the presidency must be a naturalborn Filipino citizen zmd a resident of the Philippines for at least ten years immediately preceding the election.[1] The question is whether the petitioner, as a foundling and former resident citizen of the United States (US), satislies these requirements.

I
I first consider the issue of jurisdiction raised by the parties.

A
Petitioner Mary Grace Natividad S. Poe-Llamanzares (Poe) contends that in the absence of any matterial misrepresentation in her certificate of candidacy (COC), the public respondent Commission on Elections (COMELEC) had no jurisdiction to rule on her eligibility. She posits that the COMELEC can only rule on whether she intended to deceive the electorate when she indicated that she was a natural-born Filipino and that she has been a resident for 10 years and 11 months. For the petitioner, absent such intent, all other attacks on her citizenship and residency are premature since her qualifications can only be challenged through the post-election remedy of a petition for quo warranto. On the other hand, the COMELEC argues that since citizenship and residency are material representations in the COC affecting the qualifications for the office of President, it

necessarily had to rule on whether Poe's statements were true. I agree with the COMELEC that it has jurisdiction over the petitions to cancel or deny due course to a COC. As a consequence, it has the authority to determine therein the truth or falsity of the questioned represtatations in Poe's COC.

Section 78[2] of the Omnibus Election Code (OEC) allows a person to file a verified petition seeking to deny due course to or cancel a COC exclusively on the ground that any of the material representations it contains, as required under Section 74,[3] is false. The representations contemplated by Section 78 generally refer to qualifications for elective office,[4] such as age, residence and citizenship, or possession of natural-born Filipino status.[5] It is beyond question that the issues affecting the citizenship and residence of Poe are within the purview of Section 78. There is also no dispute that the COMELEC has jurisdiction over Section 78 petitions. Where the parties disagree is on whether intent to deceive is a constitutive element for the cancellation of a COC on the ground of false material representation.

The divide may be attributed to the two tracks of cases interpreting Section 78. On the one hand, there is the line originating from Salcedo II v. COMELEC, decided in 1999, where it was held that "[a]side from the requirement of materiality, a false representation under section 78 must consist of a deliberate attempt to mislead, misinform, or hide a fact which would otherwise render a candidate ineligible."[6] On the other hand, in the more recent case of Tagolino v. House of Representatives Electoral Tribunal, we stated that "the deliberateness of the misrepresentation, much less one's intent to defraud, is of bare significance in a Section 78 petition as it is enough that the person's declaration of a material qualification in the COC be false."[7]

To reconcile these two cases, it is important to first understand the coverage of Section 78. The provision refers to material representations required by Section 74 to appear in the COC. In turn, Section 74 provides for the contents of the COC, which includes not only eligibility requirements such as citizenship, residence, and age, but also other information such as the candidate's name, civil status, profession, and political party affiliation. Section 78 has typically been applied to representations involving eligibility requirements, which we have likened to a quo warranto petition under Section 253 of the OEC.[8]

Understated in our jurisprudence, however, are representations mentioned in Section 74 that do not involve a candidate's eligibility. In this regard, there appears to be a prevailing misconception that the "material representations" under Section 78 are limited only to statements in the COC affecting eligibility.[9] Such interpretation, however, runs counter to the clear language of Section 78, which covers "any material representation contained therein as required under Section 74." A plain reading of this phrase reveals no decipherable intent to categorize the information required by Section 74 between material and nonmaterial, much less to exclude certain items explicitly enumerated therein from the coverage of Section 78. Ubi lex non distinguit, nee nos distinguere debemus. When the law does not distinguish, neither should the court.[10] The more accurate interpretation, one that is faithful to the text, is that the word "material" describes-not qualifies-the representations required by Section 74. Therefore, the declarations required of the candidate by Section 74 are all material.[11] In enumerating the contents of the COC, Section 74 uses the word "shall" in reference to non-eligibility-related matters, including "the political party to which he belongs," "civil status," "his post office address for all election purposes," "his profession or occupation," and "the name by which he has been baptized, or ... registered in the office of the local civil registrar or any other name allowed under the provisions of existing law or ... his Hadji name after performing the prescribed religious pilgrimage." The presumption is that the word "shall" in a statute is used in an imperative, and not in a directory, sense.[12] The mandatory character of the provision, coupled with the requirement that the COC be executed under oath,[13] strongly suggests that the law itself considers certain non-eligibility-related information as material—otherwise, the law could have simply done away with them. What this means relative to Section 78 is that there are material representations which may

pertain to matters not involving a candidate's eligibility.[14]

It is apparent that the interests sought to be advanced by Section 78 are twofold. The first is to protect the sanctity of the electorate's votes by ensuring that the candidates whose names appear in the ballots are qualified and thus mitigate the risk or votes being squandered on an ineligible candidate. The second is to penalize candidates who commit a perjurious act by preventing them from running for public office. This is a policy judgment by the legislature that those willing to perjure themselves are not fit to hold an elective office, presumably with the ultimate aim of protecting the constituents from a candidak who committed an act involving moral turpitude.[15] In a way, this protectionist policy is not dissimilar to the underlying principle for allowing a petition for disqualification based on the commission of prohibited acts and election offenses under Section 68. These two considerations, seemingly overlooked in Salcedo, are precisely why the "consequences imposed upon a candidate guilty of having made a false representation in his certificate of candidacy are grave to prevent the candidate from running or, if elected, from serving, or to prosecute him for violation of the election laws."[16]

Therefore, there are two classes of material representations contemplated by Section 78: (1) those that concern eligibility for public office; and (2) those erstwhile numerated in Section 74 which do not affect eligibility. Tagolino applies to the former; Salcedo to the latter. This is a logical distinction once we connect the factual settings of the two cases with the aforementioned state interests. Ironically, Salcedo, oft-cited in Section 78 cases as authority for requiring intent in cases involving eligibility-related representations, actually did not concern a representation in the COC affecting the candidate's eligibility. Salcedo involved a candidate who used the surname of her husband of a void marriage. Her COC was challenged on the ground that she had no right to use such surname because the person she married had a subsisting marriage with another person. We held that petitioner therein failed to discharge the burden of proving that the alleged misrepresentation regarding the candidate's surname pertains to a material matter, and that it must equally be proved that there was an intention to deceive the electorate as to the would-be candidate's qualifications for public office to justify the cancellation of the COC.[17] The rationale is that the penalty of removal from the list of candidates is not commensurate to an honest mistake in respect of a matter not affecting one's eligibility to run for public office. "It could not have been the intention of the law to deprive a person of such a basic and sub :lantive political right to be voted for a public office upon just any innocuous mistake."[18] Notably, a finding in Salcedo that the candidate had no intention to deceive the electorate when she used her married name, notwithstanding the apparent invalidity of the marriage, would have been sufficient to arrive at the same conclusion (that is, allowing her to run) without making a sweeping rule that only matters pertaining to eligibility are material.

By contrast, Tagolino inyolved a false representation with respect to a candidate's residence and its subsequent effect on the substitution by a replacement candidate. The false representation affected the one-year residency requirement impost·d by the Constitution on members of the House of Representatives[19]—in other words, it went into the eligibility of the candidate. "[A]n express finding that the person committed any deliberate misrepresentation is of little consequence in the determination of whether one's COC should be deemed cancelled or not."[20] It is the fact of eligibility, not the intent to del·eive, that should be decisive in determining compliance with constitutional and statutory provisions on qualifications for public office. This reading is more in accord with the text of Section 78, which does not specify intent as an element for a petition to prosper. In this context, the term "material misrepresentation" is a misnomer because it implies that the candidate consciously misrepresented himself. But all Section 78 textually provides is that "any material representation ... is false." Thus, in resolving a Section 78 petition, truth or falsity ought to be the definitive test. The COMELEC's duty, then, is to make findings of fact with respect to the material representations claimed to be false.

The need to apply Tagolino to the first class is highlighted by an inherent gap in Salcedo's analysis, which failed

to take into account a situation where a candidate indicated in good faith that he is eligible when he is in fact not. It is not inconceivable that a child, for example, born in 1977, but whose parents simubted the birth certificate to make it appear that he was born in 1976, would believe himself to be qualified to run for president in the 2016 elections. However, if the simulation of birth is proved, and hospital records and family history show that he was indeed born in 1977, then he would fall short of the minimum age requirement prescribed by the Constitution. If Salcedo is to be followed to a tee, the COMELEC cannot cancel his COC because he acted in good faith. This would lead to a situation where the portion of the electorate who voted for the ineligible candidate would face the threat of disenfranchisement should the latter win the elections and face a quo warranto challenge. In the latter proceeding, not even good faith can cure the inherent defect in his qualifications. Tagolino is therefore preferable in instances involving eligibility-related representations because it fills this gap. Indeed, the law should not be interpreted to allow for such disastrous consequences.

In fact, in cases involving eligibility-related representations, the Court has never considered intent to deceive as the decisive element, even in those that relied on Salcedo. In Tecsun v. COMELEC,[21] which involved a question on the eligibility of Fernando Poe, Jr. for the 2004 presidential elections by way of a Section 78 petition, the Court determined whether he was a natural-born citizen of the Philippine. Intent to deceive the electorate was never discussed. In Ugdoracion v. COMELEC,[22] which involved residency, the Court determined that the candidate lost his residency when he became a US green card holder despite his mistaken belief that he retained his domicile in the Philippines. The candidate, invoking the legal definition of domicile, claimed that even if he was physically in the US, he always intended to return the Philippines. The Court, placing emphasis on his permanent resident status in the US, merely inferred his intent to deceive when he failed to declare that he was a green card holder. Then in Jalosjos v. COMELEC,[23] also involving residency, the Court found that the claim of domicile was contradicted by the temporary nature of the candidate's stay. This time, the Court simply deemed that "[w]hen the candidate's claim of eligibility is proven false, as when the candidate failed to substantiate meeting the required residertcy in the locality, the representation of eligibility in the COC constitutes a 'deliberate attempt to mislead, misinform, or hide the fact' of ineligibility."[24]

The Court owes candor to the public. Inferring or deeming intent to deceive from the fact of falsity is, to me, just a pretense to get around the gap left by Salcedo, i.e., an indigible candidate who acted in good faith. I believe the more principled approach is to adopt Tagolino as the controlling rule. The decision in Agustin v. COMELEC[25] is a step towards that direction: "[e]ven if [the COMELEC] made no finding that the petitioner had deliberately attempted to mislead or to misinform as to warrant the cancellation of his COC, the COMELEC could still declare him disqualified for not meeting the requisite eligibility...." Of course, Salcedo remains applicable to cases where the material representation required by Section 74 oes not relate to eligibility, sttch as in Villafuerte v. COMELEC,[26] which, similar to Salcedo, involved a candidate's name.[27]

B

The 1987 Constitution designated the Supreme Court en banc, acting as the Presidential Electoral Tribunal (PET), as the "sole judge of all contests relating to the election, returns, and qualifications of the President or Vice-President."[28] Poe argue·; that allowing the COMELEC to rule on the eligibility of the candidate regardless of intent would be tantamount to the usurpation of the PET's authority (and that of the electoral tribunals of both the Senate and the House , of Representatives) as the sole judge of qualifications. This, however, is an incorrect reading of the provision. The phrase "contests relating to the election, returns, and qualifications" is a legal term of ati that is synonymous to "election contests." "As used in constitutional provisions, electi, m contest relates only to statutory contests in which the contestant seeks not only to oust the intruder, but also to have himself inducted into the ofl ice."[29] Thus, an election contest can only contemplate a post-election,[30] post-proclamation situation.[31] While the power of electoral tribunals is exclusive,[32] full, clear, and

complete,[33] it is nonetheless subject to a temporal limitation-their jurisdiction may only be invoked after the election is held and the winning candidate is proclaimed.[34]

Notably, the Constitution neither allocates jurisdiction over pre- election controversies involving the eligibility of candidates nor forecloses legislative provision for such remedy. Absent such constitutional proscription, it is well within the plenary powers of the legislature to enact a law providing for this type of pre-election remedy, as it did through Section 78.[35] In this regard, Poe's statement that the COMELEC essentially arrogated unto itself the jurisdiction to decide upon the qualifications of candidates is inaccurate. It is Congress that granted the COMELEC such jurisdiction; the COMELEC only exercised the jurisdiction so conferred. When the COMELEC takes cognizance of a Section 78 petition, its actions are not repugnant to, but are actually in accord with, its constitutional mandate to enforce and administer all laws relative to the conduct of an election.[36] To be clear, the proceeding under Section 78 is not an election contest and therefore does not encroach upon PET's jurisdiction over election contests involving the President and Vice-President.

We have already recognized that a Section 78 petition is one instance-the only instance-where the qualifications of a candidate for elective office can be challenged before an election.[37] Although the denial of due course to or the cancellation of the COC is ostensibly based on a finding that the candidate made a rnaterial representation that is false,[38] the determination of the factual Correctness of the representation necessarily affects eligibility. Essentially, the ground is lack of eligibility under the pertinent constitutional and statutory provisions on qualifications or eligibility for public office,[39] similar to a petition for quo warranto which is a species of election contest. "The only difference between the two proceedings is that, under Section 78, the qualifications for elective office are misrepresented in the COC and the proceedings must be initiated before the elections, whereas a petition for quo warranto under Section 253 may be brought on the basis of two grounds-(1) ineligibility or (2) disloyalty to the Republic of the Philippines, and must be initiated within ten days after the proclamation of the election results."[40] Put simply, the main distinction is the time the action is filed.[41] If a pl·rson fails to file a Section 78 petition within the 25-day period prescribed in the OEC, the election laws afford him another chance to raise the ineligibility of the candidate by filing a petition for quo warranto.[42]

The reason why the COMELEC, pursuant to a valid law, is allowed to determine a candidate's constitutional and statutory eligibility prior to the election is not difficult to fathom. As earlier alluded to, there is legitimate value in shielding the electoraie from an ineligible candidate. In addition, there are sound fiscal considerations supporting this remedy. These include the more efficient allocation or COMELEC's resources, ultimately funded by taxpayers' money, and a check on unnecessary campaign spending, an activity with minimal economic utility. A contrary ruling could lead to the de facto disenfranchisement of those who voted for a popular but ineligible candidate. The possibility of a constitutional and political crisis arising from such a result is one we dare not risk.

II

Article VII, Section 2 of the 1987 Constitution lays down the eligibility requirements for the office of President:

> No person may be elected President unless he is a natural-born citizen or the Philippines, a registered voter, able to read and write, at least forty years of age on the day of the election, and a resident of the Philippines for at least ten years immediately preceding such election.

Citizenship is determined by the organic law in force at the time of birth.[43] When Poe was found in 1968, the 1935 Constitution was still in effect. It enumerated the following as citizens of the Philippines: (1) those who are citizens of the Philippines at the time of the adoption of the 1935 Constitution; (2) those born in the Philippines of foreign parents who, before the adoption of the 1935 Constitution, had been elected to public office; (3) those whose fathers are citizen; of the Philippines; (4) those whose mothers are citizens of the Philippines ;md, upon reaching the age of majority, elect Philippine citizenship; and (5) those who are naturalized in accordance with

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law.[44] For obvious reasons, the first two classes are not applicable to the present controversy. I therefore limit my discussion to the remaining three classes.

The 1987 Constitution defines "natural-born citizens" as those who are Filipino citizens "from birth without having to perform any act to acquire or perfect their Philippine citizenship."[45] Children born of Filipino fathers under the 1935 Constitution fall under this category. By express declaration, the 1987 Constitution also considered those born of Filipino mothers who elect Philippine citizenship by age of majority as natural-born citizens.[46] On the other hand, those who become Filipino citizens through the naturalization process are evidently excluded from the constitutional definition. Therefore, there are two kinds of Filipino citizens recognized under the Constitution: natural-born citizens and naturalized citizens.[47] Only the former are eligible to be President of the Philippines.

Poe contends that she is a natural-born citizen because there is a presumption under intemational law that a foundling is a citizen of the place where he was born. She furthtr argues that the deliberations of the 1934 Constitutional Convention reveal an intent by the framers to consider foundlings as Filipino citizens from birth. In any case, she believes that she has proved, by substantial evidence, that she is a natural-born citizen. The Solicitor General supports the s cond and third arguments of Poe.

On the other hand, the COMELEC and private respondents maintain that because she is a foundling whose parentage is unknown, she could not definitively prove that either her father or mother is a Filipino. They dispute the applicability of international conventions which the Philippines is not a party to, while those which have been ratified require implementing legislation. Assuming arguendo that she was a natural-born citizen, respondents are unanimous that she lost such status when she became a naturalized American citizen. Her subsequent repatriation under RA 9225 only conferred upon her Filipino citizenship but not natural-born status.

I take their arguments in turn.

A

The power of a state to confer its citizenship is derived from its sovereignty. It is an attribute of its territorial supremacy.[48] As a sovereign nation, the Philippines has tlw inherent right to determine for itself, and according to its own Constitution and laws, who its citizens are.[49] International law, as a matter of principle, respects such sovereign determination and recognizes that the acquisition and loss of citizenship fall within the domestic jurisdiction of each state.[50] Domestic rules on citizenship vary greatly from sovereign to sovereign,[51] a necessary consequence of divergent demography, geography, history, and culture among the many states. As explained in the Nottebohm Case:

[T]he diversity of demographic conditions has thus far made it impossible for any general agreement to be reached on the rules relating to nationality, although the latter by its very nature affects international relations. It has been considered that the best way of making such rules accord with the varying demographic conditions in different countries is to leave the fixing of such rules to the competence of each State.[52]

Thus, "[t]here is no rule of international law, whether customary or written, which might be regarded as constituting any restriction of: or exception to, the jurisdiction or [individual states to determine questions of citizenship]."[53] The foregoing considerations militate against the formation of customary law in matters concerning citizenship, at least not one directly enforceable on particular states as advocated by Poe. Accordingly, the provisions of the 1930 Hague Convention and 1961 Convention on the Reduction of Statelessness purpmiedly conferring birth citizenship upon foundlings, or creating a presumption thereof, cannot be considered customary.

At this juncture, it may not be amiss to explain that another reason why we judiciously scrutinize an invocation of

customary international law based on treaties the Philippine has not acceded to is out of deference to the President's treaty-ratification power[54] and the Senate's treaty-concurring power.[55] The doctrine of separation of powers dictates that, unless the existence of customary international law is convincingly shown, courts of law should not preempt the executive and legislative branches' authority over the country's foreign rdations policy, including the negotiation, ratification, and approval oftreaties.[56]

In respect of international covenants that the Philippines is a party to, Poe invokes the following which allegedly recognize her right to natural- born citizenship: the Convention on the Rights of the Child (CRC), the International Covenant on Civil and Political Rights (ICCPR), and the Universal Declaration of Human Rights (UDHR). The CRC and the ICCPR both speak of a child's "right to acquire a nationality." A plain reading indicates that the right simply means that a child shall be given the opportunity to become a Filipino citizen.[57] It does not by itself create an enforceable right to birth citizenship. The obligation imposed upon states parties is for them to either enact citizenship statutes specifically for children or to equally extend to children the benefits of existing citizenship laws. In the Philippines' case, the Constitution grants birth citizenship to those born of Filipino parents and our naturalization statutes provide for derivative citizenship of children born of non-Filipino parents.[58] The Philippines is, therefore, compliant with this specific obligation under the CRC and the ICCPR.

The same can be said about the UDHR, even though it uses a slightly different wording.[59] Preliminarily, it must be clarified that the UDHR is technically not a treaty and therefore, it has no obligatory character. Nonetheless, over time, it has become an international normative standard with binding character as part nf the law of nations. In other words, it has acquired the force of customary international law.[60] The "right to a nationality" under the UDHR must be interpreted as being subject to the conditions imposed by domestic law, given the broad scope of the declaration, i.e., it covers "everyone." A contrary interpretation would effectively amount to an unqualified adoption of the jus soli principle, which would be repugnant to our constitutional structure. Such interpretation would, in fact, be contrary to the intent of the UDHR itself. The correlative state obligation under the UDHR is for a state not to withdraw or withhold the benefits of citizenship from whole sections of the population who can demonstrate a genuine and ef[ective link with the country.[61] It does not purport to indiscriminately grant citizenship to any person. Taking into consideration the historical context of the UDHR,[62] it may be said that the right, really, is one against statelessness; and the obligation is a negative duty not to create or perpetuate statelessness.[63] It proscribes an arbitrary deprivation of citizenship and an unreasonable discrimination in the operation of naturalization lawagainst stateless persons.

Finally, the CRC, ICCPR, and UDHR all refrained from imposing a direct obligation to confer citizenship at birth. This must be understood as a deliberate recognition of sovaeign supremacy over matters relating to citizenship. It bears emphasis that none of the instruments concern themselves with natural-born and naturalized classifications. This is because this distinction finds application only in domestic legal regimes. Ergo, it is one for each sovereign to make.

B

The 1935 Constitution did not explicitly address the citizenship of foundlings. For the COMELEC and private respondents, the silence means exclusion, following the maxim expressio unius est exclusio alterius. They point to the jus sanguinis principle adopted by the Constitution to conclude that a foundling who cannot establish a definite blood relation to a Filipino parent is not natural-born. For Poe and the Solicitor General, the deliberations of the 1934 Constitutional Convention indicate the intention to categorize foundlings as citizens and the textual silence "does not indicate any discriminatory animus against them." They argue that the Constitution does not preclude the possibility that the parents of a foundling are in fact Filipinos.

In interpreting the silence of the Constitution, the best guide is none other than the Constitution itself.[64] As

Prof. Laurence Tribe suggests, giving meaning to constitutional silence involves the twin tasks of articulating the relevant constitutional norms that determine how the silence ought to be interpreted and propounding principles of statutory construction consistent with these norms.[65] There is no question that since 1935, the Philippines has adhered to the jus sanguinis principle as the primary basis for determining citizenship. Under the 1935 Constitution, a child follows the citizenship of the parents regardless of the place of birth, although there was a caveat that if only the mother is Filipino, the child has to elect Philippine citizenship by age of majority. Determining a person's parentage, of course, requires a determination of facts in an appropriate proceeding. Consequently, to arrive at a correct judgment, the fuw lamental principles of due process and equal protection[66] demand that the parties be allowed to adduce evidence in support of their contentions, and for the decision-maker to make a ruling based on the applicable quantum of evidence.

1

The appropriate due pn)cess standards that apply to the COMELEC, as a quasi-judicial tribunal, anthose outlined in the seminal case of Ang Tibay v. Court of Industrial Relations.[67] Commonly referred to as the "cardinal primary rights" in administrative proceedings, these include: (1) the right to a hearing, which mcludes the right of the party interested or affected to present his own case and submit evidence in support thereat; (2) not only must the party be given an opportunity to present his case and to adduce evidence tending to establish the rights which he asserts, but the tribunal must consider the evidence presented; (3) while the duty to deliberate does not impose the obligation to decide right, it does imply a necessity which cannot be disn garded, namely, that of having something to support its decision; (4) not only must there be some evidence to support a finding or conclusion, but the evidence must be "substantial;" (5) the decision must be rendered on the evidence presented at the hearing, or at least contained in the record and disclosed to the parties affected; (6) the tribunal must act on its or his own independent consideration of the law and facts of the controversy; and (7) the tribunal should render its decision in such a manner that the parties to the proceeding can know the various issues involved, and the reasons for the decision rendered.[68] The COMELEC failed to comply with the third and fourth requirements when it first, decided the question of foundlings on a pure question of law, i.e., whether foundlings are natural-born, without making a determination based on the evidence on record and admissions of the parties of the probability or improbability that Poe was born of Filipino parents; and second, by concluding that Poe can only prove her parentage through DNA or other definitive evidence, set a higher evidentiary hurdle than mere substantial evidence.

The COMELEC's starting position is that foundlings are not natural- born citizens[69] unless they prove by DNA or some other definitive evidence[70] that either of their biological parents are Filipino citizens. Thus, it limited its inquiry to the question of whether the 1935 Constitution considered foundlings as natur d-born citizens. In effect, the COMELEC has created a conclusive or irrebuttable presumption against foundlings, i.e., they are not natural-born citizens. This is true notwithstanding the apparently benign but empty opening allowed by the COMELEC. By definition, foundlings are either "deserted or abandoned ... whose parents, guardian or relatives are unknown," or "committed to an orphanage or charitable or similar institution with unknown facts of birth and parentage."[71] Considering these unusual circumstances common to all foundlings, DNA or other definitive evidence would, more often than not, not be available. A presumption disputable only by an impossible, even cruel, condition is, in reality, a conclusive presumption.

In this jurisdiction, conclusive presumptions are looked upon with disfavor on due process grounds. In Dycaico v. Social Security System, the Court struck down a provision in Republic Act No. 8282 or the Social Security Law "because it pn sumes a fact which is not necessarily or universally true. In the United States, this kind of presumption is characterized as an irrebuttabk presumption and statutes creating permanent and irrebutable rresumptions have long been disfavored under the due process clause."[72] The case involved a proviso in the

Social Security Law which disqualified the surviving spouses whose respective marriages to SSS members were contracted after the latter's retirement. The Court found that this created the presumption that marriages contracted after the retirement date of SSS members were sham and therefore entered into for the sole purpose of securing the benefits under the Social Security Law. This conclusive presumption violated the due process clause because it deprived the surviving spouses of the opportunity to disprove the presence of the illicit purpose.

In the earlier case of Government Service Insurance System v. Montesclaros, the Court similarly found as unconstitutional a proviso in Presidential Decree No. 1146 or the Revised Govemment Service Insurance Act of 1977 that prohibits the dependent spouse from receiving survivorship pension if such dependent spc;tise married the pensioner within three years before the pensioner qualified: for the pension. In finding that the proviso violated the due process and equal protection guarantees, the Court stated that "[t]he proviso is unduly oppressive in outrightly denying a dependent spouses claim for survivorship pension if the dependent spouse contracted marriage to the pensioner within the three-year prohibited period," and "[t]here is outright confiscation of benefits due the surviving spouse without giving the surviving spouse an opportunity to be heard."[73]

The same considerations obtain here. The COMELEC's approach presumes a fact which is not necessarily or universally true. Although the possibility that the parents of a foundling are foreigners can never be discounted, this is not always the case. It appears that because of its inordinate focus on trying to interpret the Constitution, the COMELEC disregarded the incontrovertible fact that Poe, like any other human being, has biological parents. Logic tells us that there are four possibilities with respect to the biological parentage of Poe: (1) both her parents are Filipinos; (2) her father is a Filipino and her mother is a foreigner; (3) her mother is a Filipino and her father is a fordgner; and (4) both her parents are foreigners. In three of the four possibilities, Poe would be considered as a natural-hom citizen.[74] In fact, data from the Philippine Statistics Authority (PSA) suggest that, in 1968, there was a 99.86% statistical probability that her parents were Filipinos.[75] That Poe's parents are unknown does not automatically discount the possibility that either her father or mother is a citizen of the Philippines. Indeed, the verba legis interpretation of the constitutional provision on citizenship as applied to foundlings is that they may be born of a Filipino father or mother. There is no presumption for or against them. The COMELEC's duty under a Section 78 petition questioning a candidate's citizenship qualification is to determine the probability that her father or mother is a Filipino citizen using substantial evidence. And there lies the second fault of the COMELEC: regardless of who had the burden of proof, by requiring DNA or other definitive evidence, it imposed a quantum of evidence higher than substantial evidence.

In proceedings before the COMELEC, the evidentiary bar against which the evidence presented is measured is substantial evidence, which is defined as such relevant evidt nce as a reasonable mind might accept as adequate to support a conclusion.[76] This is the least demanding in the hierarchy of evidence, as compared to the highest, proof beyond reasonable doubt applicable to criminal cases, and the intermediate, preponderance of evidence applicable to civil cases.[77] When the COMELEC insisted that Poe must present DNA or other definitive evidence, it effectively subjected her to a higher standard of proof, that of absolute certainty. This is even higher than proof beyond reasonable doubt, which requires only moral certainty; in criminal cases, neither DNA evidence[78] nor direct evidence[79] are always necessary to sustain a conviction. The COMELEC's primary justification is the literal meaning of jus sanguinis, i.e., right of blood. This, however, is an erroneous understanding because jus sanguinis is a principle of nationality law, not a rule of evidence. Neither is it to be understood in a scientific sense. Certainly, the 1935 Constitution could not have intended that citizenship must be proved by DNA evidence for the simple reason that DNA profiling was not introduced until 1985.

Since the COMELEC created a presumption against Poe that she was not a natural-born citizen and then set an unreasonably high burden to overcome such presumption, it unduly deprived her of citizenship, which has been

described as "the right to have rights,"[80] from which the enjoyment of all other rights emanates. The Commission on Human Rights (CHR), in its amicus submission, accurately described the bundle of rights that flow from the possession of citizenship: "[it is] oftentimes the precursor to other human rights, such as the freedom of movement, right to work, right to vote and be voted for, access to civil service, right to education, right to social security, freedom from discrimination, and recognition as a person before the law."[81]

The purpose of evidence is to ascertain the truth respecting a matter of fact.[82] Evidence is relevant when it induces belief in the existence or non- existence of a fact in issue or fends in any reasonable degree to establish its probability or improbability.[83] It is a fundamental requirement in our legal system that questions of fact must be resolved according to the proof.[84] Under the due process clause, as expounded in Ang Tibay, the COMELEC was duty-bound to consider all relevant evidence before arriving at a conclusion. In the proceedings before the COMELEC, Poe presented evidence that she is 5 feet 2 inches tall, has brown eyes, low nasal bridge, black hair and an oval-shaped face, and that she was found abandoned in the Parish Church of Jaro, Iloilo. There are also admissions by the parties that she was abandoned as an infant, that the population of Iloilo in 1968 was Filipino, and that there were no international airports in Iloilo at that time. Poe's physical features, which are consistent with those of an ordinary Filipino, together with the circumstances of when and where she was found are all relevant evidence tending to establish the probability that her parents are Filipinos. Thus, the COMELEC gravely abused its discretion when it failed or refused to consider these. On the other hand, the private respondents presented absolutely no evidence before the COMELEC that would tend to establish the improbability that both of Poe's parents are Filipino citizens, and instead chose to rely solely on the undisputed fact that Poe is a foundling. The COMFLEC's stance that "the probability that [Poe] might be born of a Filipino parent is not sufficient to prove her case"[85] is a blatant misunderstanding of the purpose of evidence. Tribunals, whether judicial or quasi-judicial, do not deal in absolutes, which is why we lay down rules of evidence. The determination of facts in legal proceedings is but a weighing of probabilities.[86] "[A judge] must reason according to probabilities, drawing an inference that the main fact in issue existed from collateral facts not directly proving, but strongly tending to prove, its existence. The vital question in such cases is the cogency of the proof afforded by the secondary facts. How likely, according to experience, is the existence of the primary fact if certain secondary facts exist?"[87] This is different from a mere "possibility" that is borne out of pure conjecture without proof.

To my mind, the foregoing evidence, admissions on record, data from the PSA, which we may take judicial notice of,[88] showing that 99.55% of the population of Iloilo province 111 1970 were Filipinos[89] and that 99.82% of children born in the Philippines in 1968 are natural-born Filipinos,[90] and absence of contrary evidence adequately support the conclusion that Poe's parents are Filipinos and, consl quently, that she is a natural-born citizen. If circumstantial evidence is suflicient to establish proof beyond reasonable doubt,[91] then it should also be sufficient to hurdle the lower threshold of substantial evidence, particuldrly in the present case where there are a number of circumstances in favor of Poe.

2

The COMELEC's unwarranted presumption against Poe, and foundlings in general, likewise violates the equal protection clause. In Dycaico, the Court ruled that the proviso in the Social Security Law disqualifying spouses who contracted marriage after the SSS members' retirement were unduly discriminated against, and found that the "nexus of the classification to the policy objective is vague and flimsy."[92] In Montesclaros, the Court considered as "discriminatory and arbitrary" the questioned proviso of the GSIS Act that created a category for spouses who contracted marriage to GSIS members within three years before they qualified for the pension.[93]

The COMELEC's de facto conclusive presumption that foundlings are not natural-born suffers fronT the same vice. In placing foundlings at a disadvantaged evidentiary position at the start of the hearing then imposing a

higher quantum of evidence upon them, the COMELEC effectively created two classes of children: (1) those who know their biological parents; and (2) those whose biological parents are unknown. As the COMELEC would have it, those belonging to the first class face no presumption that they are not natural-born and, if their citizenship is challenged, they may prove their citizenship by substantial evidence. On the other hand, those belonging to the second class, such as Poe, are presumed not natural-born at the outset and must prove their citizenship with near absolute certainty. To illustrate how the two classes are treated differently, in Tecson,[94] which involved Poe's adoptive father, the COMELEC did not make a presumption that Fernando Poe was not a natural-born citizen. Instead, it considered the evidence presented by both parties and ruled that the petition before it failed to prove by substantial evidence that Fernando Poe was not natural-born. On certiorari, the Court sustained the COMELEC. In this case, the COMELEC presumed that Poe was not natural-born and failed or refused to consider relevant pieces of evidence presented by Poe. Evidently, the COMELEC's only justification for the different treatment is that Fernando Poe knew his biological parents, while herein petitioner does not.

I find the COMELEC's classification objectionable on equal protection grounds because, in the first place, it is not warranted by the text of the Constitution. The maxim expressio unius est exclusio alterius is just one of the various rules of interpretation that courts use to construe the Constitution; it is not the be-all and end-all of constitutional interpretation. We have already held that this maxim should not be applied if it would result in incongruities and in a violation of the equal protection guarantee.[95] The more appropriate interprei ive rule to apply is the doctrine of necessary implication, which holds that

> No statute can be enacted that can provide all the details involved in its application. There is always an omission that may not meet a particular situation. What is thought, at the time of enactment, to be an all-embracing legislation may be inadequate to Provide for the unfolding events of the future. So-called gaps in the law develop as the law is enforced. One of the rules of statutory construction used to fill in the gap is the doctrine of necessary implication. The doctrine states that what is implied in a statute is as much a part thereof as that which is expressed.[96]

When the 1935 Constitution referred to "those whose fathers [or mothers] are citizens of the Philippines," it necessarily included foundlings whose fathers or mothers are Filipino citizens. As previously discussed, the parentage of foundlings may be proved by substantial evidence. Conversely, foundlings whose parents are both foreigners are excluded from the constitutional provision. This would be the case if in an appropriate proceeding there is deficient relevant evidence to adequately establish that either of the parents is a Filipino citizen.

Another useful interpretive rule in cases with equal protection implications is the one embodied in Article 10 of the Civil Code: "In case of doubt in the interpretation or application of laws, it is presumed that the lawmaking body intended right and justice to prevail." "When the statute is silent or ambiguous, this is one of those fundamental solutions that would respond to the vehement urge of conscience."[97] Indeed, it would be most unkind to the delegates of the 1934 Constitutional Convention to ascribe upon them any discriminatory animus against foundlings in the absence of any positive showing of such intent. It is conceded that the exact reason why the Convention voted down Sr. Rafols' proposal to explicitly include "children of unknown parents" may never fully be settled. Srs. Montinola, Bulson, and Roxas all had their respective views on why the amendment was not necessary.[98] The parties herein have diametrically opposed interpretations on the proposal: the respondents argue that the fact that the amendment is defeated should be conclusive—after all, not all delegates expressed their views—and that the deliberations were not submitted to the people for ratification; Poe contends that the deliberations reveal that rules of international law already considers foundlings as citizens of the place where they are found, thus making the inclusion unnecessary; and finally, the Solicitor General maintains that the silence may be fully explained in tenns of linguistic efficiency and the avoidance of redundancy. These are all valid points, but I believe the only thing we can unquestionably take away from the deliberations is that there was at least no intent

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to consider foundlings as stateless, and consequently deprive them of the concomitant civil and political rights associated with citizenship.

My second objection is that—as the Solicitor General points out—foundlings are a "discrete and insular"[99] minority who are entitled to utmost protection against unreasonable discrimination applying the strict scrutiny standard. According to this standard, government action that impermissibly interferes with the exercise of a "fundamental right" or operates to the peculiar class disadvantage of a "suspect class" is presumed unconstitutional. The burden is on the government to prove that the classification is necessary to achieve a compelling state interest and that it is the least restrictive means ro protect such interest.[100] The underlying rationale for the heightened judicial scrutiny is that the political processes ordinarily relied upon to protect minorities may have broken down.[101] Thus, one aspect of the judiciary's role under the equal protection clause is to protect discrete and insular minorities from majoritarian prejudice or indifference.[102]

The fundamental right warranting the application of the strict scrutiny standard is the right to a nal ionality embodied in the UDHR-properly understood in the context of preventing statelessness and arbitrary denial of citizenship. Citizenship has been described as "man's basic right for it is nothing less than the right to have rights," and the effects of its loss justly have been called "more serious than a taking of one's property, or the imposition of a fine or other penalty."[103] It is the individual's "legal bond [with the state] having as its basis a social fact of attachment, a genuine connection of existence, interests and sentiments, together with the existence of reciprocal rights and duties."[104] Although the COMELEC primarily argues that Poe is not natural-born, its rigid exclusionary approach,[105] taken to its logical conclusion, would actually have deprived Poe of her Filipino citizenship-natural-born or otherwise. This is an infringement of a fundamental right that threatens to deprive foundlings not only of their civil and political rights under domestic law but also deny them of the state's protection on an international level.

Foundlings also comprise a suspect class under the strict scrutiny analysis. The traditional indicia of "suspectness" are (1) if the class possesses an "immutable characteristic determined solely by the accident ofbirth,"[106] or (2) when the class is "saddled with such disabilities, or subjected to such a history of purposeful unequal treatment, or relegated to such a position of political powerlessness as to command extraordinary protection from the majoritarian political process."[107] Thus, in the US, suspect classes for equal protection purposes include classifications based on race, religion, alienage, national origin, and ancestry.[108] In the Philippines, the Comt has extended the scope to include distinctions based on economic class and status,[109] and period of employment contract.[110] Here, the COMELEC's classification is based solely' on the happenstance that foundlings were abandoned by their biological parents at birth and who, as a class, possess practically no political power.[111] The classification is therefore suspect and odious to a nation committed to a regime of equality.[112]

Applying the strict scrutiny standard, the COMELEC failed to identify a compelling state interest to justify the suspect classification and infringement of the foundling' fundamental right.[113] Indeed, the Solicitor General, appearing as Tribune of the People,[114] disagrees with the COMELEC's position. When the Solicitor General acts as the People's Tribune, it is incumbent upon ltim to present to the court what he considers would legally uphold the best interest of the government although it may run counter to the position of lhe affected government office.[115] In such instances, the Court has cousidered his opinion and recommendations "invaluable aid[s] in the disposition of the case."[116] His opinion that there is no compelling state interest to justify discrimination against foundlings, while in no way conclusive upon the Court, must be afforded weight.

It may nonetheless be deduced that the interest sought to be protected by the COMELEC is the same as the concern of John Jay, the future first US Chief Justice, when he suggested to George Washington that it would be wise "to provide a ... strong check into the admission of Foreigners into the administration of our national

Government; and to declare expressly that the Command in chief of the american (sic) army shall not be given to, nor devolve on, any but a natural born Citizen."[117] The rationale behind requiring that only natural-born citizens may hold certain high public offices is to insure that the holders or these high public offices grew up knowing they were at birth citizens of the Philippines. It flows from the presumption that, in their formative years, they knew they owed from birth their allegiance to the Philippines and that in case any other country claims their allegiance, they would be faithful and loyal to the Philippines. This is particularly true to the President who is the commander-in-chief of the armed forces.[118] To be sure, this interest is compelling because the Constitution itself demands it. Nonetheless, it can only be used where the issue involves the bright-line between natural-born and naturalized citizens. It cannot be used as justification in a case where no clear constitutional line has been drawn, i.e., betwevn foundlings and persons who know their parents. It finds no application in this case where there was absolutely no evidence, not even an allegation, that Poe's parents were foreign nationals. I simply find the risk that a Matichurian candidate[119] was planted by a foreign sovereign in the form of a foundling too remote to justifY an en masse discrimination against all foundlings. If the underlying premise for the natural-born requirement is that natural-born citizens consider themselves as Filipino citizens since birth, then foundlings surely fit into this category as well.

In any case, the COMELEC failed to adopt the least restrictive means to protect such interest.[120] By imposing heavy burden upon Poe just because she was abandoned as an infant with unknown facts of birth and parentage, the COMELEC haphazardly acted without regard to the far-reaching consequences to a discrete and insular minority. Needless to say, a more narrowly tailored approach would avoid making a sweeping presumption. The COMELEC's fixation with a scientific application of the jus sanguinis principle, as opposed to a legal one guided by rules of evidence, led to its discriminatory interpretation of the Constitution. It acted with "an evil eye and unequal hand,"[121] denying foundlings equal justice guaranteed by the same fundamental law. This is grave abuse of discretion.

C

The COMELEC and private respondent Amado Valdez both argue that even assuming that Poe was a natural-born citizen, she forever lost such status when she became a naturalized American in 2001. Her repatriation in 2006 only restored her Filipino citizenship, but not her natural-born status. They cite as legal basis the Constitutional definition of natural-born citizens, i.e., those who are citizens from birth without having to perform any act to acquire or perfect their Philippine citizenship.[122] Poe and the Solicitor General refute this by invoking the Court's ruling in Bengson III v. HRET,[123] where it was held that the act of repatriation allows a former natural-born citizen to recover, or return to, his original status before he lost his Philippine citizenship.

The COMELEC and Valdez, without stating it directly, are asking for a reexamination of Bengson. Valdez, on the one hand, frames his argument by differentiating RA 9225 from Republic Act No. 2630 (RA 2630), the old repatriation law in effect at the time Bengson was decided. He argues that RA 9225 had a more tedious process than RA 2630. On the other hand, the COMELEC points to the text of RA 9225 noting that it only mentioned reacquisition of citizenship, not reacquisition of natural-born status. These are, of course, thin attempts to differentiate this case from Bengson. But the problem is that they never diredly question the legal soundness of Bengson. And, to me, this half-hearted challenge is insufficient justification to depmi from stare decisis.

Time and again, the Court has held that it is a very desirable and necessary judicial practice that when a court has 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 in which the facts are substantially the same. Absent any powerful countervailing considerations, like cases ought to be decided alike.[124] The reason why we adhere to judicial precedents is not only for certainty and predictability in our legal order but equally to have an institutional safeguard for the judicial branch.

As articulated by the US Supreme Court in Planned Parenthood v. Casey,

> There is a limit to the amount of error that can plausibly be imputed to prior Courts. If that limit should be exceeded, disturbance of prior rulings would be taken as evidence that justifiable reexamination of principle had given way to drives for particular results in the short term. The legitimacy of the Comt would fade with the frequency of its vacillation.[125]

In the Philippines, using as reference the cited US case, we have adopted a four-point test to justify deviation from precedent, which include the determination of: (1) whether the older doctrine retained the requirements of "practical workability;" (2) whether the older doctrine had attracted the kind of reliance that would add a special hardship to the consequences of overruling it and "add inequity to the cost of repudiation;" (3) whether the related principles of law have developed in a different direction so as to render the older rule "no more than the remnant of an abandoned doctrine;" and, (4) whether the contextual facts of the older doctrine have so changed as to deprive the old rule of "significant application or justification."[126] Thus, before we could venture into a full-blown reexamination of Bengson, it was necessary for respondents to have shown, at the first instance, that their case hurdled the foregoing test.

III

It is well settled in election law that residence is synonymous with domicile.[127] Domicile denotes a fixed permanent residence where, when absent for business or pleasure, or for like reasons, one intends to return.[128] To establish domicile, three elements must concur: (1) residence or bodily presence in the new locality; (2) an intention to remain there (animus manendi); and (3) an intention to abandon the old domicile (animus non revertendi).[129]

There is no question that Poe has complied with the first requirement. She has been residing in the Philippines together with her children since May 24, 2005, save for brief travels abroad. The point of contention between the parties is whether Poe satistied the concurrent requisites of animus manendi et non revertendi. In the proceedings before the COMELEC, Poe presented evidence that: she and her husband enrolled their US-based children in Philippine schools in June 2005; they purchased a condominium in the second half 2005 which was intended to be used as the family abode; they made inquiries with property movers as early as March 2005 and actually relocated household goods, furniture, cars, and other personal properties to the Philippines during the first half of 2006; she secured a Tax Identification Number from the Bureau of Internal Revenue in July 2005; her husband notified the US Postal Service that they will no longer be using their former US address in March 2006; they sold their family home in the US in April 2006; her husband resigned from his work in the US to join the family in May 2006; and her application for reacquisition of Filipino citizenship and her application for derivative citizenship of her minor children, which were subsequently approved on July 18, 2006. The COMELEC, however, relied on the declaration in her 2013 COC for Senator, where she stated that she was a resident for 6 years and 6 months, which would peg her residency in November 2006. Even if the previous COC was not controlling, the COMELEC determined that the earliest Poe could have established domicile here was when the BI approved her application to reacquire her Filipino citizenship on July 18, 2006. It emphasized that when Poe enlered the Philippines in May 2005, she did so as a foreign national availing of a balikbayan visa-free entrty privilege valid for one year. In other words, she was a temporary visitor. Citing Coquilla v. COMELEC,[130] the COMELEC ruled that Poe should have either secured an Immigrant Certificate of Residence or reacquired Filipino citizenship to be able to waive her non-resident status.

Unlike residence which. may be proved by mere physical presence, animus manendi et non revertendi refers to a state of mind. Thus, there is no hard and fast rule to determine a candidate's compliance with the residency requirement.[131] Its determination is essentially dependent on evidence of contemporary and subsequent acts

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that would tend to establish the fact of intention. Although the apprer iation of evidence is made on a case-to-case basis, there are three basic postulates to consider: first, that a man must have a residence or domicile somewhere; second, that where once established it remains until a new one is arquired; and third, a man can have but one domicile at a time.[132] In addition, the Court has devised reasonable standards to guide tribunals in evaluating the evidence.

In Mitra v. COMELEC,[133] the Court recognized that the establishment of domicile may be incremental. The Court considered the following "incremental moves" undertaken by Mitra as sufficient to establish his domicile: (1) his expressed inknt to transfer to a residence outside of Puerto Princesa City to make him eligible for a provincial position; (2) his preparatory moves; (3) the transfer of registration as a voter; (4) his initial transfer through a leased dwelling; (5) the purchase of a lot for his permanent home; and (6) the cunstruction of a house on the said lot which is adjacent to the premises he was leasing pending the completion of his house.

In Fernandez v. HRET,[134] the Court held that the transfer of domicile must be bona fide. In ruling in favor of the petitioner whose residency was challenged in a quo warranto proceeding, the Court found that there are real and substantial seasons for Fernandez to establish a new domicile in Sta. Rosa, Laguna for purposes of qualifying for the May 2007 elections. The ruling was based on a finding that: (a) Fernandez and his wife owned and operated businesses in Sta. Hosa since 2003; (b) their children attended schools in Sta. Rosa at least since 2005; (c) although ownership of property should never be considered a requirement for any candidacy, Fernandez purchased residential properties in that city even prior to the May 2007 election; and (d) Fernandez and his spouse subsequently purchased another lot in April 2007, about a month before election day, where they have constructed a home for their family's use as a residence.

In Japzon v. COMELEC,[135] also involving residency, the Court ruled that residence is independent of citizenship. The Court found that although respondent Ty did not automatically reestablish domicile in the Philippines upon reacquisition of citizenship under RA 9225, his subsequent acts proved his intent to establish new domicile in the Philippines. The Court based its finding on the following circumstances: (a) he applied for a Philippine passport indicating in his application that his residence in the Philippines was in General Macarthur, Eastern Samar; (b) for the years 2006 and 2007, Ty voluntarily submitted himself to the local tax jurisdiction of General Macarthur by paying community tax and securing CTCs from the said municipality stating therein his local address; (c) thereafter, Ty applied for and was registered as a voter in the same municipality; and (d) Ty had also been bodily present in General Macarthur except for short trips abroad.

In Romualdez-Marcos v. COMELEC,[136] one of the issues presented was an apparent mistake with regard to the period of residency stated in the COC of Imelda Marcos, which would have made her ineligible. In finding that Marcos was eligible, the Court held that "[i]t is the fact of residence, not a statement in a certificatof candidacy which ought to be decisive in determining whether or not an individual has satisfied the [C]onstitution's residency qualification requirement."[137]

Guided by the foregoing, it is clear to me that Poe has adequately established her animus manendi et non revertendi by substantial evidence. There are real and substantial. reasons for her establishment of domicile in the Philippines. Her father died on December 2004, which Poe claims, was crucial in her decision to resdtle in the Philippines for good. She and her family then began the incremental process of relocating by making preparatory inquiries with property movers as early as March 2005. She then entered the Philippines in May 2005 and enrolled her children in Philippine schools for the academic year starting in June 2005. It cannot be overemphasized that it defies logic that one would uproot her children from US schools and transfer them to schools in a different country if the intent was only to stay here temporarily. The intent to stay in the Philippines permanently is further reinforced by the purchase of real property to serve as the family abode and relocation of

household goods, furniture, cars, and other personal properties from the US. The sale of their family residence in the US and her husband's arrival in the Philippines to join the family all but confirmed her abandonment of her US domicile and a definitive intent to remain in the Philippines. Poe has also been physically present in the Philippines since May 2005, and the fact that she returned after short trips abroad is strongly indicative that she considers the Philippines as her domicile. Her subsequent ace of acquiring Filipino citizenship for herself and her minor children, renouncing her US citizenship, and holding public office are all consistent with the intent formed as early as 2005. Although these acts are subsequent to May 2005, they are relevant because they tend to prove a specific intent formed at an earlier time.[138] Taken together, these facts trump an innocuous statement in her 2013 COC.

The facts that Poe did not renounce her US citizenship until 2010 and used her US passport between 2006 and 2010 do not affect her establishment of domicile in the Philippines. The circumstance that Poe, after leaving the US and fixing her residence in the Philippines, may have had what is called a "floating intention" to return to her former domicile upon some indefinite occasion, does not give her the right to claim such former domicile as her residence. It is her establishment of domicile in the Philippines with the intention of remaining here for an indefinite time that severed the respondent's domiciliary relatinn with her former home.[139] This is consistent with the basic rule that she couid have only one domicile at a time.

I now discuss the effect of the fact that Poe entered the country in May 2005 as an American cil izen under the balikbayan visa-free program. There is no dispute among the parties that citizenship and residence are distinct concepts. A foreign national can establish domicile here without undergoing naturalization. Where there is disagreement is whether Poe could have established her domicile in the Philippines in May 2005 considering that her entry was through the balikbayan program, which is valid for one year. Respondents, on the ont· hand, believe it was not possible because of the temporary nature of her sLty. For them, Poe should have first secured an Immigrant Certificate of Residence or repatriated earlier than July 2006. On the other hand, Poe contends that to require either would be to add a fourth requisite to the establishment Hf domicile.

In principle, I agree with the COMELEC's proposition that "a foreigner's capacity to establish her domicile in the Philippines is ... limited by and subject to regulations and prior authorization by the BID."[140] This appears to be based on rulings of US federal courts, which distinguish "lawful" from "unlawful" domicile.[141] The requisites for domicile remain the same, i.e., physical pn sence, animus manendi, and animus non revertendi. But "[i]n order to have a 'lawful domicile,' then, an alien must have the ability, under the immigration laws, to form the intent to remain in the [country] indefinitely.[142] The basis for this is the sovereign's inherent power to regulate the entry of immigrants seeking to establish domicile within its territory. It is not an additional requisite for the establishment of domicile; rather, it is a precondition that capacitates a foreigner to lawfully establish domicile. This is tht· import of the statement in Coquilla that "an alien [is] without any right to reside in the Philippines save as our immigration laws may have allowed him to stay."[143]

The point of inquiry, therefore, is if, under our immigration laws, Poe has the ability to form the intent to establish domicile. In resolving this issue, the analysis in the US case Elkins v. Moreno[144] is instructive. In Elkins, the US Supreme Court resolvt·d the question of whether a holder of a "G-4 visa" (a nonimmigrant visa gr:mted to officers or employees of international treaty organizations and members of their immediate families) cannot acquire Maryland domicile because such a visa holder is incapable of demonstrating an essential element of domicile-the intent to live permanently or indefinitely in Maryland (a "legal disability"). In resolving the issue, the US Court analyzed federal immigration laws and found that where the US Congress intended to restrict a nonimmigrant's capacity to establish domicile, it did so expressly. Since there was no similar restriction imposed on G-4 aliens, the US Court considered the legislature's silence as pregnant, and concluded that the US Congress,

while anticipating that permanent immigration would normally occur through immigrant channels, was willing to allow non-restricted nonimmigrant aliens to adopt the US as their domicile.[145]

In the Philippines, the· primary immigration law is Commonwealth Act No. 613 (CA 613) or the Philippine Immigration Act of 1940. In defining certain nonimmigrant classes, Congress explicitly limited the purpose tor entry into the Philippines. For example, a nonimmigrant student's entry is "solely for the purpose of study."[146] In other instances, it uses language that identifies ;t specific purpose and the transient nature of the nonimmigrant's entry.[147] Hy including such restrictions on intent, it may be deduced that Congress :limed to exclude aliens belonging to these restricted classes if their real purpose in coming to the Philippines was to immigrate permanently. This. is further supported by Section 37(d) of the Act which provides as ground for deportation the nonimmigrant's violation of any limitation or condition tmder which he was admitted.

But Congress made no such clear restrictions in Republic Act No. 9174 (RA 9174), which amended Republic Act No. 6768 (RA 6768).[148] The law allows balikbayans who hold foreign passports to enter the Philippines visa-free for a period of one year, except for those considered as restricted nationals.[149] It defines a balikbayan as "a Filipino citizen who has been continuously out of the Philippines for a period of at least one (1) year, a Filipino overseas worker, or former Filipino citizen and his or her family, as this term is defined hereunder, who had been naturalized in a foreign country and comes or returns to the Philippines."[150] Unlike the restricted classes of nonimmigrants under the Immigration Act, there was no definite restriction on intent or purpose imposed upon balikbayans, although there was a temporal restriction on the validity of the visa-free entry. Taken alone, the one-year limit may be interprded as an implied limitation. However, RA 9174 expressly declared that one of the purposes of establishing a balikbayan program is to "to enable the balikbayan to become economically self-reliant members of society upon their return to the country."[151] To this end, the law instructs government agencies to "provide the necessary entrepreneurial training and livelihood skills programs and marketing assistance to a balikbayan, including his or her immediate family members, who shall avail of the kabuhuvan program in accordance with the existing rules on the government's reintegration program."[152] This is a clear acknowledgement by Congress that it is possible for a balikbayan to form the intent needed to establish his domicile in the Philippines. Notably, there are no qualifications, such as acquisition of pennanent resident status or reacquisition of Filipino citizenship, before a balikbayan may avail of the kabuhayan program. Applying the well-established interpretive rule that a statute must be so construed as to harmonize and give effect to all its provisions whenever possible,[153] the one-year visa-free entry does not create a legal disability which would prevent balikbayans from developing animus manendi.

The amendments introduced by RA 9174 to RA 6768 differentiate the present case from Coquilla. In that case, decided prior to the enactment of RA 9174, the Court concluded that a visa-free balikbayan visitor could not have established domicile in the Philippines prior to a waiver of his non-resident status. This is because under RA 6768, the only declared purpose was "to attract and encourage overseas Filipinos to come and visit their motherland." Coupled with thtone-year visa-free limit, this most likely led to the Court's interpretation that a balikbayan's entry was merely temporary. However, with the amendmeuts introducing the reintegration provisions, a balikbayan is no longer precluded from developing an intent to stay permanently in the Philippines. Therefore, Poe, who entered the Philippines after the effectivity of RA 9174, had the ability to establish a lawful domicile in the Philippines even prior to her reacquisition of Filipino citizenship.

For the foregoing reasons, I vote to GRANT the petitions.

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[1] CONSTITUTION, Art. VII, Sec. 2. No person may be elected President unless he is a natural-born citizen of the Philippines, a registered yoter, able to read and write, at least forty years of age on the day of the election, and

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a resident of the Philippines for at least ten years immediately preceding such election.

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

[3] OMNIBUS ELECTION CODE, Sec. 74 par. l. Contents of certificate of candidacy. - The certificate of candidacy shall state that the person filin it is announcing his candidacy for the office stated therein and that he is eligible for said office; if for Member of the Batasang Pambansa, the province, including its component cities, highly urbanized city m district or sector which he seeks to represent; the political party to which he belongs; civil status; his date of birth; residence; his post office address for all election purposes; his profession or occupation; that he will support and defend the Constitution of the Philippines and will maintain true faith and allegiant, thereto; that he will obey the laws, legal orders, and decrees promulgated by the duly constituted authorities; that he is not a pennanent resident or immigrant to a foreign country; that the obligation imposnl by his oath is assumed voluntarily, without mental reservation or purpose of evasion; and that the facts-stated in the certificate of candidacy are true to the best of his knowledge.

[4] Salcedo II v. COMELEC, G.R. No. 135886, August 16, 1999, 312 SCRA 447, 458; Ugdoracion, Jr. v. COMELEC, G.R. No. 179851, April 18, 2008, 552 SCRA 231, 239; Lluz v. COMELEC, G.R. No. 172840, June 7, 2007, 523 SCRA 456, 471; Tala, v. COMELEC, G.R. Nos. 196804 & 197015, October 9, 2012, 683 SCRA 197, 234.

[5] Tagolino v. House of Representatives Elcdoral Tribunal, G.R. No. 202202, March 19, 2013, 693 SCRA 574, 596; Gonzalez v. COMELEC, (G.R. No. 192856, March 8, 2011, 644 SCRA 761, 781; Salcedo II v. COMELEC, supra at 457-459.

[6] Supra at 459.

[7] Supra at 592.

[8] Fermin v. COMELEC, G.R. Nos. 179695 & 182369, December 18, 2008, 574 SCRA 782, 792-794.

[9] This can also be traced to Salcedo, supra at 458: "the material misrepresentation contemplated by section 78 of the Code refer to qualifications for elective office." Yet, Salcedo left open the possibility that a candidate's stated name in the COC may fall within the coverage of Section 78, supra at 459: "The use of a surname, when not intended to mislead of deceive the public as to one's identity, is not within the scope of the provision." (Emphasis added)

[10] Ejercito v. COMELEC, G.R. No. 212398, November 25, 2014, 742 SCRA 210, 299; Yu v. Samson-Tatad, G.R. No. 170979, February 9, 2011, 642 SCRA 421, 428; People v. Sandiganbayan, G.R. No. 164185, July 23, 2008, 559 SCRA 449, 459).

[11] The form of the COC prescribed by the COMELEC contains items not enumerated in Section 74, such as "nickname or stage name," "name to appear in the ballot," and "gender." It is with respect to these items that a distinction between material and nonmaterial is proper.

[12] Codoy v. Calugay, G.R. No. 123486, August 12, 1999, 31 SCRA 333, 342; Gonzales v. Chavez, G.R. No. 97351, Pebruary 4, 1992, 205 SCRA 816, 837; Lacson v. San Jose-Lacson, G.R. Nos. L-23482, L-23767 &

L-24259, August 30, 1968, 24 SCRA 837, 848.

[13] OMNIBUS ELECTION CODE, Sec. 73 par. (I). Certificate of candidacy. - No person shall be eligible for any elective public office unless he files a sworn certificate of candidacy within the period fixed herein. (Emphasis added)

[14] The statement of the Jaw in Fermin v. COMELEC, supra at 792, is thus more accurate:

> [T]he denial of due cowe to or the cancellation of the COC is not based on the lack of qualifications but on a finding that the candidate made a material representation that is false, which may [or may not] relate to the qualifications required of the public office he/she is running for.

[15] "The crime of perjury undisputedly involves moral turpitude." Republic v. Guy, G.R. No. L-41399, July 20, 1982, 115 SCRA 244, 254.

[16] Salcedo II v. COMELEC, supra at 458.

[17] Id at 458-460.

[18] Id. at 458.

[19] CONSTITUTION, Art. VI, Sec. 6.

[20] Tagolino v. House of Representatives Electoral Tribunal, G.R. No. 202202, March 19, 2013, 693 SCRA 574, 592.

[21] G.R. Nos. 161434, 161634, 161824, March 3, 2004, 424 SCRA 277.

[22] G.R. No. 179851, April 18, 2008, 552 SCRA 231.

[23] G.R. No. 193314, June 25, 2013, 699 SCRA 507.

[24] Id. at 516-517.

[25] G.R. No. 207105, November 10, 2015.

[26] G.R. No. 206698, February 25, 2014, 717 SCRA 312.

[27] The foregoing analysis is limited to the interpretation of Section 78 in relation to Section 74. It is not intended to affect the existing doctrine involving the penal provisions of the OEC, specifically Section 262 vis-a-vis Section 74, as enunciated in Lluz r. COMELEC, G.R. No. 172840, June 7, 2007, 523 SCRA 456.

[28] CONSTITUTION, Art. VII, Sec. 4 par. (7).

[29] Vera v. Avelino, G.R. No. L-543, August 11, 1946, 77 Phil. 192, 209.

[30] Tecson v. COMELEC, supra at 325.

[31] Limkaichong v. COMELEC, G.R. Nos. DX831-32, 179120, 179132-33, April, 2009, 583 SCRA I, 33.

[32] Gonzalez v. COMELEC, G.R. No. 192851, March 8, 2011, 644 SCRA 761,790-791.

[33] Veloso v. Board (Canvassers, G.R. No. 15620, July 10, 1919, 39 Phil. 886, 888.

[34] The word "sole" was originally used to liar either House of Congress (and the courts) from interfering with the judgment of the other House (Angara v. Electoral Commission, G.R. No. 45081, July 15, 1936, 63 Phil. 139, 162):

> The original provision regarding this subject in the Act of Congress of July 1, 1902 (sec. 7, par. 5) laying down the rule that "the assembly shall be the judge of the elections, returns, and qualifications of its members", was taken from clause I of section 5, Article I of the Constitution of the United States providing that "Each House shall be the Judge of the Elections, Returns, and Qualifications of its own Members, ..." The Act of Congress of August 29, 1916 (sec. 18, par. 1) modified this provisiun by the insertion of the word "sole" as follows: "That the Senate and House of Representatives, respectively, shall be the sole judges of the elections, returns, and qualifications of their elective members, ... " apparently in order to emphasize the exclusive character of the jurisdiction conferred upon House of the Legislature over the particular cases therein specified.

[35] CONSTITUTION, Art. VI, Sec. 1. See also Occeña v. COMELEC, G.R. No. L-52265, January 28, 1980, 95 SCRA 755.

[36] CONSTITUTION, Art. IX(C), Sec. 2(1).

[37] Gonzalez v. COMELEC, supra at 777; Aznar v. COMELEC, G.R. No. 83820, May 25, 1990, 185 SCRA 703,708.

[38] Fermin v. COMELEC, G.R. Nos. 179695 & 182369, December 18,2008,574 SCRA 782,792.

[39] Jalosjos, Jr. v. COMELEC, G.R. Nos. 193237, 193536, October 9, 2012, 683 SCRA 1, 45 (Brion, J., dissenting) citing Fermin v. COMELEC, supra.

[40] Salcedo II v. COMELEC, G.R. No. 1358gb, August 16, 1999, 312 SCRA 447, 457.

[41] Fermin v. COMELEC, supra at 794.

[42] Loong v. COMELEC, G.R. No. 93986, December 22, 1992, 216 SCRA 760, 768-769.

[43] Tan Chong v. Secretary of Labor, G.R. Nos. 47616 & 47623, September 16, 1947, 79 Phil. 249, 258.

[44] 1935 CONSTITUTION, Art. IV, Sec. I.

[45] CONSTITUTION, Art. IV, Sec. 2.

[47] Bengson III v. HRET, G.R. No. 142840, May 7, 2001,357 SCRA 545 557-558

[48] PAUL WEIS,NATIONALITY AND STATELESSNESS IN INTERNATIONAL LAW, 101 (1979).

[49] Roa v. Collector of Customs, G.R. No. 1011, October 30, 1912, 23 Phil., 315, 320-321, citing US v. Wong Kim Ark, 169 US 649 (1898).

[50] HANS KELSEN, PRINCIPLES OF INTERNATIONAL LAW 374-375 (2[nd] ed. 1979, Tucker rev. ed. 1967); IAN BROWNLIE, PRINCIPLES OF PUBLIC INTERNATIONAL LAW 385 (5[th] ed. 1998).

[51] GERHARD VON GLAHN, LAW AMONG NATIONS: INTRODUCTION TO PUBLIC INTERNATIONAL LAW 177 (1965).

[52] Nottehohm Case (Second Phase) (Liechtenstein v. Guatemala). Judgment, 1955 I.C.J., 4, 23 (April 6).

[53] League of Nations Committee of Experts for the Progressive Codification of International Law, Nationality, 20 AJIL 21, 23 (1926).

[54] Bayan (Bagong Alyansang Makabayan) v. Zamora, G.R. No. 138570, October 10, 2000, 342 SCRA 449, 494-495.

[55] CONSTITUTION, Art. VI, Sec. 21.

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[56] For an incisive analysis on the constitutional status of international law principles as interpreted by the Supreme Court, see MERLIN M. MAGALLONA, TlfE SUPREME COURT AND INTERNATIONAL LAW (2010).

Dean Magallona argues that "... in cases where State sovereignty is at stake, the Court could have been a decisive factor in reshaping it along the contours of integrity of the Filipino nation." Id. at iii. "The heavy burden of judicial interpretation in problents of international law lies in the involvement of the sovereign integrity of the Philippine Republic and in the modality by which the will of the national community finds juridical expression." Id. at 119.

[57] Notably, both the CRC and ICCPR speak of children in general, not just foundlings; they apply to Filipino children, foreign children domicilnl in the Philippines, and foundlings alike. This only highlights that the conventions could not have contemplated an automatic grant of citizenship without imposing the jus soli principle on all state-parties.

[58] See Commonwealth Act No. 473, Sec. 15; Republic Act No. 9225. Sec. 4.

[59] UDHR, Art. 15(1). Everyone has the right to a nationality.

[60] MERLIN M. MAGALLONA, FUNDAMENTALS OF PUBLIC INTERNATIONAL LAW 255-258 (2005).

[61] United Nations High Commissioner for Refugees, THE STATE OF THE WORLD'S REFUGEES: A HUMANITARIAN AGENDA, available at http://www.unhcr.org/3eb7ba7d4.pdf.

[61] Id. The UDHR was precipitated by citizenship issues arising from large-scale population movements and formation of new states after World War I. It is in this context that the "right to a nationality" should be understood. Notable events include the disintegration of the Austro-Hungarian, German, and Ottoman empires leading to the establishment of new states, such as Czechoslovakia, Hungary, and Yugoslavia, the restoration of the former state of Poland, and the simultaneous adjustment of many international borders in the area directly or indirectly affected by the conflict. "Some five million people were moved, ... which evidently required the states concerned and the international community as a whole to address some complex citizenship questions." Then in the 1940s, there was the decolonization and partition of India in 1947 and the subsequent movement of Hindus and Muslims between India and Pakistan; the conflict over Palestine and the creation of Israel in 1948. creating a Palestinian diaspora in the Middle East and beyond; and the Chinese revolution of 1949, which led to the establishment of a communist government on the mainland and a nationalist government on the island of Taiwan.

[63] Commission on Human Rights, Memorandum (As Amicus Curiae Submission), p. 10, citing Reports of Special Rapporteurs and Other Documents Considered During the 48[th] Session, [1996] 2 Y.B. Int'l L. Comm'n 126, UN Doc. A/CN.4/SER.A/1996/Add.1(Part 1).

> The right to a nationality as a human right, is conceivable as a right of an individual vis-a-vis a certain State, deriving, under certain conditions, from international law. As the case may be, it is the right to be granted the nationality of the successor State or not to be deprived the nationality of the predecessor State. The obligation not to create statelessness, however, is a State-to-State erga omnes obligation, conceivable either as a corollary of the above right to a nationality or as an autonomous obligation existing in the sphere of inter-State relations only and having no direct legal consequences in the relationship between States and individuals. (Emphasis added)

[64] Optima statuti interpretatrix est ipsum statufum (The best interpreter of a statute is the statute itself). Serana v. Sandiganbayan, G.R. No. 162059, January 2008, 542 SCRA 224, 245.

[65] Laurence Tribe, Toward a Syntax of the Unsaid: Construing the Sounds of Congressional and Constitutional

Silence, 57 IND. L.J.515, 531 (1982).

[66] CONSTITUTION, Art. III, Sec. 1.

[67] G.R. No. 46496, February 27, 1940, 69 Phil. 635.

[68] Id. at 642-644.

[69] COMELEC En Banc Resolution, SPA Nos. 15-002, 15-007 & 15-139, p. 17:

> The fact that Respondent was a foundling with no known parentage or blood relative effectively excluded her from the coverage of the definition of a natural-born citizen" (at p. 15). "To reiterate, natural-born citizenship is founded on the principle of jus sanguinis. Respondent is a foundling. Her parentage is unknown. There is thus no basis to hold that respondent has blood relationship with a Filipino parent. This Commission therefore cannot rule or presume that Respondent possesses bluod relationship with a Filipino citizen when it is certain that such relationship is indemonstrable.

[70] COMELEC First Division Resolution, SPA Nos. 15-002, 15-007 & 15-139, p. 25:

To be a natural-born citizen of the Philippines, however, Respondent must be able to definitively show her direct blood relationship with a Filipino parent and-consistent with Section 2, Article IV of the 1987 Constitution-demonstrate that no other act was necessary for her to complete or perfect her Filipino citizenship.

TSN, February 9, 2016, pp. 64-65:

J. JARDELEZA: Now, [] when you say that the petitioner has only one type of evidence that can prove her pacentage and that's only DNA[?]

COMM. LIM: Seemingly for now ...

J. JARDELEZA: And what is the meaning of "seemingly for now"?

COMM. LIM: That is what a reasonable mind could possibly approximate, because we have a situation where a child is of unknown biological parents. From the premise that the parents are biologically unknown it cannot admit of proof that parentage exists, identity wise that is otherwise the pan its would be known. So in a situation such as this, Your Honor, it is our respectful submission that some other modality other than the surfacing of the parents, other than evidence of family relations, one plausible evidence would be what Justice Carpio suggested, DNA. And although we did not discuss that in our decisions not being necessary anylllore to a disposition of the issues before us, this humble representation accepts that suggestion to be very sound. Because in all fairness, foundling status need not be attached to a person forever.

[71] Rule on Adoption, A.M. No. 02-6-02-St (2002), Sec. 3(e).

[72] Dycaico v. SSS, G.R. No. 161357, November 30, 2005, 476 SCRA 538, 558-559 citing Jimenez v. Weinberger, 417 US 628 (1974); US. Department of Agriculture v. Murry, 413 US 508, 37 (1973): Vlandis v. Kline, 412 US 441 (1973). See Clevelond Board of Education v. Lafleur, 414 U.S. 632 (1974) which involved school board rules that mandated maternity leaves for teachers beginning their fifth or sixth month of pregnancy and prohibited reemployment prior to a semester at least 3 months after delivery. The US Supreme Court found that the mandatory leave requirement conclusively presumed "that every pregnant teacher who reaches the fifth or sixth month of pregnancy is incapable of continuing," while the 3-month delay conclusively presumed the teacher's untitness to work during that period. This conclusive presumption is "neither 'necessarily [nor] universally true,' and is violative of the Due Process Clause." In his concurring opinion. Justice Powell applied an equal protection analysis and found the school board rules "either counterproductive or irrationaly overinclusive"

and therefore violative of equal protection. See also GERALD GUNTHER, CONSTITUTIONAL LAW: CASES AND MATERIALS 888-897 (1975).

[73] GSIS v. Montesclaros, G.R. No. 146494 July 14, 2004, 434 SCRA 441,449.

[74] If she tails under the third category, her acts of obtaining a Philippine passport and registering as a voter may be considered as election of Filipino citizenship. (In re FlorencioMallare, A.C. No. 533, September 12, 1974, 59 SCRA 45, 52. Art IV, Sec. 2 of the 1987 Constitution provides that those who elect Filipino citizenship are deemed natural-born.)

[75] OSG Memorandum, Exhibits C & D.

[76] Sabili v. COMELEC, G.R. No. 193261, April 24, 2012, 670 SCRA 664,683.

[77] Salvador v. Philippine Mining Service Corp., G.R. No. 148766, January 22, 2003, 395 SCRA 729, 738.

[78] People v. Cabigquez, G.R. No. 185708, September 29, 2010, 631 SCRA 653, 671.

[79] Zabala v. People, G.R. No. 210760, January 26, 2015, 748 SCRA 246, 253.

[80] Go v. Bureau of Immigration, G.R. No. 191810, June 22, 2015, (Velasco, J., dissenting) citing CJ Warren's dissenting opinion in Perez v. Brownell, 356 U.S. 44,64 (1958).

[81] Commission on Human Rights, Memorandum (As Amicus Curiae Submission), p. 12.

[82] RULES OF COURT, Rule 128, Sec. 1.

[83] RULES OF COURT, Rule 128, Sec. 4.

[84] US. v. Provident Trust Co., 291 U.S. 272 (1934).

[85] Rollo, p. 180.

[86] See RULES OF COURT, Rule 128, Sec. 4; Rule 130, Sec. 51, par. (a)(3); Rule 133, Sec. I.

In filiation cases, Sec. 3(f) of the Rule on PNA Evidence (A.M. No. 06-11-5-SC) refers to the "Probability of Parentage". It is "the numerical estimate for the likelihood of parentage of a putative parent compared with the probability of a random match of two unrelated individuals in a given population."

"Preponderance of evidence is a phrase which, in the last analysis, means probability of the truth." Sevilla v. Court of Appeals, G.R. No. 150284, November 22, 2010, 635 SCRA 508, 515-516. (Emphasis added)

"Probability, and not mere possibility, is required; otherwise, the resulting conclusion would proceed from deficient proofs." Sea Power Shipping Enterprises, Inc. v. Salazar, G.R. No. 188595, August 28, 2013, 704 SCRA 233, 251.

[87] Joaquin v. Navarro, G.R. Nos. L-5426-28, May 29, 1953, 93 Phil. 257, 269 citing 1 Moore on Facts, Sec. 596.

[88] RULES OF COURT, Rule 129, Section 2. Judicial notice, when discretionary.—A court may take judicial notice of matters which are of public knowledge, or are capable of unquestionable demonstration, or ought to be known to judges because of their judicial functions. See Bagabuyo v. COMELEC, G.R. No. 176970, December 8, 2008, 573 SCRA 309.

[89] Poe Memorandum, p. 205.

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[90] OSG Memorandum, Exh. C

[91] RULES OF COURT, Rule 133, Sec. 4.

[92] Dycaicu v. SSS, G.R. No. 161357, November 30, 2005, 476 SCRA 538, 553.

[93] GSIS v. Monlesclaros, G.R. No. 146494. July 14, 2004, 434 SCRA 441, 453.

[94] G.R. Nos. 161434, 161634 & 161824, March 3, 2004, 424 SCRA 277.

[95] Chua v. Civil Service Commission, G.R. No. 88979, February 7, 1992, 206 SCRA 65, 77.

[96] Id.; Department of Environment and Natural Resources v. United Planners Consultants, Inc., G.R. No. 212081, February 23, 2015.

[97] Padilla v. Padilla, G.R. No.48137, October 3, 1947, 74 Phil. 377, 387.

[98] Sr. Montinola saw no need for the amendment because he believed that this was already covered by the Spanish Code. Sr. thought that it would be best to leave the matter to the hands of the legislature. Sr. Roxas believed that foundlings are rarcc cases and that it would be superfluous to include them in the Constitution because, in his view, this was already covered by international law.

[99] First coined by Justice Stone in the famous "Footnote Four" in U.S v. Carotene Products Co., 304 U.S. 144 (1938), where the US Supreme Court established that state-sanctioned discriminatory practices against discrete and insular minorities are entitkd to a diminished presumption of constitutionality. Cited in Central Bank Employees Ass'n, Inc. v. Baugko Sentral ng Pilipinas, G.R. No. 148208, December 15, 2004, 446 SCRA 299, 488 (Carprio-Morales, J, dissenting); White Light Corp. v. City of Manila, G.R. No. 122846, January 20,2009, 576 SCRA 416, 436; Ang Ladlad LGBT Party v. COMELEC, G.R. No. 190582, April 8, 2010, 618 SCRA 32,87-99 (Puno C.J, concurring); Garcia v. Drilon, G.R. No. 179267, June 25, 2013, 699 SCRA 352, 447-451 (Leonardo-De Castro, J, concurring).

[100] Disini, Jr. v. Secretary of Justice, G.R. No. 203335, February 18, 2014, 716 SCRA 237, 301.

[101] Johnson v. Robison, 415 U.S. 361 (1974); In one article, Justice Powell, although not in entire agreement with the theory of Footnote Four, summarized many scholars' formulation of the theory as follows:

> The fundamental character of our government is democratic. Our constitution assumes that majorities should rule and that the government should be able to govern. Therefore, for the most part, Congress and the state legislatures should be allowed to do as they choose. But there are certain groups that cannot participate effectively in the political process. And the political process therefore cannot be trusted to protect these groups in the way it protects most of us. Consistent with these premises, the theory continues, the Supreme Court has two special missions in our scheme of government:
>
> First, to clear away impediments to participation, and ensure that all groups can engage equally in the process; and
>
> Second, to review with heightened scrutiny legislation inimical to discrete and insular minorities who are unable to protect themselves in the legislative process. Lewis F. Powell, Jr., "Carolene Products" Revisited, 82 COLUM. L. REV. 1087, 1088-1089.

[102] Richmond v. J.A. Croson Co., 488 U.S. 169 (1989).

[103] Fedorenko v. U.S., 449 U.S. 490, 522-523 (1981),

[104] Nottebohm Case (Second Phase) (Liechtenstein v. Guatemala), Judgment, 1955 I.C.J., 4, 23 (April 6).

[105] "Neither will petitioner (Poe) fall under Section I, paragraphs 3, 4, and 5." COMELEC Memorandum, p. 56.

[106] Frontiero v. Richardson, 411 U.S. 677 686 (1973).

[107] San Antonio Independent School District v. Rodriguez, 411 U.S. 1, 28 (1973).

[108] Ang Ladlad LGBT Party v. COMELEC, supra at 93, (Puno, C..J., concurring).

[109] Central Bank Employees Association, Inc. v. Bangko Sentral ng Pilipinas, supra at 391.

[110] Serrano v. Gallant Maritime Services, Inc., G.R. No. 167614, March 24, 2009, 582 SCRA 255, 282.

[111] Only 4,483 individuals were registered since 1950. Poe Memor ndum, Annex B.

[112] CONSTITUTION, Preamble; Art. II, Sec. 26: Art. XIII, Sec. 1.

[113] TSN, February 16, 2016, p. 29:

> J. JARDELEZA: x x x Under strict scrutiny analysis, the government has to meet a compelling interest test. Meaning, the government has to articulate a compelling State interest why you are discriminating against the foundling. ... So, state for me in your memo what is the compelling State interest to make a discrimination against the foundling." COMELEC did not address this in its memorandum.

[114] The Solicitor General's discretion to appear as Tribune of the People is one undoubtedly recognized in Philippine jurisprudence. See Orbos v. Civil Service Commission, G.R. No. 92561, September 12, 1990, 189 SCRA 459; Gonzales v. Chavez, G.R. r o. 97351, February 4, 1992, 205 SCRA 816; Martinez v. Court of Appeals, G.R. No. L-112387, October 11, 1994, 237 SCRA 575; Pimentel, Jr. v. COMELEC, G.R. No. 126394, April 24, 1998, 289 SCRA 586; City Warden of Manila v. Estrella, G.R. No. 141211, August 31, 2001; Constantinp-David v. Pangandaman-Gania, G.R. No. 156039, August 14, 2003, 409 SCRA 80 ; Salenga v. Court of Appeals, G.R. No. 174941, February 1, 2012, 664 SCRA 635.

[115] Orbos v. Civil Service Commission, supra at 466. Indeed, the OSG is expected to look beyond the narrow interest of the government in a particular case and take the long view of what will best benefit the Filipino people in the long run. As we explained in Gonzales v. Chavez, "it is the Filipino people as a collectivity that constitutes the Republic of the Philippines. Thus, the distinguished client of the OSG is the people themselves x x x." This is but an affirmation that the privilege, and at times, even the duty, to appear as Tribune of the People springs from the constitutional precept that sovereignty resides in the people and all government authority, including that of the Solicitor General, emanates from them.

[116] Id.

[117] Neal Katyal & Paul Clement, On the Meaning of "Natural Born Citizen," 128 HARV. L. REV. F. 161, available at http://harvardlawreview.org/2015/03/on-the-meaning-of-natural-born-citizen/.

[118] Tecson v. COMELEC, G.R. Nos. 11-1434, 161634, 161824, March 3, 2004, 424 SCRA 277, 422 (Carpio, J, dissenting).

[119] RICHARD CONDON, THE MANCHURIAN CANDIDATE (1959). A political thriller novel about the son of a prominent US political family, who was brainwashed as part of a Communist conspiracy. It was twice adapted into a feature film (1962 and 2004).

[120] Serrano v. Gallant Maritime Services, Inc., supra at 278.

[121] Yick Wo v. Hopkins, 118 US 356 (1886) cited in People v. Dela Piedra, G.R. No. 121777, January 24,

2001, 350 SCRA 163, 181.

[122] CONSTITUTION, Art. IV, Sec. 2.

[123] G.R. No. 142840, May 7, 2001, 357 SCRA 545.

[124] Ty v. Banco Filipino Savings & Mortgage Bank, G.R. No. 144705, November 15, 2005, 475 SCRA 65, 75-76.

[125] 505 U.S. 833 (1992).

[126] Ting v. Velez-Ting, G.R. No. 166562, March 31 , 2009, 582 SCRA 694, 707-708.

[127] Caballero v. COMELEC, G.R. No. 209835, September 2015; Umbona v. COMELEC, G.R. No. 186006, October 16, 2009, 604 SCRA 210, 246; Romualdez-Marcos v. COMELEC, G.R. No. 119976, September 18, 1995, 248 SCRA 300, 323.

[128] Asistio v. Aguirre, G.R. No. 191124, April 27, 2010, 619 SCRA 518, 529-530.

[129] Caballero v. COMELEC, supra.

[130] G.R. No. 151914, July 31, 2002, 385 SCRA 607.

[131] Jalosjos v. COMELEC, G.R. No. 191970, April 24, 2012, 670 SCRA 572, 576.

[131] Id.

[132] G.R. No. 191938, July 2, 2010, 622 SCRA 744.

[134] G.R. No. 187478, December 21, 2009, 608 SCRA 733.

[135] G.R. No. 180088, January 19, 2009, 576 SCRA 331.

[136] Romualdez-Marcos v. COMELEC, G.R. No. 119976, September 18, 1995, 248 SCRA 300.

[137] Id. at 326.

[138] RULES OF COURT, Rule 130, Sec. 34. Similar acts as evidence.—Evidence that one did or did not do a certain thing at one time is not admissible to prove that he did or did not do the same or similar thing at another time; but it may be received to prove a specific intent or knowledge; identity, plan, system, scheme, habit, custom or usage, and the like. (Emphasis added)

[139] Tanseco v. Arteche, G.R. No. 36300, September 13, 1932, 57 Phil. 235.

[140] COMELEC Resolution dated December 23, 2015, p. 23

[141] Castellon-Contreras v. Immigration and Naturalization Service, 45 F.3d 149 (7[th] Cir. 1995); Melian v. Immigration and Naturalization Service, 987 F.2d 1521 (11[th] Cir. 1993); Lok v. Immigration and Naturalization Service, 681 F.2d 107, 109 (2[nd] Cir. 1982).

[142] Castellon-Contreras v. Immigration and Naturalization Service, supra.

[143] G.R. No. 151914, July 31, 2002, 385 SCRA 607, 616.

[144] 435 u.s. 647 (1978).

[145] Id.

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[146] CA 613, Sec. 9(1). See also 9(c) "A seaman serving as such on a vessel arriving at a port of the Philippines and seeking to enter temporarily and solely in the pursuit of his calling as a seaman"; and 9(d) "A person seeking to enter the Philippines solely to carry on trade between the Philippines and the foreign state of which he is a national, hi' wife, and his unmarried children under twenty-one years of age, if accompanying or following to join hilli, subject to the condition that citizen of the Philippines under similar conditions are accorded like privileges in the foreign state of which such person is a national." (Emphasis added)

[147] Id., Sec. 9(a) "A temporary visitor cotning for business or for pleasure or for reasons or health"; (b) "A person in transit to a destination outside the Philippines." (Emphasis added)

[148] An Act Instituting a Balikbayan Program (1989).

[149] RA 6768, as amended by RA 9174, Sec. 3(c).

[150] Id., Sec. 2(a).

[151] Id., Sec. 1.

[152] Id., Sec. 6.

[153] Uy v. Sandiganhayan, G.R. Nos. 105965-70, March 20, 2001, 354 SCRA 651, 672-673.

SEPARATE CONCURRING OPINION
CAGUIOA, J.:

I concur. The Commission on Elections ("COMELEC") committed grave abuse of discretion amounting to lack or excess of jurisdiction when it cancelled the petitioner's certificate of candidacy.

At the outset, this discussion is necessarily framed in the context of the nature of the petitions brought before the COMELEC and the resultant scope of this Court's review.

The Omnibus Election Code ("OEC") positively requires an aspiring candidate to formally manifest his·or her intention to run through the filing of a certificate of candidacy.[1] Section 74 of the OEC enumerates the information required to be stated by a candidate in his or her certificate of candidacy, thus:

> Sec. 74. Contents of certificate of candidacy. - The certificate of candidacy shall state that the person filing it is announcing his candidacy for the office stated therein and that he is eligible for said office; if for Member of the Batasang Pambansa, the province, including its component cities, highly urbanized cit:f or district or sector which he seeks to represent; the political party to which he belongs; civil status; his date of birth; residence; his post orfice address for all election purposes; his profession or occupation; thai he will support and defend the Constitution of the Philippines and will maintain true faith and allegiance thereto; that he will obey the laws, legal orders, and decrees promulgated by the duly constituted authorities; that he is not a permanent resident or immigrant to a foreign country; that the obligation imposed by his oath is assumed voluntarily, without mental reservation or purpose of evasion; and that the facts stated in the certificaty of candidacy are true to the best of his knowledge.
>
> x x x x

Under Section 78, a certificate of candidacy can be denied due course or cancelled in case of false material representation therein. The jurisprudential requirements for the cancellation of a certificate of candidacy under Section 78 of the OEC are clear: (1) that a representation is made with respect to a material fact, (2) that the representation is false, and (3) that there is intent to deceive or mislead the electorate.[2]

The Assailed Resolutions were issued by the COMELEC disposing of Petitions for Disqualification and Cancellation of Certificate of Candidacy filed by the respondents against the petitioner. Treating all petitions filed as Section 78 Petitions, the Assailed Resolutions held that (1) the representations made by the petitioner with respect to her citizenship and residence were false, and (2) she intended to deceive or mislead the electorate as to her qualifications to run for office. In determining the existence of false material representation, the COMELEC declared that the petitioner cannot claim that May 24, 2005 was the starting point of her period of residence, and that she is not a natural-born citizen. Consequently, her certificate of candidacy was cancelled.

In these Consolidated Petitions for certiorari, the petitioner ascribes grave abuse of discretion to the COMELEC for, among others, ruling on her qualifications in ·a Section 78 petition. In other words, the extent of the COMELEC's jurisdiction in a Section 78 petition should have been to check the accuracy of the material representations made in a certificate of candidacy and to determine the existence of an intent to mislead - only for the purpose of deciding whether the certificate of candidacy should be denied due course or cancelled.

The limited scope of this Court's review on certiorari of a judgment, final order or resolution of the COMELEC under Rule 64 is well-defined. Time and again, this Court has held that the extent of its review is limited to the determination of whether the COMELEC acted without jurisdiction, or committed grave abuse of di,scretion amounting to lack or excess of jurisdiction.[3]

"Grave abuse of discretion," under Rule 65, has been described in a number of cases as the arbitrary or despotic exercise of power due to passion, prejudice or personal hostility; or the whimsical, arbitrary, or capricious exercise of power that amounts to an evasion or a refusal to perform a positive duty enjointd by law or to act at all in contemplation of law. For an act to be struck down as having been done with grave abuse of discretion, the abuse of discreti(·m must be patent and gross.[4] This Court has also previously held that wrong or irrelevant considerations in deciding an issue is sufficient to taint COMELEC's action with grave abuse of discretion, and that in exceptional cases, when the COMELEC's action on the appreciation and evaluation of evidence oversteps the limits of its discretion to the point of being grossly unreasonable, this Court is not only obliged, but has the constitutional duty to intervene.[5]

The question in these C nsolidated Petitions is whether or not the Assailed Resolutions of the COMELEC are tainted with grave abuse of discretion amounting to lack or excess of jurisdiction. If the COMELEC committed grave abuse, then it becomes this Court's bounden duty to strike down the assailed judgment. Moreso in this case, when the right of an individual to run and be voted for public office and the right of the electorate to choose their leader are at stake.

Necessarily, therefore, this Court's jurisdiction and its exercise neither hinge on nor require a final determination of the petitioner's qualifications. Keeping in mind the narrow confines of this Court's certiorari jurisdiction as invoked, and the principle of judicial restraint, I confine my views only to those matters that are absolutely necessary to resolve the Petitions, and accordingly leave the resolution of the questions of her qualifications to the Presidential Electoral Tribunal if and when such a petition is filed before it.

With this framework, I proceed to examine whether the COMELEC acted with grave abuse of discretion amounting to lack or excess of jurisdiction when it cancelled petitioner's certificate of candidacy.

The COMELEC acted with grave
abuse of discretion when it cancelled
the petitioner's certificate of
candidacy.

I believe that the COMELEC committed grave abuse of discretion by (1) misinterpreting the jurisprudential requirements of cancellation of a certificate of candidacy under Section 78, and (2) for placing the burden of proof upon the petitioner to show that she complies with the residency and citizenship qualifications for the position of President.

The COMELEC grossly misinterpreted the law in the manner it treated the jurisprudential requirements of cancellation under Section 78. Specifically, it gravely abused its discretion by failing to determine the existence of petitioner's intent to deceive separate from the determination of whether there were false material representations in her certificate of candidacy.

In Mitra v. COMELEC,[6] this Court elucidated on the nature of the element of intent to deceive, thus:

> [T]he misrepresentation that Section 78 addresses cannot be the result of a mere innocuous mistake, and cannot exist in a situation where the intent to deceive is patently absent, or where no deception of the electorate results. The deliberate character of the misrepresentation necessarily follows from a consideration of the consequences of any material falsity: a candidate who falsifies a material fact cannot run; x x x.

Proceeding from this statement, this Court found in that case that Mitra did not commit any deliberate material misrepresentation in his certificate of candidacy. Moreover, this Court held that the COMELEC gravely abused its discretion in its appreciation of the evidence which led it to conclude that Mitra was not a resident of Aborlan, Palawan. The COMELEC, too, failed to critically consider whether Mitra deliberately attempted to mislead, misinform or hide a fact that would otherwise render him ineligible for the position of Governor ofPalawan.

In Jalover v. Osmeña,[7] the requirement of intent to deceive was restated, thus:

> Separate from the requirement of materiality, a false representation under Section 78 must consist of a "deliberate attempt to mislead, misinform, or hide a fact, which would otherwise render a candidate ineligible." In other words, if must be made with the intention to deceive the electorate as to the wot1ld-be candidate's qualifications for public office. x x x

These cases show that there must be a deliberate attempt to mislead, misinform, or hide a fact which would otherwise render a candidate ineligible. Therefore,.the requirement of intent cannot be disposed of by a simple finding that there was false representation of a material fact; to be sure, there must also be a showing of the candidate's intent to deceive as animating the making of the false material representation.[8]

In the case of petitioner, apart from the finding that there were false material representations in the petitioner's certificate of candidacy, the COMELEC relied mainly on the representation previously made by the petitioner in her 2012 certificate of candidacy for the position of Senator, and that she is a foundling, to support the inference that the petitioner intended to mislead the electorate into believing that she has the requisite residency and natural-born status. The existence of intent to mislead is not a question of law - and I find that the petitioner has adduced substantial evidence to show, contrary to any intent to mislead, that she honestly believed herself to have the requisite qualifications to run for President. Her evidence should have been directly met by the respondents. As it was, her evidence was not considered by the COMELEC. On this ground, its judgment was tainted with grave abuse of discretion.

Moreover, contrary to the rules of evidence, the COMELEC shifted the burden of proof to the petitioner, ascribing to her the onus of showing that she had the qualifications to run for President, instead of requiring the respondents to prove the three elements that furnish the grounds for denial of due course or cancellation of certificate of candidacy.

Burden of proof is the duty of a party to present evidence on the facts in issue necessary to establish his claim or

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defense by the amount of evidence required by law.[9] This Court has consistently held, and it is an established rule, that the burden of evidence may shift depending upon the exigencies of the case in the course of trial;[10] however, the burden of proof remains with the party upon whom it is originally imposed[11] - he who seeks the affirmative of an issue. In this case, as with other election cases, the burden of proof is placed upon the parties seeking the denial of due course or cancellation of a certificate of candidacy.[12]

In this case, this shifting of burden of proof to the petitioner unfairly skewed the analysis and resulting conclusions reached by the COMELEC in the petitions for cancellation against the petitioner. It would appear that the COMELEC relied merely on its judgment being based on substantial evidence, without considering the effect upon the petitions for cancellation of the: (1) respondents' claims and evidence being met by those of the petitioner, and (2) evidence or both parties at equipoise. This erroneous consideration similarly taints the judgment with grave abuse of discretion.

Consequent to the finding that the COMELEC gravely abused its discretion, this case falls within the exception whereby this Court can examine the factual conclusions of the COMELEC.

There was no intent to deceive.

A. With respect to residency

Mitra, while admittedly not on all fours with this case, shares enough similarities to this case on a conceptual level that the analysis used therein can be applied by parity of reasoning. Inasmuch as we held in Mitra that the establishment of a new domicile may be an incremental process and that the totality of the evidence should he considered in determining whether or not a new domicile was established, the same disquisition applies to the instant case.

The totality of evidence presented by the petitioner points to a decision and action to establish a new domicile of choice in the Philippines as early as 2005. Stated difl.erently, my considered appreciation of the totality of all these overt acts done by the petitioner is that she had believed in good faith that when she filled up her certificate of candidacy she was correctly reckoning the period of her residency from the time that she had taken concrete steps to transfer her domicile. Using the standard of Section 74 of the OEC, petitioner filled in the certificate of candidacy to "the best of her knowledge". To impute intent to mislead upon a person who represents what she knows to the best of her knowledge and belief to be true, as supported by the evidence, is to commit grave abuse of discretion.

The petitioner did not fab;ely represent her length of residence.
All told, the evidence of petitioner preponderantly shows that she (1) has been physically present in the country from 2005; (2) had intended to remain in the Philippines, and (3) abandoned her domicile in the United States.

Actual physical presence

The petitioner sufficiently established that after she came to the Philippines in 2004 to support her father's campaign, she returned in 2005 with a more permanent stay in mind and had been physically present in the country since; that she had brought her children to the Philippines in mid-2005.

Animus manendi and animus non revertendi

Similar to evidence showing physical presence, the petitioner sufficiently showed that since 2005, she and her entire family had taken steps to permanently relocate In the Philippines. Petitioner showed that as early as March 2005, her husband had begun the process of transporting and disposing of their household belongings in the United States. By the middle of 2005, the petitioner and her hildren had arrived in the Philippines; the children,

enrolled in Philippine schools by June 2005. The next year, they began the construction of a home and acquired a condominium unit to stay in until the construction is completed.

Her travel documents also show that whenever she left the country, she returned to the Philippines. By July 2006, she had taken her Oath of Allegiance to the Republic of rhe Philippines pursuant to the provisions of Republic Act No. 9225. Her husband had also formally notified the United States Postal Service of their change of address. The entire process culminated in her acceptance of the Movie and Television Review and Classification Board ("MTRCB") Chairmanship and her renunciation of her American citizenship in 2010.

To an unbiased mind, all these overt acts would show that the intent and demonstrative acts to transfer to or establish a new domicile of choice began in 2005. The evidence clearly preponderates in favor of the conclusion that the petitioner's physical presence, animus manendi and animus non revertendi had concurred by clear overt acts obtaining as early as 2005. While admittedly, the last acts that foreclose any other conclusion were done in 2010, more than substantial evidence is present to support her claim that she had established a new domicile of choice in the Philippines from May 24, 2005. As in Mitra,[13] the transfer was an incremental process, nowhere near completed in 2005, but already existing then. I submit that these facts lead to no other conclusion than that the petitioner had already determined to permanently reside in the Philippines.

On this point, I quote with approval the Separate Opinion[14] of Commissioner Luie Tito F. Guia:

> To prove her claims, Respondent presented, among others, the following: a) E-mail exchanges from 18 March 2005 to 29 September 2006 with Victory Van Corporation and National Veterinary Quarantine Service Bureau of Animal Industry of the Philippines indicating respondent and her husband's plan of relocating all their movable properties from the United States to the Philippines; b) Official Transcripts, Permanent School Records and Registrar Certification showing the enrolment of her school- aged children in Philippine schools before June 2005; c) her Philippine Bureau of Internal Records [sic] or Tax Identification Number 239-290-513-000; and d) Condominium Certificate Titles, Declarations of Real Property and a Transfer Certificate of Title indicating acquisitions of different real properties in the country.
>
> It is clear from the foregoing that Respondent was physically and actually present in the Philippines sint:e May 2005. This is one of the requisites for an effective change of domicile. It is also evident that, independent of her still being a US citizen at that time, Respondent had already intended to change her domicile from the US to the Philippines. All her acts and conduct points to her intention to transfer her residence to the Philippines.
>
> x x x x
>
> From the substantial evidence on record, I find that there is no misrepresentation in Respondent's CoC in so far as her period of residency in the Philippines is concerned. It is an error for the Commission to cancel Respondent's CoC on this ground.
>
> x x x x

To my mind, there can be no clearer manifestation of the earlier concurrence of the petitioner's animus manendi and animus non revertendi with her physical presence in the country than when she brought her children to the Philippines in the middle of 2005 and enrolled them in the same year in Philippine schools. To any parent, this is a very big decision that is not lightly made. To uproot teens from the world they know, and to displace them from the environment in which they grew up, is, to say the least, a very significant decision for any parent to make. Indeed, as a parent, the petitioner is presumed to be acting in the best interest of her children. And that petitioner did this convinces me that petitioner's decision to permanently reside in the Philippines was already made at the time, or just before, the children were brought to the Philippines to stay with her and to study, in the middle of 2005.

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Given the totality of evidence presented by petitioner, the inaccuracies with respect to the period of her residency can be considered an honest mistake. The petitioner had admitted to making a mistake in determining the precise date of the start of her residency when she filed her certificate of candidacy for the position of Senator in 2012. The filing of the 2015 certificate of candidacy is the earliest opportunity that the petitioner had to correct her previous representation - the very fact that she changed her period of residence, on its own, cannot be the basis of a finding that there was deliberate intent to mislead as to her residency.

As for the 2015 certificate of candidacy, even assuming that the representation that her period of residence began on May 24, 2005 is false, the petitioner had sufficiently shown that the effective transfer of domicile occurred in 2005. Even in an effect-based analysis, therefore, there should not have been a finding that there was intent to mislead. By fact and law, she complies with the residency requirement, and no deception of the electorate as to her qualification ensues by virtue of her representation.

What is more, she has in her favor substantial evidence to show that she had been physically present and had taken overt actions demonstrative of her animus manendi and animus non revertendi from the time of her claimed period of residence on May 24, 2005.[15] In fine, the evidence presented preponderated in favor of the petitioner. And even if we were to assume arguendo that the evidence of the parties is at equipoise, still, the COMELEC should have ruled against the party with the burden of proof—the respondents.

This application of burden of proof can be seen in one of the holdings in Tecson v. COMELEC, thus:

> [B]ut while the totality of the-evidence may not establish conclusively that respondent FPJ is a natural-hom citizen of the Philippines, the evidence on hand still would preponderat·e in his favor enough to hold that he cannot be held guilty of having made a material misrepresentation in his certificate of candidacy in violation of Section 78, in relation to Section 74, of the Omnibus Election Code. Petitioner has utterly failed to substantiate his case before the Court, notwithstanding the ample opportunity given to the parties to present their position and evidence, and to prove whether or not ther(has been material misrepresentation, which, as so ruled in Romualdez-Marcos vs. COMELEC, must not only be material, but also deliberate and willful."[16]

B. With respect to citizenship

On this point I deviate from the majority opinion when it proceeded to rule on the question of the petitioner's citizenship. Keeping in mind the nature of this Court's limited certiorari review, I believe that this Court need not have made a definitive nding on petitioner's status as a natural-born Filipino citizen.

I concur, however, that the COMELEC grossly misappreciated the evidence when it found that tle petitioner deliberately intended to mislead the electorate when she stated that she is a natural-born Filipino citizen, knowing full well that she is a foundling. The COMELEC would have us believe that the petitioner knew that she was not a natural-born citizen at the time that she accomplished and filed her certificate of candidacy, and knowing this, deliberately attempted to deceive the electorate by claiming that she is a natural-born Filipino citizen.

The question of petitioner's citizenship as a foundling is subject to legal interpretation. Any conclusion reached on this point is necessarily a legal conclusion. If one needs proof to show how intricate and susceptible to several interpretations her real status is as a foundling, one needs only to look at the different interpretations advanced by the members of the COMELEC and of this Court.

The rule is that any mistake on a doubtful or difficult question of law may be the basis of good faith.[17] In Kasilag v. Rodriguez,[18] this Court, citing Manresa, recognized the possibility of an excusable ignorance of or error of law being a basis for good faith:

> We do not believe that in real life there are not many cases of good faith founded upon an error of law. When

> the acquisition appears in a public document, the capacity of the parties has already been passed upon by competent authority, and even established by appeals taken from final judgments and administrative remedies against the qualification of registrars, and the possibility of error is remote under such circumstances; but, unfortunately, private documents and even verbal agreements far exceed public documents in number, and while no one should be ignorant of the law, the truth is that even we who are called upon to know and apply it fall into error not infrequently. However, a clear, manifest, and truly unexcusable ignoranct is one thing, to which undoubtedly refers article 2, and another and different thing is possible and excusable error arising from complex legal principles and from the interpretation of conflicting doctrines.
>
> But even ignorance of the law may be based upon an error of fact, or better still, ignorance of a fact is possible as to the capacity to transmit and as to the intervention of certain persons, compliance with certain formalities and appreciation of certain acts, and an error of law is possible in the interpretation of doubtful doctrines.

If indeed a mistake was made by petitioner as to her real status, this could be considered a mistake on a difficult question of law that could be the basis for good faith. In this regard, good faith is presumed.[19] In the same vein, it is presumed that a person is innocent of a crime or wrong, and that the law was obeyed.[20] Without more, the legal conclusion alleged by the respondents in the petitions for cancellation, and thereafter reached by the COMELEC, that the petitioner was not a natural-born citizen simply because she is a foundling is not sufficient to overcome the presumption that the petitioner made the representation as to her citizenship in good faith.

Even assuming that these presumptions cannot be considered in the petitioner's favor, the lack ofil.;tent to deceive is fully supported by evidence tending to show that she fully discharged the burden of her oath in the certificate of candidacy that her status as a natural-born Filipino is true and correct to the best of her knowledge. The evidence submitted by the petitioner tends to more titan adequately establish that before her naturalization as an American citizen, she consistently comported herself as, and was deemed, a Filipino citizen, even by the government. Though this by no means determines her real status, it cannot be gainsaid that any reasonable person can be led m believe that he is how he was deemed or treated, i.e., a natural born citizen. Given what the petitioner believed of her status, the claim that she is a natural-born Filipino citizen is far from groundless or deceptive. It is credible that she believed in good faith that she is a natural-born Filipino citizen, and that this fact is true and correct to the best of her knowledge-as she so swore in her certificate of candidacy.

In the final analysis, even assuming falsity in her representation as to her citizenship similar to her residency, this fact alone should not have led to an automatic finding of intent to mislead and deceive the electorate, and ultimately to the cancellation of her certificate of candidacy under Rule 78.

A final word. The function of this Court's review in this Petition does not absolutely require an examination of the petitioner's qualifications, but only to determine whether the COMELEC committed grave abuse of discretion amounting to lack or excess of jurisdiction when it cancelled the petitioner's Certificate of Candidacy. This is in keeping with the limited scope of review in this certiorari petition. By applying the standards that have been previously set, this Court can dispense justice without presuming to make that determination.

For these reasons, I vote to GRANT the consolidated Petitions.

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[1] OMNIBUS ELECTION CODE, Sec. 73.

[2] Caballero v. COMELEC, G.R. No. 209835, September 22, 2015; See also Villafuerte v. COMELEC, G.R. No. 206698, February 25,2014, 717 SCRA 312, citing Salcedo II v. COMELEC, 371 Phil. 377 (1999).

[3] Dela Cruz v. COMELEC, 698 Phil. 548, 559 (2012); Laurena, Jr. v. COMELEC, 553 Phil. 210, 217 (2007), citing Manzala v. COMELEC, 551 Phil. 28, 35 (2007).

[4] Alliance for Nationalism and Democrucy (ANAD) v. COMELEC, G.R. No. 206987, September 10, 2013, 705 SCRA 340, 344, citing Beluso v. COMELEC, 635 Phil. 436, 443 (2010); Velasco v. COMELEC, 595 Phil. 1172, 1183 (2003), citing Gonzales v. Intermediate Appellate Court, 252 Phil. 253,262 (1989); Lalican v. Vergara, 342 Phil. 485,495 (1997).

[5] Sabili v. COMELEC, 686 Phil. 649 (20 12), and Jalover v. Osmena, G.R. No. 209286, September 23, 2014, 736 SCRA 267, citing Mitra v. COMELEC, 648 Phil. 165 (2010).

[6] 636 Phil. 753, 780 (2010).

[7] Supra note 5, at 282.

[8] In Tagolino v. House of Representatives Electoral Tribunal, 706 Phil. 534, 551 (2013), a case that dealt with the question of whether a disqualified candidate whose certificate of candidacy was not cancelled could be substituted, the Coun ratiocinated:

> Corollary thereto, it must be noted that the deliberateness of the misrepresentation, much less one's intent to defraud, is ofbare significance in a Section 78 petition as it is enough that the person's declaration of a material qualification in the CoC be false. In this relation, jurisprudence holds that an express finding that the person committed any deliberate misrepresentation is of little consequence in the determination of whether one's CoC should be deemed cancelled or not. What remains material is that the petition essentially seeks to deny" due course to and/or cancel the CoC on the basis of one's ineligibility and that the same be granted without any qualification.

However, cases on cancellation of certilicate of candidacy under Section 78 (which were promulgated after Tagolino) retained the element of intent: Villafuerte v. COMELEC, supra note 2 and Hayudini v. COMELEC, G.R. No. 207900, April 22, 2014, 723 SCRA 223.

[9] RULES OF COURT, Rule 131, Sec. 1.

[10] Bautista v. Sarmiento, 223 Phil. 181, 186 (1985); See also De Leon v. Bank of the Philippine Islands, G.R. No. 184565, November 20, 2013, 710 SCRA 443; Vitarich Corporation v. Losin, 649 Phil. 164 (2010).

[11] Bautista v. Sarmiento, id. at 185.

[12] Reyes v. COMELEC, G.R. No. 207264, June 25, 2013, 699 SCRA 522 the same discussion repeated in the Resolution dated October 22, 2013; Tecson v. COMELEC, 468 Phil. 421 (2004).

[13] Supra note 5.

[14] In the Consolidated Petitions docketed as SPA No. 15-002 (DC), SPA No. 15-007 (DC), and SPA No. 15-139 (DC).

[15] The amount of evidence presented by the petitioner sufficiently distinguishes her case from the cases of Coquilla v. COMELEC, 434 Phil. 861 (2002), Caballero v. COMELEC, supra note 2 and Reyes v. COMELEC, supra note 12, wherein this Court was constrained to either closely link or reckon the period of residence to the reacquisition of citizenship for sheer dearth of evidence.

[16] Supra note 12, at 488; citations omitted.

[17] Lecaroz v. Sandiganbayan, 364 Phil. 890 (1999); Kasilag v. Rodriguez, G.R. No. 46623, 69 Phil. 217 (1939).

[18] Id. at 230-231, citing Manresa, Commentaries on the Spanish Civil Code, Volume IV, pp. 100, 101 and 102.

[19] GSIS v. Sps. Labung-Deang, 417 Phil. (,62 (2001); Bermudez v. Gonzales, 401 Phil. 38, 47 (2000).

[20] RULES OF COURT, Rule 131, Sec. 3, pars. (a) and (ff).

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