

WALTER MANUEL F. PRESCOTT, PETITIONER, VS. BUREAU OF IMMIGRATION, AS REPRESENTED BY HON. ROGELIO D. GEVERO, JR., AND THE DEPARTMENT OF JUSTICE, RESPONDENTS.

G.R. No. 262938. December 05, 2023

Ponente: LAZARO-JAVIER, J.

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LAZARO-JAVIER, J.:

The Case

This Petition for Review on Certiorari[1] assails the following dispositions of the Court of Appeals in CA-G.R. SP No. 161957, viz.:

1)

Decision[2] dated June 25, 2021, denying the appeal of petitioner Walter Manuel E. Prescott (Prescott) and sustaining the Order of Deportation issued by the respondent Bureau of Immigration (Bureau) against him; and

2)

Resolution[3] dated August 15, 2022, denying Prescott's Motion for Reconsideration.

Antecedents

This case emanated from a Petition for Declaratory Relief with Petition for Habeas Corpus filed by Prescott before Regional Trial Court, Branch 10, Manila City. The facts are undisputed.

Prescott was born on April 10, 1950 in the Philippines to an American father, Walter Dewey Prescott, and a Filipino mother, Hilda Fernandez. On January 12, 1951, he was issued an Alien Certificate of Registration[4] (ACR) by the Bureau. He never left the Philippines since he was born. He pursued his education and his career in the country. Under letter dated August 26, 1977, he was informed by the American Embassy in Manila that he lost his American citizenship as of April 10, 1976 for overstaying in the Philippines.[5]

On May 17, 1981, he married Maria Lourdes S. Dingcong (Lourdes), an American citizen, in Quezon City, Philippines. In their Marriage Contract, he indicated his nationality as Filipino.[6] On December 10, 1981, the couple had their first child named Jeffrey Manuel D. Prescott (Jeffrey). Notably, in Jeffrey's Certificate of Live Birth, Prescott's nationality was also indicated as Filipino.[7]

On November 11, 1982, he left Manila for the United States of America (USA) for the first time with Jeffrey. In 1983, he started working for the World Bank in Washington D.C., USA as a temporary employee. In 1986, Prescott and Lourdes had their second child, Dexter Ezekiel D. Prescott, and in 1988, their third child, Dana Marie D. Prescott, was born. Both were born in the USA.

On July 15, 1999, Prescott got a permanent employment with the World Bank. On August 5, 2006, he became a naturalized American citizen. Consequently, an American passport was issued to him. Using the same, he

travelled back to the Philippines in 2007, 2008, and 2009 with a "balikbayan" status.[8]

On November 26, 2008, Prescott applied for reacquisition of his Philippine citizenship under Republic Act No. 9225.[9] In his application, he clearly indicated the nationality of his father as American while he disclosed that he (Prescott) obtained American citizenship through naturalization.[10] The Embassy of the Republic of the Philippines to the USA, through Consul General Domingo P. Nolasco, issued an Order (For Reacquisition of Philippine Citizenship)[11] in favor of Prescott on even date. The Department of Foreign Affairs (DFA), through Assistant Secretary Jamie Victor Ledda, confirmed Prescott's application for dual citizenship under Republic Act No. 9225 at the Philippine Embassy in Washington D.C., USA. Prescott thereafter took his oath of allegiance to the Republic of the Philippines.[12] He was issued Identification Certificate No. WDC-2008-00688, recognizing him as a Philippine citizen pursuant to his reacquisition of citizenship.[13]

On September 1, 2009, Prescott filed his application for Philippine passport, indicating therein the citizenship of his father as American and his mother as Filipino. As regards how he acquired Philippine citizenship, he checked the box corresponding to Republic Act No. 9225. He was consequently issued a Philippine passport.[14] Sometime in 2010, Prescott retired from the World Bank. He immediately returned to the Philippines with his wife, Lourdes, to settle for good. In January 2011, Lourdes went back to the USA.[15]

On June 6, 2012, Lourdes, with one Jesse Troutman (Troutman), filed with the Bureau a joint letter of complaint against Prescott, alleging that he illegally reacquired his Philippine citizenship. Several notices were allegedly sent to Prescott's supposed address at Lagusan Drive, Barangay Francisco, Tagaytay City, asking him to appear on the scheduled hearings from July 10, 2012 to September 20, 2012 regarding the complaint. Prescott, however, failed to appear. Per the minutes of the hearings, the notices were returned "unserved" or Prescott was "out of the country." [16]

Sometime in 2013, Lourdes filed for partial divorce in the USA against Prescott. In January 2013, Prescott filed for declaration of nullity of marriage before the Regional Trial Court for Bacoor, Cavite. On October 17, 2013, the Bureau issued a Resolution ordaining that Prescott is an American citizen, having been born to an American father and a Filipino mother on April 10, 1950 under the 1935 Constitution. As it was not shown that he elected Philippine citizenship upon reaching 21 years old, his alien registration with the Bureau was never cancelled and he therefore cannot be considered a natural-born Filipino citizen. In fine, he was ineligible to re-acquire Philippine citizenship under Republic Act No. 9225.[17]

On October 21, 2013, by its 1[st] Indorsement, the Bureau recommended to then Secretary of Justice Leila De Lima (Secretary De Lima) the cancellation of Prescott's re-acquisition of Philippine citizenship. Under Resolution[18] dated November 28, 2013, Secretary De Lima approved the recommendation.

Sometime in February 2014, Prescott went to the DFA to renew his Philippine passport but was denied. It was only then that he learned of the complaint against him and the cancellation of his certificate of re-acquisition of Philippine citizenship.[19]

On February 24, 2014, Prescott, through counsel, sent a letter-request to Secretary De Lima, asking to be furnished with the complete records of the case since he never received copies thereof. In response, he was told under letter dated March 4, 2014 that the Department of Justice (DOJ) Resolution dated November 28, 2013 had become final and executory.[20] On March 17, 2014, Prescott reiterated his request, but the same was also denied on the same ground.[21] Until now, no case file or record pertaining to the case was released to him.[22]

On February 11, 2015, an Order was issued by the Bureau-Legal Division, directing Prescott to submit his counter-affidavit on the deportation charge against him which was filed as a result of the cancellation of his

certificate of re-acquisition of Philippine citizenship. On August 5, 2015, the Bureau issued a charge sheet against him for allegedly misrepresenting himself as Filipino and for fraudulently indicating in his application for Philippine passport that his father was Filipino though he was actually American. Prescott's name was then placed in the Bureau's watchlist.[23] The Bureau issued a deportation order against Prescott under Resolution dated March 29, 2016. A warrant of deportation was issued on August 22, 2016.[24]

On August 25, 2016, at 9:00 p.m., while Prescott was in a restaurant in Bacoor, Cavite, he was arrested pursuant to the warrant of deportation. He was escorted by six Bureau personnel and brought to Camp Bagong Diwa in Bicutan. On August 30, 2016, he filed a very urgent motion for his release and dismissal of the deportation case against him. On September 8, 2016, the Bureau denied the motion to release [Prescott] on bail and treated his motion to dismiss as a motion for reconsideration of the March 29, 2016 Resolution.[25]

It was only on October 26, 2016 that Prescott received the charge sheet. Despite the absence of a valid notice and due process, the Bureau denied Prescott's motion to reverse the Resolution dated March 29, 2016, directing his deportation and the Order dated September 8, 2016, denying his motion for bail.[26]

On May 25, 2017, Prescott filed his motion to re-open his deportation case but the same was denied with finality on October 5, 2017. On August 9, 2018, the National Bureau of Investigation (NBI) informed the Bureau that Prescott allegedly has three criminal cases before the Quezon City Prosecutor's Office for: (1) grave threat; (2) estafa; and (3) grave threat and illegal possession of firearms.[27]

On September 19, 2018, the NBI replied to the Bureau's letter dated August 9, 2018, stating that Prescott has a derogatory record upon verification with their Master Name Index Files. Consequently, the Bureau informed Lourdes and Troutman's counsel that Prescott could not be deported because of his pending criminal cases before the Quezon City Prosecutor's Office.[28] As it turned out, however, there were in truth no criminal cases pending against Prescott.[29] Certificates of No Pending Cases for Prescott were subsequently secured from the said offices.[30]

On October 10, 2018, Ms. Lourdes de Las Cagiga (Ms. Cagiga), on behalf of Prescott who was already 67 years old at the time, sought the assistance of the Public Attorney's Office (PAO). Prescott complained of chest pains, fever, and body aches, and must be brought for hospitalization and treatment. PAO indorsed Ms. Cagiga's letter to the Bureau. On October 12, 2018, Prescott was granted medical pass for confinement at the Medical Center Manila for various medical ailments.[31]

On December 4, 2018, Prescott filed his Memorandum to the Secretary of Justice, which was deemed an appeal from DOJ Resolution dated November 28, 2013. Due to his ballooning hospital bills, he also filed with the DOJ on January 31, 2019 a motion to be released on recognizance, attaching the affidavit of undertaking as custodian executed by PAO Chief Persida V. Rueda-Acosta.[32] The memorandum and motion have remained unacted upon.[33]

Proceedings before the Regional Trial Court

On March 13, 2019, Prescott filed a Petition for Declaratory Relief with Petition for Habeas Corpus, which was raffled to Branch 10, Regional Trial Court, Manila City.[34] He prayed for two main remedies: (1) to be declared a Philippine citizen through the petition for declaratory relief; and (2) to be released from detention through a writ of habeas corpus.[35]

On March 14, 2019, the trial court issued a writ of habeas corpus, requiring Bureau and DOJ to produce the live person of Prescott and to show cause why they are withholding or restraining his liberty.[36] Hearings were set on March 18 and 20, 2019. The March 20, 2019 hearing proceeded as scheduled, during which Bureau and DOJ filed

their return to the writ with prayer for the dismissal of the petition for alleged lack of merit.[37]

By Resolution[38] dated March 21, 2019, the trial court denied the petition for habeas corpus. It held that the remedy of habeas corpus was unavailing in view of the deportation order against Prescott which had already attained finality. The proper remedy against the same was thus a petition for review before the Court of Appeals.[39] Prescott moved for reconsideration, contending that the application for habeas corpus was proper pursuant to the ruling in *Borovsky v. Commissioner of Immigration*,[40] since the Bureau failed to implement the deportation order against him for almost three years.[41]

Under Order dated March 27, 2019, the trial court set another hearing on April 5, 2019 for the Bureau to explain the reason for its failure to implement the deportation order against Prescott despite its finality. During the hearing, the Bureau manifested that it was already processing Prescott's deportation and has requested the US Embassy for issuance of the corresponding travel documents for him.[42]

Ruling of the Regional Trial Court

By Decision[43] dated May 24, 2019, the trial court denied the petition for declaratory relief and modified its ruling as regards the petition for habeas corpus, to wit:

WHEREFORE, premises considered, judgment is hereby rendered:

(1)

Denying petitioner WALTER MANUEL F. PRESCOTT's petition for declaratory relief for lack of merit; and

(2)

On the petition for habeas corpus, respondent Bureau of Immigration and the Department of Justice are hereby given a period of thirty (30) days from receipt of this Order to implement the deportation order against petitioner D.C. No. SBM/LD-15-08/07-659. Should respondents fail to deport petitioner after the expiration of the given period, they are hereby directed to immediately release from their custody the person of petitioner.

SO ORDERED.[44]

Foremost, the trial court pointed out that the second requisite necessary for a declaratory relief is absent, i.e., that there must have been no breach of the document in question. As it was, the Order dated November 26, 2008 granting Prescott's application for re-acquisition of Filipino citizenship had already been revoked DOJ Resolution dated November 28, 2013. More, it ordained that the actual purpose of Prescott's petition was not to obtain a declaration on his citizenship but to annul DOJ Resolution dated November 28, 2013 which revoked his Philippine citizenship. The same, however, cannot be done without violating the doctrine of immutability of judgment.[45]

Meanwhile, it agreed that the remedy of habeas corpus was proper considering the Bureau's unreasonable delay in implementing the deportation order. It nonetheless ordered the Bureau to implement the same within 30 days from receipt of the Order, failing which, Prescott shall be released from their custody.[46] Prescott appealed.

Ruling of the Court of Appeals

By Decision[47] dated June 25, 2021, the Court of Appeals affirmed, viz.:

WHEREFORE, premises considered, the present appeal is DENIED. Accordingly, the PAO is IMMEDIATELY DIRECTED to turn over the actual and physical custody of appellant to the Bureau of Immigration and Department of Justice and to cooperate with the said government agencies for an orderly execution of appellant's deportation.

The Bureau of Immigration and Department of Justice is ORDERED to enforce the Order of Deportation (D.C. No. SBM/LD-15-08/07-659) against appellant WALTER MANUEL F. PRESCOTT within 30 days from receipt of the Decision in this case and to submit a Report to this Court immediately thereafter.

SO ORDERED.[48] (Emphasis in the original)

The Court of Appeals ordained that the revocation of Prescott's certificate of reacquisition of Philippine citizenship was a direct attack on his citizenship. The Bureau is the agency tasked to hear and decide complaints regarding applications under Republic Act No. 9225, which were filed through fraud, misrepresentation, or concealment. The DOJ, on the other hand, is empowered to revoke the order of approval for reacquisition should a person be found to have illegally reacquired his or her Philippine citizenship.[49]

As to the merits, it ruled that Prescott was never a natural-born Filipino since he was born under the 1935 Constitution. Considering that he failed to elect Philippine citizenship upon reaching the age of 21 nor even 50 years thereafter, he never acquired Philippine citizenship and is thus not qualified to re-acquire the same.[50] More, he chose the wrong mode of review in appealing the DOJ Resolution dated November 28, 2013, which has long attained finality.[51] Finally, the Court of Appeals sustained Prescott's detention since he is purportedly an overstaying and undocumented alien who committed misrepresentations to acquire Philippine citizenship.[52]

By Resolution[53] dated August 15, 2022, the Court of Appeals denied Prescott's motion for reconsideration.

The Present Petition

Prescott now seeks affirmative relief from the Court and prays that the assailed dispositions of the Court of Appeals be reversed and a new one rendered, ordering his release from detention and declaring him a Philippine citizen.[54]

By Resolution[55] dated February 20, 2023, the Court: (1) directed the Office of the Solicitor General (OSG) to file its Comment to the Petition; and (2) set the case for hearing on February 27, 2023. On February 23, 2023, the OSG filed its Comment followed by a Supplemental Comment. Prescott filed his Reply. The hearing initially set on February 27, 2023 was subsequently rescheduled and held on March 13, 2023. Thereafter, the parties were required to submit their respective memoranda within 20 days from the adjournment of the hearing. Both parties were able to submit their respective memoranda on time.

In his Memorandum[56] dated March 31, 2023, Prescott maintains that Lourdes and Troutman's complaint against him is a collateral attack on his Philippine citizenship. For the DOJ is only empowered to revoke the reacquisition of Philippine citizenship in cases of fraud, misrepresentation, and concealment. Here, however, the basis invoked against him was the fact that he was born to a Filipino mother and an American father under the 1935 Constitution. Verily, his citizenship ought to have been questioned through judicial remedies and not merely through a letter-complaint.[57]

At any rate, the fact that his application for reacquisition of Philippine citizenship was granted means that he has always been Filipino. The Order granting his application enjoys the presumption of regularity and authenticity while the supporting documents attached indubitably show that he is the son of a Filipino mother, thus, a natural-born Filipino.[58] He argues that upon the revocation of his American citizenship in 1977, he did not become stateless but was considered a Philippine citizen under the 1973 Constitution.[59]

He insists, too, that he availed of the proper remedy through his Petition for Declaratory Relief.[60] As his right to due process was seriously transgressed when he was never furnished notices of the Bureau proceeding, the DOJ Resolution dated November 28, 2013 revoking his reacquisition of Philippine citizenship is therefore void. Accordingly, there was never a breach to speak of, contrary to the ruling of the trial court.[61] The petition for

habeas corpus is also proper as he remains detained for an unreasonable period of time despite the finality of the deportation order against him.[62] Finally, he maintains that he is not an overstaying or an undocumented alien. Nor did he misrepresent any factual information to acquire Philippine citizenship.[63]

By its Memorandum[64] dated March 27, 2023, the OSG counters that the Bureau and the DOJ are clothed with jurisdiction to cancel the decree of reacquisition of Philippine citizenship granted to Prescott under the 2008 Revised Rules Governing Philippine Citizenship. It is evident that the proceedings before the Bureau and the final revocation of his citizenship by the DOJ, through Resolution dated November 28, 2013, are direct attacks on his citizenship.[65]

In any case, the Petition must be dismissed on several procedural grounds: (1) the Bureau and DOJ rulings have attained finality so the petition for declaratory relief and habeas corpus are improper remedies;[66] (2) Prescott failed to exhaust the available administrative remedies in the ordinary course of law;[67] and (3) the Petition for Review on Certiorari raises questions of fact outside the cognizance of a Rule 45 petition.[68]

On the merits, the OSG ripostes that Prescott is not a Filipino since he never elected Philippine citizenship.[69] He cannot invoke good faith based alone on his belief that he is Filipino since he was in fact issued an ACR.[70] Neither is he stateless as he is clearly a naturalized American citizen.[71] To be sure, he was afforded due process in the Bureau proceedings as he was even able to file numerous motions for reconsideration before the Bureau and the DOJ.[72] Lastly, he is not entitled to a writ of habeas corpus since his physical custody is neither with the Bureau nor the DOJ but with the PAO.[73] The fault in the delay of his deportation lies not with the latter but with the PAO for its adamant refusal to turn him over to Bureau and DOJ.[74]

Issues

- 1) Is the complaint filed by Lourdes and Troutman a collateral attack on Prescott's citizenship?
- 2) Are the proceedings before the Bureau and the November 28, 2013 Resolution of the DOJ void for having been rendered without due process?
- 3) Did Prescott properly avail of the petition for declaratory relief and petition for habeas corpus?
- 4) Is Prescott, who was born under the 1935 Constitution to an American father and a Filipino mother, a natural-born Filipino, hence, eligible to reacquire Philippine citizenship under Republic Act No. 9225?
- 5) May Prescott be released from detention?

Our Ruling

The Petition is meritorious.

Indeed, as a rule, only questions of law may be raised in Petitions for Review on Certiorari under Rule 45. Since the Court is not a trier of facts, it will not entertain questions of fact or recalibrate and weigh all over again the evidence on record, especially where the factual findings of the trial court are affirmed by the appellate court, hence, final, binding, and conclusive.[75]

A question of law arises when there is doubt as to what the law is on a certain state of facts, while there is a question of fact when the doubt arises as to the truth or falsity of the alleged facts. For a question to be one of law, the same must not involve an examination of the probative value of the evidence presented by the litigants or any of them. The resolution must rest solely on what the law provides on a given set of facts.[76]

Here, it is not the truth or falsity of the facts that is in dispute. Notably, both parties rely on the same set of facts as basis for their respective arguments. They only differ when it comes to the legal conclusion based on the

undisputed facts on record, i.e., Prescott insists that he is a Philippine citizen while Bureau and DOJ maintain otherwise. Clearly, the issue before the Court is not one of fact but of law. Nothing thus bars Us from taking cognizance of the Petition and ruling on the issues raised therein.

Lourdes and Troutman's complaint is a direct attack on Prescott's citizenship; the DOJ is empowered to revoke the re-acquisition of Philippine citizenship after a hearing before the Bureau

Settled is the rule that in our jurisdiction, an attack on a person's citizenship is allowed only through a direct action for its nullity.[77] This precept can be traced back to the case of *Queto v. Catolico*,[78] where the Court admonished a trial court judge who, *motu proprio*, cancelled the certificates of naturalization of therein petitioners, who had already taken their oath of allegiance, due to alleged procedural infirmities, viz.:

It may be true, as alleged by said respondents, that the proceedings for naturalization were tainted with certain infirmities, fatal or otherwise, but that is beside the point in this case. The jurisdiction of the court to inquire into and rule upon such infirmities must be properly invoked in accordance with the procedure laid down by law. Such procedure is the cancellation of the naturalization certificate. [Section 1(5), Commonwealth Act No. 63], in the manner fixed in Section 18 of Commonwealth Act No. 473, hereinbefore quoted, namely, "upon motion made in the proper proceedings by the Solicitor General or his representatives, or by the proper provincial fiscal." In other words, the initiative must come from these officers, presumably after previous investigation in each particular case.[79] (Emphasis supplied, citations omitted)

Prescott anchors his argument on this exact pronouncement of the Court. He contends that the procedure under Commonwealth Act No. 473[80] on the cancellation of naturalization certificate[81] and the subsequent appeal to the Supreme Court[82] is the applicable procedure to assail his re-acquisition of Philippine citizenship under Republic Act No. 9225. Verily, the complaint filed against him before the Bureau was allegedly improper since any attack against his citizenship ought to have been filed before a court of justice and not before the respondent agencies.[83]

He is mistaken.

An attack is direct when the object of the action is to annul or set aside such judgment or enjoin its enforcement. On the other hand, an attack is indirect or collateral when, in an action to obtain a different relief, an attack on the judgment or proceeding is nevertheless made as an incident thereof.[84] Thus, in previous cases, the Court ordained that the citizenship of the respective respondents may not be assailed in cases for disbarment,[85] quo warranto proceedings,[86] and election protests,[87] as the same involve different principal reliefs and merely tangentially touch upon the issue of citizenship.

The same cannot be said here. For the complaint before the Bureau squarely attacked Prescott's reacquisition of Philippine citizenship and directly prayed for its revocation. The ambiguity in Prescott's citizenship was thus not a mere incident but the main issue in the proceeding. Verily, the same was a direct attack on his citizenship.

More, contrary to his argument, the procedure under Commonwealth Act No. 473 is not applicable here for the simple reason that he did not obtain his Philippine citizenship through naturalization. As correctly argued by the OSG, Republic Act No. 9225 governs this case. Relevantly, Administrative Order No. 91, Series of 2004,[88] clearly designates the Bureau as the agency tasked to implement Republic Act No. 9225 and empowers it to promulgate and issue the law's implementing rules and regulations, thus:

SECTION 1. Implementing Agency – The Bureau of Immigration, in consultation with the Department of Foreign Affairs, the Department of Justice and Office of the Civil Registrar-General, National Statistics Office, is hereby designated as the implementing agency of Republic Act No. 9225.

SECTION 2. Functions – The Bureau of Immigration, shall:

a.

Promulgate and issue rules and regulations implementing the provisions of the Citizenship Retention and Reacquisition Act of 2003[;]

Pursuant to its delegated quasi-legislative power, the Bureau issued Memorandum Circular No. MCL-08-005 or the 2008 Revised Rules Governing Philippine Citizenship under Republic Act No. 9225 and Administrative Order No. 91, Series of 2004, which recognizes the authority of the DOJ to revoke the order of approval granting an application for re-acquisition of Philippine citizenship upon a finding of fraud, misrepresentation, or concealment by the applicant, viz.:

SECTION 19. Exemption from Administrative Review. –

Retention/Reacquisition of Philippine citizenship under these Rules shall not be subject to the affirmation by the Secretary of Justice pursuant to DOJ Policy Directive of 7 September 1970 and DOJ Opinion No. 108 (series of 1996).

However, the Order of Approval issued under these Rules may be revoked by the Department of Justice upon a substantive finding of fraud, misrepresentation or concealment on the part of the applicant and after an administrative hearing initiated by an aggrieved party or by the BI.

Notwithstanding the exemption from administrative review as provided herein, nothing in these rules shall be construed as to diminish the administrative supervision of the Secretary of Justice over the BI. Consistent with this, the [Bureau] shall submit a monthly report to the DOJ of approved petitions for retention/reacquisition of Philippine citizenship. (Emphasis supplied)

This is consistent with the provisions of the 1987 Administrative Code of the Philippines,[89] which ordain the Bureau and DOJ to implement the laws governing citizenship and admission and stay of aliens per Book IV, Title III, Chapter I, Section 3 and Chapter 10, Section 31 thereof:

CHAPTER 1

General Provisions

...

SECTION 3. Powers and Functions. -To accomplish its mandate, the Department [of Justice] shall have the following powers and functions: . . .

(6) Provide immigration and naturalization regulatory services and implement the laws governing citizenship and the admission and stay of aliens[;]

CHAPTER 10

Bureau of Immigration

SECTION 31. Bureau of Immigration. – The Bureau of Immigration is principally responsible for the administration and enforcement of immigration, citizenship and alien admission and registration laws in accordance with the provisions of the Philippine Immigration Act of 1940, as amended (C.A. No. 613, as amended). . . .

It is thus clear under the existing law and regulations that the authority to revoke an improperly granted order of approval for re-acquisition of Philippine citizenship under Republic Act No. 9225 lies with the DOJ after the appropriate administrative hearing before the Bureau shall have been conducted. This notwithstanding, the Bureau

proceedings against Prescott and the consequent revocation of the decree for re-acquisition of his Philippine citizenship per DOJ November 28, 2013 Resolution are void ab initio for having been conducted and issued, respectively, without due process of law.

The Bureau proceedings and the DOJ Resolution dated November 28, 2013 are void ab initio for having been conducted and issued, respectively, in violation of Prescott's constitutional right to due process

The right of the People to due process is enshrined under Article III, Section 1 of the 1987 Constitution, which states that "[n]o 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." This right is guaranteed not only in judicial proceedings but also in administrative proceedings.

The observance of fairness in the conduct of any investigation is at the very heart of procedural due process. The essence of due process is the right to be heard. Specifically, in administrative proceedings, the respondent has the right to a fair and reasonable opportunity to explain his or her side, or an opportunity to seek a reconsideration of the action or ruling complained of. Administrative due process, however, is not identical to the due process required in judicial proceedings. For the latter requires a formal or trial-type hearing while the former does not strictly abide by technical rules of procedure.[90]

In fine, as long as the parties are given the opportunity to be heard before judgment is rendered, the demands of due process are deemed sufficiently complied with.[91] Conversely, a violation of the right to administrative due process occurs when a court or tribunal rules against a party without giving him or her the opportunity to be heard.[92] The requirements of administrative due process are thoroughly laid out in the seminal case of *Ang Tibay v. Court of Industrial Relations*,[93] viz.:

(1)

[T]he right to a hearing must be respected, which includes the right of the party interested or affected to present his [or her] own case and submit evidence in support thereof[;]

(2)

Not only must the party be given an opportunity to present his [or her] case and to adduce evidence tending to establish the rights he [or she] asserts but the tribunal must consider the evidence presented[;]

(3)

There must be evidence to support the finding or conclusion of the tribunal;

(4)

Not only must there be evidence to support a finding or conclusion, but the evidence must be substantial. Substantial evidence is such relevant evidence as a reasonable mind would accept as adequate to support a conclusion[;]

(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 own independent consideration of the law and facts of the controversy and not simply accept the views of a subordinate in arriving at a decision; and

(7)

The decision should be rendered in a manner that the parties to the proceeding can know the various issues involved, and the reasons for the decision rendered.[94]

Measured against these guidelines, there was a perceptible violation of Prescott's right to administrative due process in the Bureau proceedings. To reiterate, the facts are undisputed. Bureau and DOJ do not contest that he never received the notices allegedly sent by the Bureau to him for the scheduled hearings from July 10, 2012 to September 20, 2012 vis-à-vis his fraudulent re-acquisition of Philippine citizenship. In fact, they admit in their Memorandum that these notices were "returned with the comment 'moved out.'"[95]

As regards the revocation of the reacquisition of his Philippine citizenship per DOJ Resolution dated November 28, 2013, respondents do not allege, much less, adduce evidence, that Prescott was furnished a copy of the same. On the contrary, they fleetingly allege that a copy thereof was "furnished [him] in his last two known addresses"[96] as if it were already compliant with the requirement of notice. Nonetheless, he only discovered the judgment against him by chance when he applied for renewal of his passport which was subsequently denied.

Clearly, in violation of the requirements under Ang Tibay, Prescott was undoubtedly deprived of any opportunity to present his case and submit evidence to counter the allegations of fraud imputed against him. Obviously, in rendering their respective decisions, the Bureau and the DOJ likewise never accorded consideration to his defenses, much less, supporting evidence. They argue nonetheless that his right to be heard was never violated for he was able to file several pleadings seeking reconsideration of the DOJ Resolution dated November 28, 2013.

The argument does not impress.

To avoid further misconceptions moving forward, the Court underscores and clarifies anew that mere filing of a motion for reconsideration cannot cure any due process defect, especially if the same was filed precisely to raise the issue of violation of the right to due process considering that up until that point, the opportunity to be heard on the merits has remained elusive.[97]

Our pronouncement in *Fontanilla v. Commission Proper*, [98] finds profound relevance in this case. There, Fontanilla likewise assailed the violation of his right to due process when he was found liable for the amount of money he and his co-worker lost. Apparently, he was never given due notice nor ordered to participate in the proceedings nor given the chance to present his side. Instead of granting him an opportunity to meet the accusations against him, the Commission on Audit (COA) Proper treated his motion for intervention as an appeal, equated the same to an opportunity to be heard, and denied it. The Court reversed, viz.:

We reject the COA's reasoning.

While we have ruled in the past that the filing of a motion for reconsideration cures the defect in procedural due process because the process of reconsideration is itself an opportunity to be heard, this ruling does not

embody an absolute rule that applies in all circumstances. The mere filing of a motion for reconsideration cannot cure the due process defect, especially if the motion was filed precisely to raise the issue of violation of the right to due process and the lack of opportunity to be heard on the merits remained.

In other words, if a person has not been given the opportunity to squarely and intelligently answer the accusations or rebut the evidence presented against him, or raise substantive defenses through the proper pleadings before a quasi-judicial body (like the COA) where he or she stands charged, then a due process problem exists. This problem worsens and the denial of his most basic right continues if, in the first place, he is found liable without having been charged and this finding is confirmed in the appeal or reconsideration process without allowing him to rebut or explain his side on the finding against him.

Time and again, we have ruled that the essence of due process is the opportunity to be heard. In administrative proceedings, one is heard when he is accorded a fair and reasonable opportunity to explain his case or is given the chance to have the ruling complained of reconsidered.

Contrary to the COA's posturing, it did not pass upon the merit of Dr. Fontanilla's claim that he was denied due process. Instead of asking Dr. Fontanilla to explain his side (by allowing him to submit his memorandum or calling for an oral argument as provided under Rule X, Section 3 of the COA Rules of Procedure), the COA concluded right away that the motion for intervention, exclusion, and reconsideration had effectively cured the alleged denial of due process. The COA failed or simply refused to realize that Dr. Fontanilla filed the motion precisely for the purpose of participating in the proceedings to explain his side.[99] (Emphases supplied, citations omitted)

Here, neither the Bureau nor the DOJ passed upon Prescott's arguments in his motions where he invariably raised violation of his right to due process. Neither did they allow him to air his defenses against the accusations against him in the complaint. Nor was he even furnished copies of the records. Notably, the Bureau and the DOJ repeatedly brushed aside his various appeals by consistently reasoning that the DOJ Resolution dated November 28, 2013 had already become final and executory, hence, immutable.[100] In fact, even now before the Court, they principally rely on this theory to block Prescott's attempt to seek relief.

All told, the mere fact that he filed motions for reconsideration before the Bureau and the DOJ, which nonetheless were never properly considered by Bureau and the DOJ, does not amount to a fair and reasonable opportunity to be heard required by the Constitution, law, and jurisprudence. Consequently, for having been rendered in violation of Prescott's fundamental right to due process, the proceedings before the Bureau as well as the DOJ Resolution dated November 28, 2013 are void ab initio.

The Court consistently adheres to the rule that a decision rendered without due process is void ab initio and may be attacked directly or collaterally. The cardinal precept is that where there is a violation of basic constitutional rights, courts are ousted of their jurisdiction. Any judgment or decision rendered notwithstanding such violation may be regarded as a lawless thing, which can be treated as an outlaw and slain at sight, or ignored wherever it exhibits its ugly head.[101]

So must it be.

A petition for declaratory relief is not the proper remedy to determine citizenship, the same may, however, be passed upon as an incident to the petition for habeas corpus

A Petition for Declaratory Relief is an action provided under Rule 63 of the Revised Rules of Court. Section 1 thereof provides:

SECTION 1. Who may file petition. – Any person interested under a deed, will, contract or other written instrument, or whose rights are affected by a statute, executive order or regulation, ordinance, or any other

governmental regulation may, before breach or violation thereof, bring an action in the appropriate Regional Trial Court to determine any question of construction or validity arising, and for a declaration of his rights or duties, thereunder.

In sum, declaratory relief is an action by any person interested in a deed, will, contract or other written instrument, executive order or resolution, to determine any question of construction or validity arising from the instrument, executive order or regulation, or statute, and for a declaration of his or her rights and duties thereunder. The only issue that may be raised in such a petition is the question of construction or validity of the provisions in an instrument or statute.[102]

It requires the following elements: (1) the subject matter of the controversy must be a deed, will, contract or other written instrument, statute, executive order or regulation, or ordinance; (2) the terms of said document and the validity thereof are doubtful and require judicial construction; (3) there must have been no breach of the documents in question; (4) there must be an actual justiciable controversy or the "ripening seeds" of one between persons whose interests are adverse; (5) the issue must be ripe for judicial determination; and (6) adequate relief is not available through other means or other forms of action or proceeding.[103]

The grant of declaratory relief is discretionary on the courts. They may refuse to declare rights or to construe instruments if it will not terminate the controversy or if it is unnecessary and improper under the circumstances.[104] On this score, the Court invariably pronounced beginning with *Tan v. Republic*,[105] that a petition for declaratory relief is an improper remedy to secure a judicial declaration of Philippine citizenship for there is no law or rule providing such remedy, viz.:

[U]nder our laws, there can be no action or proceeding for the judicial declaration of the citizenship of an individual. Courts of justice exist for the settlement of justiciable controversies, which imply a given right, legally demandable and enforceable, an act or omission violative of said right, and a remedy, granted or sanctioned by law, for said breach of right. As an incident only of the adjudication of the rights of the parties to a controversy, the court may pass upon, and make a pronouncement relative to, their status. Otherwise, such a pronouncement is beyond judicial power. Thus, for instance, no action or proceeding may be instituted for a declaration to the effect that plaintiff or petitioner is married, single, or a legitimate child, although a finding hereon may be made as a necessary premise to justify a given relief available only to one enjoying said status. At times, the law permits the acquisition of a given status, such as naturalization, by judicial decree. But, there is no similar legislation authorizing the institution of a judicial proceeding to declare that a given person is part of our citizenry.[106] (Emphasis supplied)

More, taking into consideration the nature of a proceeding for declaratory judgment, wherein relief may be sought only to declare rights, and not to determine or try issues, a declaratory relief proceeding is thus unavailable where the judgment would have to be made only after a judicial investigation of disputed facts.[107] It is therefore clear that Prescott improperly resorted to a petition for declaratory relief to seek the declaration of his Philippine citizenship. The same was thus correctly dismissed by the courts below.

But all is not lost. In *Tan*, we identified the proper instance when the citizenship of a person may be settled by the courts, i.e., "as an incident only of the adjudication of the rights of the parties to a controversy." [108] In fine, if the citizenship of a person is a threshold issue in an actual controversy, the Court may pass upon the same.

Such a controversy exists here. For apart from his Petition for Declaratory Relief, Prescott also filed a Petition for Habeas Corpus, contending that as a Philippine citizen, he is not the proper subject of the order of deportation. Clearly, his citizenship is a threshold issue that must be determined corollary to the habeas corpus petition which in turn, determines the legality of his detention. To be sure, the power to deport is limited to aliens only. If the respondent to a deportation proceeding is admittedly a citizen or conclusively shown to be such, the Bureau lacks

jurisdiction and its proceedings are void ab initio and may be summarily enjoined.[109]

Thus, albeit the dismissal of the Petition for Declaratory Relief is in order, we may nonetheless settle once and for all Prescott's citizenship by treating the Petition for Declaratory Relief as incident in his Petition for Habeas Corpus.

Prescott is a natural-born Philippine citizen, hence, he may not be legally deported

Prescott was born on August 10, 1950. Any issue regarding his citizenship consequently falls under the aegis of the 1935 Constitution, which identifies who are considered Philippine citizens under Article IV, Section 1 thereof, viz.:

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. (Emphasis supplied)

Unlike the 1973 and 1987 Constitutions, the 1935 Constitution does not automatically recognize children born to Filipino mothers as Philippine citizens. As a rule, they follow the citizenship of their alien father, unless, upon reaching the age of majority, they elect Philippine citizenship.[110] During the child's minority, what he or she possessed was merely an inchoate right to choose Philippine citizenship.[111]

Notably, Article IV, Section 1(4) of the 1935 Constitution, as worded, is vague as regards the particular manner and time for electing Philippine citizenship. It was only in 1941 or six years after the 1935 Constitution was ratified when Commonwealth Act No. 625 was legislated, prescribing for the first time that the election of Philippine citizenship must be done in accordance with several formal requisites, i.e., the same must be in writing, under oath, filed with the civil registry, and accompanied with an oath of allegiance to the Constitution and the Philippine government, thus:

SECTION 1. The option to elect Philippine citizenship in accordance with subsection (4), section 1, Article IV,

of the Constitution shall be expressed in a statement to be signed and sworn to by the party concerned before any officer authorized to administer oaths, and shall be filed with the nearest civil registry. The said party shall accompany the aforesaid statement with the oath of allegiance to the Constitution and the Government of the Philippines.

SECTION 2. If the party concerned is absent from the Philippines, he may make the statement herein authorized before any officer of the Government of the United States authorized to administer oaths, and he shall forward such statement together with his oath of allegations, to the Civil Registry of Manila.

Meanwhile, though both the 1935 Constitution and Commonwealth Act No. 625 are silent as to the exact period within which the election may be made, the Court in *Cueco v. Secretary of Justice and Commissioner of Immigration*,^[112] determined that the same should be done within a "reasonable time," i.e., three years, subject to extension under certain circumstances such as when the person has always considered himself or herself as a Filipino, but not exceeding seven years.

Bureau and DOJ consequently argue that Prescott was never a Philippine citizen as he himself admits that he never elected Philippine citizenship within a reasonable time after he turned 21 years old. This argument is incorrect.

Per existing jurisprudence, "election" under Article IV, Section 1(4) of the 1935 Constitution may be done in two ways: first, through formal election pursuant to Commonwealth Act No. 625; or second, through informal election, i.e., when it is evident from the positive acts of a child born to a mixed marriage that he or she chose Philippine citizenship.

The concept of informal election was first introduced in *In Re: Florencio Mallare*,^[113] where Florencio Mallare, who was born under the 1935 Constitution to a Chinese father and a Filipino mother, was recognized as a Philippine citizen by the Court who found his exercise of the right of suffrage upon reaching the age of majority as sufficient to show his preference for Philippine citizenship.

More than a decade later, the Court again held that the petitioner in *Co v. Electoral Tribunal of the House of Representatives*,^[114] indubitably, though implicitly, elected Philippine citizenship through his numerous categorical acts which all revealed such intention, to wit:

The respondent was born in an outlying rural town of Samar where there are no alien enclaves and no racial distinctions. The respondent has lived the life of a Filipino since birth. His father applied for naturalization when the child was still a small boy. He is a Roman Catholic. He has worked for a sensitive government agency. His profession requires citizenship for taking the examinations and getting a license. He has participated in political exercises as a Filipino and has always considered himself a Filipino citizen. There is nothing in the records to show that he does not embrace Philippine customs and values, nothing to indicate any tinge of alien-ness no acts to show that this country is not his natural homeland. The mass of voters of Northern Samar are fully aware of Mr. Ong's parentage. They should know him better than any member of this Court will ever know him. They voted by overwhelming numbers to have him represent them in Congress. Because of his acts since childhood, they have considered him as a Filipino.

The filing of sworn statement or formal declaration is a requirement for those who still have to elect citizenship. For those already Filipinos when the time to elect came up, there are acts of deliberate choice which cannot be less binding. Entering a profession open only to Filipinos, serving in public office where citizenship is a qualification, voting during election time, running for public office, and other categorical acts of similar nature are themselves formal manifestations of choice for these persons.^[115]

Meanwhile, in *Cabiling Ma v. Fernandez, Jr.*,^[116] while the Court did not recognize mere exercise of the right to suffrage, assumption of public office, continuous and uninterrupted stay in the Philippines, and other similar acts

showing exercise of Philippine citizenship as equivalent to formal election, the petitioners were nonetheless deemed Filipinos in view of the fact that they already formally elected Philippine citizenship but only failed to register the same beyond the prescribed timeframe. In the meantime, they have consistently and continuously done positive acts of citizenship manifesting their choice to become Philippine citizens. The Court stated:

We are not prepared to state that the mere exercise of suffrage, being elected public official, continuous and uninterrupted stay in the Philippines, and other similar acts showing exercise of Philippine citizenship can take the place of election of citizenship. What we now say is that where, as in petitioners' case, the election of citizenship has in fact been done and documented within the constitutional and statutory timeframe, the registration of the documents of election beyond the frame should be allowed if in the meanwhile positive acts of citizenship have publicly, consistently, and continuously been done. The actual exercise of Philippine citizenship, for over half a century by the herein petitioners, is actual notice to the Philippine public which is equivalent to formal registration of the election of Philippine citizenship.[117]

As eloquently opined by the esteemed Associate Justice Alfredo Benjamin S. Caguioa (Justice Caguioa) during the Court's deliberation, the special circumstances availing in Cabiling Ma and the logic applied by the Court therein may also be applied in favor of Prescott.

It is true that Prescott never, by formal deed, elected Philippine citizenship within a reasonable time upon reaching 21 years old. The Court finds, however, that the Oath of Allegiance executed by Prescott in 2008 when he re-acquired Philippine citizenship under Republic Act No. 9225 constitutes substantial compliance with the formal election requirements under Commonwealth Act No. 625. His Oath of Allegiance reads:[118]

OATH OF ALLEGIANCE
TO THE
REPUBLIC OF THE PHILIPPINES

I, WALTER MANUEL FERNANDEZ PRESCOTT, solemnly swear 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[.]

Sgd.
WALTER MANUEL FERNANDEZ
PRESCOTT
Affiant

As aptly discussed by Justice Caguioa in his Concurring Opinion, the requirement to formally elect Philippine citizenship under Article IV, Section 1(4) of the 1935 Constitution in relation to Commonwealth Act No. 625 merely ensures the complete loyalty, fidelity, and allegiance to the country of the persons electing Philippine citizenship even as they were born to alien fathers. Notably, this assurance is precisely what was encapsulated in the Oath of Allegiance sworn by Prescott in 2008. More important, the apprehension of disloyalty which the 1935 sought to eliminate is non-existent in Prescott's case. For what he has not formally spoken or written in words when he reached the age of 21, and years thereafter, he unequivocally expressed through his consistent and deliberate actions throughout the course of his entire life which totally evince of his loyalty, love, and fealty to the Philippines.

While it is undeniable that it took Prescott 30 years after reaching 21 years old before he executed his Oath of

Allegiance pursuant to Republic Act No. 9225, his peculiar and unique circumstances, to this Court, absolutely justify an exception from the prescribed timeframe. To be sure, the time within which formal election must be made was never enshrined in Commonwealth Act No. 625 but was merely laid down in jurisprudence. Even then, We are cognizant that such period, when warranted by special circumstances, as here, may be extended. In *Cueco v. Secretary of Justice and Commission of Immigration*, [119] the Court in fact, stated:

It is true that this clause has been construed to mean a reasonable time after reaching the age of majority, and that the Secretary of Justice has ruled that three (3) years is the reasonable time to elect Philippine citizenship under the constitutional provision adverted to above, which period may be extended under certain circumstances, as when the person concerned has always considered himself a Filipino. For this reason, petitioner introduced evidence to the effect that he is referred to as a Filipino in his birth certificate, in his marriage contract and in the birth certificates of his children; that he married a Filipina; and that he enlisted in the Philippine guerrilla forces in December, 1942.[120] (Emphasis supplied).

From the undisputed facts, We are convinced that Prescott has always considered himself a Filipino. The facts are replete with incontrovertible proofs of this choice:

First. He was born and raised in the Philippines. He spent his formative years and early adulthood knowing no other culture and recognizing no other terrain but those of the Philippines. He maintained his residence, was educated, earned his livelihood, and formed his family here. As a result, he lost the very American citizenship which Bureau and DOJ insist he kept and continued to maintain.[121]

Second. After he lost his American citizenship, he consistently identified himself as Filipino in all his documents, including his Marriage Contract[122] and the Certificate of Live Birth of his first child Jeffrey.[123]

Third. When he was in the USA for his employment with the World Bank, he had to be naturalized to become an American citizen. This is most telling. For only aliens need to be naturalized to be conferred citizenship. If indeed Prescott had been an American all along, he would not have had to obtain American citizenship anew, much less, be naturalized to become one.

Fourth. Even when he became a naturalized American citizen, he never really abandoned being a Filipino. In fact, he would often travel back to the Philippines, and, significantly, he did so with a "balikbayan" status.

The Balikbayan Program was instituted through Republic Act No. 6768 which defined "balikbayan" as "a Filipino citizen who has been continuously out of the Philippines for a period of at least one year, a Filipino overseas worker, or a former Filipino citizen and his family, as this term is defined hereunder, who had been naturalized in a foreign country and comes or returns to the Philippines." [124]

Clearly, he would not have been recognized by the Bureau as a balikbayan if he were not, prior to his naturalization, a Philippine citizen as required under the Balikbayan Program of Republic Act No. 6768.

Fifth. He obtained dual citizenship when he reacquired his Philippine citizenship under Republic Act No. 9225. The same was duly conferred upon him not only by the Embassy of the Philippines to the USA but also with the confirmation by no less than the DFA. He was even issued an Identification Certificate,[125] recognizing him as Filipino, as well as a Philippine passport.[126]

Clearly, the government, through its various agencies, consistently recognized Prescott as a Philippine citizen, and, in numerous instances, conferred upon him the status and privileges available only to citizens of the Philippines.

Lastly. When he retired, he had at his absolute disposal the option to remain in the USA and spend his final years there. Yet, he chose to leave everything he had and return to the Philippines to settle for good even when his own

wife left him to return to the USA where she remains until now.[127]

True, Prescott was issued an ACR on January 12, 1951, when he was less than one year old, and only because having been born under the 1935 Constitution, he derived his citizenship as a minor from his American father. Hence, the ACR simply meant that he had an option, within a reasonable time upon reaching 21 years old, to elect Philippine citizenship, which, as shown, he categorically, albeit, informally did through his positive acts.

In any case, even if Prescott's Oath of Allegiance in 2008 cannot be considered as his formal election, he is still deemed a natural-born Filipino pursuant to the 1961 Convention on Reduction of Statelessness. To recall, he lost his American citizenship when he was 26 years old for failing to return to the USA within the period prescribed under its law. Neither was he recognized as a Philippine citizen at the time under the 1935 Constitution. In fine, he became, as a result of the operation of American and Philippine laws, a stateless person[128] as defined under Article 1(1) of the Convention Relating to the Status of Stateless Persons, to which the Philippines acceded in 2011.

Notably, the Philippines, in 2022, acceded to the 1961 Convention on Reduction of Statelessness, which obliges a Contracting State to grant its nationality to a person born in its territory who would otherwise be stateless, including an instance cogently cited by Justice Caguioa where such person was unable to acquire the nationality of the State in whose territory he or she was born because he or she has passed the age to lodge an application, provided that the nationality of one of his or her parents belongs to such State, viz.:

Article 1.

4. A Contracting State shall grant its nationality to a person who would otherwise be stateless and who is unable to acquire the nationality of the Contracting State in whose territory he was born because he has passed the age for lodging his application or has not fulfilled the required residence conditions, if the nationality of one of his parents at the time of the person's birth was that of the Contracting State first above mentioned. If his parents did not possess the same nationality at the time of his birth, the question whether the nationality of the person concerned should follow that of the father or that of the mother shall be determined by the national law of such Contracting State. If application for such nationality is required, the application shall be made to the appropriate authority by or on behalf of the applicant in the manner prescribed by the national law. Subject to the provisions of paragraph 5 of this Article, such application shall not be refused.

There is no doubt that the 1961 Convention on Reduction of Statelessness may apply to Prescott who was born in 1950 since Article 12, Section 2, thereof explicitly states that "[t]he provisions of paragraph 4 of Article 1 of this Convention shall apply to persons born before as well as to persons born after its entry into fore."

More, even prior to the Philippines' accession to the 1961 Convention on Reduction of Statelessness, the Court already declared that its principles are nonetheless binding to the Philippines as generally accepted principles of international law.[129] As such, pursuant to Article 1(4) of the Convention, the Philippines had the obligation to recognize Prescott, born to a Filipino mother, as a Philippine citizen after failing to formally elect Philippine citizenship within the prescribed time since he would have otherwise become a stateless person. This grant of nationality to Prescott, to this Court, must be reckoned from his birth if we are to give full life to the Philippines' commitment under the Convention. Most especially since, we have long sought to correct the anomalous discrimination between children born to Filipino fathers and those born to Filipino mothers and alien fathers under the 1935 Constitution. In *Co v. Electoral Tribunal of the House of Representatives*,[130] we acknowledged:

The provision in question 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.

Under the 1973 Constitution, those born of Filipino fathers and those born of Filipino mothers with an alien father were placed on equal footing. They were both considered as natural-born citizens.

Hence, the bestowment of the status of "natural-born" cannot be made to depend on the fleeting accident of time or result in two kinds of citizens made up of essentially the same similarly situated members.

It is for this reason that the amendments were enacted, that is, in order to remedy this accidental anomaly, and, therefore, treat equally all those born before the 1973 Constitution and who elected Philippine citizenship either before or after the effectivity of that Constitution.

The Constitutional provision in question is, therefore curative in nature. The enactment was meant to correct the inequitable and absurd situation which then prevailed, and thus, render those acts valid which would have been nil at the time had it not been for the curative provisions.[131]

In sum, having formally elected Philippine citizenship under the 1935 Constitution, albeit belatedly, Prescott is considered a natural-born citizen following Article IV, Section 1(3)[132] in relation to Section 2[133] of the 1987 Constitution. Consequently, he was eligible to reacquire Philippine citizenship under Republic Act No. 9225.

The Petition for Habeas Corpus must be granted since Prescott, being a Philippine citizen, is not the proper subject of deportation

Habeas corpus, otherwise known as the "great writ of liberty," is an extraordinary, summary, and equitable writ,[134] as provided under Rule 102 of the Revised Rules of Court. Section 1 thereof states:

SECTION 1. To what habeas corpus extends. – Except as otherwise expressly provided by law, the writ of habeas corpus shall extend to all cases of illegal confinement or detention by which any person is deprived of his [or her] liberty, or by which the rightful custody of any person is withheld from the person entitled thereto.

A writ of habeas corpus is a speedy and effectual remedy to relieve persons from unlawful restraint. Broadly speaking, it extends to all cases of illegal confinement or detention by which any person is deprived of his or her liberty, or by which the rightful custody of any person is withheld from the person entitled thereto. The most basic criterion for the issuance of the writ is that the individual seeking such relief is illegally deprived of his or her freedom of movement or placed under some form of illegal restraint.[135] Its primary purpose is to inquire into all manner of involuntary restraint and to relieve a person therefrom if such restraint is illegal.[136]

To recall, Prescott was arrested and is detained pursuant to a warrant of deportation following the revocation of his reacquisition of Philippine citizenship. As discussed, however, Bureau and DOJ have no jurisdiction to arrest him or to lawfully hold him in detention for two reasons: first, the Bureau proceedings as well as the DOJ Resolution dated November 28, 2013 are void ab initio for having been issued in patent violation of Prescott's right to due process; and second, the Bureau has no jurisdiction to deport Prescott since he is not an alien but a natural-born Philippine citizen.

These circumstances are more than sufficient to render void the proceedings before the Bureau and the subsequent issuances of the DOJ involving Prescott. To repeat, where there is a deprivation of a person's constitutional rights, the court that rendered the judgment is deemed ousted of its jurisdiction and habeas corpus is the appropriate remedy to assail the legality of his detention. The inquiry on a writ of habeas corpus is addressed, not to errors committed by a court within its jurisdiction, but to the question of whether the proceeding or judgment under which the person has been restrained is a complete nullity. The concern is not merely whether an error has been committed in ordering or holding the petitioner in custody, but whether such error is sufficient to render void the judgment, order, or process in question.[137]

Prescott's immediate release is therefore in order. The Bureau is devoid of any legal basis to hold him in

detention. The OSG ripostes though that habeas corpus does not lie against the Bureau since it is PAO which currently holds Prescott in their custody.

We are not impressed.

Notably, during the March 13, 2023 hearing, the PAO manifested that though Prescott remains within the PAO premises, he is not free to leave as he wishes. In fact, a Bureau officer is deployed to watch guard over him. If at all, PAO is only acting as the Bureau's agent by harboring and taking care of Prescott within its premises. To recall, it is the Bureau which agreed to release him to the PAO temporarily in view of his ailing condition.^[138] For all intents and purposes, therefore, it is clear that the Bureau continues to have physical and legal custody over Prescott.

To recall, it was the Bureau which arrested Prescott pursuant to a warrant of deportation. From that point onwards, Prescott has been in its legal custody as contemplated under the law. A person is considered to be in the custody of the law (a) when he or she is arrested either by virtue of a warrant of arrest, as here, or by warrantless arrest; or (b) when he or she has voluntarily submitted himself or herself to the jurisdiction of the proper authorities.^[139]

Prescott has been detained for seven years now. He is already 73 years old and suffering from several medical conditions. His only wish is to spend his remaining years in the country which he has always considered his home and his motherland. He deserves to be set free since long ago. In fact, he should not have been deprived of his liberty and be treated as an overstaying alien in the first place. For he is, indeed, a natural born Filipino. His actions, more than words, eloquently speak of the decision he made in electing Filipino citizenship immediately upon reaching the age of 21.

ACCORDINGLY, the Petition is GRANTED. The Decision dated June 25, 2021 and Resolution dated August 15, 2022 of the Court of Appeals in CA-G.R. SP No. 161957 are REVERSED. The Deportation Order issued against petitioner Walter Manuel F. Prescott under Bureau of Immigration Resolution dated March 29, 2016 in D.C. No. SBM/LD-15-08/07-659 is declared VOID. The Petition for Habeas Corpus of petitioner Walter Manuel F. Prescott is GRANTED and the Bureau of Immigration and the Department of Justice and their agents, representatives, or persons acting in their place or stead, are ORDERED to RELEASE petitioner Walter Manuel F. Prescott immediately. They are required to submit their compliance within five days from notice hereof.

SO ORDERED.

Gesmundo, C.J., Hernando, Inting, M. Lopez, Gaerlan, Rosario, J. Lopez, Kho, Jr., and Singh, JJ., concur.

Leonen, SAJ., see separate concurring opinion.

Caguioa, J., see concurring opinion.

Zalameda,[*] J., no part and on official leave.

Dimaampao,[*][*] J., on official leave.

Marquez,[*][*][*] J., no part and on official business.

[*] No part and on official leave.

[**] On official leave.

[*][*][*] No part and on official business.

[1] Rollo, Vol. 1, pp. 3–40.

[2] Id. at 46–65. Penned by Associate Justice Ronaldo Roberto B. Martin and concurred in by Associate Justices Marlene B. Gonzales-Sison and Alfredo D. Ampuan of the Eight Division, Court of Appeals, Manila.

[3] Id. at 67–69. Penned by Associate Justice Ronaldo Roberto B. Martin and concurred in by Associate Justices Marlene Gonzales-Sison and Alfredo D. Ampuan of Former Eighth Division, Court of Appeals, Manila.

[4] Id. at 195.

[5] Id. at 7, 196.

[6] Id. at 197.

[7] Id. at 198.

[8] Id. at 7–8, 149–150.

[9] Otherwise known as the Citizenship Retention and Reacquisition Act.

[10] Rollo, Vol. 1, p. 204.

[11] Id. at 206.

[12] Id. at 358–359.

[13] Id. at 208.

[14] Id. at 307, 348.

[15] Id. at 307.

[16] Id. at 307–308.

[17] Id. at 9, 308–309.

[18] Id. at 309.

[19] Id.

[20] Id. at 257, 309.

[21] Id. at 310.

[22] Id.

[23] Id.

[24] Id. at 311–312, 410.

[25] Id. at 312, 418–419.

[26] Id. at 313.

[27] Id. at 313–314.

[28] Id. at 314.

[29] Id.

[30] Id.

[31] Id. at 13.

[32] Id. at 13–14.

[33] Id.

[34] Id. at 15.

[35] Id. at 136.

[36] Id. at 129.

[37] Id. at 135.

[38] Id. at 129–130. Penned by Acting Presiding Judge Danilo D. Leyva, Branch 10, Regional Trial Court, Manila.

[39] Id. at 130.

[40] 84 Phil. 161 (1949) [Per J. Bengzon, En Banc].

[41] Rollo, Vol. 1, p. 136.

[42] Id.

[43] Id. at 131–140.

[44] Id. at 139–140.

[45] Id. at 136–138.

[46] Id. at 139.

[47] Id. at 46–65.

[48] Id. at 64.

[49] Id. at 56–58.

[50] Id. at 61.

[51] Id. at 62–63.

[52] Id. at 64.

[53] Id. at 67–69.

[54] Id. at 38.

[55] Id. at 498.

[56] Rollo, Vol. 2, pp. 1091–1187.

[57] Id. at 1124–1130.

[58] Id. at 1140.

[59] Id. at 1141–1142.

[60] Id. at 1166–1167.

[61] Id. at 1130–1132.

[62] Id. at 1162–1166.

[63] Id. at 1159–1160.

[64] Rollo, Vol. 3, pp. at 540–606.

[65] Id. at 559–562.

[66] Id. at 565–570.

[67] Id. at 563–564.

[68] Id. at 570–572.

[69] Id. at 579–584.

[70] Id. at 589–582.

[71] Id. at 595–596.

[72] Id. at 596–598.

[73] Id. at 598–599.

[74] Id. at 600–602.

[75] See *Pascual v. Burgos*, 776 Phil. 167, 182 (2016) [Per J. Leonen, Second Division].

[76] *Republic v. Caraig*, 887 Phil. 827, 838 (2020) [Per J. Hernando, Second Division].

[77] See *Vilando v. House of Representatives Electoral Tribunal*, 671 Phil. 524 (2011) [Per J. Mendoza, En Banc], citing *Co v. Electoral Tribunal of the House of Representatives*, 276 Phil. 758 (1991) [Per J. Gutierrez, Jr., En Banc].

[78] 142 Phil. 49 (1970) [Per J. Makalintal, En Banc].

[79] Id.

[80] Otherwise known as the Revised Naturalization Law.

[81] SECTION 18. Cancellation of naturalization certificate issued. – Upon motion made in the proper proceedings by the Solicitor-General or his representative, or by the proper provincial fiscal, the competent judge may cancel the naturalization certificate issued and its registration in the Civil Registry:

- If it is shown that said naturalization certificate was obtained fraudulently or illegally;
- If the person naturalized shall, within the five years next following the issuance of said naturalization certificate, return to his native country or to some foreign country and establish his permanent residence there; Provided, That the fact of the person naturalized remaining for more than one year in his native country or the country of his former nationality, or two years in any other foreign country, shall be considered as prima facie evidence of his intention of taking up his permanent residence in the same;
- If the petition was made on an invalid declaration or intention;
- If it is shown that the minor children of the person naturalized failed to graduate from a public or private high school recognized by the Office of Private Education of the Philippines, where Philippine history, government

and civics are taught as part of the school curriculum, through the fault of their parents either by neglecting to support them or by transferring them to another school or schools. A certified copy of the decree cancelling the naturalization certificate shall be forwarded by the clerk of court to the Department of Interior and the Bureau of Justice; and

- If it is shown that the naturalized citizen has allowed himself to be used as a dummy in violation of the Constitutional or legal provision requiring Philippine citizenship as a requisite for the exercise, use or enjoyment of a right, franchise or privilege.

[82] SECTION 11. Appeal. - The final sentence may, at instance of either of the parties, be appealed to the Supreme Court.

[83] Rollo, Vol. 1, p. 302.

[84] See *Hortizuela v. Tagufa*, 754 Phil. 499, 506(2015) [Per J. Mendoza, Second Division].

[85] See *Vazquez v. Atty. Kho*, 789 Phil. 368 (2016) [Per C.J. Sereno, First Division].

[86] See *Vilando v. House of Representatives Electoral Tribunal*, 671 Phil. 524 (2011) [Per J. Mendoza, En Banc].

[87] See *Co v. Electoral Tribunal of the House of Representatives*, 276 Phil. 758 (1991) [Per J. Gutierrez, Jr., En Banc].

[88] Designating the Bureau of Immigration as the Implementing Agency of Republic Act No. 9225, otherwise known as the "Citizenship Retention and Reacquisition Act of 2003."

[89] Executive Order No. 292 (1987).

[90] See *Vivo v. Philippine Amusement Gaming Corporation*, 721 Phil. 34, 39 (2013) [Per J. Bersamin, En Banc].

[91] See *Montemayor v. Bundalian*, 453 Phil. 158 (2003) [Per J. Puno, Third Division].

[92] See *Office of the Ombudsman v. Conti*, 806 Phil. 384 (2017) [Per J. Mendoza, Second Division].

[93] See 69 Phil. 635 (1940) [Per J. Laurel, En Banc].

[94] *Id.* at 642–644.

[95] Rollo, Vol. 3, p. 544.

[96] *Id.* at 545.

[97] See *Barroso v. Commission on Audit*, G.R. No. 253253, April 27, 2021 [Per J. Lazaro-Javier, En Banc].

[98] 787 Phil. 713 (2016) [Per J. Brion, En Banc].

[99] *Id.* at 725–726.

[100] Rollo, Vol. 3, p. 725.

[101] *Ang Tibay v. Court of Industrial Relations*, 69 Phil. 635 (1940) [Per J. Laurel, En Banc].

[102] See *Ferrer, Jr. v. Mayor Raco, Jr.*, 637 Phil. 310, 317 (2010) [Per J. Mendoza, Second Division].

[103] See *In the Matter of Declaratory Relief on the Validity of BIR Revenue Memorandum Circular No. 65-2012*, 868 Phil. 517, 536 (2020) [Per J. Lazaro-Javier, First Division].

- [104] See *Zomer Development Company, Inc. v. Special Twentieth Division of the Court of Appeals*, 868 Phil. 93, 105 (2020) [Per J. Leonen, En Banc].
- [105] 107 Phil. 632 (1960) [Per J. Concepcion, En Banc].
- [106] *Id.* at 633.
- [107] See *Poco v. Commissioner of Immigration*, 123 Phil. 431, 434 (1966) [Per J. Barrera, En Banc].
- [108] 107 Phil. 632 (1960) [Per J. Concepcion, En Banc].
- [109] See *Chua Hiong v. Deportation Board*, 96 Phil. 665 (1955) [Per J. Labrador, En Banc].
- [110] See *Republic v. Sagun*, 682 Phil. 303 (2012) [Per J. Villarama, Jr., First Division].
- [111] See *Cabiling Ma v. Commissioner Fernandez*, 639 Phil. 577 (2010) [Per J. Perez, First Division].
- [112] 115 Phil. 90 (1962) [Per C.J. Concepcion, En Banc].
- [113] 158 Phil. 50 (1974) [Per J. Fernandez, En Banc].
- [114] 276 Phil. 758 (1991) [Per J. Gutierrez, En Banc].
- [115] *Id.* at 785–786.
- [116] 639 Phil. 577 (2010) [Per J. Perez, First Division].
- [117] *Id.* at 593.
- [118] *Rollo*, Vol. 1, p. 155.
- [119] 115 Phil. 90 (1962) [Per C.J. Concepcion, En Banc].
- [120] *Id.* at 93–94.
- [121] *Rollo*, Vol. 1, pp. 5 & 144.
- [122] *Id.* at 197.
- [123] *Id.* at 198.
- [124] Republic Act No. 6768 (1989), Section 2(a).
- [125] *Rollo*, Vol. 1, p. 208.
- [126] *Id.* at 210.
- [127] *Id.* at 155.
- [128] "Stateless person" means a person who is not considered a national by any State under the operation of its law.
- [129] See *Poe-Llamanzares v. COMELEC*, 782 Phil. 292 (2016) [Per J. Perez, En Banc]; see also art. II, sec. 2 of the 1987 Constitution.
- [130] 276 Phil. 758 (1991) [Per J. Gutierrez, Jr., En Banc].
- [131] *Id.* at 784.
- [132] SECTION 1. The following 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; . . .

[133] 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.

[134] See *In the Matter of the Petition for Habeas Corpus, SSgt. Osorio v. Asst. State Prosecutor Navera, et. al.*, 826 Phil. 643, 652 (2018) [Per J. Leonen, Third Division].

[135] See *In Re: Writ of Habeas Corpus for Abellana v. Judge Paredes*, 856 Phil. 516, 532 (2019) [Per J. Caguioa, Second Division].

[136] See *In the Matter of Declaratory Relief on the Validity of BIR Revenue Memorandum Circular No. 65-2012*, 868 Phil. 517, 536 (2020) [Per J. Lazaro-Javier, First Division].

[137] See *In Re: Writ of Habeas Corpus/or Abellana v. Judge Paredes*, 856 Phil. 516, 532(2019) [Per J. Caguioa, Second Division].

[138] *Rollo*, Vol. 2, p. 1111.

[139] See *Paderanga v. Court of Appeals*, 317 Phil. 862, 871 (1995) [Per J. Regalado, Second Division].

CONCURRING OPINION

LEONEN, SAJ.:

I concur in the result.

A warrant of deportation was issued against petitioner Walter Manuel F. Prescott, which led to his arrest and detention. The warrant was issued after respondent Department of Justice, as recommended by respondent Bureau of Immigration, revoked Prescott's reacquisition of Philippine citizenship under Republic Act No. 9225 or the Citizenship Retention and Re-acquisition Act of 2003.[1] He then filed a Petition for Review on Certiorari, assailing the June 25, 2021 Decision and August 15, 2022 Resolution of the Court of Appeals which sustained the deportation order issued by the Bureau of Immigration.[2]

In granting the Petition, the ponencia ruled that:

First, the proceedings before the Bureau of Immigration, as well as the November 28, 2013 Resolution of former Justice Secretary Leila de Lima[3] approving the recommendation to cancel petitioner's reacquisition of Philippine citizenship,[4] are void ab initio for having been issued without due process;[5] and

Second, the Bureau of Immigration has no jurisdiction to deport petitioner because he is a natural-born citizen and not an alien.[6]

I agree that the Petition be granted. However, the crux of the controversy lies not in petitioner's citizenship vis-à-vis the Constitution in effect at the time of his birth, nor in his informal election through his "consistent and deliberate actions throughout the course of his entire life,"[7] as the ponencia asserts. Rather, petitioner is a natural-born Filipino because his mother was a Filipino citizen.

I

Historically, citizenship has been closely associated with political rights.[8] Scholars have traditionally described citizenship as "a particular set of political practices involving specific public rights and duties with respect to a given political community." [9]

In our jurisprudence, "political rights" refer to "the right to participate, directly or indirectly, in the establishment or administration of government, the right of suffrage, the right to hold public office, the right of petition and, in general, the rights appurtenant to citizenship vis-à-vis the management of government." [10]

Citizenship is not a political right, rather, it is citizenship which grants political rights, making them members of the body politic that bestowed the same. Citizenship is a legal mechanism, the "right to have rights," denoting membership or political affiliation to a state. [11]

Along with political rights, citizenship also involves certain obligations to the political unit of which one is a member. For example, a state imposes taxes on its citizens in exchange for the public goods that it provides. As a consequence, citizenship becomes connected to the idea that one owes allegiance to the State because of the benefits and protection it offers. [12]

To highlight the importance of citizenship, there is a need to further digest its components – membership, rights, and participation – and its most crucial mark, the right to vote. [13]

The first component involves membership. Citizenship implies one's personal and somewhat permanent membership in a political community. [14] In turn, citizens "see themselves as in some sense belonging to the particular state in which they reside." [15] The sense of belonging enables an individual to work for the collective benefit of the entire locality.

The second component pertains to rights. Citizenship confers benefits and rights. [16] While rights may seem inherently connected to individuals, an important collective dimension associated with citizenship exists. That is the enjoyment of these rights—political or otherwise—will depend on the presence of "some form of political community in which citizens seek fair terms of association to secure those goods necessary for them to pursue their lives on equal terms with others." [17] In other words, the meaningful exercise of your individual rights and benefits will highly depend on the political machinery – composed of citizens themselves – that have granted the same.

The third component involves participation. Citizenship enables participation in the political, economic, and social processes of the community. [18] Citizenship, as the "right of rights," allows citizens to run for office, own properties, and even determine which rights they will secure and how. [19] To an extent, citizenship is the key to participate in the collective decision-making process in a given community. For without it, an individual is stripped of its ability to influence a State's policy direction.

Parallel to these components, the right to vote has been a crucial mark of citizenship. [20] Linked with engagement in the democratic processes, the right to vote allows us to have a "stable political framework to regulate social and economic life, along with various political institutions—such as a bureaucracy, legal system and courts, a police force and army—to formulate and implement the necessary regulations." [21]

Applying it in the Philippines, being a democratic and a republican state, sovereignty resides in the people and all government authority emanates from them. [22] The democratic process in the country does not start when people cast their votes on the ballots during elections. It starts simply by being a citizen—a Filipino citizen—who is then given the right to vote their respective political rulers.

II

Most people acquire their citizenship by birth.[23] Jus soli and jus sanguinis are "the two birthright principles that govern the automatic attribution of membership entitlement." [24] While both principles are grounded on "birthright transfer of entitlement," [25] their difference "lies in the connecting factor used to demarcate a respective polity's membership boundaries: jus soli relies on birthplace; jus sanguinis on parentage." [26]

Jus soli is "part of the common-law tradition [which] implies a territorial understanding of birthright citizenship." [27] It acknowledges "the right of each person born in the physical jurisdiction of a given state to acquire full and equal membership within that polity." [28] This principle emanated from the medieval England's feudal system where "'ligeance' and 'true and faithful obedience' to the sovereign were owed by a subject from birth: 'for as soon as he is born he oweth by birth-right ligeance and obedience to his Sovereign.'" [29]

Jus sanguinis, on the other hand, "does not elevate the territorial connection at birth to a guiding principle of citizenship attribution" [30] but instead bestows political membership on account of "descent and pedigree." [31] Irrespective of birthplace, children born to current members of the polity "are automatically defined as citizens of their parents' political community." [32]

In contrast with jus soli that is customarily observed in common-law countries, "jus sanguinis is the main principle associated with citizenship attribution in the Roman-law tradition and is followed today in continental Europe and other civil-law jurisdictions worldwide." [33]

III

As to jus sanguinis, the birthright principle followed in our country, we look into the historical evolution of citizenship in the local setting, beginning from the Spanish regime in the Philippines which was discussed in *Tecson v. Commission on Elections*. [34]

During the Spanish rule, there was a low regard towards the native inhabitants of the Philippine islands. At that time, there was no such term as "Philippine citizens" as they were seen as mere subjects of Spain and were even referred to as "indios" based on church records. [35] The Spanish Constitution of 1876 was not even extended to the Philippine islands. [36]

However, with its decline as a superpower, Spain was constrained to surrender its only colony in the East to the United States in 1898. Spain and the United States entered into the Treaty of Paris, which included a provision that the civil rights and political state of the native inhabitants of territories relinquished in favor of the United States would be ascertained by its Congress. [37]

Awaiting legislation by the United States Congress, native inhabitants of the Philippines ceased to be subjects of Spain and were "issued passports describing them to be citizens of the Philippines entitled to the protection of the United States." [38]

The first comprehensive United States legislation in the Philippines was the Philippine Bill of 1902, recognizing "citizens of the Philippine Islands": [39]

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 the 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. (Emphasis supplied)

The Philippine Bill of 1902 only covered "the status of children born in the Philippine Islands to its inhabitants who were Spanish subjects as of April 11, 1899" but not those "born in the Islands to parents who were not Spanish subjects."^[40] There was a notion that *jus soli*, followed in the United States, applied in the Philippines.^[41]

On March 23, 1912, the United States Congress amended the Philippine Bill of 1902,^[42] which was adopted in the Philippine Autonomy Act^[43] or the Jones Law of 1916:

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 subsequent 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 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.^[44] (Emphasis supplied)

Although there were differing views on *jus soli* as a mode of citizenship acquisition, the 1935 Constitution ended any connection with the common law principle by following *jus sanguinis* as the basis for Philippine citizenship.^[45] "[T]he principle of *jus sanguinis*, which confers citizenship by virtue of blood relationship, was subsequently retained under the 1973 and 1987 Constitutions."^[46]

In determining citizenship, the 1935 Constitution "made sole reference to parentage"^[47] as reflected under Article IV:

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. (Emphasis supplied)

"Under Article IV, Section 1(4) of the 1935 Constitution, the citizenship of a legitimate child born of a Filipino mother and an alien father followed the citizenship of the father, unless, upon reaching the age of majority, the child elected Philippine citizenship." [48] Commonwealth Act No. 625 [49] prescribed the manner of election:

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

SECTION 2. If the party concerned is absent from the Philippines, he may make the statement herein authorized before any officer of the Government of the United States authorized to administer oaths, and he shall forward such statement together with his oath of allegiance, to the Civil Registry of Manila. (Emphasis supplied)

The provision, unfortunately, discriminated against Filipino women as they can no longer transmit their Philippine citizenship to their children if they decide to marry an alien. To rectify this, the framers of the 1973 Constitution crafted a new provision: [50]

ARTICLE III

Citizenship

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 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. (Emphasis supplied)

Moreover, under Section 2 of the same Article:

Section 2. 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.

Clearly, while the 1935 Constitution demands election of Philippine citizenship upon reaching the age of majority

for children of Filipino mothers, this requirement was already dispensed with in the 1973 Constitution.[51] Under the 1973 Constitution, those born to Filipino fathers "or" mothers are citizens of the Philippines.[52]

The 1987 Constitution mostly espoused the provisions of the 1973 Constitution save "for subsection (3) thereof that aimed to correct the irregular situation generated by the questionable proviso in the 1935 Constitution." [53] Thus, under Article IV of the 1987 Constitution, the following are citizens of the Philippines:

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. (Emphasis supplied)

Presently, there are only two classes of Filipino citizens: natural born and naturalized. Under the 1987 Constitution, natural-born are "citizens of the Philippines from birth without having to perform any act to acquire or perfect their Philippine citizenship." [54]

In contrast, "a naturalized citizen is one who is not a natural born." [55] *David v. Senate Electoral Tribunal* expounded: [56]

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." By necessary implication, a naturalized citizen is one who is not natural-born. *Bengson v. House of Representatives Electoral Tribunal* articulates this definition by dichotomy:

[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.

Former Associate Justice Artemio Panganiban further shed light on the concept of naturalized citizens in his Concurring Opinion in *Bengson*: naturalized citizens, he stated, 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."

One who desires to acquire Filipino citizenship by naturalization is generally required to file a verified petition. He or she must establish, among others, that he or she is of legal age, is of 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. Further, the applicant must show that he or she will not be a threat to the state, to the public, and to the Filipinos' core beliefs.[57] (Emphasis supplied, citations omitted)

Thus, a person who wants to acquire Filipino citizenship through naturalization has to undergo a rigid process to establish that they possess all the qualifications and none of the disqualifications to become a Filipino citizen.

IV

Guided by the foregoing precepts, Prescott's citizenship is based on Article IV, Section 1(2) of the 1987 Constitution which provides that those "whose fathers or mothers are citizens of the Philippines" are citizens of the Philippines.

Jus sanguinis, or blood relationship, is our basis for citizenship. At present, Filipino citizens should not be treated differently so long as their fathers or mothers are citizens of the Philippines, regardless of the Constitution in effect the moment they were born.

Essentially, in relation to its counterpart in the 1973 Constitution,[58] Section 1(3) of the 1987 Constitution is merely descriptive so as to acknowledge the citizenship of children born to Filipino mothers who elected Philippine citizenship upon reaching the age of majority pursuant to Article IV, Section 1(4) of the 1935 Constitution. This cannot be construed to provide for another class or group to consider as Filipino citizens from which Prescott's citizenship can be predicated. A contrary view would not only defeat the salient reforms initiated by the framers of the 1973 and 1987 Constitutions "fully cognizant of the newly found status of Filipino women as equals to men,"[59] but also violates the constitutional guarantee to equal protection.[60]

Provincial Bus Operators Association of the Philippines v. Department of Labor and Employment[61] discussed the importance of the equal protection clause:

"Equal protection of the laws" requires that "all persons . . . be treated alike, under like circumstances and conditions both as to privileges conferred and liabilities enforced." The purpose of the equal protection clause is to secure every person within a state's jurisdiction against intentional and arbitrary discrimination, whether occasioned by the express terms of a statute or by its improper execution through the state's duly constituted authorities.[62] (Emphasis supplied, citations omitted)

Simply stated, equal justice before the law necessitates that the state refrain from discriminating among persons solely on the basis of distinctions that are irrelevant to its legitimate objective.[63]

The equal protection clause was not meant to prohibit statutes which create specific classes of persons or objects, or affect only these specific classes of persons or objects. Equal protection "does not demand absolute equality among residents; it merely requires that all persons shall be treated alike, under like circumstances and conditions both as to privileges conferred and liabilities enforced." [64]

As aptly explained in Sameer Overseas Placement Agency, Inc. v. Cabiles:[65]

A law that does not violate the equal protection clause prescribes a reasonable classification.

A reasonable classification "(1) must rest on substantial distinctions; (2) must be germane to the purposes of the law; (3) must not be limited to existing conditions only; and (4) must apply equally to all members of the same class.[66] (Citations omitted)

There are three tests to ascertain the reasonableness of a classification:

The strict scrutiny test applies when a classification either (i) interferes with the exercise of fundamental rights,

including the basic liberties guaranteed under the Constitution, or (ii) burdens suspect classes. The intermediate scrutiny test applies when a classification does not involve suspect classes or fundamental rights, but requires heightened scrutiny, such as in classifications based on gender and legitimacy. Lastly, the rational basis test applies to all other subjects not covered by the first two tests.[67] (Emphasis supplied. citations omitted)

That citizenship is linked to one's exercise of fundamental rights entails the application of the strict scrutiny test.[68] To sustain the classification, it must be crucial in attaining a compelling state interest and it must be "the least restrictive means to protect such interest or the means chosen is narrowly tailored to accomplish the interest." [69]

Other than being born during the effectivity of different Constitutions—to which no fault can be imputed upon the person whose citizenship is being considered—there is no substantial distinction between those born to Filipino mothers under the 1935, 1973, or 1987 Constitution. There is no showing of a compelling state interest to justify a classification. Treating them differently in terms of conferring citizenship would be downright discriminatory.

All told, petitioner is a citizen of the Philippines, having been born to a Filipino mother. His status having commenced from birth purports that he need not do anything to consummate his status, making him a natural-born citizen[70] eligible to reacquire Philippine citizenship under Republic Act No. 9225. That said, he cannot be the proper subject of deportation.

Accordingly, I vote to GRANT the Petition.

[1] Ponencia, p. 25.

[2] Id. at 1.

[3] Id. at 25.

[4] Id. at 4.

[5] Id. at 25.

[6] Id.

[7] Id. at 22.

[8] RICHARD BELLAMY, CITIZENSHIP: A VERY SHORT INTRODUCTION 1, 3 (2008).

[9] Id. at 3.

[10] *Simon, Jr. v. Commission on Human Rights*, 299 Phil. 124, 143 (1994) [Per J. Vitug, En Banc].

[11] *David v. Senate Electoral Tribunal*, 795 Phil. 529, 579 (2016) [Per J. Leonen, En Banc]. (Citation omitted)

[12] Id. at 579-580.

[13] Belamy Richard, *Citizenship: A VERY SHORT INTRODUCTION* 1, 3 (2008).

[14] *David v. Senate Electoral Tribunal*, 795 Phil. 529, 579 (2016) [Per J. Leonen, En Banc].

[15] RICHARD BELLAMY, *CITIZENSHIP: A VERY SHORT INTRODUCTION* 13 (2008).

[16] Id. at 12.

[17] Id at 15.

[18] Id. at 12.

[19] Id. at 16.

[20] Id. at 1-2.

[21] Id. at 4.

[22] CONST., art. 11, sec. 1.

[23] A YELET SHACHAR, THE BIRTHRIGHT LOTTERY: CITIZENSHIP AND GLOBAL EQUALITY 4 (2009).

[24] Id. at 113.

[25] Id. at 7.

[26] Id.

[27] Id. at 113.

[28] Id. at 113-114.

[29] Id. at 114.

[30] Id. at 120.

[31] Id.

[32] Id.

[33] Id.

[34] 468 Phil. 421 (2004) [Per J. Vitug, En Banc].

[35] Id. at 464.

[36] Id. at 465.

[37] Id. at 466.

[38] Id. at 467.

[39] Id.

[40] David v. Senate Electoral Tribunal, 795 Phil. 529, 582 (2016) [Per J. Leonen, En Banc].

[41] Id.

[42] Tecson v. Commission on Elections, 468 Phil. 421, 468 (2004) [Per J. Vitug, En Banc].

[43] See David v. Senate Electoral Tribunal, 795 Phil. 529, 582 (2016) [Per J. Leonen, En Banc]. The Philippine Bill of 1902 was replaced by the Philippine Autonomy Act or the Jones Law of 1916.

[44] Tecson v. Commission on Elections, 468 Phil. 421, 468-469 (2004) [Per J. Vitug, En Banc].

[45] Id. at 469.

[46] Valles v. Commission on Elections, 392 Phil. 327, 336 (2000) [Per J. Purisima, En Banc].

- [47] David v. Senate Electoral Tribunal, 795 Phil. 529, 583 (2016) [Per J. Leonen, En Banc].
- [48] Republic v. Sagun, 682 Phil. 303, 313 (2012) [Per J. Villarama, Jr., First Division].
- [49] An Act Providing the Manner in which the Option to Elect Philippine Citizenship Shall Be Declared by a Person Whose Mother is a Filipino Citizen (June 7, 1941).
- [50] Tecson v. Commission on Elections, 468 Phil. 421, 469 (2004) [Per J. Vitug, En Banc].
- [51] Ma v. Fernandez, Jr., 639 Phil. 577, 597-599 (2010) [Per J. Perez, First Division].
- [52] 1973 CONST., art. III, sec. 1(2).
- [53] Tecson v. Commission on Elections, 468 Phil. 421, 470 (2004) [Per J. Vitug, En Banc].
- [54] CONST., art. IV, sec. 2.
- [55] David v. Senate Electoral Tribunal, 795 Phil. 529, 587 (2016) [Per J. Leonen, En Banc].
- [56] 795 Phil 529 (2016) [Per J. Leonen, En Banc].
- [57] Id. at 587-590.
- [58] 1973 CONST., art. III, sec. 1(3).
- [59] Tecson v. Commission on Elections, 468 Phil. 421, 469 (2004) [Per J. Vitug, En Banc].
- [60] Common to the 1935 (Article III, Section 1), 1973 (Article IV, Section 1) and 1987 (Article III, Section 1) Constitutions is the guarantee to equal protection of the law.
- [61] 836 Phil. 205 (2018) [Per J. Leonen, En Banc].
- [62] Id. at 276-277.
- [63] Bureau of Customs Employees Association v. Teves, 677 Phil. 636, 660 (2011) [Per J. Villarama, Jr., En Banc].
- [64] Zomer Development Company, Inc. v. Special Twentieth Division of the Court of Appeals, Cebu City, 868 Phil. 93, 113 (2020) [Per J. Leonen, En Banc]. (Citation omitted)
- [65] 740 Phil. 403 (2014) [Per J. Leonen, En Banc].
- [66] Id. at 435.
- [67] Samahan ng mga Progresibong Kabataan v. Quezon City, 815 Phil. 1067, 1113-1114 (2017) [Per J. Perlas-Bernabe, En Banc].
- [68] See David v. Senate Electoral Tribunal, 795 Phil. 529, 579 (2016) [Per J. Leonen, En Banc].
- [69] Samahan ng mga Progresibong Kabataan v. Quezon City, 815 Phil. 1067, 1116 (2017) [Per J. Perlas-Bernabe, En Banc].
- [70] See David v. Senate Electoral Tribunal, 795 Phil. 529, 578 (2016) [Per J. Leonen, En Banc].

CONCURRING OPINION

CAGUIOA, J.:

I concur with the ponencia that the petition for habeas corpus filed by petitioner Walter Manuel F. Prescott (Prescott) should be granted in light of the gross and blatant deprivation of his right to due process and that he should be immediately released by respondents Bureau of Immigration (BI) and Department of Justice (DOJ) (collectively, respondents). Specifically, Prescott was clearly deprived of any opportunity to present his case and submit evidence to counter the allegations of fraud imputed against him.

On the substantive issue of citizenship, it is my submission that the Oath of Allegiance executed by Prescott under Republic Act No. 9225[1] is, for all intents and purposes, equivalent to a formal election of Philippine citizenship under the 1935 Constitution and Commonwealth Act No. 625,[2] which thereby gives him the status of a natural-born Filipino citizen.

And even assuming arguendo that the Oath of Allegiance cannot take the place of his formal election, it is also my view that Prescott should nonetheless be granted Philippine citizenship under the 1961 Convention on the Reduction of Statelessness[3] (1961 Convention), which obligates Contracting States to grant its nationality to those who would otherwise be stateless. Pursuant to the 1961 Convention, Prescott should be deemed to have been granted the status of a natural-born Filipino citizen when he became stateless, which status retroacts to the moment of his birth. Hence, his re-acquisition of his Philippine citizenship (presumably lost when he became a naturalized American) under Republic Act No. 9225 on November 26, 2008 was valid since the law grants the benefit of re-acquisition or retention of Philippine citizenship to natural-born Filipinos.

The proceedings before the BI and the Deportation Order are void for being violative of Prescott's constitutional right to due process

A writ of habeas corpus lies when there is deprivation of a person's constitutional rights. The writ is available whenever a person continues to be unlawfully denied of one or more of his or her constitutional freedoms, where there is denial of due process, where the restraints are not merely involuntary but are also unnecessary, and where a deprivation of freedom originally valid has later become arbitrary.[4] Once a deprivation of a constitutional right is shown to exist, the tribunal that rendered the judgment in question is deemed ousted of its jurisdiction,[5] and the proceedings already had should be voided in their entirety.

The viability of a petition for habeas corpus to question one's detention and impending deportation was upheld by this Court as early as in *De Bisschop v. Galang*,[6] since a writ of habeas corpus is "thorough and complete" and "affords prompt relief from unlawful imprisonment of any kind and under all circumstances." [7]

Hence, under the circumstances of this case, the petition for habeas corpus that Prescott filed before the Regional Trial Court is proper, as he continues to be deprived of his liberty without due process.

To recall, Prescott was not given the opportunity to contest the allegations against him contained in the letter-complaint filed by his ex-wife and Jesse Troutman. This was sufficiently shown by the fact that the BI did not even deny his claim that he never received the notices they sent for the scheduled hearings from July 10, 2012 to September 20, 2012 vis-à-vis the said complaint. Neither was Prescott given a copy of the order cancelling his re-acquisition of Philippine citizenship, as he only found out about this when he tried to renew his passport in 2014. Until the filing of the present Petition, Prescott has not received the records of his case despite repeated requests to the DOJ.

Consequently, the proceedings conducted by respondents, including the November 28, 2013 Resolution of the

DOJ revoking Prescott's re-acquisition of Philippine citizenship and the subsequent Deportation Order under Resolution dated March 29, 2016 are void ab initio for having been rendered in violation of Prescott's fundamental right to due process. Prescott was arrested on August 25, 2016. While there were several attempts to deport him, these never succeeded through no fault of Prescott. As a result, he has been in detention and has been deprived of liberty for the last seven years. Thus, it is with more reason that the Court should grant the Petition and order the immediate release of Prescott from detention.

The Oath of Allegiance is substantially equivalent to a formal election of Philippine citizenship

To contextualize this discussion, it is necessary to trace the evolution of the Philippine Constitution and case law on the subject of election of Philippine citizenship under the 1935 Constitution.

The original draft for Section 1 of Article IV of the 1935 Constitution included "All persons born in the Philippines or any foreign territory of a mother who is a citizen of the Philippines (are Filipino citizens)"[8] as citizens of the Philippines. This language, however, was objected to and the provision was revised as follows:

SECTION 1. The following are citizens of the Philippines:

....

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

The foregoing provision was then liberalized by the 1973 Constitution in view of feminist and equal right movements as so observed by Father Joaquin G. Bernas, S.J. (Fr. Bernas) in the Records of the Constitutional Commission (RCC) of 1986 when he noted that the reason behind the modification of the 1935 rule on citizenship was a recognition of the fact that it reflected male chauvinism.[9] The 1973 Constitution thus placed the female on the same level as the male in matters of citizenship, so that those born of Filipino fathers and those born of Filipino mothers with alien fathers were placed on equal footing. Such children would then be both considered as natural-born citizens.[10] In *Co v. Electoral Tribunal of the House of Representatives*[11] (Co), the Court had this to say about bestowing the status of "natural-born" to the children of both Filipino fathers, and Filipino mothers with alien fathers:

The provision in question 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.

Under the 1973 Constitution, those born of Filipino fathers and those born of Filipino mothers with an alien father were placed on equal footing. They were both considered as natural-born citizens.

Hence, the bestowment of the status of "natural-born" cannot be made to depend on the fleeting accident of time or result in two kinds of citizens made up of essentially the same similarly situated members.

It is for this reason that the amendments were enacted, that is, in order to remedy this accidental anomaly, and, therefore, treat equally all those born before the 1973 Constitution and who elected Philippine citizenship either before or after the effectivity of that Constitution.

The Constitutional provision in question is, therefore curative in nature. The enactment was meant to correct the inequitable and absurd situation which then prevailed, and thus, render those acts valid which would have been nil at the time had it not been for the curative provisions. (*See Development Bank of the Philippines v. Court of Appeals*, 96 SCRA 342 [1980])[12]

Having been placed on equal footing, the Court in *Co* held that the Constitution accords natural-born status to children born of Filipino mothers before January 17, 1973, if they elect citizenship upon reaching the age of majority.[13] Further, the RCC of 1986 reveals that the intention behind Section 4, Article III of the 1973 Constitution was to give the status of natural-born Filipino to those who elect Philippine citizenship, and that the same shall retroact to the birth of the child:

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

FR. BERNAS. But the difference between him and the natural-born who lost his status is that the natural-born who lost his status, lost it voluntarily; whereas, this individual in the situation contemplated in Section 1, paragraph 3 never had the chance to choose.[14] (Emphasis supplied)

The commentary of Fr. Bernas on the 1987 Constitution elucidates:

Under the 1935 Constitution it was never definitively settled whether a child of a Filipina mother who elected Philippine citizenship upon reaching majority was a natural-born Filipino. The strict view, which defined a natural-born Filipino in the tenor of the first sentence of Section 2 [of the 1987 Constitution], held that he was not. A liberal view, however, held that he was. This view was anchored on the argument that the election retroacts to the moment of birth since it was birth which gave the child the potential to make the election. This liberal view was in fact followed by the 1971 Constitutional Convention when it acted as judge of the citizenship qualification of Delegate Ernesto Ong. It was a practical solution to a hitherto unsettled question.

The addition of the second sentence by the 1987 Constitution definitively settled the issue. The purpose of this addition is to equalize the status of those of Filipina parents before January 17, 1973, with those born of Filipina parents on or after January 17, 1973.[15] (Emphasis supplied)

In its current iteration, the 1987 Constitution spells out in black and white that those born before January 17, 1973, of Filipino mothers, who elect Philippine citizenship upon reaching the age of majority, shall be deemed as natural-born citizens.[16]

Jurisprudence involving the issue of citizenship of legitimate children born of Filipino mothers and alien fathers has also undergone refinement over the last 50 years. The 1962 case of *Cueco v. Secretary of Justice*[17] (*Cueco*) adopted the position that three years is the reasonable time to elect Philippine citizenship under Article IV, Section 1(4) of the 1935 Constitution, which period may be extended under certain circumstances, as when the person concerned has always considered himself a Filipino.[18] Subsequently, in *In re Florencio Mallare*[19] (*Mallare*), the Court held that therein respondent's father, Esteban Mallare (Esteban) was an illegitimate child, and thus no other act would be necessary to confer on him all the rights and privileges attached to Philippine citizenship as he was already a Filipino. However, the Court therein ruled that even assuming *arguendo* that Esteban's mother was legally married to an alien, his exercise of the right of suffrage when he came of age, constituted a positive act of election of Philippine citizenship.[20]

The findings of the Court in *Co* are similar to *Mallare*, insofar as the petitioners were both already Filipinos and they no longer needed to formally elect their Philippine citizenship upon reaching the age of majority. The Court, citing *Mallare*, observed that there is jurisprudence that defines "election" as both a formal and an informal process. However, in the later cases of *In re Ching*[21] (*Ching*), *Go, Sr. v. Ramos*[22] (*Go, Sr.*), *Ma v. Fernandez, Jr.*[23] (*Ma*) and *Republic v. Sagun*[24] (*Sagun*), the Court consistently held that those born under the 1935

Constitution will have to formally elect their Philippine citizenship to be considered natural born citizens.

In the *En Banc* case of *Ching*, the Court was sympathetic to Ching's plight as he had lived in the Philippines all his life and had consistently believed that he was a Filipino. Nevertheless, the Court was constrained to rule that Ching's 14-year delay in complying with the requirements of Commonwealth Act No. 625 was beyond, by any reasonable yardstick, the allowable period within which to exercise the privilege to elect his Philippine citizenship. Moreover, Ching offered no reason why he delayed his election of Philippine citizenship. Lastly, the Court ruled that Ching's reliance on *Mallare vis-à-vis* his informal election of citizenship was misplaced, as the facts and circumstances obtaining therein were very different from those in Ching's case, thus, negating its applicability.

In *Go, Sr.*, the Court found that the petitioner's father, Carlos, was a Chinese citizen as his election of Philippine citizenship was irregular because it was not made on time. Finding the petitioner's claim to Philippine citizenship in serious doubt by reason of his father's questionable election thereof, the Board of Commissioners directed the preparation and filing of the appropriate deportation charges against the petitioner. This case further drove home the point that positive acts such as exercising the right of suffrage do not validate an irregular election of Philippine citizenship. The Court ruled:

It is true that we said that the 3-year period for electing Philippine citizenship may be extended as when the person has always regarded himself as a Filipino. Be that as it may, it is our considered view that not a single circumstance was sufficiently shown meriting the extension of the 3-year period. The fact that Carlos exercised his right of suffrage in 1952 and 1955 does not demonstrate such belief, considering that the acts were done after he elected Philippine citizenship. On the other hand, the mere fact that he was able to vote does not validate his irregular election of Philippine citizenship. At most, his registration as a voter indicates his desire to exercise a right appertaining exclusively to Filipino citizens but does not alter his real citizenship, which, in this jurisdiction, is determined by blood (*jus sanguinis*). The exercise of the rights and privileges granted only to Filipinos is not conclusive proof of citizenship, because a person may misrepresent himself to be a Filipino and thus enjoy the rights and privileges of citizens of this country.

It is incumbent upon one 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.[25] (Emphasis supplied; citations omitted)

The cases of *Ma* and *Sagun* likewise categorically stated that the mere exercise of suffrage, or even being elected a public official, continuous and uninterrupted stay in the Philippines, and other similar acts showing exercise of Philippine citizenship cannot take the place of election of citizenship. The Court held in *Sagun*:

Respondent cannot assert that the exercise of suffrage and the participation in election exercises constitutes a positive act of election of Philippine citizenship since the law specifically lays down the requirements for acquisition of citizenship by election. The mere exercise of suffrage, continuous and uninterrupted stay in the Philippines, cannot take the place of election of Philippine citizenship. Hence, respondent cannot now be allowed to seek the intervention of the court to confer upon her Philippine citizenship when clearly she has failed to validly elect Philippine citizenship.[26]

The special circumstances in *Ma*, nevertheless, set this case apart from the others since the petitioners' election of citizenship had in fact been performed through the execution of affidavits of election of Philippine citizenship and the taking of oaths of allegiance when the petitioners turned 21 years old. Unfortunately, these documents were not registered with the civil registry. The Court therein ruled that under the facts peculiar to the petitioners, the right to elect Philippine citizenship had not been lost and that they should be allowed to complete the statutory requirements for such election. Thus, the belated registration was allowed in *Ma* since "the election of citizenship

has in fact been done and documented within the constitutional and statutory timeframe, the registration of the documents of election beyond the frame should be allowed if in the meanwhile positive acts of citizenship have publicly, consistently, and continuously been done. The actual exercise of Philippine citizenship, for over half a century by the herein petitioners, is actual notice to the Philippine public which is equivalent to formal registration of the election of Philippine citizenship" since the petitioners' positive acts of citizenship have publicly, consistently, and continuously been done.[27]

The same thread of logic applied in Ma should be applied to Prescott; and the requirements under Commonwealth Act No. 625 should be appreciated in light of his substantial compliance therewith.

Commonwealth Act No. 625 provides for the formalities necessary for the election of Philippine citizenship under Article IV, Section 1(4) of the 1935 Constitution. The law provides:

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

SECTION 2. If the party concerned is absent from the Philippines, he may make the statement herein authorized before any officer of the Government of the United States authorized to administer oaths, and he shall forward such statement together with his oath of allegiance, to the Civil Registry of Manila.

In Ma, the Court held that the taking of an oath of allegiance to the Philippines for the purpose of electing one's Philippine citizenship is a serious undertaking. According to the Court, the oath under Commonwealth Act No. 625 is a sign of a commitment and fidelity to the State. An Oath of Allegiance is an unqualified acceptance of one's identity as a Filipino.[28]

As stated earlier, Prescott filed his Petition for Re-acquisition of his Philippine Citizenship under Republic Act No. 9225 on November 26, 2008. On the same day, his petition was granted and he took his Oath of Allegiance to the Republic of the Philippines. His Oath of Allegiance reads:

OATH OF ALLEGIANCE
TO THE
REPUBLIC OF THE PHILIPPINES

I, WALTER MANUEL FERNANDEZ PRESCOTT, solemnly swear 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.

....

[Signed]
WALTER MANUEL FERNANDEZ
PRESCOTT
Affiant[29]

A reading of the Oath of Allegiance executed by Prescott shows that it substantially reflects the unqualified and voluntary allegiance to the country contemplated by the express statement and Oath of Allegiance required under

Commonwealth Act No. 625. From this perspective, the very act of swearing under oath that he will support and defend the Constitution of the Philippines, obey its laws, recognize its supreme authority, and maintain true faith and allegiance to the country, amounts to an election of Filipino citizenship under the 1935 Constitution. To stress, the formalities required under Republic Act No. 9225 mirror those under Commonwealth Act No. 625, insofar as an applicant under Republic Act No. 9225 is required to affirm his or her commitment to the Philippines, and hold the country's authority over him or her to be supreme and above all others.

That the taking of the Oath of Allegiance satisfies the election of Filipino citizenship requirement under Article IV, Section 1(4) of the 1935 Constitution is further supported by the fact that such requirement came about because of the fear that children of alien fathers and Filipino mothers, especially if brought up in the country of the foreign fathers under the influence of foreign institutions and environment and even in the Philippines, if so reared under their influence and control, might not turn out to be devoted and loyal Filipino citizens.[30] In other words, the requirement simply ensures the complete loyalty, fidelity, and allegiance to the country of the person so electing Filipino citizenship, even as he or she was born to an alien father.

This is precisely the oath sworn to by Prescott in 2008.

In an abundance of cases, the Court has regarded as sufficient compliance to laws requiring the performance of acts to be legally considered Filipino citizens the simple act of taking an Oath of Allegiance to the Philippines.[31] For instance, in several election cases, the filing of a Certificate of Candidacy (CoC) which contains an oath of allegiance to the Philippines was considered by the Court as sufficient to meet the requirements of Republic Act No. 9225 to re-acquire or retain Filipino citizenship. Although the law itself and its implementing rules[32] expressly mandate the doing of formalities on top of the swearing of such oath (e.g., filing of an application form, submission of certain documents), the Court has nevertheless considered an election candidate who had previously lost his Filipino citizenship by reason of naturalization in a foreign country to have already become Filipino again by the mere taking of the oath contained in the pro forma CoC, despite having skipped the specific formalities under the law and rules. This is because, again, the true essence of laws on Filipino citizenship is allegiance to the Philippines.

This is likewise the reason why only dual allegiance (which results when a Filipino voluntarily swears allegiance to another state as an incident of naturalization therein) is abhorred by the Constitution, but not dual citizenship by birth (which results from the circumstances of one's birth), so that those falling under the latter category need not renounce their foreign citizenship in order to exercise certain political rights such as voting, running for public office, and being appointed into such public office. The law ultimately looks at the loyalty of the person to the Philippines. The law distinguishes a Filipino who did not voluntarily swear loyalty to a foreign country but is merely likewise a citizen of such country because of the circumstances of his birth, from a Filipino who willfully took an oath of allegiance to such foreign country by voluntarily acquiring its citizenship through naturalization. Moreover, the validity of the Oath of Allegiance executed by Prescott has not been questioned by respondents, and its binding effect to Prescott is not nullified by the cancellation of Prescott's Certificate of Re-Acquisition of Philippine Citizenship. Hence, to my mind, Prescott's Oath of Allegiance substantially complies with the requirements of election of Philippine citizenship.

In *Rivera III v. COMELEC*,[33] the Court observed that the substantial compliance rule has been applied in numerous issues relative to the scope and application of constitutional and legal provisions. In particular, the Court has applied the rule in criminal cases to comply with the constitutional requirement that the accused be informed of the charge against him or her as embodied in the Information filed with the court. In other cases, the Court applied the rule both primarily in compliance with the essential statutory requirements and in liberally construing and applying remedial laws for just and compelling reasons in order to promote the orderly

administration of justice.[34]

In my Concurring Opinion in *Gana-Carait v. COMELEC*,^[35] I reiterated the Court's warning against overzealousness in the enforcement of technical rules at the expense of a just resolution of the cases, stressing the oft-repeated rule that cases should be determined on the merits rather than on technicality or some procedural imperfection so that the ends of justice could be better served.^[36] I repeat the same sentiment now as insisting on form over substance will cause greater injustice to Prescott, who has already been wrongfully detained for several years over the issue of his citizenship. I see no reason why the doctrine of substantial compliance to Commonwealth Act No. 625 should not be applied here, especially when there has been no doubt as to Prescott's intention to elect his Philippine citizenship. Prescott, now in his seventies, has fought tooth and nail to maintain his Philippine citizenship from the moment he inadvertently discovered the cancellation of his Certificate of Re-acquisition of Philippine Citizenship in 2014. This speaks volumes of his tenacity and resolution to be a Filipino.

The disloyalty feared by the framers of the 1935 Constitution in relation to the children of Filipino mothers and alien fathers is simply non-existent in Prescott's case. He has shown through his acts over the course of his life his dedication to the Philippines. There can, therefore, be no doubt as to his express willingness to elect Philippine citizenship.

It is not lost on me that Prescott executed the Oath of Allegiance only in 2008 or more than 30 years from when he reached the age of majority. However, it should be recalled that in the seminal case of *Cueco* where the Court first adopted the rule that three years from reaching the age of majority is the reasonable time to elect Philippine citizenship under Article IV, Section 1(4) of the 1935 Constitution, the Court likewise held that this period may be extended under certain circumstances, as when the person concerned has always considered himself a Filipino.^[37] I submit that the peculiar and unusual circumstances of Prescott more than sufficiently demonstrate that he believed he was a Filipino up until the time he became a naturalized American citizen in 2006, as detailed below: (a) he pursued his education and his career in the Philippines; (b) even after he lost his American citizenship on April 10, 1976, he consistently identified himself as Filipino in all his documents, including his Marriage Contract and the Birth Certificate of his first-born son; (c) he traveled back and forth the United States of America (USA) and the Philippines under a "balikbayan" status; (d) he applied for naturalization in the USA, which shows that prior to his naturalization, he did not consider himself to be an American citizen; (e) he applied for and was granted the re-acquisition of his Philippine citizenship under Republic Act No. 9225 in 2008 or merely two years after he became a naturalized American citizen, further bolstering the fact that he thought himself to have been a Filipino previous to his naturalization; and (f) he immediately returned to the Philippines after his retirement from the World Bank in 2010. All these acts convincingly establish that Prescott truly believed that he was a Filipino until he became a naturalized American citizen. Moreover, it did not take long after his naturalization in 2006 that he applied for the re-acquisition of his Philippine citizenship, which is an even stronger indication of his intent and willingness to elect once again and preserve his Philippine citizenship. All told, relaxation of the period for election of Philippine citizenship is justified and deservedly warranted in this case.

Considering that Prescott should be considered as having formally elected his Philippine citizenship when he took the Oath of Allegiance on November 26, 2008, he should already be considered a natural-born Filipino citizen. As such, there is nothing infirm in his having re-acquired his Philippine citizenship.

The Philippines' accession to the 1961 Convention and its application to the case

But even if Prescott's Oath of Allegiance cannot be considered as substantial compliance with the formalities required under Commonwealth Act No. 625, Article 1, Section 4 of the 1961 Convention mandates that the

Philippines, as a Contracting State, shall grant its nationality to a person who would otherwise be stateless and who is unable to acquire the nationality of the Contracting State in whose territory he or she was born because he or she has passed the age for lodging his or her application, if the nationality of one of his or her parents at the time of the person's birth was that of the Contracting State.

The records show that Prescott was born on April 10, 1950. He is the legitimate son of an American father and a Filipino mother. He was then issued an Alien Certificate of Registration by the BI on January 12, 1951. He, however, lost his American citizenship on April 10, 1976 after overstaying in the Philippines. It is respondents' position that Prescott was not a Filipino citizen since he failed to elect his Philippine citizenship in accordance with Commonwealth Act No. 625, as required under Article IV, Section 1(4) of the 1935 Constitution. This means, therefore, that Prescott was rendered legally stateless beginning April 10, 1976.

This case now becomes an opportune moment for the Court to breathe life to the provisions of the 1961 Convention, which the Philippines acceded to through Senate Resolution No. 134. On March 24, 2022, then Secretary of Foreign Affairs Teodoro L. Locsin, Jr. deposited the instrument of accession to the 1961 Convention in a ceremony at the United Nations, making the Philippines the 78th party to do so. The 1961 Convention entered into force on June 22, 2022.[38]

The 1961 Convention complements the 1954 Convention relating to the Status of Stateless Persons, which the Philippines likewise acceded to in 2011. Together, these treaties form the foundation of the international legal framework to address statelessness at birth and later in life. By setting out rules to limit the occurrence of statelessness, the 1961 Convention gives effect to Article 15 of the Universal Declaration of Human Rights (UDHR) which recognizes that "everyone has the right to a nationality".[39]

Section 4, Article 1 of the 1961 Convention provides:

4. A Contracting State shall grant its nationality to a person who would otherwise be stateless and who is unable to acquire the nationality of the Contracting State in whose territory he was born because he has passed the age for lodging his application or has not fulfilled the required residence conditions, if the nationality of one of his parents at the time of the person's birth was that of the Contracting State first above mentioned. If his parents did not possess the same nationality at the time of his birth, the question whether the nationality of the person concerned should follow that of the father or that of the mother shall be determined by the national law of such Contracting State. If application for such nationality is required, the application shall be made to the appropriate authority by or on behalf of the applicant in the manner prescribed by the national law. Subject to the provisions of paragraph 5 of this Article, such application shall not be refused. (Emphasis supplied)

In relation thereto, Section 2, Article 12 of the 1961 Convention reads:

2. The provisions of paragraph 4 of Article 1 of this Convention shall apply to persons born before as well as to persons born after its entry into force. (Emphasis supplied)

Accordingly, paragraph 4 of Article I thereof becomes applicable to persons born even before the 1961 Convention's entry into force—thus clearly embracing within its mantle Prescott.

Applying the foregoing provision, Prescott, who was born in the Philippines and whose mother is a Filipino, is deemed to have been granted his Filipino nationality when he lost his American citizenship and became stateless. The question now to be determined is whether the grant of Philippine nationality to Prescott pursuant to the 1961 Convention should be deemed as having granted him the status of a natural-born Filipino citizen, which would make him eligible to re-acquire or retain his Philippine citizenship under Republic Act No. 9225.

I submit that in order to give full expression to the Philippines' voluntary commitment to its international

obligations, the grant of nationality to Prescott should be reckoned from the moment of birth, thus making him a natural-born Filipino citizen. Further, since Prescott is already deemed a natural-born Filipino citizen by virtue of Article I, Section 4 of the 1961 Convention, he is no longer required to formally elect his Philippine citizenship in accordance with Article IV, Section 1(4) of the 1935 Constitution.

Article I, Section 4 of the 1961 Convention should be read in conjunction with Article I, Section 1 which provides the reckoning point as to when a nationality shall be granted:

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.

From the foregoing, a Contracting State has the option to grant nationality or citizenship to a person who will otherwise be stateless from either: (a) the moment of birth, by operation of law; or (b) upon application for such nationality or citizenship.

Given the Court's pronouncement in *Poe-Llamanzares v. COMELEC*[40] (*Poe*) that the common thread of the UDHR, United Nations Convention on the Rights of the Child and International Covenant on Civil and Political Rights is to obligate the Philippines to grant nationality from birth and ensure that no child is stateless,[41] I am inclined to the view that the grant of nationality should be reckoned from the moment of Prescott's birth, which would consequently make him a natural-born Filipino citizen.

I am not unaware of the Court's A.M. No. 21-07-22-SC or the Rule on Facilitated Naturalization of Refugees and Stateless Persons which provides for the procedure for petitions for naturalization of refugees and stateless persons. Nevertheless, I submit that requiring Prescott to undergo a naturalization process or to file an application for the grant of his nationality as contemplated in Article I, Section 1(b) of the 1961 Convention, when he is already of advanced age and of failing health and more importantly, has always thought himself to be a Filipino, would be the height of inequity.

Just as the Court held in *Poe* and in the later case of *David v. Senate Electoral Tribunal*[42] (*David*) that it is through no fault of a foundling that the circumstances of his or her birth would render him or her stateless, Prescott's statelessness was likewise through no fault of his. It would be absurd to assume that Prescott intended to be stateless for a period of 30 years until he was naturalized as an American citizen in 2006. It is more believable, therefore, that Prescott thought himself to be a Filipino even after he had lost his American citizenship in 1976, as shown by his acts referred to in the preceding section.

It should likewise be emphasized that the Court in *Poe* agreed with the Solicitor General that given the grave implications of the argument that foundlings are not natural-born Filipino citizens, the 1935, 1973, and 1987 Constitutions did not intend to discriminate against foundlings. The Court held:

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 . . ." 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.[43]

The Court likewise held in *David* that foundlings should be treated as natural-born citizens, as the converse would be tantamount to permanently discriminating against them, to wit:

Other than the anonymity of their biological parents, no substantial distinction differentiates foundlings from children with known Filipino parents. They are both entitled to the full extent of the state's protection from the moment of their birth. Foundlings' misfortune in failing to identify the parents who abandoned them—an inability arising from no fault of their own—cannot be the foundation of a rule that reduces them to statelessness or, at best, as inferior, second-class citizens who are not entitled to as much benefits and protection from the state as those who know their parents. Sustaining this classification is not only inequitable; it is dehumanizing. It condemns those who, from the very beginning of their lives, were abandoned to a life of desolation and deprivation.

This Court does not exist in a vacuum. It is a constitutional organ, mandated to effect the Constitution's dictum of defending and promoting the well-being and development of children. It is not our business to reify discriminatory classes based on circumstances of birth.[44]

Notably, this appears to be the first case that has come to the Court since the Philippines' accession to the 1961 Convention involving a person who is legally stateless. Just as the Court in *Poe* held that foundlings should be considered as natural-born Filipino citizens,[45] more so should Prescott be treated as a natural-born Filipino citizen in light of the country's obligation to grant citizenship to persons who would otherwise be stateless if one of his or her parents at the time of his or her birth was Filipino, subject to the provisions of the 1961 Convention. Similarly, the 1935, 1973, and 1987 Constitutions do not contain any restrictive language which would exclude former stateless persons who have been granted Philippine citizenship from being considered natural-born Filipino citizens. Hence, they should be granted their civil and political rights under domestic law and be entitled to the full extent of the State's protection from the moment of their birth.

It follows then that if the grant of nationality is reckoned from Prescott's birth and he is deemed a natural-born Filipino citizen from that moment, there is, therefore, no need for him to elect his Philippine citizenship. Accordingly, respondents' argument that Prescott is not a Filipino since he never elected Philippine citizenship has no leg to stand on.

Considering the premises set forth above, Prescott's re-acquisition of Philippine citizenship on November 26, 2008 (after he had become a naturalized American) was valid.

Section 3 of Republic Act No. 9225 provides:

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:

....

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.

Republic Act No. 9225 made permanent and immutable the status of natural-born Filipino citizens despite naturalization as citizens of other countries.[46] Since Prescott became a naturalized American citizen only on August 5, 2006 or after the effectivity of Republic Act No. 9225 in 2003, he was then able to retain or keep his Philippine citizenship. Accordingly, respondents had no jurisdiction to deport him as he is a Filipino citizen.

On a final note, I observe how the treatment of foundlings as natural-born citizens despite their unknown parental lineage puts a spotlight on how the law has unfairly treated the legitimate children of Filipino mothers and alien fathers. As I mentioned above, Article IV, Section 1(4) of the 1935 Constitution was crafted out of fear that foreign fathers will yield such dominant influence that it will sway their children to abandon their loyalty to the Philippines. Thankfully, this provision was liberalized under the 1973 and 1987 Constitutions so that those born before January 17, 1973, of Filipino mothers, who elect Philippine citizenship upon reaching the age of majority shall be deemed as natural-born citizens.

Yet, despite the evolution of legal thought over the last 80 years, the discriminatory provision requiring the election of Philippine citizenship remains in force. It is high time that we abandon this archaic and sexist election requirement that disadvantages children who are born to alien fathers and Filipino mothers at the time of the effectivity of the 1935 Constitution. If the Court can be convinced that foundlings (whose parents' nationalities are unknown) should be treated as natural-born Filipino citizens, the position that Prescott, who is born of a Filipino mother, is a natural-born Filipino citizen, should more so favorably be considered by the Court.

Conclusion

At this juncture, I wish to clarify that I am not inclined to agree that informal election of Philippine citizenship alone is sufficient to satisfy the election requirement under the 1935 Constitution in deference to established jurisprudence that has consistently held that those born under the 1935 Constitution need to formally elect their Philippine citizenship to be considered a natural born citizen.

However, the case of Prescott carves a special place in case law as his peculiar and unique circumstances should be appreciated in light of his unshakeable fealty and fidelity to the Philippines. Despite respondents' vehement denial of his constitutional right to due process, he remains steadfast in his conviction that he is a Filipino. Despite the hardships he has suffered while being detained and hospitalized, he remains hopeful that the highest court of the land will find the wisdom behind the technicality and elevate the essence of justice so that the spirit of the law may prevail.

This case has likewise given the Court the opportunity to harmonize the 1961 Convention with our national law, inasmuch as it illustrates the country's commitment to its obligations under human rights agreements, especially those that concern the affirmation of the right of all persons to a nationality. More importantly, this demonstrates to the Filipino people and to other countries our determination to promote and uphold fundamental human rights and humanitarian standards unfettered by antiquated logic and gender- based discriminatory policies that have long burdened many of our countrymen and countrywomen. Though late in the day, as many of those who may be similarly situated as Prescott are already senior citizens or are in their twilight years, it remains the Court's duty to dispense justice.

In light of the foregoing, I concur with the ponencia and vote to GRANT the petition.

[1] 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, otherwise known as the "Citizenship Retention and Re-acquisition Act of 2003" (2003).

[2] An Act Providing the Manner in Which the Option to Elect Philippine Citizenship Shall be Declared by a Person Whose Mother is a Filipino Citizen (1941).

[3] Available at https://www.unhcr.org/ibelong/wp-content/uploads/1961-Convention-on-the-reduction-of-Statelessness_ENG.pdf (last accessed on November 29, 2023).

[4] In the Matter of the petition for Habeas Corpus of Capt. Alejano v. Cabuay, 505 Phil. 298, 309 (2005) [Per J. Carpio, En Banc] citing Ilusorio v. Bildner, 387 Phil. 915 (2000) [Per J. Parco, First Division] and Moncupa v. Enrile, 225 Phil. 191 (1986) [Per J. Gutierrez, Jr., En Banc].

[5] Olaguer v. Military Commission No. 34, 234 Phil. 144, 159 (1987) [Per J. Gancayco, En Banc], citing Gumabon v. Director of the Bureau of Prisons, 147 Phil. 362, 369 (1971) [Per J. Fernando, First Division], reiterated in Dacuyan v. Ramos, 174 Phil. 700, 703-704 (1978) [Per J. Fernando, Second Division].

[6] 118 Phil. 246 (1963) [Per J. J.B.L. Reyes, En Banc].

[7] Id. at 251; see also J. Leonen, Separate Concurring Opinion in Board of Commissioners of the Bureau of Immigration and the Jail Warden v. Wenle, G.R. No. 242957, February 28, 2023 [Per C.J. Gesmundo, En Banc].

[8] See I JOSE M. ARUEGO, THE FRAMING OF THE PHILIPPINE CONSTITUTION 208 (1936).

[9] I Record, Constitutional Commission 203 (June 23, 1986).

[10] JOAQUIN G., BERNAS, S.J., THE 1987 CONSTITUTION OF THE REPUBLIC OF THE PHILIPPINES: A COMMENTARY 632 (2009).

[11] 276 Phil. 758 (1991) [Per J. Gutierrez, Jr., En Banc].

[12] Id. at 784.

[13] Id. at 785.

[14] I Record, Constitutional Commission 206 (June 23, 1986).

[15] JOAQUIN G., BERNAS, S.J., *supra* note 10, at 640-641.

[16] CONST. (1987), art. IV, sec. 1(3).

[17] 115 Phil. 90 (1962) [Per J. Concepcion, En Banc].

[18] Id. at 93-94.

[19] 158 Phil. 50 (1974) [Per J. Fernandez, En Banc].

[20] Id. at 58.

[21] 374 Phil. 342 (1999) [Per J. Kapunan, En Banc].

[22] 614 Phil. 451 (2009) [Per J. Quisumbing, Second Division].

[23] 639 Phil. 577 (2010) [Per J. Perez, First Division].

[24] 682 Phil. 303 (2012) [Per J. Villarama, Jr., First Division].

[25] Go, Sr. v. Ramos, *supra* note 22, at 478-479.

[26] Republic v. Sagun, *supra* note 24, at 316-317.

[27] Ma v. Fernandez, Jr., *supra* note 23, at 593-594. Emphasis supplied.

[28] *Id.* at 596.

[29] Rollo, p. 488.

[30] I JOSE M. ARUEGO, *supra* note 8, at 208.

[31] See, among others, Development Bank of the Philippines Employees Union and Association of DBP Career Officials v. Office of the Ombudsman, G.R. Nos. 228304-05, June 15, 2022 [Notice, First Division]; De Guzman v. Commission on Elections, 607 Phil. 810 (2009) [Per J. Ynares-Santiago, En Banc]; Jacot v. Dal, 592 Phil. 661 (2008) [Per J. Chico-Nazaro, En Banc]; Mercado v. Manzano, 367 Phil. 132 (1999) [Per J. Mendoza, En Banc].

[32] BI Memorandum Circular No. AFF-04-01, Rules Governing Philippine Citizenship under Republic Act (R.A.) No. 9225 and Administrative Order (A.O.) No. 91, series of 2004, dated March 10, 2004; BI Memorandum Circular No. MCL-08-005, 2008 Revised Rules Governing Philippine Citizenship Under Republic Act (R.A.) No. 9225 and Administrative Order (A.O.) No. 91, series of 2004 (2008).

[33] 551 Phil. 37 (2007) [Per J. Sandoval-Gutierrez, En Banc].

[34] *Id.* at 73.

[35] G.R. No. 257453, August 9, 2022 [Per J. Rosario, En Banc].

[36] J. Caguioa, Separate Concurring Opinion in Gana-Carait v. COMELEC, G.R. No. 257453, August 9, 2022, p. 6. This pinpoint citation refers to the copy of the Opinion uploaded to the Supreme Court website.

[37] Cueco v. Secretary of Justice, *supra* note 17, at 93-94.

[38] "Philippines Deposits Instruments of Ratification for the Arms Trade Treaty and The 1961 Statelessness Convention," March 24, 2022, available at <https://www.un.int/philippines/activities/philippines--deposits-instruments-ratification-arms-trade-treaty-and-1961-statelessness> (last accessed on November 29, 2023).

[39] Introductory Note, 1961 Convention, available at https://www.unhcr.org/ibelong/wp-content/uploads/1961-Convention-on-the-reduction-of-Statelessness_ENG.pdf (last accessed on November 29, 2023).

[40] 782 Phil. 292 (2016) [Per J. Perez, En Banc].

[41] *Id.* at 404.

[42] 795 Phil. 529 (2016) [Per J. Leonen, En Banc].

[43] Poe-Llamanzares v. COMELEC, *supra* note 40, at 400.

[44] David v. Senate Electoral Tribunal, *supra* note 42, at 610.

[45] Poe-Llamanzares v. COMELEC, *supra* note 40, at 717.

[46] David v. Senate Electoral Tribunal, *supra* note 42, at 620.

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