

MATEO CAASI, PETITIONER, VS. THE HON. COURT OF APPEALS AND MERITO C. MIGUEL, RESPONDENTS.

G.R. No. 88831. November 08, 1990

Ponente: GRINO-AQUINO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-88831/>

GRINO-AQUINO, J.:

These two cases were consolidated because they have the same objective: the disqualification under Section 68 of the Omnibus Election Code of the private respondent, Merito Miguel, for the position of municipal mayor of Bolinao, Pangasinan, to which he was elected in the local elections of January 18, 1988, on the ground that he is a green card holder, hence: a permanent resident of the United States of America, not of Bolinao.

G.R. No. 84508 is a petition for review on certiorari of the decision dated January 13, 1988 of the COMELEC First Division, dismissing the three (3) petitions of Anecito Cascante (SPC No. 87-551), Cederico Catabay (SPC No. 87-595) and Josefino C. Celeste (SPC No. 87-604), for the disqualification of Merito C. Miguel, filed prior to the local elections on January 18, 1988.

G.R. No. 88831, Mateo Caasi vs. Court of Appeals, et al., is a petition for review of the decision dated June 21, 1989, of the Court of Appeals in CA-G.R. SP No. 14531 dismissing the petition for quo warranto filed by Mateo Caasi, a rival candidate for the position of municipal mayor of Bolinao, Pangasinan, also to disqualify Merito Miguel on account of his being a green card holder.

In his answer to both petitions, Miguel admitted that he holds a green card issued to him by the US Immigration Service, but he denied that he is a permanent resident of the United States. He allegedly obtained the green card for convenience in order that he may freely enter the United States for his periodic medical examination and to visit his children there. He alleged that he is a permanent resident of Bolinao, Pangasinan, that he voted in all previous elections, including the plebiscite on February 2, 1987 for the ratification of the 1987 Constitution, and the congressional elections on May 18, 1987.

After hearing the consolidated petitions before it, the COMELEC, with the exception of Commissioner Anacleto Badoy, Jr., dismissed the petitions on the ground that:

"The possession of a green card by the respondent (Miguel) does not sufficiently establish that he has abandoned his residence in the Philippines. On the contrary, inspite (sic) of his green card. Respondent has sufficiently indicated his intention to continuously reside in Bolinao as shown by his having voted in successive elections in said municipality. As the respondent meets the basic requirements of citizenship and residence for candidates to elective local officials (sic) as provided for in Section 42 of the Local Government Code, there is no legal obstacle to his candidacy for mayor of Bolinao, Pangasinan." (p. 12, Rollo, G.R. No. 84508.)

In his dissenting opinion, Commissioner Badoy, Jr. opined that:

"A green card holder being a permanent resident of or an immigrant of a foreign country and respondent having admitted that he is a green card holder, it is incumbent upon him, under Section 68 of the Omnibus Election Code,

to prove that he was 'has waived his status as a permanent resident or immigrant' to be qualified to run for elected office. This respondent has not done." (p. 13, Rollo, G.R. No. 84508.)

In G.R. No. 88831, "Mateo Caasi, petitioner vs. Court of Appeals and Merito Miguel, respondents," the petitioner prays for a review of the decision dated June 21, 1989 of the Court of Appeals in CA-G.R. SP No. 14531 "Merito C. Miguel, petitioner vs. Hon. Artemio R. Corpus, etc., respondents," reversing the decision of the Regional Trial Court which denied Miguel's motion to dismiss the petition for quo warranto filed by Caasi. The Court of Appeals ordered the regional trial court to dismiss and desist from further proceeding in the quo warranto case. The Court of Appeals held:

"x x x it is pointless for the Regional Trial Court to hear the case questioning the qualification of the petitioner as resident of the Philippines, after the COMELEC has ruled that the petitioner meets the very basic requirements of citizenship and residence for candidates to elective local officials (sic) and that there is no legal obstacles (sic) for the candidacy of the petitioner, considering that decisions of the Regional Trial Courts on quo warranto cases under the Election Code are appealable to the COMELEC." (p. 22, Rollo, G.R. No. 88831.)

These two cases pose the twin issues of: (1) whether or not a green card is proof that the holder is a permanent resident of the United States, and (2) whether respondent Miguel had waived his status as a permanent resident of or immigrant to the U.S.A. prior to the local elections on January 18, 1988.

Section 18, Article XI of the 1987 Constitution provides:

"Sec. 18. Public officers and employees owe the State and this Constitution allegiance at all times, and any public officer or employee who seeks to change his citizenship or acquire the status of an immigrant of another country during his tenure shall be dealt with by law."

In the same vein, but not quite, Section 68 of the Omnibus Election Code of the Philippines (B.P. Blg. 881) provides:

"SEC. 68. Disqualifications. x x x. Any person who is a permanent resident of or an immigrant to a foreign country shall not be qualified to run for any elective office under this Code, unless said person has waived his status as permanent resident or immigrant of a foreign country in accordance with the residence requirement provided for in the election laws. (Sec. 25, 1971, EC)."

In view of current rumor that a good number of elective and appointive public officials in the present administration of President Corazon C. Aquino are holders of green cards in foreign countries, their effect on the holders' right to hold elective public office in the Philippines is a question that excites much interest in the outcome of this case.

In the case of Merito Miguel, the Court deems it significant that in the "Application for Immigrant Visa and Alien Registration" (Optional Form No. 230, Department of State) which Miguel filled up in his own handwriting and submitted to the US Embassy in Manila before his departure for the United States in 1984, Miguel's answer to Question No. 21 therein regarding his "Length of intended stay (if permanently, so state)." Miguel's answer was: "Permanently."

On its face, the green card that was subsequently issued by the United States Department of Justice and Immigration and Registration Service to the respondent Merito C. Miguel identifies him in clear bold letters as a **RESIDENT ALIEN**. On the back of the card, the upper portion the following information is printed:

"Alien Registration Receipt Card.

"Person identified by this card is entitled to reside permanently and work in the United States." (Annex A, pp.

189-190, Rollo of G.R. No. 84508.)

Despite his vigorous disclaimer, Miguel's immigration to the United States in 1984 constituted an abandonment of his domicile and residence in the Philippines. For he did not go to the United States merely to visit his children or his doctor there: he entered the United States with the intention to live there permanently as evidenced by his application for an immigrant's (not a visitor's or tourist's) visa. Based on that application of his, he was issued by the U.S. Government the requisite green card or authority to reside there permanently.

"Immigration is the removing into one place from another: the act of immigrating; the entering into a country with the intention of residing in it.

"An immigrant is a person who removes into a country for the purpose of permanent residence. As shown *infra* 84, however, statutes sometimes give a broader meaning to the term 'immigrant.'" (3 CJS 674.)

As a resident alien in the U.S., Miguel owes temporary and local allegiance to the U.S., the country in which he resides (3 CJS 527). This is in return for the protection given to him during the period of his residence therein.

"Aliens residing in the United States, while they are permitted to remain, are in general entitled to the protection of the laws with regard to their rights of person and property and to their civil and criminal responsibility.

"In general, aliens residing in the United States, while they are permitted to remain, are entitled to the safeguards of the constitution with regard to their rights of person and property and to their civil and criminal responsibility. Thus resident alien friends are entitled to the benefit of the provision of the Fourteenth Amendment to the federal constitution that no state shall deprive 'any person' of life, liberty, or property without due process of law, or deny to 'any person' the equal protection of the law, and the protection of this amendment extends to the right to earn a livelihood by following the ordinary occupations of life. So an alien is entitled to the protection of the provision of the Fifth Amendment to the federal constitution that no person shall be deprived of life, liberty, or property without due process of law." (3 CJS 529-530.)

Section 18, Article XI of the 1987 Constitution which provides that "any public officer or employee who seeks to change his citizenship or acquire the status of an immigrant of another country during his tenure shall be dealt with by law" is not applicable to Merito Miguel for he acquired the status of an immigrant of the United States before he was elected to public office, not "during his tenure" as mayor of Bolinao, Pangasinan.

The law applicable to him is Section 68 of the Omnibus Election Code (B.P. Blg. 881), which provides:

"xxx xxx xxx

"Any person who is a permanent resident of or an immigrant to a foreign country shall not be qualified to run for any elective office under this Code unless such person has waived his status as permanent resident or immigrant of a foreign country in accordance with the residence requirement provided for in the election laws."

Did Miguel, by returning to the Philippines in November 1987 and presenting himself as a candidate for mayor of Bolinao in the January 18, 1988 local elections, waive his status as a permanent resident or immigrant of the United States?

To be "qualified to run for elective office" in the Philippines, the law requires that the candidate who is a green card holder must have "waived his status as a permanent resident or immigrant of a foreign country." Therefore, his act of filing a certificate of candidacy for elective office in the Philippines, did not of itself constitute a waiver of his status as a permanent resident or immigrant of the United States. The waiver of his green card should be manifested by some act or acts independent of and done prior to filing his candidacy for elective office in this country. Without such prior waiver, he was "disqualified to run for any elective office" (Sec. 68, Omnibus

Election Code).

Respondent Merito Miguel admits that he holds a green card, which proves that he is a permanent resident or immigrant of the United States, but the records of this case are starkly bare of proof that he had waived his status as such before he ran for election as municipal mayor of Bolinao on January 18, 1988. We, therefore, hold that he was disqualified to become a candidate for that office.

The reason for Section 68 of the Omnibus Election Code is not hard to find. Residence in the municipality where he intends to run for elective office for at least one (1) year at the time of filing his certificate of candidacy, is one of the qualifications that a candidate for elective public office must possess (Sec. 42, Chap. 1, Title 2, Local Government Code). Miguel did not possess that qualification because he was a permanent resident of the United States and he resided in Bolinao for a period of only three (3) months (not one year) after his return to the Philippines in November 1987 and before he ran for mayor of that municipality on January 18, 1988.

In banning from elective public office Philippine citizens who are permanent residents or immigrants of a foreign country, the Omnibus Election Code has laid down a clear policy of excluding from the right to hold elective public office those Philippine citizens who possess dual loyalties and allegiance. The law has reserved that privilege for its citizens who have cast their lot with our country "without mental reservations or purpose of evasion." The assumption is that those who are resident aliens of a foreign country are incapable of such entire devotion to the interest and welfare of their homeland for with one eye on their public duties here, they must keep another eye on their duties under the laws of the foreign country of their choice in order to preserve their status as permanent residents thereof.

Miguel insists that even though he applied for immigration and permanent residence in the United States, he never really intended to live there permanently, for all that he wanted was a green card to enable him to come and go to the U.S. with ease. In other words, he would have this Court believe that he applied for immigration to the U.S. under false pretenses; that all this time he only had one foot in the United States but kept his other foot in the Philippines. Even if that were true, this Court will not allow itself to be a party to his duplicity by permitting him to benefit from it, and giving him the best of both worlds so to speak.

Miguel's application for immigrant status and permanent residence in the U.S. and his possession of a green card attesting to such status are conclusive proof that he is a permanent resident of the U.S. despite his occasional visits to the Philippines. The waiver of such immigrant status should be as indubitable as his application for it. Absent clear evidence that he made an irrevocable waiver of that status or that he surrendered his green card to the appropriate U.S. authorities before he ran for mayor of Bolinao in the local elections on January 18, 1988, our conclusion is that he was disqualified to run for said public office, hence, his election thereto was null and void.

WHEREFORE, the appealed orders of the COMELEC and the Court of Appeals in SPC Nos. 87-551, 87-595 and 87-604, and CA-G.R. SP No. 14531 respectively, are hereby set aside. The election of respondent Merito C. Miguel as municipal mayor of Bolinao, Pangasinan is hereby annulled. Costs against the said respondent.

SO ORDERED.

Fernan, C.J., Narvasa, Melencio-Herrera, Gutierrez, Jr., Cruz, Paras, Gancayco, Padilla, Bidin, Sarmiento, Medialdea, and Regalado, JJ., concur.

Feliciano, J., on leave.

ABOUT BATAS.ORG

Study smarter at BATAS.org

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

The complete Philippine law library - free for everyone.

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

Audio case-brief lectures.

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

Bar review built on the science of memory.

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

The full law-school curriculum.

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

Mock exams that tell you where you stand.

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

A study planner that keeps you on pace.

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

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

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

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

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