

EN BANC

G.R. No. 210164 – ROMMEL C. ARNADO, Petitioner, v. COMMISSION ON ELECTIONS and FLORANTE CAPITAN, Respondents.

Promulgated:

August 18, 2015

x-----Florante Capitan-----x

CONCURRING AND DISSENTING OPINION

LEONEN, J.:


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

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

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

I

Petitioner has performed all the acts required by Republic Act No. 9225² in order to reacquire his Filipino citizenship.

Under Section 39(a) of the Local Government Code,³ a candidate for Mayor must be a citizen of the Philippines, a registered voter, a resident in 

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

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

the municipality or city where he or she intends to be elected for at least one (1) year immediately preceding the day of election, and be able to read and write Filipino or any local language or dialect.

Section 40(d) of the Local Government Code⁴ expressly disqualifies those who possess dual citizenship from running in any local elective position. These provisions, however, do not disqualify candidates who might have lost their citizenship but were able to reacquire it before running for public office.

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

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

According to Section 3 of Republic Act No. 9225:

SEC. 3. Retention of Philippine Citizenship. - Any provision of law to the contrary notwithstanding, natural-born citizenship by reason of their naturalization as citizens of a foreign country are hereby deemed to have re-acquired Philippine citizenship upon taking the following oath of allegiance to the Republic:

“I _____, solemnly swear (or affirm) that I will support and defend the Constitution of the Republic of the Philippines and obey the laws and legal orders promulgated by the duly constituted authorities of the Philippines; and I hereby declare that I recognize and accept the supreme authority of the Philippines and will maintain true faith and allegiance thereto; and that I impose this obligation upon myself voluntarily without mental reservation or purpose of evasion.”

Natural-born citizens of the Philippines who, after the effectivity of this Act, become citizens of a foreign country shall retain their Philippine citizenship upon taking the aforesaid oath.

³ SECTION 39. Qualifications. - (a) An elective local official must be a citizen of the Philippines; a registered voter in the Barangay, municipality, city, or province or, in the case of a member of the Sangguniang Panlalawigan, Sangguniang Panlungsod, or Sanggunian bayan, the district where he intends to be elected; a resident therein for at least one (1) year immediately preceding the day of the election; and able to read and write Filipino or any other local language or dialect.

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

....
(d) Those with dual citizenship[.]

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

In the previous repatriation law, naturalized citizens seeking to reacquire Philippine citizenship only had to take an oath of allegiance in order to regain their citizenship, including the right to seek public office.⁵ Section 4 of Commonwealth Act No. 63⁶ states:

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

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

SEC. 5. *Civil and Political Rights and Liabilities.* - Those who retain or re-acquire Philippine citizenship under this Act shall enjoy full civil and political rights and be subject to all attendant liabilities and responsibilities under existing laws of the Philippines and the following conditions:

....

(2) *Those seeking elective public in the Philippines shall meet the qualification for holding such public office as required by the Constitution and existing laws and, at the time of the filing of the certificate of candidacy, make a personal and sworn renunciation of any and all foreign citizenship before any public officer authorized to administer an oath[.]* (Emphasis supplied)

In *Japzon v. Commission on Elections*:⁷

[F]or a natural born Filipino, who reacquired or retained his Philippine citizenship under Republic Act No. 9225, to run for public office, he must: (1) meet the qualifications for holding such public office as required by the Constitution and existing laws; and (2) make a personal and sworn renunciation of any and all foreign

⁵ See Com. Act No. 63 (1936), sec. 4.

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

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

citizenships before any public officer authorized to administer an oath.⁸

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

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

The law categorically requires persons seeking elective public office, who either retained their Philippine citizenship or those who reacquired it, to make a personal and sworn renunciation of any and all foreign citizenship before a public officer authorized to administer an oath simultaneous with or before the filing of the certificate of candidacy.

Hence, **Section 5(2) of Republic Act No. 9225** compels **natural-born Filipinos, who have been naturalized as citizens of a foreign country, but who reacquired or retained their Philippine citizenship (1) to take the oath of allegiance under Section 3 of Republic Act No. 9225, and (2) for those seeking elective public offices in the Philippines, to additionally execute a personal and sworn renunciation of any and all foreign citizenship before an authorized public officer prior or simultaneous to the filing of their certificates of candidacy, to qualify as candidates in Philippine elections.**

Clearly Section 5(2) of Republic Act No. 9225 (on the making of a personal and sworn renunciation of any and all foreign citizenship) requires of the Filipinos availing themselves of the benefits under the said Act to accomplish an undertaking other than that which they have presumably complied with under Section 3 thereof (oath of allegiance to the Republic of the Philippines). This is made clear in the discussion of the Bicameral Conference Committee on Disagreeing Provisions of House Bill No. 4720 and Senate Bill No. 2130 held on 18 August 2003 (precursors of Republic Act No. 9225), where the Hon. Chairman Franklin Drilon and Hon. Representative Arthur Defensor explained to Hon. Representative Exequiel Javier that the oath of allegiance is different from the renunciation of foreign citizenship:

CHAIRMAN DRILON. Okay. So, No. 2. “Those seeking elective public office in the Philippines shall meet the qualifications for holding such public office as required by the Constitution and existing laws and, at the time of the filing of the certificate of candidacy, make a personal and sworn renunciation of any and all foreign citizenship before any public officer authorized to administer an oath.” I think it's very good, ha? No problem?

REP. JAVIER. ... **I think it's already covered by the oath.**

⁸ Id. at 368.

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

CHAIRMAN DRILON. Renouncing foreign citizenship.

REP. JAVIER. **Ah... but he has taken his oath already.**

CHAIRMAN DRILON. **No...no, renouncing foreign citizenship.**

....

CHAIRMAN DRILON. Can I go back to No. 2. What's your problem, Boy? **Those seeking elective office in the Philippines.**

REP. JAVIER. They are trying to make him renounce his citizenship thinking that *ano...*

CHAIRMAN DRILON. His American citizenship.

REP. JAVIER. To discourage him from running?

CHAIRMAN DRILON. No.

REP. A.D. DEFENSOR. No. **When he runs he will only have one citizenship. When he runs for office, he will have only one.**

There is little doubt, therefore, that the intent of the legislators was not only for Filipinos reacquiring or retaining their Philippine citizenship under Republic Act No. 9225 to take their oath of allegiance to the Republic of the Philippines, but also to explicitly renounce their foreign citizenship if they wish to run for elective posts in the Philippines. To qualify as a candidate in Philippine elections, Filipinos must only have one citizenship, namely, Philippine citizenship.

By the same token, the oath of allegiance contained in the Certificate of Candidacy, which is substantially similar to the one contained in Section 3 of Republic Act No. 9225, does not constitute the personal and sworn renunciation sought under Section 5(2) of Republic Act No. 9225. It bears to emphasize that the said oath of allegiance is a general requirement for all those who wish to run as candidates in Philippine elections; while the renunciation of foreign citizenship is an additional requisite only for those who have retained or reacquired Philippine citizenship under Republic Act No. 9225 and who seek elective public posts, considering their special circumstance of having more than one citizenship.¹⁰ (Emphasis in the original)

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

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

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

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

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

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

Continuity does not always guarantee familiarity. A momentary absence from the country does not negate the purpose of the residency requirement.¹⁶ A candidate who has spent some time abroad may offer a unique perspective as opposed to a candidate who has never left the country.

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

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

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

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

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

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

The former may be in a better position to observe the changes the country may have undergone through the years, or may have a stronger intuition as to the level of growth it still needs. What is important is that the purpose of residency is complied with.

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

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

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

II

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

In the dissent in *Maquiling* led by Associate Justice Arturo D. Brion, it was pointed out that when Arnado traveled back to the United States, "he had no Philippine passport that he could have used to travel to the United States to attend to the winding up of his business and other affairs in America."¹⁷

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

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

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

Affidavit of Renunciation: *April 3, 2009*

Date of Issuance of Philippine Passport: *June 18, 2009*

Receipt of Philippine Passport: *September 2009*

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

Date of Travels¹⁸

Destination	Date of Departure from the Philippines	Date of Arrival in the Philippines	Passport
USA	April 14, 2009	June 25, 2009	American
USA	July 29, 2009	November 24, 2009	American
USA	December 11, 2009	January 12, 2010	Philippine
USA	January 31, 2010	March 31, 2010	Philippine
USA	April 11, 2010	April 16, 2010	Philippine
USA	May 20, 2010	June 4, 2010	Philippine

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

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

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

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

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

DATE OF Arrival: 03/23/2010

¹⁸ Id. at 476–477.

NATIONALITY: USA-AMERICAN
PASSPORT: 057782700¹⁹

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

The ponencia unduly gives weight to the Bureau of Immigration's certification on the basis that the copy of his Philippine passport was a mere "certified true copy from the machine copy on file."²² *Maquiling* undoubtedly states that petitioner was issued a Philippine passport and that he used it for his subsequent travels abroad.²³ There is a presumption that this piece of evidence, like the certification by the Bureau of Immigration, can be relied upon since it forms part of the case records. Under the presumption of regularity, his passport is presumed to have been stamped by the Bureau of Immigration. Until and unless it is alleged and proven that the stamps on his Philippine passport are fraudulent, it is presumed that the Bureau of Immigration certified the use of his Philippine passport *and* the use of his American passport on the dates alleged. It is also possible that at the time the certification was issued, the Bureau of Immigration had not yet updated its database. Therefore, it was erroneous for the ponencia to conclude that petitioner used his American passport on January 12, 2010 and on March 23, 2010 based merely on the certification dated April 23, 2010.²⁴

III

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

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

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

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

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

²¹ Ponencia, p. 18.

²² Id.

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

²⁴ Ponencia, p. 15.

elections.²⁵

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

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

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

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

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

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

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

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

²⁶ Philippine Passport Act of 1996 (1996).

²⁷ Rep. Act No. 8239, sec. 3(d).

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

commercial documents he signed, specifically, the Companies Registry of Tai Shun Estate Ltd. filed in Hongkong sometime in April 1980.

To the mind of the Court, the foregoing acts considered together constitute an express renunciation of petitioner's Philippine citizenship acquired through naturalization. In *Board of Immigration Commissioners vs. Go Gallano*, express renunciation was held to mean a renunciation that is made known distinctly and explicitly and not left to inference or implication. Petitioner, with full knowledge, and legal capacity, after having renounced Portuguese citizenship upon naturalization as a Philippine citizen resumed or reacquired his prior status as a Portuguese citizen, applied for a renewal of his Portuguese passport and represented himself as such in official documents even after he had become a naturalized Philippine citizen. Such resumption or reacquisition of Portuguese citizenship is grossly inconsistent with his maintenance of Philippine citizenship.²⁹ (Emphasis supplied)

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

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

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

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

IV

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

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

Petitioner garnered an overwhelming 8,902 votes, 84% of the total votes cast³⁰ in the 2013 mayoralty elections. If he is disqualified, Florante Capitan, his opponent who garnered 1,707 votes, a mere 16% of the total votes cast,³¹ will become the duly elected mayor of Kauswagan, Lanao del Norte. This court will have substituted its discretion over the sovereign will of the people.

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

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

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

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

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

In *Japzon v. Commission on Elections*,³⁴ a petition for disqualification was brought against Jaime S. Ty (Ty), who won as Mayor of MacArthur, Eastern Samar in the 2007 Elections. Ty was a natural-born Filipino citizen who migrated to the United States and stayed there for 25 years. He took an Oath of Allegiance in 2005 and renounced his American citizenship before a notary public on March 19, 2007. The question before this court, however, was whether his reacquisition of citizenship has the effect of regaining his domicile, in compliance with the residency requirements for elections.

³⁰ Ponencia, p. 4.

³¹ Id.

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

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

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

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

[W]hen the evidence of the alleged lack of residence qualification of a candidate for an elective position is weak or inconclusive and it clearly appears that the purpose of the law would not be thwarted by upholding the victor's right to the office, the will of the electorate should be respected. *For the purpose of election laws is to give effect to, rather than frustrate, the will of the voters.* To successfully challenge Ty's disqualification, *Japzon must clearly demonstrate that Ty's ineligibility is so patently antagonistic to constitutional and legal principles that overriding such ineligibility and thereby giving effect to the apparent will of the people would ultimately create greater prejudice to the very democratic institutions and juristic traditions that our Constitution and laws so zealously protect and promote.* In this case, Japzon failed to substantiate his claim that Ty is ineligible to be Mayor of the Municipality of General Macarthur, Eastern Samar, Philippines.³⁵ (Emphasis supplied)

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

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

4. In Case of Doubt, Popular Will Prevails

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

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

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

of the people.

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

“Indeed, this Court has repeatedly stressed the importance of giving effect to the sovereign will in order to ensure the survival of our democracy. In any action involving the possibility of a reversal of the popular electoral choice, this Court must exert utmost effort to resolve the issues in a manner that would give effect to the will of the majority, for it is merely sound public policy to cause elective offices to be filled by those who are the choice of the majority. *To successfully challenge a winning candidate's qualifications, the petitioner must clearly demonstrate that the ineligibility is so patently antagonistic to constitutional and legal principles that overriding such ineligibility and thereby giving effect to the apparent will of the people would ultimately create greater prejudice to the very democratic institutions and juristic traditions that our Constitution and laws so zealously protect and promote.*”³⁷ (Emphasis supplied)

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

ACCORDINGLY, I vote to **GRANT** the Petition.


MARVIC M.V.F. LEONEN
Associate Justice

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