

G.R. No. 221697 – Mary Grace Natividad S. Poe-Llamanzares v. COMELEC and Estrella C. Elamparo

G.R. Nos. 221698-700 - Mary Grace Natividad S. Poe-Llamanzares v. COMELEC, Francisco S. Tatad, Antonio P. Contreras and Amado D. Valdez

Promulgated:

April 5, 2016

**SEPARATE CONCURRING OPINION
(Associage Justice Diosdado M. Peralta)**

ggk Logan-Pera

On March 8, 2016, the Court rendered a Decision with a dispositive portion that reads:

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

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

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

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

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

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

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



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

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

SO ORDERED.

On March 18, 2016, respondents Estrella C. Elamparo, Francisco S. Tatad, Antonio P. Contreras, and Amado D. Valdez jointly filed an Urgent Plea for Reconsideration, arguing that: 1) the Court erred in declaring Mary Grace Natividad S. Poe-Llamanzares a qualified candidate; 2) the Court erred in declaring that the Commission on Elections (*COMELEC*) did not have jurisdiction; 3) the Court erred in declaring Poe a natural-born citizen by statistical probability, presumption, and as a measure of equal protection of law/social justice; 4) the Court erred in ruling that foundlings are natural-born citizens under the 1935 Constitution and International Law; 5) the Court erred in declaring that re-acquisition of citizenship under Republic Act No. 9225 vested natural-born status upon Poe; 6) the Court erred in holding that Poe complied with the ten (10)-year residence requirement; and 7) the Court erred in declaring that there was no intent to mislead as to Poe's natural-born status and residency.

On March 29, 2016, respondent Valdez filed a separate Motion for Reconsideration on the following grounds: 1) the clear and unequivocal language used by the legislature in Republic Act (*R.A.*) 9225 does not allow reacquisition of natural born status consistent with the Constitution; 2) *R.A.* 9225 requires acts to acquire and perfect Philippine citizenship, unlike natural-born citizenship under the Constitution; 3) the doctrine in the case of *Bengson* was not abandoned; and 4) the *ponente* fell hook, line, and sinker to the gross misrepresentation of petitioner Poe when he said that there is "consistent jurisprudence on repatriation statutes in general and *R.A.* 9225 in particular."

After a careful perusal of the motions for reconsideration, I find that respondents essentially reiterated the very same issues previously raised and discussed before the Court.

As earlier discussed in the concurring opinion of Hon. Justice Alfredo Benjamin S. Caguioa, the Court's limited review jurisdiction via petition for *certiorari* simply imply that Our review is confined to the jurisdictional issue of whether the COMELEC acted without or in excess of its jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, in its issuance of the assailed rulings while, at the same time, We are ever mindful of the doctrine that findings of fact of the Commission when supported by substantial evidence shall be final and non-reviewable.¹ A *certiorari* proceeding

¹ *Varias v. COMELEC*, G.R. No. 189078, February 11, 2010.

is limited in scope and narrow in character; *certiorari* will issue only to correct errors of jurisdiction and not mere errors of judgment, particularly in the findings or conclusions of the quasi-judicial tribunals like the COMELEC or the lower courts.²

The principles above suggest strictness and limitations, but when the case is exceptional such as the one at bar, wherein grave abuse of discretion in the COMELEC's appreciation and evaluation of the evidence before it is apparent, then it is proper occasion for this Court to act, because in such cases "the Court is more than obliged, as it is then its constitutional duty, to intervene; for when grave abuse of discretion is present, resulting errors arising from the grave abuse mutate from error of judgment to one of jurisdiction."³ Thus, in all instances, the Court's careful choice is between a sparing exercise of *certiorari* powers - when grave abuse of discretion or defects in jurisdiction are apparent - and a healthy deference to the the COMELEC's findings - when review is clearly uncalled for.

In the light of such limited jurisdiction, I then joined Justice Caguioa in his view that the Court should have limited itself to determining whether grave abuse of discretion attended the finding of the COMELEC that Poe committed material misrepresentation as to the facts required to be stated in her Certificate of Candidacy (COC), per Section 78 of the Omnibus Election Code (OEC), and nothing more. Anent that issue, Our review should have been limited to the same issue resolved by the assailed resolutions now before this Court, which was whether there was commission of "material misrepresentation/s" or the making of "false material representation/s" in petitioner's COC. Resolving the same involved the simple establishment of three elements: (1) that a representation is made with respect to a material fact, (2) that the representation is false, and (3) that there is intent to mislead, misinform or hide a fact which would render the candidate ineligible or deceive the electorate.⁴ And the standard of proof for the same, with the COMELEC acting as a quasi-judicial body, is merely substantial evidence.⁵ Jurisprudence has long defined substantial evidence as such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.⁶

As already pointed out by Our other colleague, Hon. Justice Marvic Mario Victor F. Leonen, as to the facts of a presidential candidate's lack of qualifications, or whether the COMELEC is empowered to deny or cancel a COC based on that reason, the Commission may do so only if such fact is patent on the face of the COC and is indubitable.⁷ Otherwise, the COMELEC's

² *INC Shipmanagement v. Moradas*, G.R. No. 178564, January 15, 2014.

³ *Supra* note 1.

⁴ *Caballero v. COMELEC*, G.R. No. 209835, September 22, 2015; cited in J. Caguioa's Separate Concurring Opinion; *Velasco v. COMELEC*, 595 Phil. 1172, 1185; *Maruhom v. COMELEC*, 611 Phil. 501, 512.

⁵ RULES OF COURT, Rule 133, Sec. 5; *Sabili v. COMELEC*, G.R. No. 193261, April 24, 2012; *Adap v. COMELEC*, 545 Phil. 297 (2007); *Japzon v. COMELEC*, 596 Phil. 354 (2009).

⁶ *Id.*; *Ang Tibay v. Court of Industrial Relations*, et al., 69 Phil. 635 (1940).

⁷ *Cipriano v. Comelec*, 479 Phil. 677, 689 (2004).

duty to accept and receive the certificate is ministerial.⁸ This is because our Constitution (under Article IX-C, Section 2 [2]) empowers the COMELEC to exercise exclusive original jurisdiction over all contests relating to qualifications of all elective regional, provincial and city officials and appellate jurisdiction over all contests involving elective municipal officials decided by trial courts of general jurisdiction, or involving elective *barangay* officials decided by trial courts of limited jurisdiction.⁹ But the Constitution does not authorize the COMELEC to rule on the qualifications of the President or Vice-President, the same being the exclusive office of this Court acting as the Presidential Electoral Tribunal (PET) (under Article VII, Section 4), whose powers, additionally, are exercised only *after* the election's winners have been proclaimed, either through an election protest or a proceeding for *quo warranto*.¹⁰ A contest before any of the electoral tribunals (including the PET) implies a post-election, post-proclamation proceeding.¹¹

⁸ Batas Pambansa Blg. 881, OMNIBUS ELECTION CODE, Sec. 76.

⁹ CONSTITUTION, Art. IX-C, Sec. 2. The Commission on Elections shall exercise the following powers and functions :

(1) Enforce and administer all laws and regulations relative to the conduct of an election, plebiscite, initiative, referendum, and recall.

(2) **Exercise exclusive original jurisdiction over all contests relating to the elections, returns, and qualifications of all elective regional, provincial, and city officials, and appellate jurisdiction over all contests involving elective municipal officials decided by trial courts of general jurisdiction, or involving elective barangay officials decided by trial courts of limited jurisdiction.**

Decisions, final orders, or rulings of the Commission on election contests involving elective municipal and barangay offices shall be final, executory, and not appealable.

(3) Decide, except those involving the right to vote, all questions affecting elections, including determination of the number and location of polling places, appointment of election officials and inspectors, and registration of voters.

(4) Deputize, with the concurrence of the President, law enforcement agencies and instrumentalities of the Government, including the Armed Forces of the Philippines, for the exclusive purpose of ensuring free, orderly, honest, peaceful, and credible elections.

(5) Register, after sufficient publication, political parties, organizations, or coalitions which, in addition to other requirements, must present their platform or program of government; and accredit citizen's arms of the Commission on Elections. Religious denominations and sects shall not be registered. Those which seek to achieve their goals through violence or unlawful means, or refuse to uphold and adhere to this Constitution, or which are supported by any foreign government shall likewise be refused registration.

Financial contributions from foreign governments and their agencies to political parties, organizations, coalitions, or candidates related to elections constitute interference in national affairs, and, when accepted, shall be an additional ground for the cancellation of their registration with the Commission, in addition to other penalties that may be prescribed by law.

(6) File, upon a verified complaint, or on its own initiative, petitions in court for inclusion or exclusion of voters; investigate and, where appropriate, prosecute cases of violations of election laws, including acts or omissions constituting election frauds, offenses, and malpractices.

(7) Recommend to the Congress effective measures to minimize election spending, including limitation of places where propaganda materials shall be posted, and to prevent and penalize all forms of election frauds, offenses, malpractices, and nuisance candidates.

(8) Recommend to the President the removal of any officer or employer it has deputized, or the imposition of any other disciplinary action, for violation or disregard of, or disobedience to its directive, order, or decision.

(9) Submit to the President and the Congress a comprehensive report on the conduct of each election, plebiscite, initiative, referendum, or recall.

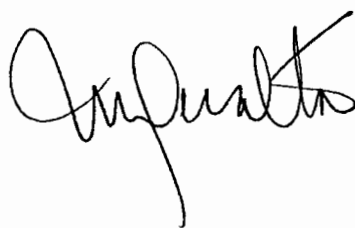
¹⁰ Id. at Art. VII, Sec. 4 xxx

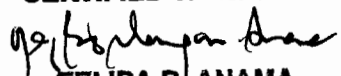
¹¹ Id.

For the above reasons, I opted to join Justice Caguioa in his view that a more thorough discussion of and ruling on Poe's qualifications, specifically as to her natural-born citizenship, as well as her 10-year residency, are premature, the same being cognizable only after she had been proclaimed as winner of the presidential elections and through a petition filed in the PET, and not the COMELEC, with the precise purpose of contesting what she had stated as her qualifications.

Nevertheless, COMELEC's patent disregard of procedure, the law on evidence, and basic fairness in its failure and refusal to appreciate Poe's evidence, which resulted in it ordering the cancellation of her COC, are also easily demonstrable through the case records as tantamount to grave abuse of discretion amounting to lack or excess of jurisdiction; indeed, the fact that the COMELEC clearly overlooked facts which tend to prove that Poe did not deceive or mislead the electorate in filling up her COC or that the COMELEC overstepped its bounds by ruling on Poe's qualifications as a candidate for president is patent not only in the records, but in the assailed resolutions of the COMELEC itself, which clearly supports the Court's finding of grave abuse of discretion on the COMELEC's part and the reversal of the latter's rulings. Stated differently, the COMELEC, in grave abuse of its discretion amounting to lack of or excess of its jurisdiction, erroneously granted the prayers of respondents to deny due course or cancel Poe's COC despite their inability to establish by substantial evidence that petitioner's material representations were false and that such were made with the intention to deceive or mislead the electorate.

For the abovementioned reasons, I vote to **DENY** the Motions for Reconsideration **WITH FINALITY**.



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FELIPA B. ANAMA
CLERK OF COURT, EN BANC
SUPREME COURT