

G.R. No. 195649 – CASAN MACODE MAQUILING, *Petitioner, versus*
COMMISSION ON ELECTIONS, ROMMEL ARNADO y CAGOCO,
LINOG G. BALUA, *Respondents*.

Promulgated:

APRIL 16, 2013



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DISSENTING OPINION

BRION, J.:

I dissent from the *ponencia*'s conclusions that:

(1) respondent Rommel C. Arnado's (*Arnado*) use of his US passport in traveling twice to the US violated his Oath of Renunciation so that he reverted back to the status of a dual citizen – a distinct ground for disqualification under Section 40(d) of the Local Government Code (*LGC*) that barred him from assuming the office of Mayor of Kauswagan, Lanao del Norte; and

(2) the petitioner, Casan Macode Maquiling (*Maquiling*), the "second placer" in the 2010 elections, should be rightfully seated as Mayor of Kauswagan, Lanao del Norte.

I base this Dissent on the following grounds:

1) Arnado has performed all acts required by Section 5(2) of Republic Act No. 9225¹ (*RA 9225*) to re-acquire Philippine citizenship and to qualify and run for public office;

2) The evidence on record shows that Arnado's use of his US passport in two trips to the US after re-acquiring his Philippine citizenship under RA 9225 and renouncing his US citizenship, were mere isolated acts that were sufficiently justified under the given circumstances that Arnado fully explained;

3) Arnado's use of his US passport did not amount to an express renunciation of his Philippine citizenship under Section 1 of Commonwealth Act No. 63 (*CA 63*);

4) Under the circumstances of this case, Arnado did not do anything to negate the oath of renunciation he took;

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.*



5) At any rate, all doubts should be resolved in favor of Arnado's eligibility after this was confirmed by the mandate of the people of Kauswagan, Lanao del Norte by his election as Mayor; and

6) The assailed findings of facts and consequent conclusions of law are based on evidence on record and are correct applications of law; hence, no basis exists for this Court to rule that the Comelec *en banc* committed grave abuse of discretion in ruling on the case.

The Antecedent Facts

Respondent Rommel Cagoco Arnado is a natural born Filipino citizen, born to Filipino parents on July 22, 1957 at Iligan City, Lanao del Norte.² In 1985, he immigrated to the United States for job purposes.³ He was deemed to have lost his Filipino citizenship by operation of law⁴ when he became a naturalized citizen of the United States of America while in America.

In 2003, Congress declared it the policy of the State that all Philippine citizens who become citizens of another country shall be deemed not to have lost their Philippine citizenship upon compliance with the statute Congress passed – RA 9225.⁵

Arnado, like many other Filipinos before him, at age 51 and after a stay of 23 years in the U.S., opted to re-affirm his Filipino citizenship by filing the required application and taking his oath before the Philippine Consulate General in San Francisco, USA. His application was approved by Consul Wilfredo C. Santos, evidenced by an Order of Approval dated July 10, 2008.⁶ He took his Oath of Allegiance to the Republic of the Philippines (*Republic*) on the same day and was accordingly issued Identification Certificate Number SF-1524-08/2008 declaring him once more purely a citizen of the Republic.⁷

On **April 3, 2009**, Arnado took another Oath of Allegiance to the Republic and executed an Affidavit of Renunciation of his foreign citizenship.⁸

Eleven days later or on **April 14, 2009**, Arnado left the country for the United States. According to Bureau of Immigration records, Arnado then used a passport – US Passport (No. 057782700) – that identified his nationality as “USA-AMERICAN.” The same record also indicated that Arnado used the same U.S. Passport when he returned to the country on

² *Rollo*, p. 229.

³ *Id.* at 162.

⁴ Section 1 of Commonwealth Act No. 63 states:

Section 1. How citizenship may be lost. – A Filipino citizen may lose his citizenship in any of the following ways and/or events:

(1) By **naturalization in a foreign country**;

⁵ Otherwise known as the Citizenship Retention and Re-acquisition Act of 2003.

⁶ *Rollo*, p. 239.

⁷ *Id.* at 240.

⁸ *Id.* at 160.

June 25, 2009. This happened again when he left for the United States on **July 29, 2009** and returned to the country on **November 24, 2009.**⁹

The record does not show the exact date when Arnado applied for a Philippine passport; it shows however that Consulate General of the Philippines in San Francisco, USA, approved and **issued a Philippine Passport** (No. XX 3979162) for Arnado **on June 18, 2009.**¹⁰ He received this passport three (3) months later.¹¹ Thereafter, he used his Philippine passport in his travels on the following dates: December 11, 2009 (Departure), January 12, 2010 (Arrival), January 31, 2010 (Departure), March 31, 2010 (Arrival), April 11, 2010 (Departure) April 16, 2010 (Arrival), May 20, 2010 (Departure) and June 4, 2010 (Arrival).¹²

On November 30, 2009 or six months after he fully complied with the requirements of R.A. No. 9225, **Arnado filed his Certificate of Candidacy (CoC)** for the position of Mayor of Kauswagan, Lanao del Norte.¹³

Five months after or on April 28, 2010, respondent mayoralty candidate Linog C. Balua (*Balua*) filed a petition to disqualify Arnado and/or to cancel his CoC. Balua contended that Arnado is a foreigner and is not a resident of Kauswagan, Lanao del Norte. Balua attached to his petition a Bureau of Immigration (*BI*) certification dated April 23, 2010 indicating Arnado’s nationality as “USA-American” and certifying that the name Arnado Rommel Cagoco appears in the Computer Database/Passenger Manifest with the following pertinent travel records:¹⁴

DATE OF Arrival :	01/12/2010
NATIONALITY :	USA-AMERICAN
PASSPORT :	057782700
DATE OF Arrival :	03/23/2010
NATIONALITY :	USA-AMERICAN
PASSPORT :	057782700

(Significantly, Arnado also submitted the photocopy of his Philippine passport showing that he used his Philippine passport on travels on these dates.)¹⁵

Balua also presented a computer generated travel record dated December 3, 2009 indicating that Arnado has been using his US Passport No. 057782700 in entering and departing the Philippines. The record showed that Arnado left the country on April 14, 2009 and returned on June 25, 2009; he departed again on July 29, 2009 and arrived back in

⁹ Id. at 191.
¹⁰ Id. at 218.
¹¹ Id. at 219.
¹² Id. at 242-245.
¹³ Id. at 139.
¹⁴ Id. at 192.
¹⁵ Annexes A-1-A-4 of Respondent’s Motion for Reconsideration, Id. at 204-208.

the country on November 24, 2009.¹⁶ *In these lights, Arnado's disqualification was a live election issue, well-known to the Kauswagan electorate, who nevertheless voted Arnado into office as Mayor.*¹⁷

The Comelec First Division ordered Arnado to file his Answer (to Balua's petition) and a Memorandum. With the petition filed a mere two weeks from election day, Arnado failed to comply, thus giving Balua the opportunity to move that Arnado be declared in default. The Comelec, however, failed to act on the motion as the case was overtaken by the May 10, 2010 elections.

Arnado won the election, garnering 5,952 votes over the second placer, Maquiling, who garnered 5,357 votes. The Municipal Board of Canvassers subsequently proclaimed him as the duly elected mayor of Kauswagan, Lanao del Norte.¹⁸

In the Answer which he filed after his proclamation, Arnado averred that he did not commit any material misrepresentation in his CoC, and that he was eligible to run for the office of mayor of Kauswagan, Lanao del Norte; he had fully complied with the requirements of RA 9225 by taking the required Oath of Allegiance and executing an Affidavit of Renunciation of his U.S. citizenship.¹⁹ To support his allegations, Arnado also submitted the following documentary evidence:

(1) Affidavit of Renunciation and Oath of Allegiance to the Republic of the Philippines dated April 3, 2009;

(2) Joint-Affidavit dated May 31, 2010 of Engr. Virgil Seno, Virginia Branzuela, Leoncio Daligdig, and Jessy Corpin, all neighbors of Arnado, attesting that Arnado is a long-time resident of Kauswagan and that he has been conspicuously and continuously residing in his family's ancestral house in Kauswagan;

(3) Certification from the Punong Barangay of Poblacion, Kauswagan, Lanao del Norte dated June 3, 2010 stating that Arnado is a *bona fide* resident of his barangay and that Arnado went to the United States in 1985 to work and returned to the Philippines in 2009;

(4) Certification dated May 31, 2010 from the Municipal Local Government Operations Office of Kauswagan stating that Dr. Maximo P. Arnado, Sr. served as Mayor of Kauswagan from January 1964 to June 1974 and from February 15 1979 to April 15, 1986;

(5) Voter Certification issued by the Election Officer of Kauswagan certifying that Arnado has been a registered voter of Kauswagan since April 3, 2009.²⁰

¹⁶ Id. at 191.

¹⁷ Balua filed the petition to disqualify and/or to cancel Arnado's CoC on April 28, 2010, prior to the May 10, 2010 elections. Id. at 134-136.

¹⁸ Id. at 161.

¹⁹ Id. at 148-156.

²⁰ Id. at 160-164.

The Comelec First Division Ruling

The Comelec First Division treated Balua's petition as a petition for disqualification instead of a petition for cancellation of CoC based on misrepresentation. Because Balua failed to present evidence to support his contention that Arnado is a resident of the United States, the First Division found no basis to conclude that Arnado did not meet the one-year residency requirement under the LGC.

On the issue of citizenship, the First Division held Arnado's act of using his US passport after renouncing his US citizenship on April 3, 2009, effectively negated his Oath of Renunciation. As basis, the First Division cited the Court's ruling in *In Re Petition for Habeas Corpus of Willie Yu v. Defensor-Santiago, et al.* It concluded that Arnado's continued use of his US passport was a strong indication that he had no real intention to renounce his US citizenship and that he only executed an Oath of Renunciation to enable him to run for office. The Division noted in this regard the glaring inconsistency between Arnado's unexplained use of his US passport and his claim that he had re-acquired Philippine citizenship and had renounced his US citizenship.

Based on these premises, the Comelec First Division disqualified Arnado, annulled his proclamation, and ordered that the order of succession to the mayoralty under Section 44 of the LGC be given effect.²¹

Maquiling's Intervention

While Arnado's motion for reconsideration was pending, Maquiling intervened and filed a Motion for Reconsideration and an opposition to Arnado's motion for reconsideration.

Maquiling argued that while the First Division correctly disqualified Arnado, the order of succession under Section 44 is not applicable; he claimed that with the cancellation of Arnado's CoC and the nullification of his proclamation, he should be proclaimed the winner since he was the legitimate candidate who obtained the highest number of votes.²²

The Comelec en banc Ruling

The Comelec *en banc* affirmed the First Division's treatment of the petition as a **petition for disqualification**. It also agreed with the disposition of the First Division to follow the order of succession under Section 44, thus ruling out second placer Maquiling's entitlement to the post of Mayor.

²¹ Id. at 38-49.

²² Id. at 89-96.

The Comelec *en banc* however, **reversed the First Division ruling** and granted Arnado's Motion for Reconsideration. It held that by renouncing his US citizenship, Arnado became a "pure" Philippine citizen again. It ruled that the use of a US passport does not operate to revert Arnado's status as a dual citizen prior to his renunciation; it does not operate to "un-renounce" what had earlier been renounced.

The Comelec *en banc* further ruled that the First Division's reliance on *In Re Petition for Habeas Corpus of Willie Yu v. Defensor-Santiago, et al.*,²³ was misplaced as the facts of this cited case are not the same or comparable with those of the present case. Unlike the present case, the petitioner in *Yu* was a naturalized citizen who, after taking his oath as a naturalized Filipino citizen, applied for a renewal of his Portuguese passport.

Finally, the Comelec *en banc* found that Arnado presented a plausible and believable explanation justifying the use of his US passport. While his Philippine passport was issued on June 18, 2009, he was not immediately notified of the issuance so that he failed to actually get it until after three months later. He thereafter used his Philippine passport in his subsequent travels abroad.²⁴

The Separate and Dissenting Opinions

Significantly, *Comelec Chairman Sixto S. Brillantes issued a Separate Opinion concurring with the Comelec majority*. He opined that the use of a foreign passport is not one of the grounds provided for under Section 1 of CA 63 through which Philippine citizenship may be lost. He cites the assimilative principle of continuity of Philippine citizenship: Arnado is presumed to have remained a Filipino despite his use of his American passport in the ***absence of clear and unequivocal proof of expatriation***. In addition, all doubts should be resolved in favor of Arnado's retention of citizenship.²⁵

In his *Dissenting Opinion*, Commissioner Rene V. Sarmiento emphasized that Arnado failed to prove that he truly abandoned his allegiance to the United States; his continued use of his US passport and enjoyment of all the privileges of a US citizen ran counter to his declaration that he chose to retain only his Philippine citizenship. He noted that qualifications for elective office, such as citizenship, are continuing requirements; once citizenship is lost, title to the office is deemed forfeited.²⁶

The Issues

The complete issues posed for the Court's consideration are:

²³ G.R. No. L-83882, January 24, 1989, 169 SCRA 364.

²⁴ *Rollo*, pp. 50-67.

²⁵ *Id.* at 68-69.

²⁶ *Id.* at 70-73.

- (1) Whether intervention is allowed in a disqualification case;
- (2) Whether the use of a foreign passport after renouncing foreign citizenship amounts to undoing a renunciation made, and whether the use of a foreign passport after renouncing foreign citizenship affects one's qualifications to run for public office;
- (3) Assuming Arnado is disqualified, whether the rule on succession in the LGC is applicable in the present case;²⁷
- (4) How should doubt in the present case be resolved in light of Arnado's election; and
- (5) Whether, based on the facts presented and the applicable law, the Comelec *en banc* committed grave abuse of discretion.

The Ponencia

The *ponencia* grants Maquiling's petition for *certiorari*, thus holding that the Comelec *en banc* committed grave abuse of discretion in considering the facts and the law presented. It thus holds that Arnado is a dual citizen disqualified to run for public office under Section 40(d) of the LGC. On this basis, the *ponencia* rules that with Arnado's disqualification, second placer Maquiling should be proclaimed as the duly elected Mayor of Kauswagan, Lanao del Norte.

Based on this conclusion, the *ponencia* resolves all doubts against Arnado and disregards the democratic decision of the Kauswagan electorate.

As the *ponencia* reasons it out, the act of using a foreign passport does not divest Arnado of his Filipino citizenship. By representing himself as an American citizen, however, Arnado voluntarily and effectively reverted to his earlier status as dual citizen. It emphasizes that such reversion is not retroactive; it took place the instant Arnado represented himself as an American citizen by using his US passport.

Thus, by the time Arnado filed his CoC on November 30, 2009, the *ponencia* concludes that Arnado was a dual citizen enjoying the rights and privileges of Filipino and American citizenship; he was qualified to vote, but by the express disqualification under Section 40 (d) of the LGC, he was not qualified as a candidate to run for a local elective position.²⁸

With Arnado barred from candidacy, the *ponencia* further concludes that his CoC was void from the beginning. The affirmation of Arnado's disqualification, although made long after the elections, reaches back to the filing of the CoC so that he was not a candidate at all in the May 10, 2010

²⁷ *Ponencia*, p. 10.

²⁸ *Ponencia*, p. 17.

elections. Hence, the votes cast in his favor should not be counted and Maquiling, as the qualified candidate who obtained the highest number of vote, should be declared the duly elected mayor of Kauswagan, Lanao del Norte.²⁹ In this manner, the *ponencia* effectively disenfranchised 5,952 or **52.63% of those who voted for the top two contending candidates** for the position of Mayor; it rules for a minority Mayor.

Refutation of the Ponencia

Arnado performed all acts required by Section 5(2) of RA 9225 to reacquire Philippine citizenship and run for public office; in fact, he actively followed up his re-affirmed citizenship by running for public office.

RA 9225 was enacted to allow the re-acquisition and retention of Philippine citizenship by: 1) natural-born citizens who were deemed to have lost their Philippine citizenship by reason of their naturalization as citizens of a foreign country; and 2) natural-born citizens of the Philippines who, after the effectivity of the law, became citizens of a foreign country. The law provides that they are deemed to have re-acquired or retained their Philippine citizenship upon taking the oath of allegiance.³⁰

Section 3 of RA 9225 on these points reads:

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

"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 imposed 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.

Arnado falls under the first category as a natural-born Filipino citizen who was deemed to have lost his Philippine citizenship upon his naturalization as an American citizen.

²⁹ Id. at 26.

³⁰ *De Guzman v. Commission on Elections*, G.R. No. 180048, June 19, 2009, 590 SCRA 141, 156.

Under the given facts, Arnado indisputably re-acquired Philippine citizenship after taking the Oath of Allegiance not only once but twice – on July 10, 2008 and April 3, 2009. Separately from this oath of allegiance, Arnado took an oath renouncing his American citizenship as additionally required by RA 9225 for those seeking public office.

Section 5 of RA 9225 on this point provides:

Section 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 office 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.

In *Japzon v. Commission on Elections*,³¹ we ruled that Section 5(2) of RA 9225 requires the twin requirements of taking an Oath of Allegiance and the execution of a similarly sworn Renunciation of Foreign Citizenship. We said:

Breaking down the afore-quoted provision, for a natural born Filipino, who reacquired or retained his Philippine citizenship under Republic Act No. 9225, to run for public office, he must: (1) meet the qualifications for holding such public office as required by the Constitution and existing laws; and (2) make a personal and sworn renunciation of any and all foreign citizenships before any public officer authorized to administer an oath.³²

Thus, the respondent in that case, Jaime Ty - a natural born Filipino citizen who subsequently became a naturalized American citizen - became a “pure” Philippine citizen again after taking the Oath of Allegiance and executing an Oath of Renunciation of his American citizenship. To quote our Decision:

He was born and raised in the Municipality of General Macarthur, Eastern Samar, Philippines. However, he left to work in the USA and eventually became an American citizen. On 2 October 2005, Ty reacquired his Philippine citizenship by taking his Oath of Allegiance to the Republic of the Philippines before Noemi T. Diaz, Vice Consul of the Philippine Consulate General in Los Angeles, California, USA, in accordance with the provisions of Republic Act No. 9225. At this point, Ty still held dual citizenship, *i.e.*, American and Philippine. It was only on 19 March 2007 that Ty renounced his American citizenship before a notary public and, resultantly, became a pure Philippine citizen.³³

³¹ G.R. No. 180088, January 19, 2009, 576 SCRA 331.

³² Id. at 346.

³³ Id. at 344.

In the present case, Arnado indisputably complied with the second requirement of Section 5(2) of RA 9225. On April 3, 2009, he personally executed an Affidavit of Renunciation an Oath of Allegiance before notary public Thomas Dean M. Quijano. Therefore, when he filed his CoC for the position of Mayor of the Municipality of Kauswagan, Lanao del Norte on November 30, 2009, he had already effectively renounced his American citizenship, solely retaining his Philippine citizenship as the law requires. In this way, Arnado qualified for the position of Mayor of Kauswagan, Lanao del Norte and filed a valid CoC.

The evidence on record shows that Arnado’s use of his US passport after his compliance with the terms of RA 9225, was an isolated act that was sufficiently explained and justified.

The records bear out that Arnado used his US passport in two trips to and from the US *after* he had executed his Affidavit of Renunciation on April 3, 2009. He travelled on the following dates:

<u>Date</u>	<u>Destination</u>
April 14, 2009	to the U.S.
June 25, 2009	to the Philippines
July 29, 2009	to the U.S.
November 24, 2009	to the Philippines

Arnado’s Philippine passport was issued on June 18, 2009, but he was not immediately notified of the issuance so that and he only received his passport three months after or sometime in *September 2009*.³⁴ *Clearly, when Arnado travelled on April 14, 2009, June 25, 2009 and July 29, 2009, 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.* A travel document issued by the proper Philippine government agency (e.g., a Philippine consulate office in the US) would not suffice because travel documents could not be used; they are issued only in critical instances, as determined by the consular officer, and allow the bearer only a direct, one-way trip to the Philippines.³⁵

Although Arnado received his Philippine passport by the time he returned to the Philippines on November 24, 2009, he could not use this without risk of complications with the US immigration authorities for using a travel document different from what he used in his entry into the US on July 29, 2009. Plain practicality then demanded that the travel document that he used to enter the US on July 29, 2009 be the same travel document he should use in leaving the country on November 24, 2009.

³⁴ Rollo, p. 219.
³⁵ See <http://www.philippineconsulatela.org/FAQs/FAQS-passport.htm#TD1> (last visited April 14, 2013).

Given these circumstances, Arnado's use of his US passport in travelling back to the Philippines on November 24, 2009 was an isolated act that could not, by itself, be an express renunciation of the Philippine citizenship he adopted as his sole citizenship under RA 9225.

Arnado's use of his US passport was not an express renunciation of his Philippine citizenship under Section 1 of CA 63.

I disagree with the *ponencia's* view that by using his US passport and representing himself as an American citizen, Arnado effectively reverted to the status of a dual citizen. ***Interestingly, the ponencia failed to cite any law or controlling jurisprudence to support its conclusion, and thus merely makes a bare assertion.***

The *ponencia* fails to consider that under RA 9225, natural-born citizens who were deemed to have lost their Philippine citizenship because of their naturalization as citizens of a foreign country and who subsequently complied with the requirements of RA 9225, are ***deemed not to have lost*** their Philippine citizenship. ***RA 9225 cured and negated the presumption made under CA 63.*** Hence, as in *Japzon*, Arnado assumed "pure" Philippine citizenship again after taking the Oath of Allegiance and executing an Oath of Renunciation of his American citizenship under RA 9225.

In this light, the proper framing of the main issue in this case should be whether Arnado's use of his US passport affected his status as a "pure" Philippine citizen. In question form – ***did Arnado's use of a US passport amount to a ground under the law for the loss of his Filipino citizenship under CA 63?*** Or alternatively, the retention of his dual citizenship status?

I loathe to rule that Arnado's use of his US passport amounts to an express renunciation of his Filipino citizenship, when its use was an isolated act that he sufficiently explained and fully justified. I emphasize that the law requires ***express renunciation*** in order to lose Philippine citizenship. The term means a renunciation that is made ***distinctly and explicitly and is not left to inference or implication; it is a renunciation manifested by direct and appropriate language, as distinguished from that which is inferred from conduct.***³⁶

A clear and vivid example, taken from jurisprudence, of ***what "express renunciation" is not*** transpired in *Aznar v. Comelec*³⁷ where the Court ruled that the mere fact that respondent Osmena was a holder of a certificate stating that he is an American did not mean that he is no longer a

³⁶ *Board of Immigration Commissioners v. Go Callano*, G.R. No. L-24530, October 31, 1968, 25 SCRA 890, 899..

³⁷ G.R. No. 83820, May 25, 1990, 185 SCRA 703.

Filipino, and that an application for an alien certificate of registration did not amount to a renunciation of his Philippine citizenship.

In the present case, other than the use of his US passport in two trips to and from the United States, the record does not bear out any indication, supported by evidence, of Arnado's intention to re-acquire US citizenship. To my mind, in the absence of clear and affirmative acts of re-acquiring US citizenship either by naturalization or by express acts (such as the re-establishment of permanent residency in the United States), Arnado's use of his US passport cannot but be considered an isolated act that did not undo his renunciation of his US citizenship. What he might in fact have done was to violate American law on the use of passports, but this is a matter irrelevant to the present case. Thus, Arnado remains to be a "pure" Filipino citizen and the loss of his Philippine citizenship cannot be presumed or inferred from his isolated act of using his US passport for travel purposes.

Arnado did not violate his oath of renunciation; at any rate, all doubts should be resolved in favor of Arnado's eligibility considering that he received the popular mandate of the people of Kauswagan, Lanao del Norte as their duly elected mayor

I completely agree with the *ponencia* that the Oath of Renunciation is not an empty or formal ceremony that can be perfunctorily professed at any given day, only to be disregarded on the next. As a mandatory requirement under Section 5 (2) of RA 9225, it allows former natural-born Filipino citizens who were deemed to have lost their Philippine citizenship by reason of naturalization as citizens of a foreign country to enjoy full civil and political rights, foremost among them, the privilege to run for public office.

I disagree however, with the conclusion that Arnado effectively negated his Oath of Renunciation when he used his US passport for travel to the United States. To reiterate if only for emphasis, Arnado sufficiently justified the use of his US passport despite his renunciation of his US citizenship; when he travelled on April 14, 2009, June 25, 2009 and July 29, 2009, he had no Philippine passport that he could have used to travel to the United States to attend to the business and other affairs that he was leaving. If at all, he could be faulted for using his US passport by the time he returned to the Philippines on November 24, 2009 because at that time, he had presumably received his Philippine passport. However, given the circumstances explained above and that he consistently used his Philippine passport for travel after November 24, 2009, the true character of his use of his US passport stands out and cannot but be an isolated and convenient act that did not negate his Oath of Renunciation.

The People of Kauswagan have spoken and any doubt should be resolved in favor of their verdict.

Separately from the issue of Arnado's isolated act of using his US passport, we cannot ignore the fact in a community as small as Kauswagan where the two mayoralty candidates garnered a total of 11,309 votes, Balua's claim of Arnado's foreign citizenship and even the latter's residency status could not be avoided but be live election issues. ***The people of Kauswagan, Lanao del Norte, therefore, made their own ruling when they elected Arnado as their mayor despite the "foreigner" label sought to be pinned on him.*** At this point, even this Court should heed this verdict by resolving all doubts regarding Arnado's eligibility in his favor. This approach, incidentally, is not a novel one³⁸ as in *Sinaca v. Mula*,³⁹ the Court has already ruled:

[When] a candidate has received popular mandate, overwhelmingly and clearly expressed, all possible doubts should be resolved in favor of the candidate's eligibility for to rule otherwise is to defeat the will of the people. Above and beyond all, the determination of the true will of the electorate should be paramount. It is their voice, not ours or of anyone else, that must prevail. This, in essence, is the democracy we continue to hold sacred.

³⁸ See J. Panganiban's Concurring Opinion in *Bengson III v. House Representatives Electoral Tribunal* (G.R. No. 142840, May 7, 2001, 357 SCRA 545) where respondent Teodoro C. Cruz' citizenship was also questioned, viz:

4. In Case of Doubt, Popular Will Prevails

Fourth, the 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).²³ 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 of the people.

Well-entrenched in our jurisprudence is the doctrine that in case of doubt, political laws must be so constructed 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

See also *Fernandez v. House of Representatives Electoral Tribunal*, G.R. No. 187478, December 21, 2009, 608 SCRA 733.

³⁹ 373 Phil. 896 (1999).

*No Basis to Rule that the Comelec
Committed Grave Abuse of
Discretion.*

As my *last point*, the Comelec *en banc* considered and accepted as its factual finding that Arnado's explanation on the use of his US passport was sufficient justification to conclude that he did not abandon his Oath of Renunciation. This finding is undeniably based on evidence on record as the above citations show. In a Rule 64 petition, whether this conclusion is correct or incorrect is not material for as long as it is made on the basis of evidence on record, and was made within the contemplation of the applicable law.⁴⁰

In other words, the Comelec *en banc* properly exercised its discretion in acting on the matter; thus, even if it had erred in its conclusions, any error in reading the evidence and in applying the law was not sufficiently grave to affect the exercise of its jurisdiction.⁴¹ From these perspectives, this Court has no recourse but to dismiss the present petition for failure to show any grave abuse of discretion on the part of the Comelec.

In these lights, I vote for the dismissal of the petition.


ARTURO D. BRION
Associate Justice

⁴⁰ Section 5, Rule 64 of the Rules of Court states that "[f]indings of facts of the Commission supported by substantial evidence shall be final and non-reviewable."

⁴¹ *Altra v. Commission on Elections*, G.R. No. 191938, July 2, 2010, 622 SCRA 744.