



Republic of the Philippines
Supreme Court
Manila

EN BANC

REGINA ONGSIAKO REYES,
Petitioner,

G.R. No. 207264

Present:

- versús -

SERENO, C.J.,
CARPIO,
VELASCO, JR.,
LEONARDO-DE CASTRO,
BRION,
PERALTA,*
BERSAMIN,
DEL CASTILLO,
ABAD,
VILLARAMA, JR.,
PEREZ,
MENDOZA,
REYES,
PERLAS-BERNABE,
LEONEN, JJ.

COMMISSION ON ELECTIONS
and JOSEPH SOCORRO B. TAN,
Respondents.

Promulgated:

JUNE 25, 2013

X-----X

RESOLUTION

PEREZ, J.:

Before the Court is a Petition for *Certiorari* with Prayer for Temporary Restraining Order and/or Preliminary Injunction and/or Status *Quo Ante* Order dated 7 June 2013 filed by petitioner Regina Ongsiako Reyes, assailing the Resolutions dated 27 March 2013 and 14 May 2013 issued by public respondent Commission on Elections (COMELEC) in SPA No. 13-053. The assailed Resolutions ordered the cancellation of the

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Certificate of Candidacy of petitioner for the position of Representative of the lone district of Marinduque.

On 31 October 2012, respondent Joseph Socorro Tan, a registered voter and resident of the Municipality of Torrijos, Marinduque, filed before the COMELEC an Amended Petition to Deny Due Course or to Cancel the Certificate of Candidacy (COC) of petitioner on the ground that it contained material misrepresentations, specifically: (1) that she is single when she is married to Congressman Herminaldo I. Mandanas of Batangas;¹ (2) that she is a resident of Brgy. Lupac, Boac, Marinduque when she is a resident of Bauan, Batangas which is the residence of her husband, and at the same time, when she is also a resident of 135 J.P. Rizal, Brgy. Milagrosa, Quezon City as admitted in the Directory of Congressional Spouses of the House of Representatives;² (3) that her date of birth is 3 July 1964 when other documents show that her birthdate is either 8 July 1959 or 3 July 1960;³ (4) that she is not a permanent resident of another country when she is a permanent resident or an immigrant⁴ of the United States of America;⁵ and (5) that she is a Filipino citizen when she is, in fact, an American citizen.⁶

In her Answer, petitioner countered that, while she is publicly known to be the wife of Congressman Herminaldo I. Mandanas (Congressman Mandanas), there is no valid and binding marriage between them. According to petitioner, although her marriage with Congressman Mandanas was solemnized in a religious rite, it did not comply with certain formal requirements prescribed by the Family Code, rendering it void *ab initio*.⁷ Consequently, petitioner argues that as she is not duty-bound to live with Congressman Mandanas, then his residence cannot be attributed to her.⁸ As to her date of birth, the Certificate of Live Birth issued by the National Statistics Office shows that it was on 3 July 1964.⁹ Lastly, petitioner notes that the allegation that she is a permanent resident and/or a citizen of the United States of America is not supported by evidence.¹⁰

* On official leave.

¹ *Rollo*, p. 70.

² *Id.*.

³ *Id.* at 71.

⁴ Respondent relies on the following facts: (a) [petitioner] was admitted to the California State Bar on June 12, 1995; (b) [petitioner] maintained a US address and earned her undergraduate studies in Georgetown University, Washington, D.C.; (c) [petitioner] married an American citizen named Saturnino S. Ador Dionisio in 1997, which marriage was subsequently dissolved; and (4) [petitioner] acquired properties and established businesses in the U.S.; COMELEC Resolution dated 27 March 2013. *Id.* at 44.

⁵ *Id.* at 71.

⁶ *Id.* at 72.

⁷ *Id.* at 84.

⁸ *Id.* at 87.

⁹ *Id.* at 93.

¹⁰ *Id.* at 94.

During the course of the proceedings, on 8 February 2013, respondent filed a “Manifestation with Motion to Admit Newly Discovered Evidence and Amended List of Exhibits”¹¹ consisting of, among others: (1) a copy of an article published on the internet on 8 January 2013 entitled “Seeking and Finding the Truth about Regina O. Reyes” with an Affidavit of Identification and Authenticity of Document executed by its author Eliseo J. Obligacion, which provides a database record of the Bureau of Immigration indicating that petitioner is an American citizen and a holder of a U.S. passport; (2) a Certification of Travel Records of petitioner, issued by Simeon Sanchez, Acting Chief, Verification and Certification Unit of the Bureau of Immigration which indicates that petitioner used a U.S. Passport in her various travels abroad.

On 27 March 2013, the COMELEC First Division issued a Resolution¹² cancelling petitioner’s COC, to wit:

WHEREFORE, in view of the foregoing, the instant Petition is **GRANTED**. Accordingly, the Certificate of Candidacy of respondent REGINA ONGSIAKO REYES is hereby **CANCELLED**.

The COMELEC First Division found that, contrary to the declarations that she made in her COC, petitioner is not a citizen of the Philippines because of her failure to comply with the requirements of Republic Act (R.A.) No. 9225 or the *Citizenship Retention and Re-acquisition Act of 2003*, namely: (1) to take an oath of allegiance to the Republic of the Philippines; and (2) to make a personal and sworn renunciation of her American citizenship before any public officer authorized to administer an oath. In addition, the COMELEC First Division ruled that she did not have the one-year residency requirement under Section 6, Article VI of the 1987 Constitution.¹³ Thus, she is ineligible to run for the position of Representative for the lone district of Marinduque.

Not agreeing with the Resolution of the COMELEC First Division, petitioner filed a Motion for Reconsideration¹⁴ on 8 April 2013 claiming that she is a natural-born Filipino citizen and that she has not lost such status by simply obtaining and using an American passport. Additionally, petitioner

¹¹ Id at 127-139.

¹² Id. at 40-51.

¹³ Section 6. No person shall be a Member of the House of Representatives unless he is a natural-born citizen of the Philippines and, on the day of the election, is at least twenty-five years of age, able to read and write, and, except the party-list representatives, a registered voter in the district in which he shall be elected, and a resident thereof for a period of not less than one year immediately preceding the day of the election.

¹⁴ Id. at 140-157.

surmised that the COMELEC First Division relied on the fact of her marriage to an American citizen in concluding that she is a naturalized American citizen. Petitioner averred, however, that such marriage only resulted into dual citizenship, thus there is no need for her to fulfill the twin requirements under R.A. No. 9225. Still, petitioner attached an Affidavit of Renunciation of Foreign Citizenship sworn to before a Notary Public on 24 September 2012. As to her alleged lack of the one-year residency requirement prescribed by the Constitution, she averred that, as she never became a naturalized citizen, she never lost her domicile of origin, which is Boac, Marinduque.

On 14 May 2013, the COMELEC *En Banc*, promulgated a Resolution¹⁵ denying petitioner's Motion for Reconsideration for lack of merit.

Four days thereafter or on 18 May 2013, petitioner was proclaimed winner of the 13 May 2013 Elections.

On 5 June 2013, the COMELEC *En Banc* issued a Certificate of Finality¹⁶ declaring the 14 May 2013 Resolution of the COMELEC *En Banc* final and executory, considering that more than twenty-one (21) days have elapsed from the date of promulgation with no order issued by this Court restraining its execution.¹⁷

On same day, petitioner took her oath of office¹⁸ before Feliciano R. Belmonte Jr., Speaker of the House of Representatives.

Petitioner has yet to assume office, the term of which officially starts at noon of 30 June 2013.

In the present Petition for *Certiorari* with Prayer for Temporary Restraining Order and/or Preliminary Injunction and/or Status *Quo Ante* Order, petitioner raises the following issues:¹⁹

¹⁵ Id. at 52-60.

¹⁶ Id. at 163-165.

¹⁷ Section 13, Rule 18 of the 1993 COMELEC Rules of Procedure in relation to Par. 2, Sec. 8 of Resolution No. 9523 provides that a decision or resolution of the COMELEC *En Banc* in special actions and special cases shall become final and executory five (5) days after its promulgation unless a restraining order is issued by the Supreme Court. Sec. 3, Rule 37, Part VII also provides that decisions in petitions to deny due course to or cancel certificates of candidacy shall become final and executory after the lapse of five (5) days from promulgation, unless restrained by the Supreme Court.

¹⁸ Id. at 162.

¹⁹ Id. at 9.

31) Whether or not Respondent Comelec is without jurisdiction over Petitioner who is a duly proclaimed winner and who has already taken her oath of office for the position of Member of the House of Representatives for the lone congressional district of Marinduque.

32) Whether or not Respondent Comelec committed grave abuse of discretion amounting to lack or excess of jurisdiction when it took cognizance of Respondent Tan's alleged "newly-discovered evidence" without the same having been testified on and offered and admitted in evidence which became the basis for its Resolution of the case without giving the petitioner the opportunity to question and present controverting evidence, in violation of Petitioner's right to due process of law.

33) Whether or not Respondent Comelec committed grave abuse of discretion amounting to lack or excess of jurisdiction when it declared that Petitioner is not a Filipino citizen and did not meet the residency requirement for the position of Member of the House of Representatives.

34) Whether or not Respondent Commission on Elections committed grave abuse of discretion amounting to lack or excess of jurisdiction when, by enforcing the provisions of Republic Act No. 9225, it imposed additional qualifications to the qualifications of a Member of the House of Representatives as enumerated in Section 6 of Article VI of the 1987 Constitution of the Philippines.

The petition must fail.

At the outset, it is observed that the issue of jurisdiction of respondent COMELEC *vis-a-vis* that of House of Representatives Electoral Tribunal (HRET) appears to be a non-issue. Petitioner is taking an inconsistent, if not confusing, stance for while she seeks remedy before this Court, she is asserting that it is the HRET which has jurisdiction over her. Thus, she posits that the issue on her eligibility and qualifications to be a Member of the House of Representatives is best discussed in another tribunal of competent jurisdiction. It appears then that petitioner's recourse to this Court was made only in an attempt to enjoin the COMELEC from implementing its final and executory judgment in SPA No. 13-053.

Nevertheless, we pay due regard to the petition, and consider each of the issues raised by petitioner. The need to do so, and at once, was highlighted during the discussion *En Banc* on 25 June 2013 where and when it was emphasized that the term of office of the Members of the House of Representatives begins on the thirtieth day of June next following their election.

According to petitioner, the COMELEC was ousted of its jurisdiction when she was duly proclaimed²⁰ because pursuant to Section 17, Article VI of the 1987 Constitution, the HRET has the exclusive jurisdiction to be the “sole judge of all contests relating to the election, returns and qualifications” of the Members of the House of Representatives.

Contrary to petitioner’s claim, however, the COMELEC retains jurisdiction for the following reasons:

First, the HRET does not acquire jurisdiction over the issue of petitioner’s qualifications, as well as over the assailed COMELEC Resolutions, unless a petition is duly filed with said tribunal. Petitioner has not averred that she has filed such action.

Second, the jurisdiction of the HRET begins only after the candidate is considered a Member of the House of Representatives, as stated in Section 17, Article VI of the 1987 Constitution:

Section 17. The Senate and the House of Representatives shall each have an Electoral Tribunal which shall be the sole judge of all contests relating to the election, returns, and qualifications of their respective **Members**. x x x

As held in *Marcos v. COMELEC*,²¹ the HRET does not have jurisdiction over a candidate who is not a member of the House of Representatives, to wit:

As to the House of Representatives Electoral Tribunal’s supposed assumption of jurisdiction over the issue of petitioner’s qualifications after the May 8, 1995 elections, suffice it to say that HRET’s jurisdiction as the sole judge of all contests relating to the elections, returns and qualifications of members of Congress begins **only after a candidate has become a member of the House of Representatives. Petitioner not being a member of the House of Representatives, it is obvious that the HRET at this point has no jurisdiction over the question.** (Emphasis supplied.)

The next inquiry, then, is when is a candidate considered a Member of the House of Representatives?

²⁰

Id.

²¹

318 Phil. 329, 397 (1995).

In *Vinzons-Chato v. COMELEC*,²² citing *Aggabao v. COMELEC*²³ and *Guerrero v. COMELEC*,²⁴ the Court ruled that:

The Court has invariably held that once a winning candidate has been **proclaimed, taken his oath, and assumed office** as a Member of the House of Representatives, the COMELEC's jurisdiction over election contests relating to his election, returns, and qualifications ends, and the HRET's own jurisdiction begins. (Emphasis supplied.)

This pronouncement was reiterated in the case of *Limkaichong v. COMELEC*,²⁵ wherein the Court, referring to the jurisdiction of the COMELEC *vis-a-vis* the HRET, held that:

The Court has invariably held that once a winning candidate has been **proclaimed, taken his oath, and assumed office** as a Member of the House of Representatives, the COMELEC's jurisdiction over election contests relating to his election, returns, and qualifications ends, and the HRET's own jurisdiction begins. (Emphasis supplied.)

This was again affirmed in *Gonzalez v. COMELEC*,²⁶ to wit:

After **proclamation, taking of oath and assumption of office** by Gonzalez, jurisdiction over the matter of his qualifications, as well as questions regarding the conduct of election and contested returns – were transferred to the HRET as the constitutional body created to pass upon the same. (Emphasis supplied.)

From the foregoing, it is then clear that to be considered a Member of the House of Representatives, there must be a concurrence of the following requisites: (1) a valid proclamation, (2) a proper oath, and (3) assumption of office.

Indeed, in some cases, this Court has made the pronouncement that once a proclamation has been made, COMELEC's jurisdiction is already lost and, thus, its jurisdiction over contests relating to elections, returns, and qualifications ends, and the HRET's own jurisdiction begins. However, it must be noted that in these cases, the doctrinal pronouncement was made in the context of a proclaimed candidate who had not only taken an oath of office, but who had also assumed office.

²² G.R. No. 172131, 2 April 2007, 520 SCRA 166, 179.

²³ G.R. No. 163756, 26 January 2005, 449 SCRA 400, 404-405.

²⁴ 391 Phil. 344, 352 (2000).

²⁵ G.R. Nos. 179240-41, 1 April 2009, 583 SCRA 1, 33.

²⁶ G.R. No. 192856, 8 March 2011, 644 SCRA 761, 798-799.

For instance, in the case of *Dimaporo v. COMELEC*,²⁷ the Court upheld the jurisdiction of the HRET against that of the COMELEC *only after* the candidate had been proclaimed, taken his oath of office before the Speaker of the House, and assumed the duties of a Congressman on 26 September 2007, or after the start of his term on 30 June 2007, *to wit*:

On October 8, 2007, private respondent Belmonte filed his comment in which he brought to Our attention that on September 26, 2007, even before the issuance of the *status quo ante* order of the Court, he had already been **proclaimed** by the PBOC as the duly elected Member of the House of Representatives of the First Congressional District of Lanao del Norte. On that very same day, he had **taken his oath** before Speaker of the House Jose de Venecia, Jr. and **assumed his duties** accordingly.

In light of this development, jurisdiction over this case has already been transferred to the House of Representatives Electoral Tribunal (HRET). (Emphasis supplied.)

Apparently, the earlier cases were decided after the questioned candidate had already assumed office, and hence, was already considered a Member of the House of Representatives, *unlike in the present case*.

Here, the petitioner cannot be considered a Member of the House of Representatives because, primarily, she has not yet assumed office. To repeat what has earlier been said, the term of office of a Member of the House of Representatives begins only “*at noon on the thirtieth day of June next following their election.*”²⁸ Thus, until such time, the COMELEC retains jurisdiction.

In her attempt to comply with the second requirement, petitioner attached a purported *Oath Of Office* taken before Hon. Feliciano Belmonte Jr. on 5 June 2013. However, this is not the oath of office which confers membership to the House of Representatives.

Section 6, Rule II (Membership) of the Rules of the House of Representatives provides:

Section 6. Oath or Affirmation of Members. – Members shall take their oath or affirmation either collectively or individually **before the Speaker in open session**.

²⁷ G.R. No. 179285, 11 February 2008, 544 SCRA 381, 390.

²⁸ Section 7, Article VI of the 1987 Constitution.

Consequently, before there is a valid or official taking of the oath it must be made (1) before the Speaker of the House of Representatives, and (2) in open session. Here, although she made the oath before Speaker Belmonte, there is no indication that it was made during plenary or in open session and, thus, it remains unclear whether the required oath of office was indeed complied with.

More importantly, we cannot disregard a fact basic in this controversy – that before the proclamation of petitioner on 18 May 2013, the COMELEC *En Banc* had already finally disposed of the issue of petitioner's lack of Filipino citizenship and residency via its Resolution dated 14 May 2013. After 14 May 2013, there was, before the COMELEC, no longer any pending case on petitioner's qualifications to run for the position of Member of the House of Representative. We will inexcusably disregard this fact if we accept the argument of the petitioner that the COMELEC was ousted of jurisdiction when she was proclaimed, which was four days after the COMELEC *En Banc* decision. The Board of Canvasser which proclaimed petitioner cannot by such act be allowed to render nugatory a decision of the COMELEC *En Banc* which affirmed a decision of the COMELEC First Division.

Indeed, the assailed Resolution of the COMELEC First Division which was promulgated on 27 March 2013, and the assailed Resolution of the COMELEC *En Banc* which was promulgated on 14 May 2013, became final and executory on 19 May 2013 based on Section 3, Rule 37 of the COMELEC Rules of Procedure which provides:

Section 3. Decisions Final after five days. Decisions in pre-proclamation cases and petitions to deny due course to or cancel certificates of candidacy, to declare nuisance candidate or to disqualify a candidate, and to postpone or suspend elections shall become final and executory after the lapse of five (5) days from their promulgation unless restrained by the Supreme Court.

To prevent the assailed Resolution dated 14 May 2013 from becoming final and executory, petitioner should have availed herself of Section 1, Rule 37²⁹ of the COMELEC Rules of Procedure or Rule 64³⁰ of the Rules of

²⁹ Section 1. *Petition for Certiorari; and Time to File.*—Unless otherwise provided by law, or by any specific provisions in these Rules, any decision, order or ruling of the Commission may be brought to the Supreme Court on certiorari by the aggrieved party within thirty (30) days from its promulgation.

³⁰ Section 2. *Mode of review.*—A judgment or final order or resolution of the Commission on Elections and the Commission on Audit may be brought by the aggrieved party to the Supreme Court on *certiorari* under Rule 65, except as hereinafter provided.

Court by filing a petition before this Court within the 5-day period, but she failed to do so. She would file the present last hour petition on 10 June 2013. Hence, on 5 June 2013, respondent COMELEC rightly issued a Certificate of Finality.

As to the issue of whether petitioner failed to prove her Filipino citizenship, as well as her one-year residency in Marinduque, suffice it to say that the COMELEC committed no grave abuse of discretion in finding her ineligible for the position of Member of the House of Representatives.

Petitioner alleges that the COMELEC gravely abused its discretion when it took cognizance of “*newly-discovered evidence*” without the same having been testified on and offered and admitted in evidence. She assails the admission of the blog article of Eli Obligacion as hearsay and the photocopy of the Certification from the Bureau of Immigration. She likewise contends that there was a violation of her right to due process of law because she was not given the opportunity to question and present controverting evidence.

Her contentions are incorrect.

It must be emphasized that the COMELEC is not bound to strictly adhere to the technical rules of procedure in the presentation of evidence. Under Section 2 of Rule I, the COMELEC Rules of Procedure “shall be liberally construed in order x xx to achieve just, expeditious and inexpensive determination and disposition of every action and proceeding brought before the Commission.” In view of the fact that the proceedings in a petition to deny due course or to cancel certificate of candidacy are summary in nature, then the “newly discovered evidence” was properly admitted by respondent COMELEC.

Furthermore, there was no denial of due process in the case at bar as petitioner was given every opportunity to argue her case before the COMELEC. From 10 October 2012 when Tan’s petition was filed up to 27 March 2013 when the First Division rendered its resolution, petitioner had a period of five (5) months to adduce evidence. Unfortunately, she did not avail herself of the opportunity given her.

Also, in administrative proceedings, procedural due process only requires that the party be given the opportunity or right to be heard. As held in the case of *Sahali v. COMELEC*:³¹

The petitioners should be reminded that due process does not necessarily mean or require a hearing, but simply an opportunity or right to be heard. One may be heard, not solely by verbal presentation but also, and perhaps many times more creditably and predictable than oral argument, through pleadings. In administrative proceedings moreover, technical rules of procedure and evidence are not strictly applied; administrative process cannot be fully equated with due process in its strict judicial sense. Indeed, **deprivation of due process cannot be successfully invoked where a party was given the chance to be heard on his motion for reconsideration.** (Emphasis supplied)

As to the ruling that petitioner is ineligible to run for office on the ground of citizenship, the COMELEC First Division, discoursed as follows:

“x x x for respondent to reacquire her Filipino citizenship and become eligible for public office, the law requires that she must have accomplished the following acts: (1) take the **oath of allegiance** to the Republic of the Philippines before the Consul-General of the Philippine Consulate in the USA; and (2) make a **personal and sworn renunciation of her American citizenship** before any public officer authorized to administer an oath.

In the case at bar, there is no showing that respondent complied with the aforesaid requirements. Early on in the proceeding, respondent hammered on petitioner’s lack of proof regarding her American citizenship, contending that it is petitioner’s burden to present a case. She, however, specifically denied that she has become either a permanent resident or naturalized citizen of the USA.

Due to petitioner’s submission of newly-discovered evidence thru a Manifestation dated February 7, 2013, however, establishing the fact that *respondent is a holder of an American passport which she continues to use until June 30, 2012*, petitioner was able to substantiate his allegations. The burden now shifts to respondent to present substantial evidence to prove otherwise. This, the respondent utterly failed to do, leading to the conclusion inevitable that respondent falsely misrepresented in her COC that she is a natural-born Filipino citizen. **Unless and until she can establish that she had availed of the privileges of RA 9225 by becoming a dual Filipino-American citizen, and thereafter, made a valid sworn renunciation of her American citizenship, she remains to be an American citizen and is, therefore, ineligible to run for and hold any elective public office in the Philippines.**”³² (Emphasis supplied.)

³¹ G.R. No. 201796, 15 January 2013.

³² *Rollo*, pp. 47-48.

Let us look into the events that led to this petition: In moving for the cancellation of petitioner's COC, respondent submitted records of the Bureau of Immigration showing that petitioner is a holder of a US passport, and that her status is that of a "*balikbayan*." At this point, the burden of proof shifted to petitioner, imposing upon her the duty to prove that she is a natural-born Filipino citizen and has not lost the same, or that she has re-acquired such status in accordance with the provisions of R.A. No. 9225. Aside from the bare allegation that she is a natural-born citizen, however, petitioner submitted no proof to support such contention. Neither did she submit any proof as to the inapplicability of R.A. No. 9225 to her.

Notably, in her Motion for Reconsideration before the COMELEC *En Banc*, petitioner admitted that she is a holder of a US passport, but she averred that she is only a dual Filipino-American citizen, thus the requirements of R.A. No. 9225 do not apply to her.³³ Still, attached to the said motion is an Affidavit of Renunciation of Foreign Citizenship dated 24 September 2012.³⁴ Petitioner explains that she attached said Affidavit "if only to show her desire and zeal to serve the people and to comply with rules, even as a superfluity."³⁵ We cannot, however, subscribe to petitioner's explanation. If petitioner executed said Affidavit "if only to comply with the rules," then it is an admission that R.A. No. 9225 applies to her. Petitioner cannot claim that she executed it to address the observations by the COMELEC as the assailed Resolutions were promulgated only in 2013, while the Affidavit was executed in September 2012.

Moreover, in the present petition, petitioner added a footnote to her oath of office as Provincial Administrator, to this effect: "This does not mean that Petitioner did not, prior to her taking her oath of office as Provincial Administrator, take her oath of allegiance for purposes of re-acquisition of natural-born Filipino status, which she reserves to present in the proper proceeding. The reference to the taking of oath of office is in order to make reference to what is already part of the records and evidence in the present case and to avoid injecting into the records evidence on matters of fact that was not previously passed upon by Respondent COMELEC."³⁶ This statement raises a lot of questions – Did petitioner execute an oath of allegiance for re-acquisition of natural-born Filipino status? If she did, why did she not present it at the earliest opportunity before the COMELEC? And is this an admission that she has indeed lost her natural-born Filipino status?

³³ Id. at 148.

³⁴ Id. at 154.

³⁵ Id. at 149.

³⁶ Id. at 26.

To cover-up her apparent lack of an oath of allegiance as required by R.A. No. 9225, petitioner contends that, since she took her oath of allegiance in connection with her appointment as Provincial Administrator of Marinduque, she is deemed to have reacquired her status as a natural-born Filipino citizen.

This contention is misplaced. For one, this issue is being presented for the first time before this Court, as it was never raised before the COMELEC. For another, said oath of allegiance cannot be considered compliance with Sec. 3 of R.A. No. 9225 as certain requirements have to be met as prescribed by Memorandum Circular No. AFF-04-01, otherwise known as the Rules Governing Philippine Citizenship under R.A. No. 9225 and Memorandum Circular No. AFF-05-002 (Revised Rules) and Administrative Order No. 91, Series of 2004 issued by the Bureau of Immigration. Thus, petitioner's oath of office as Provincial Administrator cannot be considered as the oath of allegiance in compliance with R.A. No. 9225.

These circumstances, taken together, show that a doubt was clearly cast on petitioner's citizenship. Petitioner, however, failed to clear such doubt.

As to the issue of residency, proceeding from the finding that petitioner has lost her natural-born status, we quote with approval the ruling of the COMELEC First Division that petitioner cannot be considered a resident of Marinduque:

“Thus, a Filipino citizen who becomes naturalized elsewhere effectively abandons his domicile of origin. Upon re-acquisition of Filipino citizenship pursuant to RA 9225, he must still show that he chose to establish his domicile in the Philippines through positive acts, and the period of his residency shall be counted from the time he made it his domicile of choice.

In this case, there is no showing whatsoever that [petitioner] had already re-acquired her Filipino citizenship pursuant to RA 9225 so as to conclude that she has regained her domicile in the Philippines. There being no proof that [petitioner] had renounced her American citizenship, it follows that she has not abandoned her domicile of choice in the USA.

The only proof presented by [petitioner] to show that she has met the one-year residency requirement of the law and never abandoned her domicile of origin in Boac, Marinduque is her claim that she served as Provincial Administrator of the province from January 18, 2011 to July 13, 2011. **But such fact alone is not sufficient to prove her one-year**

residency. For, [petitioner] has never regained her domicile in Marinduque as she remains to be an American citizen. No amount of her stay in the said locality can substitute the fact that she has not abandoned her domicile of choice in the USA.”³⁷ (Emphasis supplied.)

All in all, considering that the petition for denial and cancellation of the COC is summary in nature, the COMELEC is given much discretion in the evaluation and admission of evidence pursuant to its principal objective of determining of whether or not the COC should be cancelled. We held in *Mastura v. COMELEC*:³⁸

The rule that factual findings of administrative bodies will not be disturbed by courts of justice except when there is absolutely no evidence or no substantial evidence in support of such findings should be applied with greater force when it concerns the COMELEC, as the framers of the Constitution intended to place the COMELEC — created and explicitly made independent by the Constitution itself — on a level higher than statutory administrative organs. The COMELEC has broad powers to ascertain the true results of the election by means available to it. For the attainment of that end, it is not strictly bound by the rules of evidence.

Time and again, We emphasize that the “grave abuse of discretion” which warrants this Court’s exercise of *certiorari* jurisdiction has a well-defined meaning. Guidance is found in *Beluso v. Commission on Elections*³⁹ where the Court held:

x x x A petition for certiorari will prosper only if grave abuse of discretion is alleged and proved to exist. “Grave abuse of discretion,” under Rule 65, has a specific meaning. It is the arbitrary or despotic exercise of power due to passion, prejudice or personal hostility; or the whimsical, arbitrary, or capricious exercise of power that amounts to an evasion or refusal to perform a positive duty enjoined by law or to act at all in contemplation of law. For an act to be struck down as having been done with grave abuse of discretion, the abuse of discretion must be patent and gross. (Emphasis supplied.)

Here, this Court finds that petitioner failed to adequately and substantially show that grave abuse of discretion exists.

Lastly, anent the proposition of petitioner that the act of the COMELEC in enforcing the provisions of R.A. No. 9225, insofar as it adds to the qualifications of Members of the House of Representatives other than

³⁷ Id. at 49-50.

³⁸ G.R. No. 124521 29 January 1998, 285 SCRA 493, 499.

³⁹ G.R. No. 180711, 22 June 2010, 621 SCRA 450, 456.

those enumerated in the Constitution, is unconstitutional, We find the same meritless.


The COMELEC did not impose additional qualifications on candidates for the House of Representatives who have acquired foreign citizenship. It merely applied the qualifications prescribed by Section 6, Article VI of the 1987 Constitution that the candidate must be a natural-born citizen of the Philippines and must have one-year residency prior to the date of elections. Such being the case, the COMELEC did not err when it inquired into the compliance by petitioner of Sections 3 and 5 of R.A. No. 9225 to determine if she reacquired her status as a natural-born Filipino citizen. It simply applied the constitutional provision and nothing more.

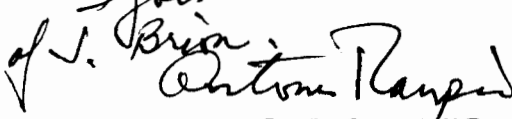
IN VIEW OF THE FOREGOING, the instant petition is **DISMISSED**, finding no grave abuse of discretion on the part of the Commission on Elections. The 14 May 2013 Resolution of the COMELEC *En Banc* affirming the 27 March 2013 Resolution of the COMELEC First Division is upheld.

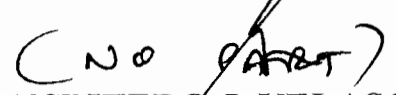
SO ORDERED.


JOSE PORTUGAL PEREZ
Associate Justice

WE CONCUR:


MARIA LOURDES P. A. SERENO
Chief Justice

I join the dissent of J. Brion

ANTONIO T. CARPIO
Associate Justice


PRESBITERO J. VELASCO, JR.
Associate Justice

Teresita Leonardo de Castro
TERESITA J. LEONARDO-DE CASTRO
 Associate Justice

See Dissent
Arturo D. Brion
ARTURO D. BRION
 Associate Justice

(On official leave)
DIOSDADO M. PERALTA
 Associate Justice

Lucas P. Bersamin
LUCAS P. BERSAMIN
 Associate Justice

Mariano C. del Castillo
MARIANO C. DEL CASTILLO
 Associate Justice

Roberto A. Abad
ROBERTO A. ABAD
 Associate Justice

I join the dissent of J. Brion
Martin S. Villarama, Jr.
MARTIN S. VILLARAMA, JR.
 Associate Justice

No Part
JOSE CATRAL MENDOZA
 Associate Justice

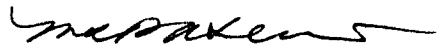
Bienvenido L. Reyes
BIENVENIDO L. REYES
 Associate Justice

NO PART DUE TO VOLUNTARY INHIBITION
Estela M. Perlas-Bernabe
ESTELA M. PERLAS-BERNABE
 Associate Justice

I join the dissent of J. Brion
Marvic Mario Victor F. Leonen
MARVIC MARIO VICTOR F. LEONEN
 Associate Justice

C E R T I F I C A T I O N

Pursuant to Section 13, Article VIII of the Constitution, it is hereby certified that the conclusions in the above Resolution were reached in consultation before the case was assigned to the writer of the opinion of the Court.


MARIA LOURDES P. A. SERENO
Chief Justice