

EN BANC

[G.R. No. 195649, July 02, 2013]

**CASAN MACODE MACQUILING, PETITIONER, VS. COMMISSION
ON ELECTIONS, ROMMEL ARNADO Y CAGOCO, AND LINOG G.
BALUA. RESPONDENTS.**

RESOLUTION

SERENO, J.:

This Resolution resolves the Motion for Reconsideration filed by respondent on May 10, 2013 and the Supplemental Motion for Reconsideration filed on May 20, 2013.

We are not unaware that the term of office of the local officials elected in the May 2010 elections has already ended on June 30, 2010. Arnado, therefore, has successfully finished his term of office. While the relief sought can no longer be granted, ruling on the motion for reconsideration is important as it will either affirm the validity of Arnado's election or affirm that Arnado never qualified to run for public office.

Respondent failed to advance any argument to support his plea for the reversal of this Court's Decision dated April 16, 2013. Instead, he presented his accomplishments as the Mayor of Kauswagan, Lanao del Norte and reiterated that he has taken the Oath of Allegiance not only twice but six times. It must be stressed, however, that the relevant question is the efficacy of his renunciation of his foreign citizenship and not the taking of the Oath of Allegiance to the Republic of the Philippines. Neither do his accomplishments as mayor affect the question before this Court.

Respondent cites Section 349 of the Immigration and Naturalization Act of the United States as having the effect of expatriation when he executed his Affidavit of Renunciation of American Citizenship on April 3, 2009 and thus claims that he was divested of his American citizenship. If indeed, respondent was divested of all the rights of an American citizen, the fact that he was still able to use his US passport after executing his Affidavit of Renunciation repudiates this claim.

The Court cannot take judicial notice of foreign laws,^[1] which must be presented as public documents^[2] of a foreign country and must be "evidenced by an official publication thereof."^[3] Mere reference to a foreign law in a pleading does not suffice for it to be considered in deciding a case.

Respondent likewise contends that this Court failed to cite any law of the United States "providing that a person who is divested of American citizenship thru an Affidavit of Renunciation will re-acquire such American citizenship by using a US Passport issued prior to expatriation."^[4]

American law does not govern in this jurisdiction. Instead, Section 40(d) of the Local Government Code calls for application in the case before us, given the fact that at the time Arnado filed his certificate of candidacy, he was not only a Filipino citizen but, by his own declaration, also an American citizen. It is the application of this law and not of any foreign law that serves as the basis for Arnado's disqualification to run for any local elective position.

With all due respect to the dissent, the declared policy of Republic Act No. (RA) 9225 is that "all Philippine citizens who become citizens of another country shall be deemed not to have lost their Philippine citizenship under the conditions of this Act."

[5] This policy pertains to the reacquisition of Philippine citizenship. Section 5(2)[6] requires those who have re-acquired Philippine citizenship and who seek elective public office, to renounce any and all foreign citizenship.

This requirement of renunciation of any and all foreign citizenship, when read together with Section 40(d) of the Local Government Code[7] which disqualifies those with dual citizenship from running for any elective local position, indicates a policy that anyone who seeks to run for public office must be solely and exclusively a Filipino citizen. To allow a former Filipino who reacquires Philippine citizenship to continue using a foreign passport – which indicates the recognition of a foreign state of the individual as its national – even after the Filipino has renounced his foreign citizenship, is to allow a complete disregard of this policy.

Further, we respectfully disagree that the majority decision rules on a situation of doubt.

Indeed, there is no doubt that Section 40(d) of the Local Government Code disqualifies those with dual citizenship from running for local elective positions.

There is likewise no doubt that the use of a passport is a positive declaration that one is a citizen of the country which issued the passport, or that a passport proves that the country which issued it recognizes the person named therein as its national.

It is unquestioned that Arnado is a natural born Filipino citizen, or that he acquired American citizenship by naturalization. There is no doubt that he reacquired his Filipino citizenship by taking his Oath of Allegiance to the Philippines and that he renounced his American citizenship. It is also indubitable that after renouncing his American citizenship, Arnado used his U.S. passport at least six times.

If there is any remaining doubt, it is regarding the efficacy of Arnado's renunciation of his American citizenship when he subsequently used his U.S. passport. The renunciation of foreign citizenship must be complete and unequivocal. The requirement that the renunciation must be made through an oath emphasizes the solemn duty of the one making the oath of renunciation to remain true to what he has sworn to. Allowing the subsequent use of a foreign passport because it is convenient for the person to do so is rendering the oath a hollow act. It devalues the act of taking of an oath, reducing it to a mere ceremonial formality.

The dissent states that the Court has effectively left Arnado "a man without a country". On the contrary, this Court has, in fact, found Arnado to have more than one. Nowhere in the decision does it say that Arnado is not a Filipino citizen. What

the decision merely points out is that he also possessed another citizenship at the time he filed his certificate of candidacy.

Well-settled is the rule that findings of fact of administrative bodies will not be interfered with by the courts in the absence of grave abuse of discretion on the part of said agencies, or unless the aforementioned findings are not supported by substantial evidence.^[8] They are accorded not only great respect but even finality, and are binding upon this Court, unless it is shown that the administrative body had arbitrarily disregarded or misapprehended evidence before it to such an extent as to compel a contrary conclusion had such evidence been properly appreciated.^[9]

Nevertheless, it must be emphasized that COMELEC First Division found that Arnado used his U.S. Passport at least six times after he renounced his American citizenship. This was debunked by the COMELEC En Banc, which found that Arnado only used his U.S. passport four times, and which agreed with Arnado's claim that he only used his U.S. passport on those occasions because his Philippine passport was not yet issued. The COMELEC En Banc argued that Arnado was able to prove that he used his Philippine passport for his travels on the following dates: 12 January 2010, 31 January 2010, 31 March 2010, 16 April 2010, 20 May 2010, and 4 June 2010.

None of these dates coincide with the two other dates indicated in the certification issued by the Bureau of Immigration showing that on 21 January 2010 and on 23 March 2010, Arnado arrived in the Philippines using his U.S. Passport No. 057782700 which also indicated therein that his nationality is USA-American. Adding these two travel dates to the travel record provided by the Bureau of Immigration showing that Arnado also presented his U.S. passport four times (upon departure on 14 April 2009, upon arrival on 25 June 2009, upon departure on 29 July 2009 and upon arrival on 24 November 2009), these incidents sum up to six.

The COMELEC En Banc concluded that "the use of the US passport was because to his knowledge, his Philippine passport was not yet issued to him for his use."^[10] This conclusion, however, is not supported by the facts. Arnado claims that his Philippine passport was issued on 18 June 2009. The records show that he continued to use his U.S. passport even after he already received his Philippine passport. Arnado's travel records show that he presented his U.S. passport on 24 November 2009, on 21 January 2010, and on 23 March 2010. These facts were never refuted by Arnado.

Thus, the ruling of the COMELEC En Banc is based on a misapprehension of the facts that the use of the U.S. passport was discontinued when Arnado obtained his Philippine passport. Arnado's continued use of his U.S. passport cannot be considered as isolated acts contrary to what the dissent wants us to believe.

It must be stressed that what is at stake here is the principle that only those who are exclusively Filipinos are qualified to run for public office. If we allow dual citizens who wish to run for public office to renounce their foreign citizenship and afterwards continue using their foreign passports, we are creating a special privilege for these dual citizens, thereby effectively junking the prohibition in Section 40(d) of the Local Government Code.

WHEREFORE, the Motion for Reconsideration and the Supplemental Motion for Reconsideration are hereby **DENIED** with finality.

SO ORDERED.

Carpio, Velasco, Jr., Peralta, Bersamin, Abad, Villarama, Jr., Perez, Reyes, and Perlas-Bernabe, JJ., concur.

Leonardo-De Castro, Del Castillo, Mendoza, and Leonen, JJ., joins the dissent of J. Brion.

Brion, J., I dissent.

[1] *Benedicto v. CA*, G.R. No. 125359, 4 September 2001, citing *Vda. de Perez v. Tolete*, 232 SCRA 722, 735 (1994), which in turn cited *Philippine Commercial and Industrial Bank v. Escolin*, 58 SCRA 266 (1974).

[2] See Sec. 19, Rule 132 of the Rules of Court:

SEC. 19. *Classes of Documents.* – For the purpose of their presentation in evidence, documents are either public or private.

Public documents are:

(a) The written official acts, or records of the official acts of the sovereign authority, official bodies and tribunals, and public officers, whether of the Philippines, or of a foreign country.

[3] Sec. 24, Rule 132 of the Rules of Court

SEC. 24. *Proof of official record.* – The record of public documents referred to in paragraph (a) of Section 19, when admissible for any purpose, may be evidenced by an official publication thereof or by a copy attested by the officer having the legal custody of the record, or by his deputy, and accompanied, if the record is not kept in the Philippines, with a certificate that such officer has the custody. If the office in which the record is kept is in a foreign country, the certificate may be made by a secretary of the embassy or legation, consul general, consul, vice consul, or consular agent or by any officer in the foreign service of the Philippines stationed in the foreign country in which the record is kept, and authenticated by the seal of his office.

[4] Motion for Reconsideration, p. 2

[5] Sec. 2, RA 9225.

[6] Sec. 5. Civil and Political Rights and Liabilities. — Those who retain or reacquire 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