

EN BANC

[G.R. No. 180048, June 19, 2009]

ROSELLER DE GUZMAN, PETITIONER, VS. COMMISSION ON ELECTIONS AND ANGELINA DG. DELA CRUZ, RESPONDENTS.

D E C I S I O N

YNARES-SANTIAGO, J.:

This petition^[1] for *certiorari* with prayer for preliminary injunction and temporary restraining order assails the June 15, 2007 Resolution^[2] of the First Division of the Commission on Elections (COMELEC) in SPA No. 07-211, disqualifying petitioner Roseller De Guzman from running as vice-mayor in the May 14, 2007 Synchronized National and Local Elections. Also assailed is the October 9, 2007 Resolution^[3] of the COMELEC *En Banc* denying petitioner's motion for reconsideration.

Petitioner De Guzman and private respondent Angelina DG. Dela Cruz were candidates for vice-mayor of Guimba, Nueva Ecija in the May 14, 2007 elections. On April 3, 2007, private respondent filed against petitioner a petition^[4] for disqualification docketed as SPA No. 07-211, alleging that petitioner is not a citizen of the Philippines, but an immigrant and resident of the United States of America.

In his answer, petitioner admitted that he was a naturalized American. However, on January 25, 2006, he applied for dual citizenship under Republic Act No. 9225 (R.A. No. 9225), otherwise known as the Citizenship Retention and Re-Acquisition Act of 2003.^[5] Upon approval of his application, he took his oath of allegiance to the Republic of the Philippines on September 6, 2006. He argued that, having re-acquired Philippine citizenship, he is entitled to exercise full civil and political rights. As such, he is qualified to run as vice-mayor of Guimba, Nueva Ecija.

During the May 14, 2007 elections, private respondent won as vice-mayor. Petitioner filed an election protest on grounds of irregularities and massive cheating. The case was filed before Branch 31 of the Regional Trial Court of Guimba, Nueva Ecija and was docketed as Election Protest No. 07-01.

Meanwhile, in SPA No. 07-211, the COMELEC First Division rendered its June 15, 2007 Resolution disqualifying petitioner, which reads as follows:

Section 3 of R.A. No. 9225 states:

"Retention of Philippine Citizenship. - Natural-born citizens of the Philippines who have lost their Philippine citizenship by reason of their naturalization as citizens of a foreign country are hereby deemed to have reacquired Philippine citizenship upon taking the following oath of allegiance to the Republic: x x x"

Hence, under the provisions of the aforementioned law, respondent has validly reacquired Filipino citizenship. By taking this Oath of Allegiance to the Republic of the Philippines on September 6, 2006 before Mary Jo Bernardo Aragon, Deputy Consul General at the Philippine Consulate General, Los Angeles, California respondent was deemed a dual citizen, possessing both Filipino and American citizenship.

However, subparagraph (2), Section 5 of the aforementioned Act also 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:

x x x x

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

As can be gleaned from the above cited provision, respondent [herein petitioner] should have renounced his American citizenship before he can run for any public elective position. This respondent did not do. The Oath of Allegiance taken by respondent was for the purpose of re-acquiring Philippine citizenship. It did not, at the same time, mean that respondent has renounced his American citizenship. Thus, at the time respondent filed his certificate of candidacy for the position of Vice-Mayor of Guimba, Nueva Ecija he was, and still is, a dual citizen, possessing both Philippine and American citizenship. For this reason alone, respondent is disqualified to run for the abovementioned elective position.

WHEREFORE, premises considered, the Commission (First Division) RESOLVED, as it hereby RESOLVES, to GRANT the instant petition finding it IMBUE WITH MERIT. Hence, respondent (petitioner herein) Roseller T. De Guzman is disqualified to run as Vice-Mayor of Guimba, Nueva Ecija in the May 14, 2007 Synchronized National and Local Elections.^[6]

Petitioner filed a motion for reconsideration but it was dismissed on October 9, 2007 by the COMELEC *En Banc* for having been rendered moot in view of private respondent's victory.

Thereafter, the trial court in Election Protest No. 07-01 rendered a Decision,^[7] dated November 26, 2007, declaring petitioner as the winner for the Vice-Mayorality position. It held:

WHEREFORE, judgment is hereby rendered declaring protestant ROSELLER T. DE GUZMAN, as the winner for the Vice-Mayorality position

with a plurality of 776 votes over the protestee, ANGELINA D.G. DELA CRUZ, in the May 14, 2007 Local Elections in Guimba, Nueva Ecija. With costs against the protestee.

There being no evidence presented as to the damages by both parties, the same are hereby denied.

SO ORDERED.^[8]

Petitioner filed the instant petition for *certiorari*, alleging that the COMELEC acted with grave abuse of discretion in disqualifying him from running as Vice-Mayor because of his failure to renounce his American citizenship, and in dismissing the motion for reconsideration for being moot.

Petitioner invokes the rulings in *Frivaldo v. Commission on Elections*^[9] and *Mercado v. Manzano*,^[10] that the filing by a person with dual citizenship of a certificate of candidacy, containing an oath of allegiance, constituted as a renunciation of his foreign citizenship. Moreover, he claims that the COMELEC En Banc prematurely dismissed the motion for reconsideration because at that time, there was a pending election protest which was later decided in his favor.

Meanwhile, private respondent claims that the passage of R.A. No. 9225 effectively abandoned the Court's rulings in *Frivaldo* and *Mercado*; that the current law requires a personal and sworn renunciation of any and all foreign citizenship; and that petitioner, having failed to renounce his American citizenship, remains a dual citizen and is therefore disqualified from running for an elective public position under Section 40^[11] of Republic Act No. 7160, otherwise known as the Local Government Code of 1991 (LGC).

The issues for resolution are: 1) whether the COMELEC gravely abused its discretion in dismissing petitioner's motion for reconsideration for being moot; and 2) whether petitioner is disqualified from running for vice-mayor of Guimba, Nueva Ecija in the May 14, 2007 elections for having failed to renounce his American citizenship in accordance with R.A. No. 9225.

An issue becomes moot when it ceases to present a justifiable controversy so that a determination thereof would be without practical use and value.^[12] In this case, the pendency of petitioner's election protest assailing the results of the election did not render moot the motion for reconsideration which he filed assailing his disqualification. Stated otherwise, the issue of petitioner's citizenship did not become moot; the resolution of the issue remained relevant because it could significantly affect the outcome of the election protest. Philippine citizenship is an indispensable requirement for holding an elective office. As mandated by law: "An elective local official must be a citizen of the Philippines."^[13] It bears stressing that the Regional Trial Court later ruled in favor of petitioner in the election protest and declared him the winner. In view thereof, a definitive ruling on the issue of petitioner's citizenship was clearly necessary. Hence, the COMELEC committed grave abuse of discretion in dismissing petitioner's motion for reconsideration solely on the ground that the same was rendered moot because he lost to private respondent.

Anent the second issue, we find that petitioner is disqualified from running for public

office in view of his failure to renounce his American citizenship.

R.A. No. 9225 was enacted to allow re-acquisition and retention of Philippine citizenship for: 1) natural-born citizens who 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, become 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.^[14]

Petitioner falls under the first category, being a natural-born citizen who lost his Philippine citizenship upon his naturalization as an American citizen. In the instant case, there is no question that petitioner re-acquired his Philippine citizenship after taking the oath of allegiance on September 6, 2006. However, it must be emphasized that R.A. No. 9225 imposes an additional requirement on those who wish to seek elective public office, as follows:

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:

x x x x

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

Contrary to petitioner's claims, the filing of a certificate of candidacy does not *ipso facto* amount to a renunciation of his foreign citizenship under R.A. No. 9225. Our rulings in the cases of *Frivaldo* and *Mercado* are not applicable to the instant case because R.A. No. 9225 provides for more requirements.

Thus, in *Japzon v. COMELEC*,^[15] the Court held that Section 5(2) of R.A. No. 9225 requires the twin requirements of swearing to an Oath of Allegiance **and** executing a Renunciation of Foreign Citizenship, *viz*:

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.

Further, in *Jacot v. Dal and COMELEC*,^[16] the Court ruled that a candidate's oath of allegiance to the Republic of the Philippines and his Certificate of Candidacy do not substantially comply with the requirement of a personal and sworn renunciation of foreign citizenship. Thus: