

## EN BANC

[ G.R. No. 179848, November 27, 2008 ]

### NESTOR A. JACOT, PETITIONER, VS. ROGEN T. DAL AND COMMISSION ON ELECTIONS, RESPONDENTS.

#### D E C I S I O N

##### CHICO-NAZARIO, J.:

Petitioner Nestor A. Jacot assails the Resolution<sup>[1]</sup> dated 28 September 2007 of the Commission on Elections (COMELEC) *En Banc* in SPA No. 07-361, affirming the Resolution dated 12 June 2007 of the COMELEC Second Division<sup>[2]</sup> disqualifying him from running for the position of Vice-Mayor of Catarman, Camiguin, in the 14 May 2007 National and Local Elections, on the ground that he failed to make a personal renouncement of his United States (US) citizenship.

Petitioner was a natural born citizen of the Philippines, who became a naturalized citizen of the US on 13 December 1989.<sup>[3]</sup>

Petitioner sought to reacquire his Philippine citizenship under Republic Act No. 9225, otherwise known as the Citizenship Retention and Re-Acquisition Act. He filed a request for the administration of his Oath of Allegiance to the Republic of the Philippines with the Philippine Consulate General (PCG) of Los Angeles, California. The Los Angeles PCG issued on 19 June 2006 an Order of Approval<sup>[4]</sup> of petitioner's request, and on the same day, petitioner took his Oath of Allegiance to the Republic of the Philippines before Vice Consul Edward C. Yulo.<sup>[5]</sup> On 27 September 2006, the Bureau of Immigration issued Identification Certificate No. 06-12019 recognizing petitioner as a citizen of the Philippines.<sup>[6]</sup>

Six months after, on 26 March 2007, petitioner filed his Certificate of Candidacy for the Position of Vice-Mayor of the Municipality of Catarman, Camiguin.<sup>[7]</sup>

On 2 May 2007, respondent Rogen T. Dal filed a Petition for Disqualification<sup>[8]</sup> before the COMELEC Provincial Office in Camiguin against petitioner, arguing that the latter failed to renounce his US citizenship, as required under Section 5(2) of Republic Act No. 9225, which reads as follows:

Section 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:

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.

In his Answer<sup>[9]</sup> dated 6 May 2007 and Position Paper<sup>[10]</sup> dated 8 May 2007, petitioner countered that his Oath of Allegiance to the Republic of the Philippines made before the Los Angeles PCG and the oath contained in his Certificate of Candidacy operated as an effective renunciation of his foreign citizenship.

In the meantime, the 14 May 2007 National and Local Elections were held. Petitioner garnered the highest number of votes for the position of Vice Mayor.

On 12 June 2007, the COMELEC Second Division finally issued its Resolution<sup>[11]</sup> disqualifying the petitioner from running for the position of Vice-Mayor of Catarman, Camiguin, for failure to make the requisite renunciation of his US citizenship. The COMELEC Second Division explained that the reacquisition of Philippine citizenship under Republic Act No. 9225 does not automatically bestow upon any person the privilege to run for any elective public office. It additionally ruled that the filing of a Certificate of Candidacy cannot be considered as a renunciation of foreign citizenship. The COMELEC Second Division did not consider *Valles v. COMELEC*<sup>[12]</sup> and *Mercado v. Manzano*<sup>[13]</sup> applicable to the instant case, since Valles and Mercado were dual citizens since birth, unlike the petitioner who lost his Filipino citizenship by means of naturalization. The COMELEC, thus, decreed in the aforementioned Resolution that:

**ACCORDINGLY, NESTOR ARES JACOT is DISQUALIFIED** to run for the position of Vice-Mayor of Catarman, Camiguin for the May 14, 2007 National and Local Elections. If proclaimed, respondent cannot thus assume the Office of Vice-Mayor of said municipality by virtue of such disqualification.<sup>[14]</sup>

Petitioner filed a Motion for Reconsideration on 29 June 2007 reiterating his position that his Oath of Allegiance to the Republic of the Philippines before the Los Angeles PCG and his oath in his Certificate of Candidacy sufficed as an effective renunciation of his US citizenship. Attached to the said Motion was an "Oath of Renunciation of Allegiance to the United States and Renunciation of Any and All Foreign Citizenship" dated 27 June 2007, wherein petitioner explicitly renounced his US citizenship.<sup>[15]</sup> The COMELEC *en banc* dismissed petitioner's Motion in a Resolution<sup>[16]</sup> dated 28 September 2007 for lack of merit.

Petitioner sought remedy from this Court *via* the present Special Civil Action for *Certiorari* under Rule 65 of the Revised Rules of Court, where he presented for the first time an "Affidavit of Renunciation of Allegiance to the United States and Any and All Foreign Citizenship"<sup>[17]</sup> dated 7 February 2007. He avers that he executed an act of renunciation of his US citizenship, separate from the Oath of Allegiance to the Republic of the Philippines he took before the Los Angeles PCG and his filing of his Certificate of Candidacy, thereby changing his theory of the case during the appeal. He attributes the delay in the presentation of the affidavit to his former

counsel, Atty. Marciano Aparte, who allegedly advised him that said piece of evidence was unnecessary but who, nevertheless, made him execute an identical document entitled "Oath of Renunciation of Allegiance to the United States and Renunciation of Any and All Foreign Citizenship" on 27 June 2007 after he had already filed his Certificate of Candidacy.<sup>[18]</sup>

Petitioner raises the following issues for resolution of this Court:

I

WHETHER OR NOT PUBLIC RESPONDENT EXERCISED GRAVE ABUSE OF DISCRETION WHEN IT HELD THAT PETITIONER FAILED TO COMPLY WITH THE PROVISIONS OF R.A. 9225, OTHERWISE KNOWN AS THE "CITIZENSHIP RETENTION AND RE-ACQUISITION ACT OF 2003," SPECIFICALLY SECTION 5(2) AS TO THE REQUIREMENTS FOR THOSE SEEKING ELECTIVE PUBLIC OFFICE;

II

WHETHER OR NOT PUBLIC RESPONDENT EXERCISED GRAVE ABUSE OF DISCRETION WHEN IT HELD THAT PETITIONER FAILED TO COMPLY WITH THE PROVISIONS OF THE COMELEC RULES OF PROCEDURE AS REGARDS THE PAYMENT OF THE NECESSARY MOTION FEES; AND

III

WHETHER OR NOT UPHOLDING THE DECISION OF PUBLIC RESPONDENT WOULD RESULT IN THE FRUSTRATION OF THE WILL OF THE PEOPLE OF CATARMAN, CAMIGUIN.<sup>[19]</sup>

The Court determines that the only fundamental issue in this case is whether petitioner is disqualified from running as a candidate in the 14 May 2007 local elections for his failure to make a personal and sworn renunciation of his US citizenship.

This Court finds that petitioner should indeed be disqualified.

Contrary to the assertions made by petitioner, his oath of allegiance to the Republic of the Philippines made before the Los Angeles PCG and his Certificate of Candidacy do not substantially comply with the requirement of a personal and sworn renunciation of foreign citizenship because these are distinct requirements to be complied with for different purposes.

**Section 3 of Republic Act No. 9225** requires that **natural-born citizens** of the Philippines, who are already naturalized citizens of a foreign country, must take the following oath of allegiance to the Republic of the Philippines **to reacquire or retain their Philippine citizenship**:

*SEC. 3. Retention of Philippine Citizenship.*—Any provision of law to the contrary notwithstanding, 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:

"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 impose 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.

By the oath dictated in the afore-quoted provision, the Filipino swears allegiance to the Philippines, but there is nothing therein on his renunciation of foreign citizenship. Precisely, a situation might arise under Republic Act No. 9225 wherein said Filipino has dual citizenship by also reacquiring or retaining his Philippine citizenship, despite his foreign citizenship.

The afore-quoted oath of allegiance is substantially similar to the one contained in the **Certificate of Candidacy** which must be executed by **any person** who wishes **to run for public office** in Philippine elections. Such an oath reads:

I am eligible for the office I seek to be elected. I will support and defend the Constitution of the Philippines and will maintain true faith and allegiance thereto; that I will obey the laws, legal orders and decrees promulgated by the duly constituted authorities of the Republic of the Philippines; and that I impose this obligation upon myself voluntarily, without mental reservation or purpose of evasion. I hereby certify that the facts stated herein are true and correct of my own personal knowledge.

Now, Section 5(2) of Republic Act No. 9225 specifically provides that:

Section 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:

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.

The law categorically requires persons seeking elective public office, who either retained their Philippine citizenship or those who reacquired it, to make a personal

and sworn renunciation of any and all foreign citizenship before a public officer authorized to administer an oath simultaneous with or before the filing of the certificate of candidacy.<sup>[20]</sup>

Hence, **Section 5(2) of Republic Act No. 9225** compels **natural-born Filipinos, who have been naturalized as citizens of a foreign country, but who reacquired or retained their Philippine citizenship (1) to take the oath of allegiance under Section 3 of Republic Act No. 9225, and (2) for those seeking elective public offices in the Philippines,** to additionally execute a **personal and sworn renunciation** of any and all foreign citizenship before an authorized public officer prior or simultaneous to the filing of their certificates of candidacy, **to qualify as candidates in Philippine elections.**

Clearly Section 5(2) of Republic Act No. 9225 (on the making of a personal and sworn renunciation of any and all foreign citizenship) requires of the Filipinos availing themselves of the benefits under the said Act to accomplish an undertaking other than that which they have presumably complied with under Section 3 thereof (oath of allegiance to the Republic of the Philippines). This is made clear in the discussion of the Bicameral Conference Committee on Disagreeing Provisions of House Bill No. 4720 and Senate Bill No. 2130 held on 18 August 2003 (precursors of Republic Act No. 9225), where the Hon. Chairman Franklin Drilon and Hon. Representative Arthur Defensor explained to Hon. Representative Exequiel Javier that the oath of allegiance is different from the renunciation of foreign citizenship:

CHAIRMAN DRILON. Okay. So, No. 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." I think it's very good, ha? No problem?

REP. JAVIER. ... **I think it's already covered by the oath.**

CHAIRMAN DRILON. Renouncing foreign citizenship.

REP. JAVIER. **Ah... but he has taken his oath already.**

CHAIRMAN DRILON. **No...no, renouncing foreign citizenship.**

x x x x

CHAIRMAN DRILON. Can I go back to No. 2. What's your problem, Boy? **Those seeking elective office in the Philippines.**

REP. JAVIER. They are trying to make him renounce his citizenship thinking that ano...

CHAIRMAN DRILON. His American citizenship.

REP. JAVIER. To discourage him from running?