EN BANC

G.R. No. 221697 – MARY GRACE NATIVIDAD S. POE-LLAMANZARES, Petitioner, **v. COMMISSION ON ELECTIONS and ESTRELLA C. ELAMPARO,** Respondents.

G.R. No. 221698–700 – MARY GRACE NATIVIDAD S. POE-LLAMANZARES, Petitioner, **vs. COMMISSION ON ELECTIONS, FRANCISCO S. TATAD, ANTONIO P. CONTRERAS, and AMADO T. VALDEZ,** Respondents.

Promulgated:

March 8, 2016

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CONCURRING OPINION

LEONEN, *J.*:

I am honored to concur with the ponencia of my esteemed colleague, Associate Justice Jose Portugal Perez. I submit this Opinion to further clarify my position.

Prefatory

The rule of law we swore to uphold is nothing but the rule of ***just*** law. The rule of law does not require insistence in elaborate, strained, irrational, and irrelevant technical interpretation when there can be a clear and rational interpretation that is more just and humane while equally bound by the limits of legal text.

The Constitution, as fundamental law, defines the minimum qualifications for a person to present his or her candidacy to run for President. It is this same fundamental law which prescribes that it is the People, in their sovereign capacity as electorate, to determine who among the candidates is best qualified for that position.

In the guise of judicial review, this court is not empowered to constrict the electorate's choice by sustaining the Commission on Elections' actions that show that it failed to disregard doctrinal interpretation of its powers under Section 78 of the Omnibus Election Code, created novel jurisprudence in relation to the citizenship of foundlings, misinterpreted and misapplied existing jurisprudence relating to the requirement of residency for election purposes, and declined to appreciate the evidence presented by petitioner as a whole and instead insisted only on three factual grounds

which do not necessarily lead to its inference. The Commission on Elections' actions are a clear breach of its constitutional competence. It acted with grave abuse of discretion amounting to lack of as well as excess of jurisdiction.

It is our law that a child, abandoned by her parents and left at the doorsteps of a rural cathedral, can also dream to become President of the Republic of the Philippines. The minimum requirements of the Constitution is that she be a natural-born Filipina at the time of the filing of her Certificate of Candidacy and have domicile in the Philippines for at least ten (10) years prior to the elections.[1]

Given the facts of this case, petitioner has complied with these requirements.

When she filed her certificate of candidacy, this court has yet to squarely rule on the issue of whether a foundling—a child abandoned by her parents—is a natural-born Filipino citizen.

There are earlier rulings—Senate Electoral Tribunal Decision[2] and the Bureau of Immigration Order[3]—that clearly state that petitioner is a natural-born Filipina. She was elected as Senator of the Republic, garnering more than 20 million votes.[4] The position of Senator requires that the person be a natural-born Filipino.[5]

The assertion that petitioner made in her Certificate of Candidacy for President that she is a natural-born citizen is a grounded opinion. It does not constitute a material misrepresentation of fact. In much the same way, a Justice of this court does not commit material misrepresentation when he or

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1 Const., art. VII, sec. 2 provides:
ARTICLE VII. Executive Department
. . . .
SECTION 2. No person may be elected President unless he is a natural-born citizen of the Philippines, a registered voter, able to read and write, at least forty years of age on the day of the election, and a resident of the Philippines for at least ten years immediately preceding such election.

2 *Rollo* (G.R. No. 221697), pp. 2706–2736. The Decision was concurred in by Senators Paolo Benigno "Bam" A. Aquino IV, Pilar Juliana "Pia" S. Cayetano, Cynthia A. Villar, Vicente C. Sotto III, and Loren B. Legarda, and dissented from by Senior Associate Justice Antonio T. Carpio, Associate Justices Teresita J. Leonardo-De Castro and Arturo D. Brion, and Senator Maria Lourdes Nancy S. Binay.

3 Id. at 3827, Petitioner's Memorandum.

4 COMELEC Official May 13, 2013 National and Local Elections Results <http://www.comelec.gov.ph/?r=Archives/RegularElections/2013NLE/Results/SenatorialElections2013> (visited March 7, 2016).

5 Const., art. VI, sec. 3 provides:
ARTICLE VI. The Legislative Department
. . . .
SECTION 3. SECTION 3. No person shall be a Senator unless he is a natural-born citizen of the Philippines, and, on the day of the election, is at least thirty-five years of age, able to read and write, a registered voter, and a resident of the Philippines for not less than two years immediately preceding the day of the election.

she construes the Constitution in an opinion submitted for this case that a foundling is a natural-born citizen absent any clear and convincing evidence to the contrary. In the first place, this is an interpretation of law—not a statement of material fact.

Doing justice and discharging our duty to uphold the rule of law require that we conclude that foundlings are natural-born Filipino citizens absent any evidence that proves the contrary. This is the inescapable conclusion when we read the provisions on citizenship in the context of the entire Constitution, which likewise mandates equality, human dignity, social justice, and care for abandoned children.

The Constitution requires that either the father or the mother is a Filipino citizen.[6] It does not require an abandoned child or a foundling to identify his or her biological parents.[7] It is enough to show that there is a convincing likelihood that one of the parents is a Filipino. Contrary to the respondents' submissions, it is not blood line that is required. One of the parents can be a naturalized Filipino citizen.[8] The reference is only one ascendant generation. The constitutional provision does not absolutely require being born to an indigenous ethnicity.

There is no rational basis to conclude that the loyalty to this country of a foundling, discovered in a rural area and adopted by well-to-do parents, will be more suspect than a child born to naturalized Filipino parents.

That a foundling is a natural-born Filipino, unless clear and convincing evidence is shown otherwise, is also the definitive inference from contemporaneous acts of Congress[9] and the Executive.[10] This is also the availing conclusion considering our binding commitments in international law.[11] There is clear and convincing evidence from the history of the actual text of the entire Constitution.

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6 CONST., art. IV, sec. 1 provides:
ARTICLE IV. Citizenship
SECTION 1. The following are citizens of the Philippines:
(1) Those who are citizens of the Philippines at the time of the adoption of this Constitution;
(2) Those whose fathers or mothers are citizens of the Philippines;
(3) Those born before January 17, 1973, of Filipino mothers, who elect Philippine citizenship upon reaching the age of majority; and
(4) Those who are naturalized in accordance with law.

7 CONST., art. IV, sec. 1.

8 CONST., art. IV, sec. 1.

9 *See* Rep. Act No. 8552 (1998) and Rep. Act No. 8043 (1995).

10 *See Rollo* (G.R. No. 221697), pp. 22–26, Petition. Petitioner was granted an order of reacquisition of natural-born citizenship under Republic Act No. 9225 by the Bureau of Immigration on July 18, 2006. The President of the Philippines appointed her as Chairperson of the Movie and Television Review and Classification Board—a government position that requires natural-born citizenship—on October 6, 2010.

11 On August 21, 1990, we ratified the United Nations Convention on the Rights of the Child. We also ratified the 1966 International Covenant on Civil and Political Rights on October 23, 1986.

In the case at bar, petitioner discharged her burden to prove that she is natural-born when the parties stipulated as to her status as a foundling found in front of a church in Jaro, Iloilo.[12] When the yardsticks of common sense and statistics are used,[13] it borders on the absurd to start with the presumption that she was born to both a foreign father ***and*** a foreign mother. In all likelihood, she was born to at least a Filipino father or to a Filipino mother, or both.

Foundlings present the only ambiguous situation in our Constitution. There is no slippery slope. Malevolent actors that wish to avail themselves of this doctrine will have to prove that they are foundlings. They will have to do so with the requisite quantum of proof for immigration purposes. They will have to do so if it is also necessary for them for purposes of being candidates in a relevant election.

The Commission on Elections committed grave abuse of discretion amounting to lack of jurisdiction when it went beyond its competence under Section 78[14] of the Omnibus Election Code and the Constitution by not ruling exclusively on whether there was material misrepresentation. The questioned Resolutions of the Commission on Elections En Banc in these cases create a new and erroneous doctrine on this point of law. It is contrary to the text and spirit of the Constitution.

Likewise, this court has yet to decide on a case that squarely raises the issue as to whether the period of residency required by the Constitution of a candidate running for public office can only commence after he or she reacquires his or her Filipino citizenship. Neither has this court expressed the ratio decidendi that only when he or she has a resident visa can we commence to count his or her period of residency for election purposes. No ratio decidendi exists for these rules because there has not yet been a case that squarely raised these as issues. No ratio decidendi exists because this is not relevant nor organic to the purpose of residency as a requirement for elective public offices.

Our standing doctrines are that: (a) residency is a question of fact;[15] (b) residency, for election purposes, is equivalent to domicile;[16] and (c)

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12 *Rollo* (G.R. No. 221697), p. 5, Petition.

13 *Rollo* (G.R. No. 221698–221700), p. 4566, Annex C of the Solicitor General's Memorandum, Certification issued on February 9, 2016 by the Philippine Statistics Office, signed by Deputy National Statistician Estela T. De Guzman.

14 Batas Blg. 881 (1985), Omnibus Election Code, sec. 78 provides:
SECTION 78. Petition to deny due course to or cancel a certificate of candidacy. – A verified petition seeking to deny due course or to cancel a certificate of candidacy may be filed by the person exclusively on the ground that any material representation contained therein as required under Section 74 hereof is false. The petition may be filed at any time not later than twenty-five days from the time of the filing of the certificate of candidacy and shall be decided, after due notice and hearing, not later than fifteen days before the election.

15 *Romualdez-Marcos v. COMELEC*, 318 Phil. 329, 377 (1995) [Per J. Kapunan, En Banc].

16 *Gallego v. Vera*, 73 Phil. 453, 455–456 (1941) [Per J. Ozaeta, En Banc].

domicile requires physical presence and animus manendi.[17] Animus manendi is negated by the absence of animus non-revertendi.

To require a new element for establishing residency in order to deny petitioner's Certificate of Candidacy is not only unfair; it communicates a suspicious animus against her. It may give rise to a fair implication that there is partiality for one or another candidate running for the Office of President. It is a dangerous move on the part of this court. It will affect the credibility of the next administration and will undermine our standing as a sentinel for the protection of what is just and what is prescribed by the rule of law.

However, the grave abuse of discretion by the Commission on Elections does not end there. The Commission on Elections obviously did not appreciate all of the evidence presented by the parties in inferring when the residency of petitioner for the purpose of this election commenced. They relied on only three points: (a) a prior statement in an earlier Certificate of Candidacy for Senator submitted by petitioner;[18] (b) inferences from some of the actions of petitioner's husband;[19] and (c) the use of her United States passports.[20]

Petitioner has asserted that her statement in her present Certificate of Candidacy for President is accurate. She explains that her prior statement in her 2012 Certificate of Candidacy for Senator was a mistake committed in good faith. The Commission on Elections rejects these statements without valid evidence. It insists that it is the 2012 Certificate of Candidacy that is true and, thus, the present Certificate of Candidacy that is falsely represented. In doing so, the Commission on Elections acts arbitrarily and disregards the doctrine in *Romualdez-Marcos v. Commission on Elections*.[21] In effect, it proposes to overturn the precedent pronounced by this court.

It is true that petitioner is a political studies graduate.[22] However, it is likewise true that this court should not expect petitioner to have been thoroughly familiar with the precise interpretation of the legal concept of residence and to correctly apply it when she filed her Certificate of Candidacy for Senator. We do not expect that much even from our lawyers. We accept that there can be honest mistakes in interpretation and application. Otherwise, we should discipline any lawyer who loses a case with finality in any court filed in this country.

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17 Id. at 456.

18 *Rollo* (G.R. No. 221698–221700), p. 254, COMELEC First Division Resolution (SPA Nos. 15-002 (DC), 15-007 (DC), and 15-139 (DC)).

19 Id.

20 Id.

21 318 Phil. 329, 386 (1995) [Per J. Kapunan, En Banc].

22 *Rollo* (G.R. No. 221697), p. 3816, Petitioner's Memorandum.

To imply petitioner's lack of intent to establish domicile from the actions of her husband is a willful misappreciation of the evidence presented by petitioner with the Commission on Elections. The Commission on Elections infers that the wife cannot establish domicile separated from the husband. This is clearly not the state of Philippine law, which requires fundamental equality between men and women. The Commission on Elections isolates the fact of her husband's continued—albeit short—presence in the United States when petitioner and her children returned to the Philippines. From there, the Commission on Elections infers that when petitioner and her children returned to the Philippines, they did not intend to establish their new permanent home.

The Commission on Elections did not appreciate the following established facts that established the context of petitioner's return to the Philippines on May 24, 2005:

First, the husband was both a Filipino and American citizen.[23]

Second, the husband and the wife uprooted their children, removed them from their schools in the United States, and enrolled them in schools in the Philippines.[24]

Third, one of their children, a baby, was likewise uprooted and brought to the Philippines to stay here permanently.[25]

Fourth, arrangements were made to transfer their household belongings in several container vans from the United States to the Philippines.[26]

Fifth, petitioner did not seek further employment abroad.[27]

Sixth, petitioner's husband resigned from his work and moved to the Philippines.[28]

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[23] Id.; *Rollo* (G.R. No. 221698–221700), p. 218, COMELEC First Division Resolution (SPA Nos. 15-002 (DC), 15-007 (DC), and 15-139 (DC)).

[24] *Rollo* (G.R. No. 221697), pp. 3821–3822, Petitioner's Memorandum; *Rollo* (G.R. No. 221698–221700), p. 218, COMELEC First Division Resolution (SPA Nos. 15-002 (DC), 15-007 (DC), and 15-139 (DC)).

[25] *Rollo* (G.R. No. 221697), p. 3822, Petitioner's Memorandum; *Rollo* (G.R. No. 221698–221700), p. 218, COMELEC First Division Resolution (SPA Nos. 15-002 (DC), 15-007 (DC), and 15-139 (DC)).

[26] *Rollo* (G.R. No. 221697), pp. 3819–3820 and 3824, Petitioner's Memorandum; *Rollo* (G.R. No. 221698–221700), p. 218, COMELEC First Division Resolution (SPA Nos. 15-002 (DC), 15-007 (DC), and 15-139 (DC)).

[27] *Rollo* (G.R. No. 221697), p. 3819, Petitioner's Memorandum.

[28] *Rollo* (G.R. No. 221697), pp. 3824–3825, Petitioner's Memorandum; *Rollo* (G.R. No. 221698–221700), p. 220, COMELEC First Division Resolution (SPA Nos. 15-002 (DC), 15-007 (DC), and 15-139 (DC)).

Seventh, petitioner's husband was employed in the Philippines.[29]

Eighth, they sold the place where they stayed in the United States.[30]

Ninth, they bought property in the Philippines and built a new family home.[31]

Tenth, petitioner registered as a voter again in the Philippines and actually voted.[32]

Eleventh, petitioner registered as a taxpayer in the Philippines and paid taxes.[33]

Lastly, petitioner and her husband formally made announcements with respect to their change of postal address.[34]

None of these facts suggested by the Dissenting Opinions can negate the inevitable conclusion of the intent attendant to the establishment of petitioner's presence in the Philippines on May 24, 2005.

That she had properties in the United States is not inconsistent with establishing permanent residence in the Philippines. One who is domiciled in the Philippines is not prohibited from owning properties in another country. Besides, petitioner's assertion that the properties they have in the United States are not their residence was not successfully refuted by private respondents.

Petitioner's reacquisition of Filipino citizenship in July 2006 does not negate physical presence and her intention to establish permanent residence in the country. It is not improbable that a foreigner may establish domicile in the Philippines. She is a returning balikbayan with roots in the Philippines who went through a process to establish her residency in the Philippines and then applied for the recognition of her dual citizenship.

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29 *Rollo* (G.R. No. 221697), p. 3825, Petitioner's Memorandum; *Rollo* (G.R. No. 221698–221700), p. 220, COMELEC First Division Resolution (SPA Nos. 15-002 (DC), 15-007 (DC), and 15-139 (DC)).

30 *Rollo* (G.R. No. 221697), p. 3824, Petitioner's Memorandum; *Rollo* (G.R. No. 221698–221700), p. 219, COMELEC First Division Resolution (SPA Nos. 15-002 (DC), 15-007 (DC), and 15-139 (DC)).

31 *Rollo* (G.R. No. 221697), p. 3825, Petitioner's Memorandum; *Rollo* (G.R. No. 221698–221700), p. 220, COMELEC First Division Resolution (SPA Nos. 15-002 (DC), 15-007 (DC), and 15-139 (DC)).

32 *Rollo* (G.R. No. 221697), pp. 3816 and 3833, Petitioner's Memorandum; *Rollo* (G.R. No. 221698–221700), p. 220, COMELEC First Division Resolution (SPA Nos. 15-002 (DC), 15-007 (DC), and 15-139 (DC)).

33 *Rollo* (G.R. No. 221697), p. 3822, Petitioner's Memorandum.

34 Id. at 3824; *Rollo* (G.R. No. 221698–221700), p. 219, COMELEC First Division Resolution (SPA Nos. 15-002 (DC), 15-007 (DC), and 15-139 (DC)).

Many of the 47 years that petitioner has lived was spent in the Philippines. Except for the 16 years that she was in the United States, the other 31 years of her life were spent here in the Philippines. The person who became her mother is of advanced age and is in the Philippines. She went to school in this country and made friendships as well as memories. She, together with her husband, now has significant property here in the Philippines. That she intended to come back to take care of her recognized mother is a tendency so culturally Filipino, but which may have been forgotten by the Commission on Elections.

Some of the Dissenting Opinions suggest a new doctrine: the failure of a balikbayan who is allowed to enter the Philippines visa-free to accomplish an application to get a resident visa is a requirement to establish residency for election purposes. This is a new element not contemplated in our current doctrines on domicile.

Residency for election purposes is different from residency for immigration purposes. Applying for an alien resident visa was not required of petitioner. She was legally allowed visa-free entry as a balikbayan pursuant to Republic Act No. 6768, as amended. Within the one-year period of her visa-free stay, there is no prohibition for a balikbayan to apply to reacquire Philippine citizenship under Republic Act No. 9225. This she did. At no time was her stay in the Philippines illegal.

More importantly, the purpose of the residency requirement is already doctrinally established. *Torayno, Sr. v. Commission on Elections*[35] explained that it is meant "to give candidates the opportunity to be familiar with the needs, difficulties, aspirations, potentials for growth and all matters vital to the welfare of their constituencies; likewise, it enables the electorate to evaluate the office seekers' qualifications and fitness for the job they aspire for."[36]

The requirement to procure a resident visa has no rational relation to this stated purpose. It is a stretch to create a new doctrine. To require it now in this case will have considerable repercussions to the future of our country.

There is no evidence that can challenge the conclusion that on May 24, 2005, petitioner physically came back with the intention to establish her permanent home in the Philippines. In truth, the entire process of establishing petitioner's permanent residence here was completed in April 2006, well before May 9, 2006, 10 years prior to the upcoming elections.

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35 392 Phil. 342 (2000) [Per J. Panganiban, En Banc].
36 Id. at 345.

Neither would it be logical to assert that until July 2006, petitioner had not legally established domicile in the Philippines. Before May 2006, petitioner and her husband were already in the Philippines. Neither of them were employed in the United States. They had their family home here. Their children were enrolled in schools in the Philippines.

The Commission on Elections' proposed conclusion is simply too absurd.

Given the evidence on which petitioner reckoned her residency, she did not commit material misrepresentation. Thus, it was not only an error but grave abuse of discretion on the part of the Commission on Elections to trivialize the pieces of evidence presented by petitioner in order to justify its conclusion.

In a proceeding under Section 78 of the Omnibus Election Code, the Commission on Elections is neither constitutionally nor statutorily empowered to enunciate new legal doctrine or to reverse doctrines laid down by this court. It cannot, on the basis of new doctrines not known to the candidate, declare that his or her certificate of candidacy is infected with material misrepresentation.

The Commission on Elections is mandated by the Constitution to enforce and administer election laws. It cannot discharge this duty when there is any suspicion that it favors or disfavors a candidate. When it goes beyond its competency under Section 78 to deny a certificate of candidacy "exclusively on the ground that any material representation contained therein . . . is false," it does not only display a tendency to abuse its power; it seriously undermines its neutrality. This is quintessentially grave abuse of discretion.

No effort should be spared so as to ensure that our political preferences for or against any present candidate for the Presidency do not infect our reading of the law and its present doctrines. We should surmount every real or imagined pressure, communicated directly or indirectly by reading the entire Constitution and jurisprudence as they actually exist.

The propositions of respondents require acceptance of doctrines not yet enunciated and inferences that do not arise from the evidence presented. This will have nothing to do with reality. It will be unfair to petitioner, and will amount to misusing our power of judicial review with an attitude less deferential to the sovereign People's choices expressed both in the Constitution and in elections. Upholding the Commission on Elections' Resolutions, which stand on shaky legal grounds, amounts to multiplying each of our individual political preferences more than a millionfold.

The Facts

Before this court are consolidated Petitions for Certiorari under Rule 64 in relation to Rule 65 of the Rules of Court filed by petitioner Mary Grace Natividad S. Poe-Llamanzares. She prays for the nullification of the Resolutions of the Commission on Elections, which cancelled her Certificate of Candidacy for President of the Republic of the Philippines in connection with the May 9, 2016 National and Local Elections.

The Petition docketed as G.R. No. 221697 assails the December 1, 2015 Resolution of the Commission on Elections Second Division, which granted the Petition to Deny Due Course to or Cancel Certificate of Candidacy filed by private respondent Estrella C. Elamparo (Elamparo) and the Commission on Elections En Banc's December 23, 2015 Resolution,[37] which denied petitioner's Motion for Reconsideration.[38]

On the other hand, the Petition docketed as G.R. No. 221698-700 assails the December 11, 2015 Resolution[39] of the Commission on Elections First Division, which granted the Petitions filed by private respondents Francisco S. Tatad (Tatad), Antonio P. Contreras (Contreras), and Amado T. Valdez (Valdez) and the Commission on Elections En Banc's December 23, 2015 Resolution,[40] which denied petitioner's Motion for Reconsideration.[41]

The facts of the case are generally stipulated and well-known.

Petitioner is a foundling. Her biological parents are unknown. All that is known about her origin is that at about 9:30 a.m. on September 3, 1968, she was found in the parish church of Jaro, Iloilo by one Edgardo Militar. Edgardo Militar opted to place petitioner in the care and custody of his relative Emiliano Militar and the latter's wife.[42]

Emiliano Militar reported the discovery to the Office of the Local Civil Registrar in Jaro, Iloilo on September 6, 1968.[43] A Foundling Certificate was issued. This Certificate indicated petitioner's date of birth to

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37 *Rollo* (G.R. No. 221697), pp. 224–259, COMELEC En Banc Resolution (SPA Nos. 15-001 (DC) was signed by Commissioners J. Andres D. Bautista (Chair), Christian Robert S. Lim, Al A. Parreño, Luie Tito F. Guia, Arthur D. Lim, Ma. Rowena Amelia V. Guanzon, and Sheriff M. Abas.

38 Id. at 258.

39 *Rollo* (G.R. No. 221698–221700), pp. 216–264, COMELEC First Division Resolution (SPA Nos. 15-002 (DC), 15-007 (DC), and 15-139 (DC)) was signed by Presiding Commissioner Christian Robert S. Lim, and Commissioners Luie Tito F. Guia, and Ma. Rowena Amelia V. Guanzon.

40 Id. at 352–381.

41 Id. at 381.

42 *Rollo* (G.R. No. 221697), p. 3814, Petitioner's Memorandum.

43 *Rollo* (G.R. No. 221698–221700), p. 217, COMELEC First Division Resolution (SPA Nos. 15-002 (DC), 15-007 (DC), and 15-139 (DC)).

be September 3, 1968. Petitioner's full name was recorded as "Mary Grace Natividad Contreras Militar."[44]

When petitioner was five (5) years old, she was legally adopted by spouses Ronald Allan Poe (Fernando Poe, Jr.) and Jesusa Sonora Poe (Susan Roces). The Decision dated May 13, 1974 by the Municipal Trial Court of San Juan, Rizal granted the Petition for Adoption filed by Fernando Poe, Jr. and Susan Roces.[45] The court ordered that petitioner's name be changed "from Mary Grace Natividad Contreras Militar to Mary Grace Natividad Sonora Poe."[46]

On April 11, 1980, the Office of the Civil Registrar of Iloilo City received a copy of the May 13, 1974 Decision of the Municipal Trial Court of San Juan. It inscribed on petitioner's Foundling Certificate that she was adopted by Fernando Poe, Jr. and Susan Roces on May 13, 1974.[47] A hand-written notation was made on the right-hand side of petitioner's Foundling Certificate, as follows:

> NOTE: Adopted child by the Spouses Ronald Allan Poe and Jesusa Sonora Poe as per Court Order, Mun. Court, San Juan, Rizal, by Hon. Judge Alfredo M. Gorgonio dated May 13, 1974, under Sp. Proc. No. 138.[48]

In accordance with the May 13, 1974 Decision, the Office of the Civil Registrar of Iloilo City amended petitioner's Foundling Certificate so that her middle name ("Contreras") and last name ("Militar") were to be replaced with "Sonora" and "Poe," respectively. Further, the names "Ronald Allan Poe" and "Jesusa Sonora Poe" were entered into petitioner's Foundling Certificate in the spaces reserved for the names of the individuals who are legally considered as petitioner's parents.[49]

On December 13, 1986, when petitioner was 18 years old, the Commission on Elections issued her a Voter's Identification Card for Precinct No. 196, Greenhills, San Juan, Metro Manila.[50]

On April 4, 1988, petitioner was issued a Philippine passport by the then Ministry of Foreign Affairs. This passport stated that "(t)he Government of the Republic of the Philippines requests all concerned to

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44 *Rollo* (G.R. No. 221697), p. 3814, Petitioner's Memorandum.
45 Id. at 3815.
46 Id.
47 Id.
48 Id.
49 Id.
50 Id. at 3816.

permit the bearer, *a citizen of the Philippines* to pass safely and freely and, in case of need, to give (her) lawful aid and protection."[51]

This passport was valid for a period of five (5) years.[52] It was renewed on April 5, 1993, and subsequently on May 19, 1998, October 13, 2009, December 19, 2013, and March 18, 2014.[53]

Petitioner initially enrolled in the Development Studies Program of the University of the Philippines. However, in 1988, petitioner transferred to the Boston College in Chestnut Hill, Massachusetts, USA, where she obtained her Bachelor of Arts degree in Political Studies in 1991.[54]

On July 27, 1991, petitioner married Teodoro Misael V. Llamanzares (Teodoro Llamanzares), a citizen from birth[55] of both the Philippines and the United States.[56] Teodoro Llamanzares was then based in the United States. On July 29, 1991, petitioner went to the United States to live with her husband.[57]

Petitioner and her husband bore three (3) children. Brian Daniel (Brian) was born in the United States on April 16, 1992, Hanna MacKenzie (Hanna) in the Philippines on July 10, 1998, and Jesusa Anika (Anika) in the Philippines on June 5, 2004.[58]

Ten years after having been based in the United States,[59] petitioner became a naturalized American citizen on October 18, 2001.[60] On December 19, 2001, she was issued United States Passport No. 017037793.[61]

On April 8, 2004, petitioner, who was then pregnant with her third child, returned to the Philippines.[62] She was accompanied by her daughter Hanna.[63] Petitioner asserted that her return had two purposes: first, to support her parents as Fernando Poe, Jr. was then running for President of

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51 Id. Emphasis supplied.
52 Id.
53 Id. at 2707, SET Decision (SET Case No. 001-15).
54 Id. at 3816, Petitioner's Memorandum.
55 Id.
56 *Rollo* (G.R. No. 221698–221700), p. 218, COMELEC First Division Resolution (SPA Nos. 15- 002 (DC), 15-007 (DC), and 15-139 (DC)).
57 Id.
58 *Rollo* (G.R. No. 221697), p. 3817, Petitioner's Memorandum.
59 Id.
60 *Rollo* (G.R. No. 221698–221700), p. 218, COMELEC First Division Resolution (SPA Nos. 15-002 (DC), 15-007 (DC), and 15-139 (DC)).
61 Id.
62 *Rollo* (G.R. No. 221697), pp. 3817–3818, Petitioner's Memorandum.
63 Id. at 3817.

the Philippines; and second, to give birth to her third child, Anika, in the Philippines.[64]

It was only on July 8, 2004, after Anika was born on June 5, 2004, that petitioner returned to the United States.[65]

On December 11, 2004, petitioner's father Fernando Poe, Jr. slipped into a coma and was confined at St. Luke's Medical Center in Quezon City. Rushing to return to the Philippines, petitioner arrived on December 13, 2004. Unfortunately, Fernando Poe, Jr. died before petitioner could reach the hospital.[66] Petitioner stayed until February 3, 2005 to allegedly "comfort her grieving mother and to assist [her] in taking care of the funeral arrangements and . . . the settlement of her father's estate."[67]

In 2004, petitioner resigned from her work in the United States.[68] Following her resignation, she did not seek employment there again.[69]

Petitioner claims that in the first quarter of 2005, after her father's untimely death and to give moral support to her mother, she and her husband decided to return to the Philippines for good.[70]

Early in 2005, Brian and Hanna's schools in the United States were informed of their family's intention to transfer them to Philippine schools for the following semester.[71]

Beginning March 2005, petitioner and her husband began receiving cost estimates from property movers as regards the relocation of their properties from the United States to the Philippines. Among these were those from Victory Van International (Victory Van).[72] Petitioner noted that e-mails between her and her husband, on one hand, and Victory Van, on the other, "show the process that [she] and her family went through to permanently relocate and reestablish themselves in Philippines[.]"[73] As recalled by petitioner:

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64 Id. at 3818.
65 Id.
66 Id.
67 *Rollo* (G.R. No. 221698–221700), p. 218, COMELEC First Division Resolution (SPA Nos. 15-002 (DC), 15-007 (DC), and 15-139 (DC)).
68 *Rollo* (G.R. No. 221697), p. 3819, Petitioner's Memorandum; *Rollo* (G.R. No. 221698–221700), p. 218, COMELEC First Division Resolution (SPA Nos. 15-002 (DC), 15-007 (DC), and 15-139 (DC)).
69 *Rollo* (G.R. No. 221697), p. 3819, Petitioner's Memorandum.
70 Id.
71 Id.
72 Id.; *Rollo* (G.R. No. 221698–221700), p. 218, COMELEC First Division Resolution (SPA Nos. 15-002 (DC), 15-007 (DC), and 15-139 (DC)).
73 *Rollo* (G.R. No. 221697), p. 3819, Petitioner's Memorandum.

> 2.22.1. On 18 March 2005, with subject heading "Relocation to Manila Estimate", a representative of Victory Van replied to an inquiry made by Petitioner, and informed her that they would need at least three (3) forty foot containers to transport all of the family's household goods, furniture, and two (2) vehicles from Virginia, U.S.A. to Manila, Philippines. The service would include "packing, export wrapping, custom crating for chandeliers, marble top and glass tops, loading of containers ..., US customs export inspection for the vehicles, transportation to Baltimore, ocean freight and documentation to arrival Manila, customs clearance, delivery, ... unwrapping and placement of furniture, assisted unpacking, normal assembly ..., container return to port and same day debris removal based on three 40' containers."
>
> 2.22.2. Petitioner and her husband eventually engaged the services of Victory Van, and scheduled two (2) moving phases for the packing, collection and storage of their household goods for eventual transport to the Philippines. The "first phase" was scheduled sometime in February 2006, with Petitioner flying in to the U.S.A. to supervise the packing, storage, and disposal of their household goods in Virginia. The "second phase" was supervised by Petitioner's husband and completed sometime in April 2006.[74] (Citations omitted)

Apart from making arrangements for the transfer of their properties, petitioner and her husband also asked Philippine authorities about the procedure for bringing their dogs into the country.[75] They processed an application for import permit from the Bureau of Animal Industry - National Veterinary and Quarantine Service.[76]

Petitioner and her three (3) children returned to the Philippines on May 24, 2005.[77] Petitioner's husband was unable to join them and had to stay in the United States as, according to petitioner, he still had "to finish pending projects and to arrange for the sale of the family home there."[78]

In returning to the Philippines, petitioner and her children did not obtain visas. Petitioner emphasized that a visa was not legally required since she and her children availed themselves of the benefit allowed under the Balikbayan Program of one-year visa-free entry.[79]

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74 Id. at 3819–3820.

75 *Rollo* (G.R. No. 221698–221700), pp. 218–219, COMELEC First Division Resolution (SPA Nos. 15-002 (DC), 15-007 (DC), and 15-139 (DC)).

76 *Rollo* (G.R. No. 221697), p. 3820, Petitioner's Memorandum.

77 Id. at 3820–3821.

78 Id. at 3821.

79 Id. Rep. Act No. 6768, sec. 3(c), as amended by Rep. Act No. 9174, sec. 3 provides:
SEC. 3 Benefits and Privileges of the Balikbayan. – The balikbayan and his or her family shall be entitled to the following benefits and privileges:
. . . .
(c) Visa-free entry to the Philippines for a period of one (1) year for foreign passport holders, with the exception of restricted nationals;

Upon arrival in the Philippines, petitioner and her children initially lived with petitioner's mother Susan Roces at 23 Lincoln St., Greenhills West, San Juan City.[80] Petitioner emphasized that the living arrangements at her mother's house were modified to accommodate her and her children.[81] Further, her father's long-time driver was permanently assigned to her.[82]

For the academic year 2005–2006, petitioner enrolled Brian and Hanna in Philippine schools. Brian was enrolled at Beacon School in Taguig City,[83] while Hanna at Assumption College in Makati City.[84] In 2007, when she was old enough to go to school, Anika was enrolled in Learning Connection in San Juan City.[85] Brian subsequently transferred to La Salle Greenhills in 2006, where he finished his high school education in 2009.[86] Hanna finished her grade school and high school education at Assumption College,[87] where Anika also completed Kindergarten.[88] She is now a sixth grader in the same school.[89]

Shortly after her arrival in the Philippines, petitioner also registered as a taxpayer with the Bureau of Internal Revenue.[90] She was issued a Tax Identification Number by the Bureau of Internal Revenue on July 22, 2005.[91]

Petitioner asserted that sometime in the latter part of 2005, Susan Roces discovered that the lawyer in charge of petitioner's adoption in 1974 failed to secure from the Office of the Civil Registrar of Iloilo City a new Certificate of Live Birth indicating petitioner's adopted name and the names of her adoptive parents.[92] Thus, on November 8, 2005, she executed an affidavit attesting to the lawyer's omission and submitted it to the Office of the Civil Registrar of Iloilo City. On May 4, 2006, the Office of the Civil Registrar of Iloilo City issued a new Certificate of Live Birth indicating petitioner's name to be "Mary Grace Natividad Sonora Poe."[93]

In addition, around that time, petitioner and her husband "acquired Unit 7F of One Wilson Place Condominium in San Juan"[94] (along with a

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80 *Rollo* (G.R. No. 221697), p. 3821, Petitioner's Memorandum.
81 Id.
82 Id.
83 *Rollo* (G.R. No. 221697), p. 3822, Petitioner's Memorandum; *Rollo* (G.R. No. 221698–221700), p. 219, COMELEC First Division Resolution (SPA Nos. 15-002 (DC), 15-007 (DC), and 15-139 (DC)).
84 Id.
85 Id.
86 *Rollo* (G.R. No. 221697), p. 3822, Petitioner's Memorandum.
87 Id.
88 Id.
89 Id.
90 Id.
91 Id. at 2707, SET Decision (SET Case No. 001-15).
92 *Rollo* (G.R. No. 221698–221700), p. 219, COMELEC First Division Resolution (SPA Nos. 15-002 (DC), 15-007 (DC), and 15-139 (DC)).
93 *Rollo* (G.R. No. 221697), p. 3822, Petitioner's Memorandum.
94 *Rollo* (G.R. No. 221698–221700), p. 219, COMELEC First Division Resolution (SPA Nos. 15-002 (DC), 15-007 (DC), and 15-139 (DC)).

corresponding parking slot).[95] According to petitioner, this was to serve as their temporary residence until the completion of their family home in Corinthian Hills, Quezon City.[96]

On February 14, 2006, petitioner left for the United States allegedly to supervise the disposal her family's remaining belongings. She returned to the Philippines on March 11, 2006.[97]

On March 28, 2006, as the disposal of their remaining properties had been completed, petitioner's husband informed the United States Postal Service of their family's abandonment of their address in the United States.[98]

In April 2006, petitioner's husband resigned from his work in the United States.[99] The packing of petitioner's family's properties, which were to be transported to the Philippines, was also completed on or about April 25 to 26, 2006. Their home in the United States was sold on April 27, 2006.[100] Petitioner's husband then returned to the Philippines on May 4, 2006. By July 2006, he found employment in the Philippines.[101]

In the meantime, in early 2006, petitioner and her husband acquired a 509-square-meter lot in Corinthian Hills, Barangay Ugong Norte, Quezon City. They built a house on this lot, which, as petitioner points out, remains to be their family home to this day.[102]

On July 7, 2006, petitioner took the Oath of Allegiance to the Republic of the Philippines[103] pursuant to Section 3 of Republic Act No. 9225, otherwise known as the Citizenship Retention and Re-acquisition Act of 2003. Three days later, on July 10, 2006, she likewise filed before the Bureau of Immigration a Petition for Reacquisition of Filipino Citizenship.[104] She also filed Petitions for Derivate Citizenship on behalf of her three children who were at that time all below 18 years old.[105]

On July 18, 2006, the Bureau of Immigration issued the Order granting all these Petitions.[106] The Order stated:

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95 *Rollo* (G.R. No. 221697), p. 3822, Petitioner's Memorandum.
96 Id.
97 Id. at 3824.
98 Id.
99 Id.
100 Id.
101 Id. at 3824–3825.
102 Id. at 3825.
103 *Rollo* (G.R. No. 221698–221700), p. 220, COMELEC First Division Resolution (SPA Nos. 15-002 (DC), 15-007 (DC), and 15-139 (DC)).
104 Id.
105 Id.
106 Id.

> A careful review of the documents submitted in support of the instant petition indicate that the petitioner was a former citizen of the Republic of the Philippines being born to Filipino parents and is presumed to be a natural born Philippine citizen; thereafter, became an American citizen and is now a holder of an American passport; was issued an ACT and ICR and has taken her oath of allegiance to the Republic of the Philippines on July 7, 2006 and so is thereby deemed to have re-acquired her Philippine Citizenship.[107]

The Bureau of Immigration issued Identification Certificates for petitioner and her three children.[108] Petitioner's Identification Certificate states that she is a "citizen of the Philippines pursuant to the Citizenship Retention and Re-acquisition Act of 2003 (RA 9225) in relation to Administrative Order No. 91, Series of 2004 and Memorandum Circular No. AFF-2-005 per Office Order No. AFF-06-9133 signed by Associate Commissioner Roy M. Almoro dated July 18, 2006."[109]

On August 31, 2006, petitioner registered as a voter of Barangay Santa Lucia, San Juan City.[110]

On October 13, 2009, the Department of Foreign Affair issued to petitioner a Philippine passport with Passport Number XX4731999.[111]

On October 6, 2010, President Benigno S. Aquino III appointed petitioner as Chairperson of the Movie and Television Review and Classification Board.[112] Petitioner asserts that she did not immediately accept this appointment as she was advised that Section 5(3) of the Citizenship Retention and Re-acquisition Act of 2003 required two things of her before assuming any appointive public office: first, to take the Oath of Allegiance to the Republic of the Philippines; and second, to renounce her American citizenship.[113]

Thus, on October 20, 2010, petitioner executed an Affidavit of Renunciation of Allegiance to the [United States of America] and Renunciation of American Citizenship,[114] stating:

> I, MARY GRACE POE-LLAMANZARES, Filipino, of legal age, and presently residing at No. 107 Rodeo Drive, Corinthian Hills, Quezon

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[107] *Rollo* (G.R. No. 221697), p. 3827, Petitioner's Memorandum.
[108] *Rollo* (G.R. No. 221698–221700), p. 220, COMELEC First Division Resolution (SPA Nos. 15-002 (DC), 15-007 (DC), and 15-139 (DC)).
[109] *Rollo* (G.R. No. 221697), p. 3827, Petitioner's Memorandum.
[110] *Rollo* (G.R. No. 221698–221700), p. 220, COMELEC First Division Resolution (SPA Nos. 15-002 (DC), 15-007 (DC), and 15-139 (DC)).
[111] Id.
[112] Id.
[113] *Rollo* (G.R. No. 221697), p. 3828, Petitioner's Memorandum.
[114] *Rollo* (G.R. No. 221698–221700), p. 220, COMELEC First Division Resolution (SPA Nos. 15-002 (DC), 15-007 (DC), and 15-139 (DC)).

> City, Philippines, after having been duly sworn to in accordance with the law, do hereby depose and state that with this affidavit, I hereby expressly and voluntarily renounce my United States nationality/ American citizenship, together with all rights and privileges and all duties and allegiance and fidelity thereunto pertaining. I make this renunciation intentionally, voluntarily, and of my own free will, free of any duress or undue influence.
>
> IN WITNESS WHEREOF, I have hereunto affixed my signature this 20th day of October 2010 at Pasig City, Philippines.[115]

An original copy of the Affidavit was submitted to the Bureau of Immigration on the same day.[116]

Petitioner took her Oath of Office as Chairperson of the Movie and Television Review and Classification Board on October 21, 2010.[117] She formally assumed office as Chairperson on October 26, 2010.[118]

In addition to her Affidavit renouncing her American citizenship, petitioner executed on July 12, 2011 an Oath/Affirmation of Renunciation of Nationality of the United States before Somer E. Bessire-Briers, Vice-Consul of the Embassy of the United States of America in Manila.[119]

On the same day, she accomplished a Questionnaire Information for Determining Possible Loss of U.S. Citizenship,[120] where she stated that on October 21, 2010 she had taken her oath as Chairperson of the Movie and Television Review and Classification Board with the intent of relinquishing her American citizenship.[121] She further stated that she had been living in the Philippines from September 3, 1968 to July 29, 1991 and from May 2005 to this present day.[122] On page 4 of this Questionnaire, petitioner asserted that:

> I became a resident of the Philippines once again since 2005. My mother still resides in the Philippines. My husband and I are both employed and own properties in the Philippines. As a dual citizen (Filipino-American) since 2006, I've voted in two Philippine national elections. My three children study and reside in the Philippines at the time I performed the act as described in Part I item 6.[123]

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115 *Rollo* (G.R. No. 221697), p. 3828, Petitioner's Memorandum.
116 Id. at 2708, SET Decision (SET Case No. 001-15).
117 Id. at 23, Petition.
118 Id.
119 *Rollo* (G.R. No. 221697), p. 2708, SET Decision (SET Case No. 001-15).
120 Id.
121 Id. at 3832.
122 Id.
123 Id. at 3833.

On December 9, 2011, petitioner was issued a Certificate of Loss of Nationality by Jason Galian, Vice-Consul of the Embassy of the United States of America.[124] The Certificate was approved by the Overseas Citizen Service of the United States' Department of State on February 3, 2012.[125]

Petitioner ran for Senator of the Philippines in the May 2013 elections.[126] She executed her Certificate of Candidacy on September 27, 2012 and filed it before the Commission on Elections on October 2, 2012.[127] Petitioner "declared that she had been a resident of the Philippines for six (6) years and six (6) months immediately before the 13 May 2013 elections."[128]

On May 16, 2013, petitioner's election as Senator was formally proclaimed by the Commission on Elections.[129] Petitioner is currently serving her term as Senator.[130]

On December 19, 2013, the Department of Foreign Affairs issued petitioner a Diplomatic passport with Passport Number DE0004530 valid until December 18, 2018. Petitioner was also issued a Philippine passport with Passport No. EC0588861 valid until March 17, 2019.[131]

On October 15, 2015, petitioner filed her Certificate of Candidacy for President of the Republic of the Philippines in connection with the May 9, 2016 Elections.[132] She stated that she is a natural-born Filipino citizen and that her "residence in the Philippines up to the day before May 9, 2016" was to be "10" years and "11" months.[133]

Petitioner attached to her Certificate of Candidacy the Affidavit Affirming Renunciation of U.S.A. Citizenship,[134] in which she emphasized that she never recanted the Affidavit of Renunciation of Allegiance to the United States of America and Renunciation of American Citizenship that she executed on October 20, 2010. Further, she stated that effective October 21, 2010, she was no longer an American citizen, even within the contemplation of the laws of the United States.[135] She further stated:

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[124] Id. at 2708, SET Decision (SET Case No. 001-15).
[125] Id.
[126] *Rollo* (G.R. No. 221698–221700), p. 221, COMELEC First Division Resolution (SPA Nos. 15-002 (DC), 15-007 (DC), and 15-139 (DC)).
[127] *Rollo* (G.R. No. 221697), p. 3823, Petitioner's Memorandum.
[128] *Rollo* (G.R. No. 221698–221700), p. 221, COMELEC First Division Resolution (SPA Nos. 15-002 (DC), 15-007 (DC), and 15-139 (DC)).
[129] *Rollo* (G.R. No. 221697), p. 3824, Petitioner's Memorandum.
[130] Id. at 2708, SET Decision (SET Case No. 001-15), p. 3.
[131] *Rollo* (G.R. No. 221698–221700), p. 221, COMELEC First Division Resolution (SPA Nos. 15-002 (DC), 15-007 (DC), and 15-139 (DC)).
[132] Id.
[133] Id. at 222.
[134] Id.
[135] *Rollo* (G.R. No. 221697), p. 3835, Petitioner's Memorandum.

> Although I have long ceased to be a U.S.A. citizen, and without implying that my previous renunciation of U.S.A. citizenship was in any manner ineffective or recanted, but solely for the purpose of complying with the requirements for filing my Certificate of Candidacy ('COC') for President in the 9 May 2016 election (specifically. Item 10 of the COC) and in light of the pronouncement of the Supreme Court in Arnado vs. COMELEC (G.R. No. 210164, 18 August 2015) that '(t)here is no law prohibiting (me) from executing an Affidavit of Renunciation every election period if only avert possible questions about (my) qualifications." I hereby affirm and reiterate that I personally renounce my previous U.S.A. citizenship, together with all rights, privileges, duties, allegiance and fidelity pertaining thereto. I likewise declare that, aside from that renounced U.S.A. citizenship, I have never possessed any other foreign citizenship.[136] (Citation omitted)

On October 16, 2015, Elamparo filed a Petition to Deny Due Course to or Cancel the Certificate of Candidacy of petitioner.[137] The case was raffled to the Second Division of the Commission on Elections.[138] On October 19, 2015, Tatad filed a Verified Petition for Disqualification against petitioner.[139] On October 20, 2015, Contreras filed a Petition to Deny Due Course to or Cancel the Certificate of Candidacy of petitioner.[140] On November 9, 2015, Valdez also filed a Petition to Deny Due Course to or Cancel the Certificate of Candidacy of petitioner.[141] The Petitions of Tatad, Contreras, and Valdez were raffled to the Commission on Elections First Division.[142]

On November 25, 2015, a clarificatory hearing was conducted on the three Petitions before the Commission on Elections First Division.[143] The parties were directed to file their respective memoranda until December 3, 2015, 10 days from the date of the preliminary conference.[144] The case was deemed submitted for resolution on December 3, 2015, when the parties had submitted their respective Memoranda.[145]

The Petition filed by Elamparo was likewise submitted for resolution after the parties had submitted their respective memoranda.[146]

In the Order dated December 1, 2015, the Second Division of the Commission on Elections granted the Petition of Elamparo.[147]

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136 Id.
137 Id. at 9, Petition.
138 Id. at 4.
139 *Rollo* (G.R. No. 221698–221700), p. 222, COMELEC First Division Resolution (SPA Nos. 15-002 (DC), 15-007 (DC), and 15-139 (DC)) dated December 11.
140 Id.
141 Id.
142 Id. at 217.
143 Id. at 222.
144 Id.
145 Id.
146 *Rollo* (G.R. No. 221697), p. 3556-B, Supreme Court Resolution dated February 16, 2016.
147 Id. at 29–30, Petition.

On December 2, 2015, Elamparo filed an Urgent Motion to Exclude petitioner from the list of candidates for the Office of President in the official ballots to be printed for the May 2016 National Elections.[148] Petitioner filed her Partial Motion for Reconsideration before the Commission on Elections En Banc on December 7, 2015.[149]

Meanwhile, in the Order dated December 11, 2015, the Commission on Elections First Division granted the Petitions of Tatad, Contreras, and Valdez and ordered the cancellation of the Certificate of Candidacy of petitioner for the position of President of the Republic of the Philippines.[150] On December 16, 2015, petitioner moved for reconsideration before the Commission on Elections En Banc.[151]

In the resolutions dated December 23, 2015, the Commission on Elections En Banc denied petitioner's motions for reconsideration.[152]

On December 28, 2015, petitioner filed before this court the present Petitions with an accompanying Extremely Urgent Application for an *Ex Parte* Temporary Restraining Order/Status Quo Ante Order and/or Writ of Preliminary Injunction.[153]

On December 28, 2015, this court issued a temporary restraining order.[154] Respondents were similarly ordered to comment on the present Petitions.[155] The Petitions were later consolidated.[156]

Oral arguments were conducted from January 19, 2016 to February 16, 2016. Thereafter, the parties submitted their memoranda and the case was deemed submitted for resolution.

The Issues

For resolution are the following issues:

A. Whether a review of the Commission on Elections' assailed Resolutions via the consolidated Petitions for certiorari under

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148 Id. at 33.
149 Id.
150 *Rollo* (G.R. No. 221698–221700), p. 263, COMELEC First Division Resolution (SPA Nos. 15-002 (DC), 15-007 (DC), and 15-139 (DC)).
151 Id. at 357, COMELEC En Banc Resolution (SPA Nos. 15-002 (DC), 15-007 (DC), and 15-139 (DC)).
152 Id. at 381.
153 *Rollo* (G.R. No. 221697), p. 3.
154 Id. at 2011–2013.
155 Id. at 2012.
156 Id. at 3084-P, Supreme Court Advisory.

Rule 64, in relation to Rule 65 of the 1997 Rules of Civil Procedure is warranted;

B. Whether Rule 23, Section 8 of the Commission on Elections' Rules of Procedure is valid;

(1) Whether Rule 23, Section 8 of the Commission on Election's Rules of Procedure violates Article IX-A, Section 7 of the 1987 Constitution;

(2) Whether the Commission on Elections may promulgate a rule—stipulating a period within which its decisions shall become final and executory—that is inconsistent with the rules promulgated by this court with respect to the review of judgments and final orders or resolutions of the Commission on Elections;

C. Whether the Commission on Elections should have dismissed and not entertained the Petition filed by private respondent Francisco S. Tatad against petitioner Mary Grace Natividad S. Poe-Llamanzares:

(1) On the ground of failure to state the cause of action;

(2) For invoking grounds for a petition to cancel or deny due course to a certificate of candidacy under Section 78 of the Omnibus Election Code, in relation to Rule 23 of the Commission on Election's Rules of Procedure.

D. Whether the Commission on Elections has jurisdiction over the Petitions filed by private respondents Estrella C. Elamparo, Francisco S. Tatad, Antonio P. Contreras, and Amado D. Valdez;

(1) Whether the Commission on Elections acted with grave abuse of jurisdiction and/or in excess of jurisdiction in ruling on petitioner's intrinsic eligibility, specifically with respect to her citizenship and residency;

E. Whether grounds exist for the cancellation of petitioner's Certificate of Candidacy for President;

(1) Whether petitioner made any material misrepresentation in her Certificate of Candidacy for President;

(a) Whether petitioner's statement that she is a natural-born Filipino citizen constitutes material misrepresentation warranting the cancellation of

her Certificate of Candidacy for President;

i. Whether the Commission on Elections' conclusion that petitioner, being a foundling, is not a Filipino citizen under Article IV, Section 1 of the 1935 Constitution, is warranted and sustains the cancellation of her Certificate of Candidacy for President;

- Whether the Commission on Elections gravely abused its discretion in ruling that petitioner has the burden of proving her natural-born citizenship in proceedings under Section 78 of the Omnibus Election Code in relation to Rule 23 of the Commission on Elections' Rules;

ii. Whether the Commission on Elections' conclusion that petitioner did not validly reacquire natural-born Philippine citizenship is warranted and sustains the cancellation of her Certificate of Candidacy for President;

(b) Whether petitioner's statement in her Certificate of Candidacy that her period of residence in the Philippines is ten (10) years and eleven (11) months until May 9, 2016 constitutes material misrepresentation warranting the cancellation of her Certificate of Candidacy for President;

- Whether the Commission on Elections' conclusion that petitioner did not meet the required period of residence is warranted and sustains the cancellation of her Certificate of Candidacy for President;

(2) Whether petitioner intended to mislead the electorate in the statements she made in her Certificate of Candidacy for President;

(1) Whether petitioner intended to mislead the electorate by stating in her Certificate of Candidacy that she is a natural-born Filipino Citizen; and

(2) Whether petitioner's statement in her Certificate of Candidacy that her period of residence by May 9,

> 2016 would be ten (10) years and eleven (11) months constitutes concealment of "ineligibility" for the Presidency and an attempt to mislead or deceive the Philippine electorate.

The Petitions should be granted.

I

We clarify the mode of review and its parameters.

This court's power of judicial review is invoked through petitions for certiorari seeking to annul the Commission on Elections' resolutions which contain conclusions regarding petitioner Poe's citizenship, residency, and purported misrepresentation.

Under Rule 64, Section 2 of the Rules of Court, a judgment or final order or resolution of the Commission on Elections may be brought to this court on certiorari under Rule 65.[157] For a writ of certiorari to be issued under Rule 65, the respondent tribunal must have acted without or in excess of its jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction.[158]

The concept of judicial power under the 1987 Constitution recognizes this court's jurisdiction to settle actual cases or controversies. It also underscores this court's jurisdiction to determine whether a government agency or instrumentality committed grave abuse of discretion in the fulfillment of its actions. Judicial review grants this court authority to invalidate acts—of the legislative, the executive, constitutional bodies, and administrative agencies—when these acts are contrary to the Constitution.[159]

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[157] RULES OF COURT, Rule 64 provides:
Sec. 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.

[158] RULES OF COURT, Rule 65 provides:
Section 1.*Petition for certiorari*. When any tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or in excess of its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, and there is no appeal, or any plain, speedy, and adequate remedy in the ordinary course of law, a person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered annulling or modifying the proceedings of such tribunal, board or officer, and granting such incidental reliefs as law and justice may require.
The petition shall be accompanied by a certified true copy of the judgment, order or resolution subject thereof, copies of all pleadings and documents relevant and pertinent thereto, and a sworn certification of non-forum shopping as provided in the third paragraph of section 3, Rule 46.

[159] *Araullo v. Aquino III*, G.R. No. 209287, February 3, 2015, <http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2015/february2015/209287.pdf> 8–9 [Per J. Bersamin, En Banc].

The term "grave abuse of discretion," while defying exact definition, generally refers to such arbitrary, capricious, or whimsical exercise of judgment that is equivalent to lack of jurisdiction:

> [T]he abuse of discretion must be patent and gross as to amount to an evasion of a positive duty or a virtual refusal to perform a duty enjoined by law, or to act at all in contemplation of law, as where the power is exercised in an arbitrary and despotic manner by reason of passion and hostility. Mere abuse of discretion is not enough: it must be grave.[160]

In other words: arbitrary, capricious, or whimsical exercise of any constitutionally mandated power has never been sanctioned by the sovereign to any constitutional department, agency, or organ of government.

The Commission on Elections argues that alleged errors in its conclusions regarding petitioner's citizenship, residency, and purported misrepresentation were based on its findings and the evidence submitted by the parties. It emphasizes that even if its conclusions might have been erroneous, it nevertheless based these on its own appreciation of the evidence in relation to the law and the Constitution. It claims to have only exercised its constitutionally bounded discretion. Consequently, in its view, the Commission on Elections cannot be deemed to have acted without or in excess of its jurisdiction.[161]

Grave abuse of discretion exists when a constitutional body makes patently gross errors in making factual inferences such that critical pieces of evidence presented by a party not traversed or even stipulated by the other parties are ignored.[162] Furthermore a misinterpretation of the text of the Constitution or provisions of law, or otherwise a misreading or misapplication of the current state of jurisprudence, also amounts to grave abuse of discretion.[163] In such cases, decisions are arbitrary in that they do not relate to the whole corpus of evidence presented. They are arbitrary in that they will not be based on the current state of our law. Necessarily, these give the strongest suspicion of either capriciousness or partiality beyond the imagination of our present Constitution.

Thus, writs of certiorari are issued: (a) where the tribunal's approach to an issue is tainted with grave abuse of discretion, as where it uses wrong considerations and grossly misreads the evidence at arriving at its

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[160] *Mitra v. Commission on Elections*, 636 Phil. 753, 777 (2010) [Per J. Brion, En Banc].
[161] *Rollo* (G.R. No. 221698–221700), p. 4590, COMELEC Memorandum.
[162] *Abasta Shipmanagement Corporation*, 670 Phil. 136, 151 (2011) [Per J. Brion, Second Division].
[163] *Nightowl Watchman & Security Agency, Inc. v. Lumahan*, G.R. No. 212096, October 14, 2015, <http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2015/october2015/212096.pdf> 7 [Per J. Brion, Second Division].

conclusion;[164] (b) where a tribunal's assessment is "far from reasonable[,] [and] based solely on very personal and subjective assessment standards when the law is replete with standards that can be used[;]"[165] "(c) where the tribunal's action on the appreciation and evaluation of evidence oversteps the limits of its discretion to the point of being grossly unreasonable[;]"[166] and (d) where the tribunal uses wrong or irrelevant considerations in deciding an issue.[167]

Article VIII, Section 1 of the Constitution is designed to ensure that this court will not abdicate its duty as guardian of the Constitution's substantive precepts in favor of alleged procedural devices with lesser value.[168] Given an actual case or controversy and in the face of grave abuse, this court is not rendered impotent by an overgenerous application of the political question doctrine.[169] In general, the present mode of analysis will often require examination of the potential breach of the Constitution in a justiciable controversy.

II

Rule 23, Section 8 of the Commission on Elections' Rules of Procedure, insofar as it states that the Commission on Elections' decisions become final and executor five (5) days after receipt, is valid. It does not violate Article IX, Section 7 of the Constitution.

Article IX of the 1987 Constitution provides that any decision, order, or ruling of the Commission on Elections may be brought to this court on certiorari within thirty (30) days from receipt of a copy:

> Section 7. Each Commission shall decide by a majority vote of all its Members, any case or matter brought before it within sixty days from the date of its submission for decision or resolution. A case or matter is deemed submitted for decision or resolution upon the filing of the last pleading, brief, or memorandum required by the rules of the Commission or by the Commission itself. *Unless otherwise provided* ***by this Constitution or by law****, any decision, order, or ruling of each Commission may be brought to the Supreme Court on certiorari by the aggrieved party* ***within thirty days from receipt of a copy*** *thereof.* (Emphasis supplied)

Rule 23, Section 8 of the Commission on Elections' Rules of Procedure, on the other hand, provides that decisions and rulings of the

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[164] *Mitra v. Commission on Elections*, 636 Phil. 753, 777–778, 782 (2010) [Per J. Brion, En Banc].
[165] Id. at 787.
[166] Id. at 778.
[167] *Varias v. Commission on Elections*, 626 Phil. 292, 314 (2010) [PerJ. Brion, En Banc].
[168] *Lambino v. Commission on Elections*, 536 Phil. 1, 111 (2006) [Per J. Carpio, En Banc].
[169] *Diocese of Bacolod v. COMELEC*, G.R. No. 205728, January 21, 2015, <http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2015/january2015/205728.pdf> [Per J. Leonen, En Banc].

Commission on Elections En Banc are deemed final and executory if no restraining order is issued by this court within five (5) days from receipt of such a decision or resolution, thus:

> Section 8.*Effect if Petition Unresolved.* –
>
> . . . .
>
> A Decision or Resolution is deemed final and executory if, in case of a Division ruling, no motion for reconsideration is filed within the reglementary period, or in cases of rulings of the Commission *En Banc*, no restraining order is issued by the Supreme Court within five (5) days from receipt of the decision or resolution.

Under the 1987 Constitution, the Commission on Elections has the power to promulgate its own rules of procedure. Article IX-A provides:

> Section 6. Each Commission *en banc* may promulgate its own rules concerning pleadings and practice before it or before any of its offices. Such rules, however, shall not diminish, increase, or modify substantive rights.

Similarly, in Article IX-C:

> Section 3. The Commission on Elections may sit *en banc* or in two divisions, and shall promulgate its rules of procedure in order to expedite disposition of election cases, including pre-proclamation controversies. All such election cases shall be heard and decided in division, provided that motions for reconsideration of decisions shall be decided by the Commission *en banc*.

The interpretation of any legal provision should be one that is in harmony with other laws on the same subject matter so as to form a complete, coherent, and intelligible system. "*Interpretare et concordare legibus est optimus interpretand*," or every statute must be so construed and harmonized with other statutes as to form a uniform system of jurisprudence.[170] Assessing the validity of the Commission on Elections' Rules of Procedure includes a determination of whether these rules can co-exist with the remedy of certiorari as provided by Article IX, Section 7 of the Constitution.

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[170] *Lim v. Gamosa*, G.R. No. 193964, December 2, 2015 <http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2015/december2015/193964.pdf> 15 [Per J. Perez, First Division].

A wide breadth of discretion is granted a court of justice in certiorari proceedings.[171] In exercising this power, this court is to be guided by all the circumstances of each particular case "as the ends of justice may require."[172] Thus, a writ of certiorari will be granted where necessary in order to prevent a substantial wrong or to do substantial justice.[173]

The Commission on Elections' Rules of Procedure are evidently procedural rules; they are remedial in nature. They cover only rules on pleadings and practice. They are the means by which its power or authority to hear and decide a class of cases is put into action.[174] Rule 23, Section 8 of the Commission on Elections' Rules of Procedure refers only to the pleadings and practice before the Commission on Elections itself, and does not affect the jurisdiction of this court.

Accordingly, that the Commission on Elections may deem a resolution final and executory under its rules of procedure does not automatically render such resolution beyond the scope of judicial review under Article IX of the 1987 Constitution. Rule 23, Section 8 of the Commission on Elections' Rules of Procedure merely guides the Commission as to the status of a decision for its own operations; it does not prevent this court from acting on the same decision via certiorari proceedings. In any event, while it is true that certiorari does not immediately stay a decision of a constitutional commission, a temporary restraining order can still be issued, as in this case.

Finally, it should be noted that in promulgating this rule, the Commission on Elections was simply fulfilling its constitutional duty to "promulgate its rules of procedure in order ***to expedite disposition of election cases.***"[175] Cases before the Commission on Elections must be disposed of without delay, as the date of the elections is constitutionally and statutorily fixed.[176] The five-day rule is based on a reasonable ground: the necessity to prepare for the elections.

III

Any interpretation of the scope of the statutory power granted to the Commission on Elections must consider all the relevant constitutional provisions allocating power to the different organs of government.

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171 *Gutib v. Court of Appeals*, 371 Phil. 293, 307 (1999) [Per J. Bellosillo, Second Division].
172 Id. at 308.
173 Id.
174 *Department of Agrarian Reform Adjudication Board v. Lubrica*, 497 Phil. 313, 326 (2005) [Per J. Tinga, Second Division].
175 CONST., art. IX-C, sec. 3.
176 CONST., art. VI, sec. 8 and art. VII, sec. 4.

Reading the entirety of the Constitution leads to the inescapable conclusion that the Commission on Elections' jurisdiction, statutorily granted in Section 78 of the Omnibus Election Code, with respect to candidates for the Offices of President and Vice President, is only with respect to determining whether a material matter asserted in a candidate's certificate of candidacy is false. For purposes of Section 78, a matter may be true or false only when it is verifiable. Hence, the section only refers to a matter of fact. It cannot refer to a legal doctrine or legal interpretation. Furthermore, the false representation on a material fact must be shown to have been done with intent. It must be accompanied with intent to deceive. It cannot refer to an honest mistake or error made by the candidate.

III.A

A certificate of candidacy is filed to announce a person's candidacy and to declare his or her eligibility for elective office. Section 74 of the Omnibus Election Code enumerates the items that must be included in a certificate of candidacy:

> Sec. 74. ***Contents of certificate of candidacy.*** - The certificate of candidacy shall state that the person filing it is announcing his candidacy for the office stated therein and that he is eligible for said office; if for Member of the Batasang Pambansa, the province, including its component cities, highly urbanized city or district or sector which he seeks to represent; the political party to which he belongs; civil status; his date of birth; residence; his post office address for all election purposes; his profession or occupation; that he will support and defend the Constitution of the Philippines and will maintain true faith and allegiance thereto; that he will obey the laws, legal orders, and decrees promulgated by the duly constituted authorities; that he is not a permanent resident or immigrant to a foreign country; that the obligation imposed by his oath is assumed voluntarily, without mental reservation or purpose of evasion; and that the facts stated in the certificate of candidacy are true to the best of his knowledge.
>
> Unless a candidate has officially changed his name through a court approved proceeding, a candidate shall use in a certificate of candidacy the name by which he has been baptized, or if has not been baptized in any church or religion, the name registered in the office of the local civil registrar or any other name allowed under the provisions of existing law or, in the case of a Muslim, his *Hadji* name after performing the prescribed religious pilgrimage: *Provided*, That when there are two or more candidates for an office with the same name and surname, each candidate, upon being made aware or such fact, shall state his paternal and maternal surname, except the incumbent who may continue to use the name and surname stated in his certificate of candidacy when he was elected. He may also include one nickname or stage name by which he is generally or popularly known in the locality.
>
> The person filing a certificate of candidacy shall also affix his latest photograph, passport size; a statement in duplicate containing his

> bio-data and program of government not exceeding one hundred words, if he so desires.

Generally, the Commission on Elections has the ministerial duty to receive and acknowledge receipt of certificates of candidacy.[177] The Commission on Elections has the competence to deny acceptance of a certificate of candidacy when a candidate's lack of qualifications ***appears patent on the face of the certificate of candidacy and is indubitable.***[178] This is in line with its power to "[e]nforce and administer all laws and regulations relative to the conduct of an election."[179]

For instance, if the date of birth in the certificate of candidacy clearly and patently shows that the candidate has not met the required age requirement for the office for which he or she is running, the Commission on Elections may motu proprio deny acceptance. Specifically, in such cases, the candidate has effectively made an admission by swearing to the certificate of candidacy. Therefore, in the interest of an orderly election, the Commission on Elections may simply implement the law.

This is not the situation in this case. Petitioner's Certificate of Candidacy did not patently show any disqualification or ineligibility. Thus, the denial of due course or cancellation of the certificate cannot be done motu proprio, but only when a petition is filed. The petition must be verified and based on the *exclusive* ground that a material representation in the certificate of candidacy is false.

Section 78 of the Omnibus Election Code provides:

> Sec. 78. ***Petition to deny due course to or cancel a certificate of candidacy.*** - A verified petition seeking to deny due course or to cancel a certificate of candidacy may be filed by any person ***exclusively on the ground that any material representation contained therein as required under Section 74 hereof is false.*** The petition may be filed at any time not later than twenty-five days from the time of the filing of the certificate of candidacy ad shall be decided, after due notice and hearing, not later than fifteen days before the election. (Emphasis supplied)

III.B

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[177] Batas Blg. 881 (1985), Omnibus Election Code, sec. 76.

[178] *Cipriano v. Comelec*, 479 Phil. 677, 689 (2004) [Per J. Puno, En Banc].

[179] CONST., art. IX-C, sec. 2(1) provides:
ARTICLE IX. Constitutional Commissions
. . . .
C. The Commission on Elections
SECTION 2. The Commission on Elections shall exercise the following powers and functions:
(1) Enforce and administer all laws and regulations relative to the conduct of an election, plebiscite, initiative, referendum, and recall.
[Note however paragraph (2), which limits its quasi judicial power.]

The Commission on Elections' discretion with respect to Section 78 is limited in scope.

The constitutional powers and functions of the Commission on Elections are enumerated in Article IX-C, Section 2 of the 1987 Constitution:

> SECTION 2. The Commission on Elections shall exercise the following powers and functions:
>
> (1) Enforce and administer all laws and regulations relative to the conduct of an election, plebiscite, initiative, referendum, and recall.
>
> (2) Exercise exclusive original jurisdiction over all contests relating to the elections, returns, and qualifications of all elective regional, provincial, and city officials, and appellate jurisdiction over all contests involving elective municipal officials decided by trial courts of general jurisdiction, or involving elective barangay officials decided by trial courts of limited jurisdiction.
>
> Decisions, final orders, or rulings of the Commission on election contests involving elective municipal and barangay offices shall be final, executory, and not appealable.
>
> (3) Decide, except those involving the right to vote, all questions affecting elections, including determination of the number and location of polling places, appointment of election officials and inspectors, and registration of voters.
>
> (4) Deputize, with the concurrence of the President, law enforcement agencies and instrumentalities of the Government, including the Armed Forces of the Philippines, for the exclusive purpose of ensuring free, orderly, honest, peaceful, and credible elections.
>
> (5) Register, after sufficient publication, political parties, organizations, or coalitions which, in addition to other requirements, must present their platform or program of government; and accredit citizens' arms of the Commission on Elections. Religious denominations and sects shall not be registered. Those which seek to achieve their goals through violence or unlawful means, or refuse to uphold and adhere to this Constitution, or which are supported by any foreign government shall likewise be refused registration.
>
> Financial contributions from foreign governments and their agencies to political parties, organizations, coalitions, or candidates related to elections constitute interference in national affairs, and, when accepted, shall be an additional

> ground for the cancellation of their registration with the Commission, in addition to other penalties that may be prescribed by law.
>
> (6) File, upon a verified complaint, or on its own initiative, petitions in court for inclusion or exclusion of voters; investigate and, where appropriate, prosecute cases of violations of election laws, including acts or omissions constituting election frauds, offenses, and malpractices.
>
> (7) Recommend to the Congress effective measures to minimize election spending, including limitation of places where propaganda materials shall be posted, and to prevent and penalize all forms of election frauds, offenses, malpractices, and nuisance candidacies.
>
> (8) Recommend to the President the removal of any officer or employee it has deputized, or the imposition of any other disciplinary action, for violation or disregard of, or disobedience to its directive, order, or decision.
>
> (9) Submit to the President and the Congress a comprehensive report on the conduct of each election, plebiscite, initiative, referendum, or recall.

Except for item (2), all the powers enumerated in Article IX-C, Section 2 are administrative in nature.[180] These powers relate to the Commission's general mandate to "[e]nforce and administer all laws and regulations relative to the conduct of an election." The Commission on Elections' adjudicatory powers are limited to having "exclusive original jurisdiction over all contests relating to the elections, returns, and qualifications of all elective regional, provincial, and city officials" and "appellate jurisdiction over all contests involving elective municipal officials decided by trial courts of general jurisdiction, or involving elective barangay officials decided by trial courts of limited jurisdiction."

The Commission on Elections has no jurisdiction over the elections, returns, and qualifications of those who are candidates for the Office of President. They also do not have jurisdiction to decide issues "involving the right to vote[.]"[181]

The Commission on Elections was originally only an administrative agency.[182] Under Commonwealth Act No. 607, it took over the President's function to enforce election laws.

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[180] *Baytan v. Commission on Elections*, 444 Phil. 812, 824 (2003) [Per J. Carpio, En Banc].
[181] CONST., art. IX-C, sec. 2(3).
[182] *Loong v. Commission on Elections*, 365 Phil. 386, 423 (1999) [Per J. Puno, En Banc].

Pursuant to amendments made to the 1935 Constitution, the Commission on Elections was transformed into a constitutional body "[having] exclusive charge of the enforcement and administration of all laws relative to the conduct of elections[.]"[183]

It was in the 1973 Constitution that the Commission on Elections was granted quasi-judicial powers in addition to its administrative powers. The Commission on Elections became the sole judge of all election contests relating to the elections, returns, and qualifications of members of the national legislature and elective provincial and city officials. Thus, in Article XII-C, Section 2(2) of the 1973 Constitution, the Commission on Elections was granted the power to:

> SEC. 2. . . .
>
> . . . .
>
> (2) Be the sole judge of all contests relating to the elections, returns, and qualifications of *all Members of the Batasang Pambansa and elective provincial and city officials.* (Emphasis supplied)

At present, the quasi-judicial power of the Commission on Elections is found in item (2) of Article IX-C, Section 2 of the Constitution.

"Contests" are post-election scenarios.[184] Article IX-C, Section 2(2) of the Constitution speaks of "elective officials," not "candidates for an elective position." This means that the Commission on Elections may take cognizance of petitions involving qualifications for public office only after election, and this is only with respect to elective regional, provincial, city, municipal, and barangay officials.

With respect to candidates for President and Vice President, the Constitution reserved adjudicatory power with this court. Article VII, Section 4 of the 1987 Constitution outlines the dynamic relationship of the various constitutional organs in elections for President and Vice President, thus:

> SECTION 4. . . .
>
> . . . .
>
> The returns of every election for President and Vice-President, duly certified by the board of canvassers of each province or city, shall be transmitted to the Congress, directed to the President of the Senate. Upon

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183 Id.

184 *See Tecson v. Commission on Elections*, 468 Phil. 421, 461 (2004) [Per J. Vitug, En Banc].

> receipt of the certificates of canvass, the President of Senate shall, not later than thirty days after the day of the election, open all certificates in the presence of the Senate and the House of Representatives in joint public session, and the Congress, upon determination of the authenticity and due execution thereof in the manner provided by law, canvass the votes.
>
> The person having the highest number of votes shall be proclaimed elected, but in case two or more shall have an equal and highest number of votes, one of them shall forthwith be chosen by the vote of a majority of all the Members of the Congress, voting separately.
>
> The Congress shall promulgate its rules for the canvassing of the certificates.
>
> *The Supreme Court, sitting en banc, shall be the* ***sole judge of all contests relating to the election, returns, and qualifications of the President*** *or Vice-President, and may promulgate its rules for the purpose.* (Emphasis supplied)

Reading the text of similar provisions[185] relating to the House of Representatives Electoral Tribunal,[186] Former Associate Justice Vicente V. Mendoza observed in his Separate Opinion in *Romualdez-Marcos* that there are no "authorized proceedings for determining a candidate's qualifications for an office before his election."[187] He proposed that the Commission on Elections cannot remedy the perceived lacuna by deciding petitions questioning the qualifications of candidates before the election under its power to enforce election laws.[188]

This reading was later on qualified.

In *Tecson v. Commission on Elections*,[189] the petitions filed by Maria Jeanette Tecson and Zoilo Velez were dismissed for lack of jurisdiction. The petitions questioned directly before this court, before the elections were held, the qualifications of Fernando Poe, Jr. as a presidential candidate. With unanimity on this point, this court stated:

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[185] CONST., art. VI, sec. 17.

[186] CONST., art. VI, sec. 17 provides:
ARTICLE VI. The Legislative Department
. . . .
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. Each Electoral Tribunal shall be composed of nine Members, three of whom shall be Justices of the Supreme Court to be designated by the Chief Justice, and the remaining six shall be Members of the Senate or the House of Representatives, as the case may be, who shall be chosen on the basis of proportional representation from the political parties and the parties or organizations registered under the party-list system represented therein. The senior Justice in the Electoral Tribunal shall be its Chairman.

[187] J. Mendoza, Separate Opinion in *Romualdez-Marcos v. Commission on Elections*, 318 Phil. 329, 457 (1995) [Per J. Kapunan, En Banc].

[188] Id. at 461–462.

[189] 468 Phil. 421 (2004) [Per J. Vitug, En Banc].

> The rules categorically speak of the jurisdiction of the tribunal over contests relating to the election, returns and qualifications of the "President" or "Vice President", of the Philippines, and not of "candidates for President or Vice President. A *quo warranto* proceeding is generally defined as being an action against a person who usurps, intrudes into, or unlawfully holds or exercises a public office. In such context, the election contest can only contemplate a post-election *scenario*. In Rule 14, only a registered candidate who would have received either the second or third highest number of votes could file an election protest. This rule again presupposes a post election *scenario*.
>
> It is fair to conclude that the jurisdiction of the Supreme Court, defined by Section 4, paragraph 7, of the 1987 Constitution, would not include cases directly brought before it, questioning the qualifications of a candidate for the presidency or vice-presidency before the elections are held.
>
> Accordingly, G.R. No. 161434, entitled "Maria Jeanette C. Tecson, et al., vs. Commission on Elections et al.," and G.R. No. 161634, entitled "Zoilo Antonio Velez vs. Ronald Allan Kelley Poe a.k.a. Fernando Poe, Jr." would have to be dismissed for want of jurisdiction.[190]

On the other hand, with respect to the petitions that questioned the resolutions of the Commission on Elections, which in turn were decided on the basis of Section 78 of the Omnibus Election Code, *Tecson* clarified, with respect to the Petition docketed as G.R. No. 161824:

> In seeking the disqualification of the candidacy of FPJ and to have the COMELEC deny due course to or cancel FPJ's certificate of candidacy for alleged misrepresentation of a material fact (i.e., that FPJ was a natural-born citizen) before the COMELEC, petitioner Fornier invoked Section 78 of the Omnibus Election Code—
>
> > Section 78. Petition to deny due course to or cancel a certificate of candidacy. – A verified petition seeking to deny due course or to cancel a certificate of candidacy may be filed by any person exclusively on the ground that any material representation contained therein as required under Section 74 hereof is false.—
>
> in consonance with the general powers of COMELEC expressed in Section 52 of the Omnibus Election Code —
>
> > Section 52. Powers and functions of the Commission on Elections. In addition to the powers and functions conferred upon it by the Constitution, the Commission shall have exclusive charge of the enforcement and administration of all laws relative to the conduct of elections for the purpose of ensuring free, orderly and honest elections —

[190] Id. at 462.

and in relation to Article 69 of the Omnibus Election Code which would authorize "any interested party" to file a verified petition to deny or cancel the certificate of candidacy of any nuisance candidate.

Decisions of the COMELEC on disqualification cases may be reviewed by the Supreme Court per Rule 64 in an action for certiorari under Rule 65 of the Revised Rules of Civil Procedure. Section 7, Article IX, of the 1987 Constitution also reads—

> Each Commission shall decide by a majority vote of all its Members any case or matter brought before it within sixty days from the date of its submission for decision or resolution. A case or matter is deemed submitted for decision or resolution upon the filing of the last pleading, brief, or memorandum, required by the rules of the Commission or by the Commission itself. Unless otherwise provided by this Constitution or by law, any decision, order or ruling of each Commission may be brought to the Supreme Court on certiorari by the aggrieved party within thirty days from receipt of a copy thereof.

Additionally, Section 1, Article VIII, of the same Constitution provides that judicial power is vested in one Supreme Court and in such lower courts as may be established by law which power "includes the duty of the courts of justice to settle actual controversies involving rights which are legally demandable and enforceable, and to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government.

It is sufficiently clear that the petition brought up in G.R. No. 161824 was aptly elevated to, and cold well be taken cognizance of by, this Court. A contrary view would be a gross denial to our people of their fundamental right to be fully informed, and to make a proper choice, on who could or should be elected to occupy the highest government post in the land.[191] (Citations omitted)

A proper reading of the Constitution requires that every provision be given effect. Thus, the absurd situation where "contests" are entertained even if no petition for quo warranto was filed before the Presidential Electoral Tribunal,[192] the Senate Electoral Tribunal,[193] or the House of

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[191] Id. at 458–460.

[192] CONST., art. VII, sec. 4 partly provides:
ARTICLE VII. Executive Department
. . . .
SECTION 4. . . .
. . . .
The Supreme Court, sitting en banc, shall be the sole judge of all contests relating to the election, returns, and qualifications of the President or Vice- President, and may promulgate its rules for the purpose.

[193] CONST., art. VI, sec. 17 provides:
ARTICLE VI. The Legislative Department
. . . .
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

Representatives Electoral Tribunal[194] must be avoided. This will be the case should the Commission on Elections be allowed to take cognizance of all petitions questioning the eligibility of a candidate. The provisions of the Constitution on the jurisdiction of the electoral tribunals over election contests would be rendered useless.

More importantly, the Commission on Elections' very existence and effectiveness inherently depend on its neutrality. Scrutiny of the qualifications of candidates for electoral positions of national importance was intentionally and expressly delegated to special electoral tribunals. Clearly, the credibility—and perhaps even the legitimacy—of those who are elected to these important public offices will be undermined with the slightest suspicion of bias on the part of the Commission on Elections. This is why the pressure to determine the qualifications of candidates to these positions has been purposely removed from the Commission on Elections. After all, given Article IX-A, Section 7 of the Constitution, any "case or matter" decided by a constitutional commission "may be brought to the Supreme Court on certiorari by the aggrieved party within thirty days from receipt of a copy thereof."[195] The Commission on Elections will find itself in a very difficult situation should it disqualify a candidate on reasons other than clearly demonstrable or factual grounds only for this court to eventually overturn its ruling. The Commission on Elections, wittingly or unwittingly, would provide justifiable basis for suspicions of partiality.

It is also this evil that we must guard against as we further sketch the contours of the jurisdiction of the Commission on Elections and of this court.

Before elections, the Commission on Elections, under Section 78 of the Omnibus Election Code, may take cognizance of petitions involving qualifications for public office regardless of the elective position involved, but only on the limited and exclusive ground that a certificate of candidacy contains a material representation that is false.

Intent to deceive should remain an element of Section 78 petitions. Otherwise, the only issue to be resolved in Section 78 petitions would be whether the candidate possesses the qualifications required under the law. If the Commission acts on these petitions, it acts in excess of its jurisdiction. As discussed, the Commission on Elections may validly take cognizance of

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their respective Members. Each Electoral Tribunal shall be composed of nine Members, three of whom shall be Justices of the Supreme Court to be designated by the Chief Justice, and the remaining six shall be Members of the Senate or the House of Representatives, as the case may be, who shall be chosen on the basis of proportional representation from the political parties and the parties or organizations registered under the party-list system represented therein. The senior Justice in the Electoral Tribunal shall be its Chairman.

194 CONST., art. VI, sec. 17.

195 CONST., art. IX-A, sec. 7. See discussion in part II.

petitions involving qualifications only if the petitions were filed after election and only with respect to elective regional, provincial, city, municipal, and barangay officials.

III.C

Thus, to successfully challenge a certificate of candidacy under Section 78, a petitioner must establish that:

First, that the assailed certificate of candidacy contains a representation that is false;

Second, that the false representation is material, i.e., it involves the candidate's qualifications for elective office,[196] such as citizenship[197] and residency;[198] and

Third, that the false material representation was made with a "deliberate attempt to mislead, misinform, or hide a fact that would otherwise render a candidate ineligible"[199] or "with an intention to deceive the electorate as to one's qualifications for public office."[200]

In using its powers under Section 78, the Commission on Elections must apply these requirements strictly and with a default preference for allowing a certificate of candidacy in cases affecting the positions of President, Vice President, Senator, or Member of the House of Representatives. Section 78 itself mentions that the ground of material misrepresentation is ***exclusive*** of any other ground. Furthermore, in the guise of this statutory grant of power, the Commission on Elections cannot usurp the functions of this court sitting as the Presidential Electoral Tribunal nor of the Senate Electoral Tribunal, and the House of Representatives

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[196] *See Jalover v. Osmeña*, G.R. No. 209286, September 23, 2014, 736 SCRA 267 [Per J. Brion, En Banc]; *Hayudini v. Commission on Elections*, G.R. No. 207900, April 22, 2014, 723 SCRA 223 [Per J. Peralta, En Banc]; *Villafuerte v. Commission on Elections*, G.R. No. 206698, February 25, 2014, 717 SCRA 312 [Per J. Peralta, En Banc]; *Gonzalez v. Commission on Elections*, 660 Phil. 225 (2011) [Per J. Villarama, Jr., En Banc]; *Mitra v. Commission on Elections*, 636 Phil. 753 (2010) [Per J. Brion, En Banc]; *Maruhom v. Commission on Elections*, 611 Phil. 501 (2009) [Per J. Chico-Nazario, En Banc]; *Velasco v. Commission on Elections*, 595 Phil. 1172 (2008) [Per J. Brion, En Banc]; *Justimbaste v. Commission on Elections*, 593 Phil. 383 (2008) [Per J. Carpio Morales, En Banc]; *Lluz v. Commission on Elections*, 551 Phil. 428 (2007) [Per J. Carpio, En Banc]; and *Salcedo II v. Commission on Elections*, 371 Phil. 377, 389 (1999) [Per J. Gonzaga-Reyes, En Banc].

[197] *See Gonzalez v. Commission on Elections*, 660 Phil. 225 (2011) [Per J. Villarama, En Banc]; *Justimbaste v. Commission on Elections*, 593 Phil. 383 (2008) [Per J. Carpio Morales, En Banc]; *Tecson v. Commission on Elections*, 468 Phil. 421 (2004) [Per J. Vitug, En Banc]

[198] *See Jalover v. Osmeña*, G.R. No. 209286, September 23, 2014, 736 SCRA 267 [Per J. Brion, En Banc]; *Hayudini v. Commission on Elections*, G.R. No. 207900, April 22, 2014, 723 SCRA 223 [Per J. Peralta, En Banc]; *Mitra v. Commission on Elections*, 636 Phil. 753 (2010) [Per J. Brion, En Banc]; *Velasco v. Commission on Elections*, 595 Phil. 1172 (2008) [Per J. Brion, En Banc]; and *Ugdoracion, Jr. v. Commission on Elections*, 575 Phil. 253 (2008) [Per J. Nachura, En Banc].

[199] *Romualdez-Marcos v. Commission on Elections*, 318 Phil. 329, 380 (1995) [Per J. Kapunan, En Banc].

[200] *Salcedo II v. Commission on Elections*, 371 Phil. 377, 390 (1999) [Per J. Gonzaga-Reyes, En Banc].

Electoral Tribunal. Likewise, it cannot keep the most important collective of government—the People acting as an electorate—from exercising its most potent power: the exercise of its right to choose its leaders in a clean, honest, and orderly election.

As petitioner suggests, "the sovereign people, in ratifying the Constitution, intended that questions of a candidate's qualification . . . be submitted directly to them."[201] In the words of Former Chief Justice Reynato Puno in *Frivaldo v. Commission on Elections*,[202] the People, on certain legal issues, choose to be the "final power of final legal adjustment."[203]

Consistent with this legal order, only questions of fact may be resolved in Section 78 proceedings. Section 78 uses the word "false;" hence, these proceedings must proceed from doubts arising as to the truth or falsehood of a representation in a certificate of candidacy.[204] Only a fact is verifiable, and conversely, falsifiable, as opposed to an opinion on a disputed point of law where one's position is only as good as another's. Under Section 78, the Commission on Elections cannot resolve questions of law—as when it resolves the issue of whether a candidate is qualified given a certain set of facts—for it would arrogate upon itself the powers duly reserved to the electoral tribunals established by the Constitution.

Romualdez-Marcos v. Commission on Elections articulated the requirement of "deliberate attempt to mislead" in order that a certificate of candidacy may be cancelled.[205] In 1995, Imelda Romualdez-Marcos filed her Certificate of Candidacy for Representative of the First District of Leyte, alleging that she resided in the district for seven (7) months. She later amended her Certificate to state that she had resided in Tacloban City "since childhood,"[206] explaining that her original answer was an "honest mistake."[207] The Commission on Elections nonetheless cancelled her Certificate of Candidacy for her failure to meet the one-year residency requirement for the position she was seeking.[208]

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201 *Rollo* (G.R. No. 221697), p. 3871, Petitioner's Memorandum..

202 327 Phil. 521 (1996) [Per J. Panganiban, En Banc].

203 J. Puno, Concurring Opinion in *Frivaldo v. Commission on Elections*, 327 Phil. 521, 578 (1996) [Per J. Panganiban, En Banc].

204 *Guzman v. Commission on Elections*, 614 Phil. 143, 153 (2009) [Per J. Bersamin, En Banc].

205 *Romualdez-Marcos v. Commission on Elections*, 318 Phil. 329, 380 (1995) [Per J. Kapunan, En Banc].

206 Id. at. 366.

207 Id. at 367.

208 CONST., art. VI, sec. 6 provides:
ARTICLE VI. The Legislative Department
. . . .
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.

Admitting the defense of honest mistake and finding that Imelda Romualdez-Marcos satisfied the required period of residence, this court reversed the Commission on Elections' ruling. It stated that:

> [I]t is the fact of residence, not a statement in certificate of candidacy which ought to be decisive in determining whether or not an individual has satisfied the constitution's residency qualification requirement. [The statement in the certificate of candidacy] becomes material only when there is or appears to be a deliberate attempt to mislead, misinform, or hide a fact which would otherwise render a candidate ineligible. It would be plainly ridiculous for a candidate to deliberately and knowingly make a statement in a certificate of candidacy which would lead to his or her disqualification.[209]

In *Salcedo II v. Commission on Elections*,[210] this court affirmed the proclamation of Ermelita Cacao Salcedo as Mayor of Sara, Iloilo despite the contention that her marriage to Neptali Salcedo was void and that she, therefore, had materially misrepresented her surname to be "Salcedo."[211] This court ruled that the use of a specific surname in a certificate of candidacy is not the material representation contemplated in Section 78.[212] There was no intent to deceive on the part of Ermelita Cacao Salcedo as she has been using "Salcedo" years before the election; hence, this court refused to cancel her Certificate of Candidacy.[213]

Intent to deceive has consistently been required to justify the cancellation of certificates of candidacy.[214] Yet, in 2013, this court in *Tagolino v. House of Representatives Electoral Tribunal*[215] stated that intent to deceive "is of bare significance to a Section 78 petition."[216] This statement must be taken in context.

In *Tagolino,* Richard Gomez (Gomez) filed his Certificate of Candidacy for Representative for the Fourth District of Leyte. An opposing candidate, Buenaventura Juntilla (Juntilla), filed a petition before the Commission on Elections, alleging that Gomez resided in Greenhills, San Juan City, contrary to his representation in his Certificate of Candidacy that

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209 *Romualdez-Marcos v. Commission on Elections*, 318 Phil. 329, 380 (1995) [Per J. Kapunan, En Banc].
210 371 Phil. 377 (1999) [Per J. Gonzaga-Reyes, En Banc].
211 Id. at 381.
212 Id. at 390-391.
213 Id. at 391.
214 *See Talaga v. Commission on Elections*, 696 Phil. 786 (2012) [Per J. Bersamin, En Banc]; *Gonzalez v. Commission on Elections*, 660 Phil. 225 (2011) [Per J. Villarama, Jr., En Banc]; *Mitra v. Commission on Elections*, 636 Phil. 753 (2010) [Per J. Brion, En Banc]; *Maruhom v. Commission on Elections*, 611 Phil. 501 (2009) [Per J. Chico-Nazario, En Banc]; *Velasco v. Commission on Elections*, 595 Phil. 1172 (2008) [Per J. Brion, En Banc]; *Justimbaste v. Commission on Elections*, 593 Phil. 383 (2008) [Per J. Carpio Morales, En Banc]; and *Tecson v. Commission on Elections*, 468 Phil. 421 (2004) [Per J. Vitug, En Banc].
215 706 Phil. 534 (2013) [Per J. Perlas-Bernabe, En Banc].
216 Id. at 551.

he resided in Ormoc City. Juntilla prayed for the cancellation of Gomez's Certificate of Candidacy.[217]

In its Resolution dated February 17, 2010, the First Division of the Commission on Elections granted Juntilla's Petition and declared Gomez "*disqualified* as a candidate for the Office of Congressman, Fourth District of Leyte, for lack of residency requirement."[218] This Resolution was affirmed by the Commission on Elections En Banc, after which Gomez manifested that he accepted the finality of the Resolution.[219]

Thereafter, Lucy Torres-Gomez (Torres-Gomez) filed her Certificate of Candidacy as substitute candidate for her husband. The Liberal Party, to which Gomez belonged, endorsed Torres-Gomez's candidacy. Upon recommendation of its Law Department, the Commission on Elections En Banc allowed Torres-Gomez to substitute for Gomez in its Resolution dated May 8, 2010.[220]

The next day, on May 9, 2010, Juntilla moved for reconsideration. After the conduct of elections on May 10, 2010, Gomez, whose name remained on the ballots, garnered the highest number of votes among the candidates for representative.[221] In view of his substitution, the votes were counted in favor of Torres-Gomez. Torres-Gomez was then "proclaimed the duly elected Representative of the Fourth District of Leyte."[222]

To oust Torres-Gomez, Silverio Tagolino filed a petition for *quo warranto* before the House of Representatives Electoral Tribunal. Tagolino argued, among others, that Torres-Gomez failed to validly substitute Gomez, the latter's Certificate of Candidacy being void.[223]

The House of Representatives Electoral Tribunal dismissed the petition for quo warranto and ruled that Torres-Gomez validly substituted for her husband. According to the tribunal, the Commission on Elections declared Gomez disqualified; the Commission did not cancel Gomez's Certificate of Candidacy. Since Gomez was merely disqualified, a candidate nominated by the political party to which he belonged could validly substitute him.[224]

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217 Id. at 542–543.
218 Id. at 543.
219 Id.
220 Id. at 544.
221 Id. at 545.
222 Id. at 546.
223 Id. at 546.
224 Id. at 547.

On certiorari, this court reversed and set aside the Decision of the House of Representatives Electoral Tribunal.[225] Juntilla's Petition prayed for the cancellation of Gomez's certificate of candidacy.[226] Although the Commission's First Division declared Gomez "disqualified" as a candidate for representative, the Commission nonetheless granted Juntilla's Petition "without any qualification."[227]

Juntilla's Petition was granted, resulting in the cancellation of Gomez's Certificate of Candidacy. Hence, Gomez was deemed a non-candidate for the 2010 Elections and could not have been validly substituted by Torres-Gomez. Torres-Gomez then could not have been validly elected as Representative of the Fourth District of Leyte.

In deciding *Tagolino*, this court distinguished a petition for disqualification under Section 68 of the Omnibus Election Code from a petition to deny due course to or cancel a certificate of candidacy under Section 78.[228] As to whether intent to deceive should be established in a Section 78 petition, this court stated:

> [I]t must be noted that the deliberateness of the misrepresentation, much less one's intent to defraud, is of bare significance in a Section 78 petition as it is enough that the person's declaration of a material qualification in the [certificate of candidacy] be false. In this relation, jurisprudence holds that an express finding that the person committed any deliberate misrepresentation is of little consequence in the determination of whether one's [certificate of candidacy] should be deemed cancelled or not. What remains material is that the petition essentially seeks to deny due course to and/or cancel the [certificate of candidacy] on the basis of one's ineligibility and that the same be granted without any qualification.[229] (Citations omitted)

Tagolino notwithstanding, intent to deceive remains an indispensable element of a petition to deny due course to or cancel a certificate of candidacy.

As correctly pointed out by petitioner, the contentious statement in *Tagolino* is mere *obiter dictum*.[230] That statement was not essential in resolving the core issue in *Tagolino*: ***whether a person whose certificate of candidacy was cancelled may be validly substituted***. This had no direct relation to the interpretation of false material representations in the certificate of candidacy.

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225 Id. at 561.
226 Id. at 543.
227 Id.
228 Id. at 550–551.
229 Id. at 551.
230 *Rollo* (G.R. No. 221697), p. 3860, Petitioner's Memorandum.

Moreover, this court En Banc affirmed the requirement after *Tagolino*.

In *Villafuerte v. Commission on Elections*,[231] *Hayudini v. Commission on Elections*,[232] *Jalover v. Osmeña*,[233] and *Agustin v. Commission on Elections*[234]—***all decided after Tagolino***—this court reaffirmed "intent to deceive" as an integral element of a Section 78 petition. Unlike *Tagolino*, this court's Decisions in *Villafuerte, Hayudini*, *Jalover,* and *Agustin* directly dealt with and squarely ruled on the issue of whether the Commission on Elections gravely abused its discretion in granting or denying Section 78 petitions. Their affirmation of intent to deceive as an indispensable requirement was part of their very ratio decidendi and not mere obiter dicta. Since this ratio decidendi has been repeated, it now partakes of the status of jurisprudential doctrine. Accordingly, the statement in *Tagolino* that dispenses with the requirement of intent to deceive cannot be considered binding.

It is true that Section 78 makes no mention of "intent to deceive." Instead, what Section 78 uses is the word "representation." Reading Section 78 in this way creates an apparent absence of textual basis for sustaining the claim that intent to deceive should not be an element of Section 78 petitions. It is an error to read a provision of law.

"Representation" is rooted in the word "represent," a verb. Thus, by a representation, a person *actively* does something. There is *operative engagement* in that the doer brings to fruition what he or she is pondering—something that is abstract and otherwise known only to him or her, a proverbial "castle in the air." The "representation" is but a concrete product, a manifestation, or a perceptible expression of what the doer has already cognitively resolved to do. One who makes a representation is one who *intends to articulate* what, in his or her mind, he or she wishes to represent. He or she actively and intentionally uses signs conventionally understood in the form of speech, text, or other acts.

Thus, representations are *assertions*. By asserting, the person making a statement pushes for, affirms, or insists upon something. These are hardly badges of something in which intent is immaterial. On the contrary, no such assertion can exist unless a person actually wishes to, that is, *intends*, to firmly stand for something.

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[231] G.R. No. 206698, February 25, 2014, 717 SCRA 312, 322–323 [Per J. Peralta, En Banc].
[232] G.R. No. 207900, April 22, 2014, 723 SCRA 223, 246 [Per J. Peralta, En Banc].
[233] G.R. No. 209286, September 23, 2014, 736 SCRA 267, 282 [Per J. Brion, En Banc].
[234] G.R. No. 207105, November 10, 2015 <http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2015/november2015/207105.pdf> 8–9 [Per J. Bersamin, En Banc].

In Section 78, the requirement is that there is "material representation contained therein as required by Section 74 hereof ***is false***."[235] A "misrepresentation" is merely the obverse of "representation." They are two opposite concepts. Thus, as with making a representation, a person who misrepresents cannot do so without intending to do so.

That intent to deceive is an inherent element of a Section 78 petition is reflected by the grave consequences facing those who make false material representations in their certificates of candidacy.[236] They are deprived of a fundamental political right to run for public office.[237] Worse, they may be criminally charged with violating election laws, even with perjury.[238] For these reasons, the false material representation referred to in Section 78 cannot "just [be] any innocuous mistake."[239]

Petitioner correctly argued that Section 78 should be read in relation to Section 74's enumeration of what certificates of candidacy must state. Under Section 74, a person filing a certificate of candidacy declares that the facts stated in the certificate "are true to the best of his [or her] knowledge." The law does not require "absolute certainty"[240] but allows for mistakes in the certificate of candidacy if made in good faith.[241] This is consistent with the "summary character of proceedings relating to certificates of candidacy."[242]

IV

From these premises, the Commission on Elections should have dismissed Tatad's Petition for Disqualification. The Commission on Elections showed bias and acted arbitrarily when it motu proprio converted the Petition into one which Tatad did not intend, contrary to the interest of the other party. While the Commission on Elections has the necessary and implied powers concomitant with its constitutional task to administer election laws, it cannot do so by favoring one party over the other.

Significantly, Tatad was not the only petitioner in those cases. There were three other petitions against one candidate, which already contained most if not all the arguments on the issues raised by Tatad. There was, thus, no discernable reason for the Commission on Elections not to dismiss a clearly erroneous petition. The Commission on Elections intentionally put

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235 Batas Pambansa Blg. 881 (1985), Omnibus Election Code, sec. 78.
236 *Salcedo II v. Commission on Elections*, 371 Phil. 377, 389 (1999) [Per J. Gonzaga-Reyes, En Banc].
237 Id.
238 Id. *See also Lluz v. Commission on Elections*, 551 Phil. 428, 445–446 (2007) [Per J. Carpio, En Banc].
239 *Salcedo II v. Commission on Elections*, 371 Phil. 377, 389 (1999) [Per J. Gonzaga-Reyes, En Banc].
240 *Rollo* (G.R. No. 221697), p. 3862, Petitioner's Memorandum.
241 *See Romualdez-Marcos v. Commission on Elections*, 318 Phil. 329 (1995) [Per J. Kapunan, En Banc].
242 J. Mendoza, Separate Opinion in *Romualdez-Marcos v. Commission on Elections*, 318 Phil. 329, 463 (1995) [Per J. Kapunan, En Banc].

itself at risk of being seen not only as being partial, but also as a full advocate of Tatad, guiding him to do the correct procedure.

On this matter, the Commission on Elections clearly acted arbitrarily.

Section 68 of the Omnibus Election Code grants the Commission on Elections jurisdiction over petitions for disqualification. Section 68 enumerates the grounds for filing a disqualification petition:

> Sec. 68 ***Disqualifications***. – Any candidate who, in action or protest in which he is a party is declared by final decision of a competent court guilty of, or found by the Commission of having (a) given money or other material consideration to influence, induce or corrupt the voters or public officials performing electoral functions; (b) committed acts of terrorism to enhance his candidacy; (c) spent in his election campaign an amount in excess of that allowed by this Code; (d) solicited, received or made any contribution prohibited under Sections 89, 95, 96, 97 and 104; or (e) violated any of Sections 80, 83, 85, 86 and 261, paragraphs d, e, k, v, and cc, sub-paragraph 6, shall be disqualified from continuing as a candidate, or if he has been elected, from holding the office. Any person who is a permanent resident of or an immigrant of a foreign country in accordance with the residence requirement provided for in the election laws.

Apart from the grounds provided in Section 68, the grounds in Section 12 of the Omnibus Election Code may likewise be raised in a petition for disqualification.[243] Section 12 of the Omnibus Election Code states:

> Sec. 12. ***Disqualifications***. – Any person who has been declared by competent authority insane or incompetent, or has been sentenced by final judgment for subversion, insurrection, rebellion, or for any offense for which he has been sentenced to a penalty of more than eighteen months or for a crime involving moral turpitude, shall be disqualified to be a candidate and to hold any office, unless he has been given plenary pardon or granted amnesty.
>
> This disqualifications to be a candidate herein provided shall be deemed removed upon the declaration by competent authority that said insanity or incompetence had been removed or after the expiration of a period of five years from his service of sentence, unless within the same period he again becomes disqualified.

Although denominated as a Petition for Disqualification, Tatad's Petition before the Commission on Elections did not raise any ground for disqualification under Sections 12 and 68 of the Omnibus Election Code.

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[243] The grounds under Section 40 of the Local Government Code may likewise be raised against a candidate for a local elective position.

Instead, Tatad argued that petitioner lacked the required qualifications for presidency; hence, petitioner should not be allowed to run for president.

The law does not allow petitions directly questioning the qualifications of a candidate before the elections. Tatad could have availed himself of a petition to deny due course to or cancel petitioner's certificate of candidacy under Section 78 on the ground that petitioner made a false material representation in her certificate of candidacy. However, Tatad's petition before the Commission on Elections did not even pray for the cancellation of petitioner's certificate of candidacy.

The Commission on Elections gravely abused its discretion in either implicitly amending the petition or incorrectly interpreting its procedural device so as to favor Tatad and allow his petition. The Commission should have dismissed Tatad's petition for want of jurisdiction. In failing to do so, it acted arbitrarily, whimsically, and capriciously. The Commission on Elections on this point acted with grave abuse of discretion.

V

There was no material misrepresentation with respect to petitioner's conclusion that she was a natural-born Filipina. Her statement was not false.

The facts upon which she based her conclusion of law was laid bare through her allegations, and a substantial number of these were the subject of stipulation of the parties. Neither private respondents nor the Commission on Elections was able to disprove any of the material facts supporting the legal conclusion of the petitioner. Petitioner was entitled to make her own legal conclusion from her interpretation of the relevant constitutional and statutory provisions. This court has yet to rule on a case that—at the time of the filing of the certificate of candidacy until this moment—squarely raised the issue of the citizenship and the nature of citizenship of a foundling.

Thus, the Commission on Elections had no jurisdiction under Section 78 of the Omnibus Election Code to rule on the nature of citizenship of petitioner. Even assuming without granting that it had that competence, the Commission gravely abused its discretion when it cancelled petitioner's Certificate of Candidacy on this ground. There was no material misrepresentation as to a matter of fact. There was no intent to deceive. Petitioner, even as a foundling, presented enough facts to make a reasonable inference that either or both of her parents were Filipino citizens when she was born.

V.A

The Commission on Elections submits that since petitioner admitted that she is a foundling, the burden of evidence was passed on to her "to prove that her representation in her [Certificate of Candidacy]—that she is eligible to run for President—is not false."[244] The Commission argues that this declaration carried an admission that petitioner is of unknown parentage. Thus, private respondents do not need to prove that petitioner's parents are foreigners. Instead, it was petitioner's burden to show evidence that she is a natural-born Filipino citizen.[245]

Elamparo echoed the Commission on Elections' arguments. Petitioner's admission that she is a foundling was enough substantial evidence on the part of private respondents to discharge the burden that rested upon them as petitioners before the Commission on Elections. Petitioner's admission trumped all other evidence submitted to the Commission on Elections of government recognition of her citizenship.[246]

As opposed to burden of proof,[247] burden of evidence shifts between the parties.[248] The party who alleges must initially prove his or her claims.[249] Once he or she is able to show a prima facie case in his or her favor, the burden of evidence shifts to the other party.[250]

Thus, in an action for cancellation of a certificate of candidacy under Section 78 of the Omnibus Election Code, the person who filed the petition alleging material misrepresentation has the burden of proving such claim.[251] He or she must establish that there is material misrepresentation under the required standard of evidence. In cases before quasi-judicial bodies, the standard of evidence is "substantial evidence or that amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion."[252]

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244 *Rollo* (G.R. No. 221698–221700), p. 4619, COMELEC Memorandum.

245 Id.

246 Id. at 5092–5093, Respondent's Memorandum.

247 *See* RULES OF COURT, Rule 131. *See also Matugas v. Commission on Elections*, 465 Phil. 299, 307 (2004) [Per J. Tinga, En Banc], *citing Cortes v. Court of Appeals*, 443 Phil. 42 (2003) [Per J. Austria-Martinez, Second Division] in that "one who alleges a fact has the burden of proving it."

248 *See* J. Tinga, Dissenting Opinion in *Tecson v. Commission on Elections*, 468 Phil. 421, 612 (2004) [Per J. Vitug, En Banc], *citing Bautista v. Judge Sarmiento*, 223 Phil. 181, 185–186 (1985) [Per J. Cuevas, Second Division].

249 *See Advincula v. Atty. Macabata*, 546 Phil. 431, 446 (2007) [Per J. Chico-Nazario, Third Division], *citing Uytengsu III v. Baduel*, 514 Phil. 1 (2005) [Per J. Tinga, Second Division] in that "the burden of proof lies on the party who makes the allegations – *ei incumbit probation, qui decit, non qui negat; cum per rerum naturam factum negantis probation nulla sit.*"

250 *See Jison v. Court of Appeals*, 350 Phil. 138 (1998) [Per J. Davide, Jr., First Division].

251 *See, for example, Salcedo II v. Commission on Elections*, 371 Phil. 377 (1999) [Per J. Gonzaga-Reyes, En Banc].

252 RULES OF COURT, Rule 133, sec. 5.

If, during the course of hearing, petitioner shows a prima facie case of material misrepresentation, the burden of evidence shifts. The opposing party will then need to controvert the claims made.[253]

Private respondents who initiated the action before the Commission on Elections failed to establish a prima facie case of material misrepresentation to warrant a shift of burden of evidence to petitioner. Based on this ground, the petitions for cancellation of certificate of candidacy should have already been dismissed at the level of the Commission on Elections.

Even assuming that the burden of proof and evidence shifted to petitioner, the Commission on Elections erred in only considering petitioner's statement that she is a foundling. It committed a grave error when it excluded all the other pieces of evidence presented by petitioner and isolated her admission (and the other parties' stipulation) that she was a foundling in order to conclude that the burden of evidence already shifted to her.

Petitioner's admission that she is a foundling merely established that her biological parents were unknown. It did not establish that she falsely misrepresented that she was born of Filipino parents. It did not establish that ***both*** her biological parents were foreign citizens.

The Commission on Elections was blind to the following evidence alleged by petitioner and accepted by the other parties:

(1) She was found in a church in Jaro, Iloilo;

(2) When she was found, she was only an infant sufficient to be considered newborn;

(3) She was found sometime in September 1968;

(4) She was immediately registered as a foundling;

(5) Jaro, Iloilo did not have an international airport; and

(6) The physical characteristics of petitioner are consistent with a large majority of Filipinos.

All these facts can be used to infer that ***at least one*** of her biological parents is Filipino. These should be sufficient to establish that she is

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[253] *See Jison v. Court of Appeals*, 350 Phil. 138 (1998) [Per J. Davide, Jr., First Division].

natural-born in accordance with the relevant provisions of the Constitution. The Commission on Elections arbitrarily disregarded these pieces of evidence. It chose to rely only on the admitted fact that she was a foundling to claim that the burden of evidence has already shifted.

V.B

The Commission on Elections was mistaken when it concluded that the burden of evidence shifted upon admission of the status of a foundling.

For purposes of Section 78 of the Omnibus Election Code, private respondents still had the burden of showing that: (1) ***both*** of petitioner's biological parents were foreign citizens; (2) petitioner had actual knowledge of both her biological parents' foreign citizenship at the time of filing of her Certificate of Candidacy; and (3) she had intent to mislead the electorate with regard to her qualifications.

The Commission on Elections cited and relied heavily on Senior Associate Justice Antonio Carpio's ***Dissenting Opinion*** in *Tecson*. ***On the basis of this Dissent***, the Commission on Elections concluded that petitioner cannot invoke any presumption of natural-born citizenship.[254] The Dissenting Opinion quoted *Paa v. Chan*,[255] in that "[i]t is incumbent upon a person who claims Philippine citizenship to prove to the satisfaction of the Court that he is really a Filipino. No presumption can be indulged in favor of the claimant of Philippine citizenship, and any doubt regarding citizenship must be resolved in favor of the State."[256]

Elementary in citing and using jurisprudence is that the main opinion of this court, not the dissent, is controlling. Reliance by the Commission on Elections on the dissent without sufficiently relating it to the pronouncements in the main opinion does not only border on contumacious misapplication of court doctrine; it is utterly grave abuse of discretion.

Tecson, correctly read, resolved the issue of citizenship using presumptions. From the death certificate of Fernando Poe, Jr.'s grandfather Lorenzo Pou, this court assumed that he was born sometime in 1870 or during the Spanish regime.[257] Lorenzo Pou's death certificate shows San Carlos, Pangasinan as his place of residence. On this basis, this court inferred that San Carlos, Pangasinan was also Lorenzo Pou's residence

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254 *Rollo* (G.R. No. 221698–221700), p. 4627, COMELEC Memorandum.
255 128 Phil. 815 (1967) [Per J. Zaldivar, En Banc].
256 J. Carpio, Dissenting Opinion in *Tecson v. Commission on Elections*, 468 Phil. 421, 634 (2004) [Per J. Vitug, En Banc].
257 *Tecson v. Commission on Elections*, 468 Phil. 421, 473–474 (2004) [Per J. Vitug, En Banc].

before death such that he would have benefitted from the Philippine Bill's "*en masse* Filipinization" in 1902:[258]

> In ascertaining, in G.R. No. 161824, whether grave abuse of discretion has been committed by the COMELEC, it is necessary to take on the matter of whether or not respondent FPJ is a natural-born citizen, which, in turn, depended on whether or not the father of respondent, Allan F. Poe, would have himself been a Filipino citizen and, in the affirmative, whether or not the alleged illegitimacy of respondent prevents him from taking after the Filipino citizenship of his putative father. Any conclusion on the Filipino citizenship of Lorenzo Pou could only be drawn from the presumption that having died in 1954 at 84 years old, when the Philippines was under Spanish rule, and that San Carlos, Pangasinan, his place of residence upon his death in 1954, in the absence of any other evidence, could have well been his place of residence before death, such that Lorenzo Pou would have benefited from the "*en masse* Filipinization" that the Philippine Bill had effected in 1902. That citizenship (of Lorenzo Pou), if acquired, would thereby extend to his son, Allan F. Poe, father of respondent FPJ. The 1935 Constitution, during which regime respondent FPJ has seen first light, confers citizenship to all persons whose fathers are Filipino citizens regardless of whether such children are legitimate or illegitimate.[259]

The Commission on Elections acted with utter arbitrariness when it chose to disregard this finding and its analogous application to petitioner and, instead, chose to rely on one of the *dissenting opinions*.

Moreover, the 1967 case of *Paa v. Chan* cited by the dissent favored by the Commission on Elections does not apply to this case.

Paa involved a *quo warranto* petition questioning the eligibility of an elected councilor on the ground of being a Chinese citizen.[260] It did not involve a petition for cancellation of certificate of candidacy.

In *Paa,* the councilor's registration as alien before the Bureau of Immigration was undisputed. The councilor's father was also registered as an alien on April 30, 1946.[261]

In petitioner's case, private respondents only relied on her foundling status to prove her alleged material misrepresentation of her qualifications. They did not present evidence, direct or circumstantial, to substantiate their claims against petitioner's candidacy. In other words, unlike *Paa* where evidence existed to support a claim of foreign citizenship, private respondents in this case showed none.

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[258] Id. at 473–474 and 488.
[259] Id. at 487–488.
[260] *Paa v. Chan*, 128 Phil. 815, 817 (1967) [Per J. Zaldivar, En Banc].
[261] Id. at 823.

Even assuming that it could apply to this case, the 2004 case of *Tecson* had already overturned the 1967 pronouncements in *Paa.*

The Commission on Elections further submits the 2009 case of *Go v. Ramos*,[262] which reestablished the ruling against the use of presumptions in favor of claimants of Filipino citizenship when it reiterated *Paa*.[263]

Go is likewise inapplicable to this case. It involved a deportation complaint with allegations that a person—Go, the petitioner—was an illegal and undesirable alien.[264] Unlike in this case, it involved birth certificates clearly showing that Go and his siblings were Chinese citizens.[265] Furthermore, *Go* was also decided by this court sitting in Division. Thus, it cannot overturn *Tecson*, which was decided by this court sitting En Banc.

V.C

Tecson v. Commission on Elections[266] involved a similar petition alleging material misrepresentation in the Certificate of Candidacy of Fernando Poe, Jr. who claimed to have been a natural-born Filipino citizen.[267] This court ruled in favor of Fernando Poe, Jr. and dismissed the petitions even though his natural-born citizenship could not be established conclusively. This court found that petitioner in that case failed to substantiate his claim of material misrepresentation.[268] Former Associate Justice Vitug, speaking for the majority, discussed:

> But while the totality of the evidence may not establish conclusively that respondent FPJ is a natural-born citizen of the Philippines, the evidence on hand still would preponderate in his favor enough to hold that he cannot be held guilty of having made a material misrepresentation in his certificate of candidacy in violation of Section 78, in relation to Section 74, of the Omnibus Election Code. *Petitioner has utterly failed to substantiate his case before the Court, notwithstanding the ample opportunity given to the parties to present their position and evidence, and to prove whether or not there has been material misrepresentation,*

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262 614 Phil. 451, 479 (2009) [Per J. Quisumbing, Second Division].

263 *Rollo* (G.R. No. 221698-221700), p. 4627, COMELEC Memorandum.

264 *Go v. Ramos*, 614 Phil. 451, 458 (2009) [Per J. Quisumbing, Second Division].

265 Id. at 475.

266 468 Phil. 421 (2004) [Per J. Vitug, En Banc]. C.J. Davide, Jr. with separate opinion, concurring; J. Puno was on leave but was allowed to vote, with separate opinion; J. Panganiban was on official leave; was allowed to vote but did not send his vote on the matter; J. Quisumbing joins the dissent of Justices Tinga and Morales; case should have been remanded; J. Ynares-Santiago concurs, and also with J. Puno separate opinion; J. Sandoval-Gutierrez concurs; with separate opinion; J. Carpio, with dissenting opinion; J. Austria-Martinez, concurs; with separate opinion; J. Corona, joins the dissenting opinion of Justice Morales; J. Carpio Morales, with dissenting opinion; J. Callejo, Sr, with concurring opinion; J. Azcuna, concurs in a separate opinion; J. Tinga, dissents per separate opinion.

267 Id. at 456.

268 Id. at 488.

> which, as so ruled in *Romualdez-Marcos v. COMELEC,* must not only be material, but also deliberate and willful.[269] (Emphasis supplied)

V.D

Even if we assume that it was petitioner who had the burden of evidence, a complete and faithful reading of the provisions of the entire Constitution, together with the evidence that petitioner presented, leads to the inescapable conclusion that as a newborn abandoned by her parents in Jaro, Iloilo in 1968, she was at birth Filipina. Thus, being Filipina at birth, petitioner did not have to do anything to perfect her Filipino citizenship. She is natural-born.

Furthermore, there is no shred of evidence to rebut the circumstances of her birth. There is no shred of evidence that can lead to the conclusion that ***both*** her parents were not Filipino citizens.

The whole case of private respondents, as well as the basis of the Commission on Elections' Resolutions, is a presumption that all newborns abandoned by their parents even in rural areas in the Philippines are presumed not to be Filipinos. Private respondents' approach requires that those who were abandoned—even because of poverty or shame—must exert extraordinary effort to search for the very same parents who abandoned them and might not have wanted to be identified in order to have a chance to be of public service.

V.E

Constitutional construction mandates that we begin with the relevant text and give its words their ordinary meaning whenever possible, consistent with *verba legis.*[270] As much as possible, the language of the text must be understood in its common usage and sense so as to maintain its presence in the People's consciousness.[271] The language of the provision itself is the primary source from which this court determines constitutional intent.[272] Thus:

> *We look to the language of the document itself in our search for its meaning. We do not of course stop there, but that is where we begin.* It is

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269 Id.

270 *See* J. Leonen, Dissenting Opinion in *Chavez v. Judicial and Bar Council*, G.R. No. 202242, April 16, 2013, 696 SCRA 496, 530 [Per J. Mendoza, En Banc].

271 *See Atty. Macalintal v. Presidential Electoral Tribunal*, 650 Phil. 326, 340 (2010) [Per J. Nachura, En Banc], *citing J.M. Tuason & Co, Inc. v. Land Tenure Administration*, 142 Phil. 393 (1970) [Per J. Fernando, Second Division].

272 *Ang Bagong Bayani-OFW Labor Party v. Commission on Elections*, 412 Phil. 308, 338 (2001) [Per J. Panganiban, En Banc].

> to be assumed that the words in which constitutional provisions are couched express the objective sought to be attained. They are to be given their ordinary meaning except where technical terms are employed in which case the significance thus attached to them prevails. As the Constitution is not primarily a lawyer's document, it being essential for the rule of law to obtain that it should ever be present in the people's consciousness, its language as much as possible should be understood in the sense they have in common use. What it says according to the text of the provision to be construed compels acceptance and negates the power of the courts to alter it, based on the postulate that the framers and the people mean what they say. Thus, these are the cases where the need for construction is reduced to a minimum.[273] (Emphasis supplied)

Reading the text of the Constitution requires that its place in the whole context of the entire document must be considered. The Constitution should be read as a whole—*ut magis valeat quam pereat.*[274] Thus, in *Civil Liberties Union v. Executive Secretary*:[275]

> It is a well-established rule in constitutional construction that no one provision of the Constitution is to be separated from all the others, to be considered alone, but that all the provisions bearing upon a particular subject are to be brought into view and to be so interpreted as to effectuate the great purposes of the instrument. Sections bearing on a particular subject should be considered and interpreted together as to effectuate the whole purpose of the Constitution and one section is not to be allowed to defeat another, if by any reasonable construction, the two can be made to stand together.
>
> In other words, the court must harmonize them, if practicable, and must lean in favor of construction which will render every word operative, rather than one which may make the words idle and nugatory.[276] (Citations omitted)

In granting reconsideration in *La Bugal-B'laan Tribal Association, Inc. v. Ramos,*[277] this court discussed that "[t]he Constitution should be read in broad, life-giving strokes. It should not be used to strangulate economic growth or to serve narrow, parochial interests."[278]

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273 *Francisco v. House of Representatives*, 460 Phil. 830, 885 (2003) [Per J. Carpio Morales, En Banc], *citing J.M. Tuason & Co., Inc. v. Land Tenure Administration*, 142 Phil. 393 (1970). This was also cited in *Saguisag v. Ochoa,* G.R. No. 212426, January 12, 2016 <http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2016/january2016/212426.pdf> [Per C.J. Sereno, En Banc].

274 *Francisco v. House of Representatives*, 460 Phil. 830, 886 (2003) [Per J. Carpio Morales, En Banc].

275 272 Phil. 147 (1991) [Per C.J. Fernan, En Banc].

276 Id. at 162, *as cited in Atty. Macalintal v. Presidential Electoral Tribunal*, 650 Phil. 326, 341 (2010) [Per J. Nachura, En Banc].

277 486 Phil. 754 (2004) (Resolution) [Per J. Panganiban, En Banc].

278 Id. at 773.

In *Social Weather Stations, Inc. v. Commission on Elections,*[279] this court's discussion on statutory construction emphasized the need to adhere to a more holistic approach in interpretation:

> [T]he assumption that there is, in all cases, a universal plain language is erroneous. In reality, universality and uniformity in meaning is a rarity. A contrary belief wrongly assumes that language is static.
>
> *The more appropriate and more effective approach is, thus, holistic rather than parochial: to consider context and the interplay of the historical, the contemporary, and even the envisioned.* Judicial interpretation entails the convergence of social realities and social ideals. The latter are meant to be effected by the legal apparatus, chief of which is the bedrock of the prevailing legal order: the Constitution. Indeed, the word in the vernacular that describes the Constitution – *saligan* – demonstrates this imperative of constitutional primacy.
>
> Thus, we refuse to read Section 5.2(a) of the Fair Election Act in isolation. Here, we consider not an abstruse provision but a stipulation that is part of the whole, i.e., the statute of which it is a part, that is aimed at realizing the ideal of *fair* elections. We consider not a cloistered provision but a norm that should have a present authoritative effect to achieve the ideals of those who currently read, depend on, and demand fealty from the Constitution.[280] (Emphasis supplied)

Still faithful with the relevant text and its place in the entire document, construction of constitutional meaning allows a historical trace of the changes that have been made in the text—from the choice of language, the additions, the omissions, and the revisions. The present constitutional text can be compared to our earlier Constitutions. Changes or retention of language and syntax congeals meaning.

Article IV, Section 1 of the Constitution on who are citizens of the Philippines, for example, may be traced back to earlier organic laws,[281] and even farther back to laws of colonizers that were made effective in the Philippine Islands during their occupation.[282] Some influences of their history, as enshrined in their laws, were taken and reflected in our fundamental law.

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[279] G.R. No. 208062, April 7, 2015 <http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2015/april2015/208062.pdf> [Per J. Leonen, En Banc].

[280] Id. at 26.

[281] The adoption of the Philippine Bill of 1902, otherwise known as the Philippine Organic Act of 1902, crystallized the concept of "Philippine citizens." *See Tecson v. Commission on Elections*, 468 Phil. 421, 467–468 (2004) [Per J. Vitug, En Banc].

[282] For example, the Civil Code of Spain became effective in the jurisdiction on December 18, 1889, making the first categorical listing on who were Spanish citizens. *See Tecson v. Commission on Elections*, 468 Phil. 421, 465 (2004) [Per J. Vitug, En Banc].

We resort to contemporaneous construction and aids only when the text is ambiguous or capable of two or more possible meanings.[283] It is only when the ambiguity remains even after a plain and contemporary reading of the relevant words in the text and within the context of the entire document that legal interpretation requires courts to go further. This includes examining the contemporaneous construction contained in analogous cases, statutes, and international norms that form part of the law of the land. This also includes discerning the purpose of the constitutional provision in light of the facts under consideration. For this purpose, the original understanding of the provisions by the People that ratified the document, as well as the discussions of those that participated in the constitutional convention or commission that drafted the document, taken into its correct historical context, can be illuminating.

Discerning constitutional meaning is an exercise in discovering the sovereign's purpose so as to judge the more viable among competing interpretations of the same legal text. The words as they reside in the whole document should primarily provide the clues. Secondarily, contemporaneous construction may aid in illumination if *verba legis* fails. Contemporaneous construction may also validate the clear textual or contextual meaning of the Constitution.

Contemporaneous construction is justified by the idea that the Constitution is not exclusively read by this court. The theory of a constitutional order founded on democracy is that all organs of government and its People can read the fundamental law. Only differences in reasonable interpretation of the meaning of its relevant text, occasioned by an actual controversy, will be mediated by courts of law to determine which interpretation applies and would be final. The democratic character of reading the Constitution provides the framework for the policy of deference and constitutional avoidance in the exercise of judicial review. Likewise, this is implied in the canonical doctrine that this court cannot render advisory opinions. Refining it further, this court decides only constitutional issues that are as narrowly framed, sufficient to decide an actual case.[284]

Contemporaneous construction engages jurisprudence and relevant statutes in determining the purpose behind the relevant text.

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[283] *Sobejana-Condon v. Commission on Elections*, 692 Phil. 407 (2012) [Per J. Reyes, En Banc]: "Ambiguity is a condition of admitting two or more meanings, of being understood in more than one way, or of referring to two or more things at the same time. For a statute to be considered ambiguous, it must admit of two or more possible meanings."

[284] *See, for example, In the Matter of: Save the Supreme Court Judicial Independence and Fiscal Autonomy Movement v. Abolition of Judiciary Development Fund,* UDK-15143, January 21, 2015 <http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2015/january2015/15143.pdf> [Per J. Leonen, En Banc], *citing* J. Leonen, Concurring Opinion in *Belgica v. Ochoa,* G.R. No. 208566, November 19, 2013, 710 SCRA 1, 278–279 [Per J. Perlas-Bernabe, En Banc].

In the hierarchy of constitutional interpretation, discerning purpose through inference of the original intent of those that participated in crafting the draft Constitution for the People's ratification, or discerning the original understanding of the past society that actually ratified the basic document, is the weakest approach.

Not only do these interpretative methodologies allow the greatest subjectivity for this court, it may also be subject to the greatest errors. For instance, those that were silent during constitutional conventions may have voted for a proposition due to their own reasons different from those who took the floor to express their views. It is even possible that the beliefs that inspired the framers were based on erroneous facts.

Moreover, the original intent of the framers of the Constitution is different from the original understanding of the People who ratified it. Thus, in *Civil Liberties Union*:

> While it is permissible in this jurisdiction to consult the debates and proceedings of the constitutional convention in order to arrive at the reason and purpose of the resulting Constitution, resort thereto may be had only when other guides fail as said proceedings are powerless to vary the terms of the Constitution when the meaning is clear. Debates in the constitutional convention "are of value as showing the views of the individual members, and as indicating the reasons for their votes, but they give is no light as to the views of the large majority who did not talk, much less of the mass of our fellow citizens whose votes at the polls gave the instrument the force of fundamental law. We think it safer to construe the constitution from what appears upon its face." *The proper interpretation therefore depends more on how it was understood by the people adopting it than in the framer's understanding thereof.*[285] (Emphasis supplied)

We apply these considerations in the interpretation of the provisions of the Constitution relevant to this case.

V.F

Petitioner is natural-born under any of two possible approaches.

The first approach is to assume as a matter of constitutional interpretation that all foundlings found in the Philippines, being presumptively born to either a Filipino biological father or a Filipina biological mother, are natural-born, unless there is substantial proof to the contrary. There must be substantial evidence to show that there is a

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[285] *Francisco, Jr. v. House of Representatives*, 460 Phil. 830, 887 [Per J. Carpio Morales, En Banc], *citing Civil Liberties Union v. Executive Secretary*, 272 Phil. 147, 169–170 (1991) [Per C.J. Fernan, En Banc].

reasonable probability that ***both***, not just one, of the biological parents are not Filipino citizens.

This is the inevitable conclusion reached when the entirety of the provisions of the Constitution is considered alongside the contemporary construction based on statutes and international norms that form part of the law of the land. It is also the most viable conclusion given the purpose of the requirement that candidates for President must be natural-born.

The second approach is to read the definition of natural-born in Section 2 in relation to Article IV, Section 1(2). Section 1(2) requires that the father ***or*** the mother is a Filipino citizen.[286]

There is no requirement that the father or mother should be natural-born Filipino citizens. It is possible that one or both of the parents are ethnically foreign. Thus, physical features will not be determinative of natural-born citizenship.

There is no requirement of citizenship beyond the first degree of ascendant relationship. In other words, there is no necessity to prove indigenous ethnicity. Contrary to the strident arguments of the Commission on Elections, there is no requirement of Filipino bloodline.

Significantly, there is also no requirement that the father or mother should be definitively identified. There can be proof of a reasonable belief that evidence presented in a relevant proceeding substantially shows that either the father or the mother is a Filipino citizen.

V.G

The minimum constitutional qualifications for President are clearly enumerated in Article VII, Section 2:

> Section 2. No person may be elected President unless he is a natural born citizen of the Philippines, a registered voter, able to read and write, at least forty years of age on the day of the election, and a resident of the Philippines at least ten years immediately preceding such election.

Parsing the provision's clear meaning in the order enumerated, the qualifications are:

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[286] CONST., art. IV, sec. 1(2) provides:
ARTICLE IV. Citizenship
SECTION 1. The following are citizens of the Philippines:
. . . .
(2) Those whose fathers or mothers are citizens of the Philippines[.]

One, he or she must be "a natural born citizen";

Two, he or she must be "a registered voter";

Three, he or she must be "able to read and write";

Four, he or she must be "at least forty years of age on the day of the election"; and

Five, he or she must be "a resident of the Philippines at least ten years immediately preceding such election."

Petitioner's possession of the second, third, and fourth minimum qualifications are not in issue in this case. A closer analysis of this provision makes certain conclusions apparent.

The phrase, "ten years immediately preceding such election" qualifies "a resident of the Philippines" as part of the fifth minimum constitutional requirement. It does not qualify any of the prior four requirements. The ten-year requirement does not qualify "able to read and write." Likewise, it cannot textually and logically qualify the phrase, "at least forty years of age" or the phrase, "a registered voter."

Certainly then, the ten-year requirement also does not qualify "a natural born citizen." Being natural-born is an inherent characteristic. Being a citizen, on the other hand, may be lost or acquired in accordance with law. The provision clearly implies that: (a) one must be a natural-born citizen at least upon election into office, and (b) one must be a resident at least ten years prior to the election. Citizenship and residency as minimum constitutional requirements are two different legal concepts.

In other words, there is no constitutional anchor for the added requirement that within the entire ten-year period prior to the election when a candidate is a resident, he or she also has to have reacquired his or her natural-born citizen status.

Citizenship refers to political affiliation. It is a fiction created by law. Residence, on the other hand, refers to one's domicile. It is created by one's acts, which is indicative of his or her intentions.

To require her natural-born citizenship status in order to legally consider the commencement of her residency is, therefore, to add and amend the minimum requirements of the Constitution.

Furthermore, the Constitution intends minimum qualifications for those who wish to present themselves to be considered by the People for the Office of President. No educational attainment, profession, or quality of character is constitutionally required as a minimum. Inherent in the text of the Constitution is an implied dynamic. The electorate, acting collectively during a specific election, chooses the weight of other considerations. It is not for the Commission on Elections or this court to discreetly implant and, therefore, dictate on the electorate in the guise of interpreting the provisions of the Constitution and declaring what is legal, the political wisdom of considerations. This is consistent also with Article II, Section 1 of the Constitution.[287]

Thus, that petitioner once lost and then reacquired her natural-born citizenship is not part of the minimum constitutional requirements to be a candidate for President. It is an issue that may be considered by the electorate when they cast their ballots.

On a second level of constitutional interpretation, a contemporaneous construction of Article VII, Section 2 with Republic Act No. 9225, otherwise known as the Citizenship Retention and Re-acquisition Act on 2003,[288] supports this reading.

The Constitution provides that "Philippine citizenship may be lost or reacquired in the manner provided by law."[289] On July 7, 2006, petitioner took her Oath of Allegiance under Section 3 of Republic Act No. 9225. On July 10, 2006, she filed a Petition for Reacquisition of her Philippine citizenship before the Bureau of Immigration and Deportation, and her Petition was granted.[290]

Section 3 of Republic Act No. 9225 provides for the Oath of Allegiance to the Republic that may be taken by natural-born citizens of the Philippines who lost their Philippine citizenship when they became

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[287] CONST., art. II, sec. 1 provides:
ARTICLE II. Declaration of Principles and State Policies
Principles
SECTION 1. The Philippines is a democratic and republican State. Sovereignty resides in the people and ***ALL*** government authority emanates from them. (Emphasis supplied).
[As the source of all governmental power, it must be presumed that certain powers are to be exercised by the people when it conflicts with any competence of a constitutional organ like the judiciary or the COMELEC.]

[288] Rep. Act No. 9225 was approved on August 29, 2003.

[289] CONST. art. IV, sec. 3.

[290] *Rollo* (G.R. No. 221698-221700), p. 4578, COMELEC Memorandum.

naturalized citizens of another country, in order to reacquire their Philippine citizenship:

> Section 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 on 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 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.[291]

Upon taking this Oath, those who became citizens of another country prior to the effectivity of Republic Act No. 9225 reacquire their Philippine citizenship, while those who became citizens of another country after to the effectivity of Republic Act No. 9225 retain their Philippine citizenship.

Taking the Oath enables the enjoyment of full civil and political rights, subject to all attendant liabilities and responsibilities under existing laws and the different solemnities under Section 5 of Republic Act No. 9225. Different conditions must be complied with depending on whether one intends to exercise the right to vote, seek elective public office, or assume an appointive public office, among others:

> Sec. 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:
>
> (1) Those intending to exercise their right of suffrage must meet the requirements under Section 1, Article V of the Constitution, Republic Act No. 9189, otherwise known as the Overseas Absentee Voting Act of 2003' and other existing laws;

[291] Rep. Act No. 9225 (2003), sec. 3.

> (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;
>
> (3) Those appointed to any public office shall subscribe and swear to an ***oath of allegiance to the Republic of the Philippines and its duly constituted authorities prior to their assumption of office***; *Provided,* That they renounce their oath of allegiance to the country where they took that oath;
>
> (4) Those intending to practice their profession in the Philippines shall apply with the proper authority for a license or permit to engage in such practice; and
>
> (5) That the right to vote or be elected or appointed to any public office in the Philippines cannot be exercised by, or extended to, those who:
>
> a. are candidates for or are occupying any public office in the country of which they are naturalized citizens; and/or
>
> b. are in active service as commissioned or non-commissioned officers in the armed forces of the country which they are naturalized citizens. (Emphasis supplied)

Sobejana-Condon v. Commission on Elections[292] discussed the mandatory nature of the required sworn renunciation under Section 5 of Republic Act No. 9225. This provision was intended to complement Article XI, Section 18 of the Constitution in that "[p]ublic officers and employees owe the State and this Constitution allegiance at all times and any public officer or employee who seeks to change his citizenship or acquire the status of an immigrant of another country during his tenure shall be dealt with by law."[293]

Republic Act No. 9225 only requires that the personal and sworn renunciation of foreign citizenship be made "at the time of the filing of the certificate of candidacy" for those seeking elective public position. It does not require a ten-year period similar to the residency qualification.

V.H

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[292] 692 Phil. 407 (2012) [Per J. Reyes, En Banc].

[293] *See Sobejana-Condon v. Commission on Elections*, 692 Phil. 407 (2012) [Per J. Reyes, En Banc].

The concept of natural-born citizens is in Article IV, Section 2:

> Sec. 2. Natural-born citizens are those who are ***citizens of the Philippines from birth without having to perform any act to acquire or perfect their Philippine citizenship***. Those who elect Philippine citizenship in accordance with paragraph (3), Section 1 hereof shall be deemed natural-born citizens. (Emphasis supplied)

Citizens, on the other hand, are enumerated in Section 1 of the same Article:

> Section 1. The following are citizens of the Philippines:
>
> (1) Those who are citizens of the Philippines at the time of the adoption of this Constitution;
> (2) Those whose fathers or mothers are citizens of the Philippines;
> (3) Those born before January 17, 1973, of Filipino mothers, who elect Philippine citizenship upon reaching the age of majority; and
> (4) Those who are naturalized in accordance with law.[294]

The critical question is whether petitioner, as a foundling, was Filipina at birth.

Citizenship essentially is the "right to have rights."[295] It is one's "personal and more or less permanent membership in a political community. . . . The core of citizenship is the capacity to enjoy political rights, that is, the right to participate in government principally through the right to vote, the right to hold public office[,] and the right to petition the government for redress of grievance."[296]

Citizenship also entails obligations to the community.[297] Because of the rights and protection provided by the state, its citizens are presumed to

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[294] The 1935 Constitution was in effect when petitioner was born. However, the provisions are now substantially similar to the present Constitution, except that the present Constitution provides clarity for "natural born" status. For comparison, the 1935 provisions state:
SECTION 1. The following are citizens of the Philippines.
(1) Those who are citizens of the Philippine Islands at the time of the adoption of this Constitution.
(2) Those born in the Philippine Islands of foreign parents who, before the adoption of this Constitution, had been elected to public office in the Philippine Islands.
(3) Those whose fathers are citizens of the Philippines.
(4) Those whose mothers are citizens of the Philippines and, upon reaching the age of majority, elect Philippine citizenship.
(5) Those who are naturalized in accordance with law.
SECTION 2. Philippine citizenship may be lost or reacquired in the manner provided by law.

[295] C.J. Warren, Dissenting Opinion in *Perez v. Brownwell*, 356 U.S. 44 (1958).

[296] *Go v. Republic of the Philippines*, G.R. 202809, July 2, 2014, 729 SCRA 138, 149 [Per J. Mendoza, Third Division], *citing* BERNAS, THE 1987 CONSTITUTION OF THE REPUBLIC OF THE PHILIPPINES, A COMMENTARY (2009 ed.).

[297] Id.

be loyal to it, and even more so if it is the state that has protected them since birth.

V.I

The first level of constitutional interpretation permits a review of the evolution of these provisions on citizenship in the determination of its purpose and rationale.

This court in *Tecson* detailed the historical development of the concept of Philippine citizenship, dating back from the Spanish occupation.[298] During the Spanish regime, the native inhabitants of the Islands were denominated as "Spanish subjects" or "subject of Spain" to indicate their political status.[299] The Spanish Constitution of 1876 declared persons born in Spanish territory as Spaniards, but this was never extended to the Philippine Islands due to the mandate of Article 89 in that the Philippines would be governed by special laws.[300] The Civil Code of Spain became effective in this jurisdiction on December 18, 1889, making the first categorical listing on who were Spanish citizens,[301] thus:

> (a) Person born in Spanish territory,
> (b) Children of a Spanish father or mother, even if they were born outside of Spain,
> (c) Foreigners who have obtained naturalization papers,
> (d) Those who, without such papers, may have become domiciled inhabitants of any town of the Monarchy.[302]

The Philippine Revolution in 1898 marked the end of the Spanish era and the entry of the Americans. Spain was forced to cede the Philippine colony to the United States. Pursuant to the Treaty of Paris between the two countries on December 10, 1989, the native inhabitants were not automatically converted to American citizens.[303] Since they also ceased to be "Spanish subjects," they were "issued passports describing them to be citizens of the Philippines entitled to the protection of the United States".[304]

> Spanish subject, natives of the Peninsula, residing in the territory over which Spain by the present treaty relinquishes or cedes her sovereignty may remain in such territory or may remove therefrom . . . . In case they remain in the territory they may preserve their allegiance to the Crown of Spain by making . . . a declaration of their decision to

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298 *Tecson v. Commission on Elections*, 468 Phil. 421, 464–470 (2004) [Per J. Vitug, En Banc].
299 Id. at 464.
300 Id. at 465.
301 Id.
302 Id. at 465–466, *citing* The Civil Code of Spain, art. 17.
303 Id. at 466–467, *citing* RAMON M. VELAYO, PHILIPPINE CITIZENSHIP AND NATURALIZATION, 22–23 (1965).
304 Id. at 467.

> preserve such allegiance; in default of which declaration they shall be held to have renounced it and to have adopted the nationality of the territory in which they may reside.
>
> Thus –
>
> The civil rights and political status of the native inhabitants of the territories hereby ceded to the United States shall be determined by Congress.[305]

The concept of "Philippine citizens" crystallized with the adoption of the Philippine Bill of 1902,[306] where the term "citizens of the Philippine Islands" first appeared:[307]

> Section 4. That all inhabitants of the Philippine Islands continuing to reside therein, who were Spanish subjects on the eleventh day of April, eighteen hundred and ninety-nine, and then resided in said Islands, and their children born subsequent thereto, ***shall be deemed and held to be citizens of the Philippine Islands*** and as such entitled to the protection of the United States, except such as shall have elected to preserve their allegiance to the Crown of Spain in accordance with the provisions of the treaty of peace between the United States and Spain signed at Paris December tenth, eighteen hundred and ninety-eight. (Emphasis supplied)

The United States Congress amended this section on March 23, 1912 to include a proviso for the enactment by the legislature of a law on acquiring citizenship. This was restated in the Jones Law of 1916, otherwise known as the Philippine Autonomy Act.[308] The proviso in the 1912 amendment reads:

> P*rovided*, That the Philippine Legislature, herein provided for, is hereby authorized to provide by law for the acquisition of Philippine citizenship by those natives of the Philippine Islands who do not come within the foregoing provisions, the natives of the insular possessions of the United States, and such other persons residing in the Philippine Islands who are citizens of the United States, or who could become citizens of the United States under the laws of the United States if residing therein.[309]

Thus, the Jones Law of 1916 provided that native-born inhabitants of the Philippines were deemed Philippine citizens as of April 11, 1899 if he or she was "(1) a subject of Spain on April 11, 1899, (2) residing in the

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[305] Id. at 466, *citing* RAMON M. VELAYO, PHILIPPINE CITIZENSHIP AND NATURALIZATION 22–23 (1965).
[306] The Philippine Bill of 1902 is otherwise known as the Philippine Organic Act of 1902.
[307] *Tecson v. Commission on Elections*, 468 Phil. 421, 467–468 (2004) [Per J. Vitug, En Banc].
[308] Id. at 468.
[309] *Tecson v. Commission on Elections*, 468 Phil. 421 (2004) [Per J. Vitug, En Banc].

Philippines on said date, and (3) since that date, not a citizen of some other country."[310]

While common law used by the United States follows *jus soli* as the mode of acquiring citizenship, the 1935 Constitution adopted *jus sanguinis* or blood relations as basis for Philippine citizenship,[311] thus:

> SECTION 1. The following are citizens of the Philippines:
>
> (1) Those who are citizens of the Philippine Islands at the time of the adoption of this Constitution
> (2) Those born in the Philippines Islands of foreign parents who, before the adoption of this Constitution, had been elected to public office in the Philippine Islands.
> (3) Those whose fathers are citizens of the Philippines.
> (4) Those whose mothers are citizens of the Philippines and upon reaching the age of majority, elect Philippine citizenship.
> (5) Those who are naturalized in accordance with law.[312]

Subsection (4), when read with then civil law provisions on the automatic loss of Filipino citizenship by women who marry foreign husbands and automatically acquire his foreign citizenship, posed a discriminatory situation for women and their children.[313] Thus, the 1973 Constitution addressed this concern with the following revisions:

> SECTION 1. The following are citizens of the Philippines:
>
> (1) Those who are citizens of the Philippines at the time of the adoption of this Constitution.
> (2) Those whose fathers or mothers are citizens of the Philippines.
> (3) Those who elect Philippine citizenship pursuant to the provisions of the Constitution of nineteen hundred and thirty-five.
> (4) Those who are naturalized in accordance with law.
>
> SEC. 2. A female citizen of the Philippines who marries an alien shall retain her Philippine citizenship, unless by her act or omission she is deemed, under the law, to have renounced her citizenship. [314]

The 1973 Constitution also provided a definition for "natural-born citizens" since the 1935 Constitution, similar to the United States Constitution, required the President to be a "natural-born citizen" without defining the term. Prior to the 1935 Constitution, public offices were filled

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[310] *Tecson v. Commission on Elections*, 468 Phil. 421, 469 (2004) [Per J. Vitug, En Banc].
[311] Id.
[312] CONST. (1935), art. III, sec. 1.
[313] *Tecson v. Commission on Elections*, 468 Phil. 421, 469 (2004) [Per J. Vitug, En Banc].
[314] CONST. (1973), art. III, secs. 1 and 2.

through appointment by the colonizer.[315] Thus, Article III, Section 4 of the 1973 Constitution added a definition for natural-born citizen, as follows:

> SEC. 4. A natural-born citizen is one who is a citizen of the Philippines from birth without having to perform any act to acquire or perfect his Philippine citizenship.[316]

The current Constitution adopted most of the provisions of the 1973 Constitution on citizenship, with further amendment in subsection (3) for purposes of correcting the irregular situation created by the 1935 Constitution.

V.J

Natural-born citizenship is an American concept that we adopted in our Constitution. This term appears only once in the United States Constitution—in the presidential qualification clause[317]—and has no definition in American laws. No explanation on the origin or purpose of the presidential qualification clause can even be found in the Convention's recorded deliberations.[318] Since the United States was under British rule prior to their independence, some theories suggest that the concept was introduced in the text as a check against foreign infiltration in the administration of national government, thus:

> It has been suggested, quite plausibly, that this language was inserted in response to a letter sent by John Jay to George Washington, and probably to other delegates, on July 25, 1787, which stated:

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[315] *See, for example,* Philippine Bill of 1902, sec.1, which provides that the highest positions were to be filled through appointment by the United States President:
Section 1. That the action of the President of the United States in creating the Philippine Commission and authorizing said Commission to exercise the powers of government to the extent and in the manner and form and subject to the regulation and control set forth in the instructions of the President to the Philippine Commission, dated April seventh, nineteen hundred, and in creating the offices of Civil Governor and Vice-Governor of the Philippine Islands, and authorizing said Civil Governor and Vice-Governor to exercise the powers of government to the extent and in the manner and form set forth in the Executive Order dated June twenty-first, nineteen hundred and one, and in establishing four Executive Departments of government in said Islands as set forth in the Act of the Philippine Commission, entitled "An Act providing an organization for the Departments of the Interior, of Commerce and Police, of Finance and Justice, and of Public Instruction," enacted September sixth, nineteen hundred and one, is hereby approved, ratified, and confirmed, and until otherwise provided by law the said Islands shall continue to be governed as thereby and herein provided, and all laws passed hereafter by the Philippine Commission shall have an enacting clause as follows. "By authority of the United States, be it enacted by the Philippine Commission." The provisions of section eighteen hundred and ninety-one of the Revised Statutes of eighteen hundred and seventy-eight shall not apply to the Philippine Islands.
Future appointments of Civil Governor, Vice-Governor, members of said Commission and heads of Executive Departments shall be made by the President, by and with the advice and consent of the Senate.

[316] CONST. (1973), art. III, sec. 4.

[317] *See* Charles Gordon, *Who Can Be President of the United States: The Unresolved Enigma*, 28 Md. L. Rev. 1, 5 (1968).

[318] Id. at 3–4.

> Permit me to hint, whether it would be wise and seasonable to provide a strong check to the admission of Foreigners into the administration of our national Government; and to declare expressly that the Command in Chief of the American army shall not be given to nor devolve on, any but a natural *born* Citizen.
>
> Possibly this letter was motivated by distrust of Baron Von Steuben, who had served valiantly in the Revolutionary forces, but whose subsequent loyalty was suspected by Jay. Another theory is that the Jay letter, and the resulting constitutional provision, responded to rumors that the Convention was concocting a monarchy to be ruled by a foreign monarch.[319]

The 1935 Constitution borrowed the term "natural-born citizen" without defining the concept. It was only the 1973 Constitution that provided that "[a] natural-born citizen is one who is a citizen of the Philippines from birth without having to perform any act to acquire or perfect his Philippine citizenship."

V.K

There are only two categories of citizens: natural-born and naturalized.

A natural-born citizen is defined in Article IV, Section 2 as one who is a citizen of the Philippines "from birth without having to perform any act to acquire or perfect Philippine citizenship." On the other hand, a naturalized citizen is one who is not natural-born.

In *Bengson v. House of Representatives Electoral Tribunal*,[320] this court ruled that if a person is not naturalized, he or she is considered a natural-born citizen of the Philippines:

> [O]nly naturalized Filipinos are considered not natural-born citizens. It is apparent from the enumeration of who are citizens under the present Constitution that there are only two classes of citizens: . . . A citizen who is not a naturalized Filipino, i.e., did not have to undergo the process of naturalization to obtain Philippine citizenship, necessarily is a natural-born Filipino.[321]

Former Associate Justice Panganiban clarifies this concept in his Concurring Opinion in *Bengson*. Naturalized citizens are "former aliens or foreigners who had to undergo a rigid procedure, in which they had to

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[319] Id. at 5.
[320] 409 Phil. 633 (2001) [Per J. Kapunan, En Banc].
[321] Id. at 651.

adduce sufficient evidence to prove that they possessed all the qualifications and none of the disqualifications provided by law in order to become Filipino citizens."[322]

A person who desires to acquire Filipino citizenship is generally required to file a verified petition.[323] The applicant must prove, among others, that he or she is of legal age, with good moral character, and has the capacity to adapt to Filipino culture, tradition, and principles, or otherwise has resided in the Philippines for a significant period of time.[324] The

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[322] Id. at 656.

[323] *See* Rep. Act No. 9139 (2000), sec. 5 provides:
SECTION 5. *Petition for Citizenship.* — (1) Any person desiring to acquire Philippine citizenship under this Act shall file with the Special Committee on Naturalization created under Section 6 hereof, a petition of five (5) copies legibly typed and signed, thumbmarked and verified by him/her, with the latter's passport-sized photograph attached to each copy of the petition, and setting forth the following:
. . . .
Com. Act No. 473, sec.7 provides:
SECTION 7. *Petition for Citizenship.* — Any person desiring to acquire Philippine citizenship shall file with the competent court, a petition in triplicate, accompanied by two photographs of the petitioner, setting forth his name and surname; his present and former places of residence; his occupation; the place and date of his birth; whether single or married and if the father of children, the name, age, birthplace and residence of the wife and of the children; the approximate date of his or her arrival in the Philippines, the name of the port of debarkation, and, if he remembers it, the name of the ship on which he came; a declaration that he has the qualifications required by this Act, specifying the same, and that he is not disqualified for naturalization under the provisions of this Act; that he has complied with the requirements of section five of this Act; and that he will reside continuously in the Philippines from the date of the filing of the petition up to the time of his admission to Philippine citizenship. The petition must be signed by the applicant in his own handwriting and be supported by the affidavit of at least two credible persons, stating that they are citizens of the Philippines and personally know the petitioner to be a resident of the Philippines for the period of time required by this Act and a person of good repute and morally irreproachable, and that said petitioner has in their opinion all the qualifications necessary to become a citizen of the Philippines and is not in any way disqualified under the provisions of this Act. The petition shall also set forth the names and post-office addresses of such witnesses as the petitioner may desire to introduce at the hearing of the case. The certificate of arrival, and the declaration of intention must be made part of the petition.

[324] *See* Rep. Act No. 9139 (2000), sec. 3 provides:
SECTION 3. Qualifications. — Subject to the provisions of the succeeding section, any person desiring to avail of the benefits of this Act must meet the following qualifications:
(a) The applicant must be born in the Philippines and residing therein since birth;
(b) The applicant must not be less than eighteen (18) years of age, at the time of filing of his/her petition;
(c) The applicant must be of good moral character and believes in the underlying principles of the Constitution, and must have conducted himself/herself in a proper and irreproachable manner during his/her entire period of residence in the Philippines in his relation with the duly constituted government as well as with the community in which he/she is living;
(d) The applicant must have received his/her primary and secondary education in any public school or private educational institution duly recognized by the Department of Education, Culture and Sports, where Philippine history, government and civics are taught and prescribed as part of the school curriculum and where enrollment is not limited to any race or nationality: Provided, That should he/she have minor children of school age, he/she must have enrolled them in similar schools;
(e) The applicant must have a known trade, business, profession or lawful occupation, from which he/she derives income sufficient for his/her support and if he/she is married and/or has dependents, also that of his/her family: Provided, however, That this shall not apply to applicants who are college degree holders but are unable to practice their profession because they are disqualified to do so by reason of their citizenship;
(f) The applicant must be able to read, write and speak Filipino or any of the dialects of the Philippines; and
(g) The applicant must have mingled with the Filipinos and evinced a sincere desire to learn and embrace the customs, traditions and ideals of the Filipino people.
Comm. Act No. 473, sec.2 provides:
SECTION 2. Qualifications. — Subject to section four of this Act, any person having the following qualifications may become a citizen of the Philippines by naturalization:
First. He must be not less than twenty-one years of age on the day of the hearing of the petition;

applicant must prove himself or herself not to be a threat to the state, the public, and to the Filipinos' core beliefs.[325]

Petitioner did not undergo the naturalization process. She reacquired her Filipino citizenship through Republic Act No. 9225.

The Commission on Elections contends that in availing herself of the benefits under Republic Act No. 9225, petitioner reacquired Philippine citizenship by naturalization, not natural-born citizenship, since she had to perform several acts to perfect this citizenship.[326] Moreover, the earliest time Philippine residency can be reestablished for those who reacquire

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Second. He must have resided in the Philippines for a continuous period of not less than ten years;
Third. He must be of good moral character and believes in the principles underlying the Philippine Constitution, and must have conducted himself in a proper and irreproachable manner during the entire period of his residence in the Philippines in his relation with the constituted government as well as with the community in which he is living.
Fourth. He must own real estate in the Philippines worth not less than five thousand pesos, Philippine currency, or must have some known lucrative trade, profession, or lawful occupation;
Fifth. He must be able to speak and write English or Spanish and any of the principal Philippine languages;
Sixth. He must have enrolled his minor children of school age, in any of the public schools or private schools recognized by the Office of Private Education of the Philippines, where Philippine history, government and civics are taught or prescribed as part of the school curriculum, during the entire period of the residence in the Philippines required of him prior to the hearing of his petition for naturalization as Philippine citizen.

[325] Rep. Act No. 9139 (2000), sec. 4 provides:
SECTION 4. Disqualifications. — The following are not qualified to be naturalized as Filipino citizens under this Act:
(a) Those opposed to organized government or affiliated with any association or group of persons who uphold and teach doctrines opposing all organized governments;
(b) Those defending or teaching the necessity of or propriety of violence, personal assault or assassination for the success or predominance of their ideas;
(c) Polygamists or believers in the practice of polygamy;
(d) Those convicted of crimes involving moral turpitude;
(e) Those suffering from mental alienation or incurable contagious diseases;
(f) Those who, during the period of their residence in the Philippines, have not mingled socially with Filipinos, or who have not evinced a sincere desire to learn and embrace the customs, traditions and ideals of the Filipinos;
(g) Citizens or subjects with whom the Philippines is at war, during the period of such war; and
(h) Citizens or subjects of a foreign country whose laws do not grant Filipinos the right to be naturalized citizens or subjects thereof.

Com. Act No. 473 (1939), sec. 4 provides:
SECTION 4. Who are Disqualified. — The following can not be naturalized as Philippine citizens:
(a) Persons opposed to organized government or affiliated with any association or group of persons who uphold and teach doctrines opposing all organized governments;
(b) Persons defending or teaching the necessity or propriety of violence, personal assault, or assassination for the success and predominance of their ideas;
(c) Polygamists or believers in the practice of polygamy;
(d) Persons convicted of crimes involving moral turpitude;
(e) Persons suffering from mental alienation or incurable contagious diseases;
(f) Persons who, during the period of their residence in the Philippines, have not mingled socially with the Filipinos, or who have not evinced a sincere desire to learn and embrace the customs, traditions, and ideals of the Filipinos;
(g) Citizens or subjects of nations with whom the United States and the Philippines are at war, during the period of such war;
(h) Citizens or subjects of a foreign country other than the United States, whose laws do not grant Filipinos the right to become naturalized citizens or subjects thereof.

[326] *Rollo* (G.R. No. 221698–221700), p. 4627, COMELEC Memorandum.

Philippine citizenship under Republic No. 9225 is upon reacquisition of citizenship.[327]

Our jurisprudence holds otherwise. Those who avail themselves of the benefits under Republic Act No. 9225 reacquire natural-born citizenship. *Bengson* ruled that repatriation involves the restoration of former status or the recovery of one's original nationality:

> Moreover, repatriation results in the recovery of the original nationality. This means that a naturalized Filipino who lost his citizenship will be restored to his prior status as a naturalized Filipino citizen. On the other hand, *if he was originally a natural-born citizen before he lost his Philippine citizenship, he will be restored to his former status as a natural-born Filipino.*[328]

While *Bengson* involved Commonwealth Act No. 63, its ruling is still consistent with the declared policy under the current system of reacquiring Philippine citizenship pursuant to Republic Act No. 9225. One's status as a natural-born Filipino is immutable: "all Philippine citizens of another country shall be deemed not to have lost their Philippine citizenship."[329] Republic Act No. 9225 requires certain solemnities, but these requirements are only for the purpose of effecting the incidents of the citizenship that a naturalized Filipino never lost. These requirements do not operate to make new citizens whose citizenship commences only from the time they have been complied with.

To consider petitioner, a foundling, as not natural-born will have grave consequences. Naturalization requires that petitioner is of legal age. While it is true that she could exert time and extraordinary expense to find the parents who might have abandoned her, this will not apply to all foundlings. Thus, this approach will concede that we will have a class of citizens who are stateless due to no fault of theirs.

V.L

There is no need for an express statement in the Constitution's citizenship provisions that foundlings are natural-born Filipino citizens. A contrary interpretation will be inconsistent with the other provisions of the Constitution. The Constitution should be interpreted as a whole to "effectuate the whole purpose of the Constitution."[330]

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327 Id. at 4636.

328 *Bengson v. House of Representatives Electoral Tribunal*, 409 Phil. 633 (2001) [Per J. Kapunan, En Banc].

329 Rep. Act No. 9225 (2003), sec. 2.

330 *Civil Liberties Union v. Executive Secretary*, 272 Phil. 147, 162 (1991) [Per C.J. Fernan, En Banc].

Article II, Section 13 and Article XV, Section 3 of the 1987 Constitution enjoin the state to defend children's well-being and protect them from any condition that is prejudicial to their development. This includes preventing discriminatory conditions in fact as well as in law:

> Article II, SECTION 13. The State recognizes the vital role of the youth in nation-building and **shall promote and protect their physical, moral, spiritual, intellectual, and social well-being.** It shall inculcate in the youth patriotism and nationalism, and encourage their involvement in public and civic affairs.
>
> Article XV, SECTION 3. The State shall defend:
>
> . . . .
>
> (2) **The right of children to** assistance, including proper care and nutrition, and **special protection from all forms of neglect, abuse, cruelty, exploitation, and other conditions prejudicial to their development**[.] (Emphasis supplied)

Crucial government positions are exclusive to natural-born citizens of the Philippines. The 1987 Constitution requires the following positions to be filled by natural-born citizens:

(1) President;[331]
(2) Vice President;[332]
(3) Senator;[333]
(4) Member of the House of Representatives;[334]
(5) Member of the Supreme Court or any lower collegiate court;[335]

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[331] CONST., art. VII, sec. 2 provides:
ARTICLE VII. Executive Department
. . . .
SECTION 2. No person may be elected President unless he is a natural-born citizen of the Philippines, a registered voter, able to read and write, at least forty years of age on the day of the election, and a resident of the Philippines for at least ten years immediately preceding such election.

[332] CONST., art. VII, sec. 3.

[333] CONST., art. VI, sec. 3 provides:
ARTICLE VI. The Legislative Department
. . . .
SECTION 3. No person shall be a Senator unless he is a natural-born citizen of the Philippines, and, on the day of the election, is at least thirty-five years of age, able to read and write, a registered voter, and a resident of the Philippines for not less than two years immediately preceding the day of the election.

[334] CONST., art. VI, sec. 6 provides:
ARTICLE VI. The Legislative Department
. . . .
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.

[335] CONST., art. VIII, sec. 7(1) provides:
ARTICLE VIII. Judicial Department
. . . .

(6) Chairperson and Commissioners of the Civil Service Commission;[336]
(7) Chairperson and Commissioners of the Commission on Elections;[337]
(8) Chairperson and Commissioners of the Commission on Audit;[338]
(9) Ombudsman and his deputies;[339]
(10) Board of Governors of the Bangko Sentral ng Pilipinas;[340] and

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SECTION 7. (1) No person shall be appointed Member of the Supreme Court or any lower collegiate court unless he is a natural-born citizen of the Philippines. A Member of the Supreme Court must be at least forty years of age, and must have been for fifteen years or more a judge of a lower court or engaged in the practice of law in the Philippines.

336 CONST., art. IX-B, sec. 1(1) provides:
ARTICLE IX. Constitutional Commissions
. . . .
B. The Civil Service Commission
SECTION 1. (1) The Civil Service shall be administered by the Civil Service Commission composed of a Chairman and two Commissioners who shall be natural-born citizens of the Philippines and, at the time of their appointment, at least thirty-five years of age, with proven capacity for public administration, and must not have been candidates for any elective position in the elections immediately preceding their appointment.

337 CONST., art. IX-C, sec. 1(1) provides:
ARTICLE IX. Constitutional Commissions
. . . .
C. The Commission on Elections
SECTION 1. (1) There shall be a Commission on Elections composed of a Chairman and six Commissioners who shall be natural-born citizens of the Philippines and, at the time of their appointment, at least thirty-five years of age, holders of a college degree, and must not have been candidates for any elective position in the immediately preceding elections. However, a majority thereof, including the Chairman, shall be Members of the Philippine Bar who have been engaged in the practice of law for at least ten years.

338 CONST., art. IX-D, sec. 1(1) provides:
ARTICLE IX. Constitutional Commissions
. . . .
D. Commission on Audit
SECTION 1. (1) There shall be a Commission on Audit composed of a Chairman and two Commissioners, who shall be natural-born citizens of the Philippines and, at the time of their appointment, at least thirty-five years of age, certified public accountants with not less than ten years of auditing experience, or members of the Philippine Bar who have been engaged in the practice of law for at least ten years, and must not have been candidates for any elective position in the elections immediately preceding their appointment. At no time shall all Members of the Commission belong to the same profession.

339 CONST., art. XI, sec.8 provides:
ARTICLE XI. Accountability of Public Officers
. . . .
SECTION 8. The Ombudsman and his Deputies shall be natural-born citizens of the Philippines, and at the time of their appointment, at least forty years old, of recognized probity and independence, and members of the Philippine Bar, and must not have been candidates for any elective office in the immediately preceding election. The Ombudsman must have for ten years or more been a judge or engaged in the practice of law in the Philippines.

340 CONST., art. XII, sec. 20 provides:
ARTICLE XII. National Economy and Patrimony
. . . .
SECTION 20. The Congress shall establish an independent central monetary authority, the members of whose governing board must be natural-born Filipino citizens, of known probity, integrity, and patriotism, the majority of whom shall come from the private sector. They shall also be subject to such other qualifications and disabilities as may be prescribed by law. The authority shall provide policy direction in the areas of money, banking, and credit. It shall have supervision over the operations of banks and exercise such regulatory powers as may be provided by law over the operations of finance companies and other institutions performing similar functions.

(11) Chairperson and Members of the Commission on Human Rights.[341]

Other positions that are required to be filled by natural-born citizens include, among others, city fiscals,[342] assistant city fiscals,[343] Presiding Judges and Associate Judges of the Sandiganbayan, other public offices,[344] and some professions.[345] Other incentives are also limited to natural-born citizens.[346]

An interpretation that foundlings are not natural-born Filipino citizens would mean that we should teach our foundling citizens to never aspire to serve the country in any of the above capacities.

This is not only inconsistent with the text of our Constitution's citizenship provisions, which required only evidence of citizenship and not of the identities of the parents. It unnecessarily creates a classification of citizens with limited rights based on the circumstances of their births. This is discriminatory.

Our Constitution provides that citizens shall have equal protection of the law and equal access to opportunities for public service. They are protected from human indignities and political inequalities:

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341 CONST., art. XIII, sec. 17(2) provides:
ARTICLE XIII. Social Justice and Human Rights
. . . .
Human Rights
SECTION 17. . . .
(2) The Commission shall be composed of a Chairman and four Members who must be natural-born citizens of the Philippines and a majority of whom shall be members of the Bar. The term of office and other qualifications and disabilities of the Members of the Commission shall be provided by law.

342 Rep. Act No. 3537 (1963), sec. 1. Section thirty-eight of Republic Act Numbered Four hundred nine, as amended by Republic Act Numbered Eighteen hundred sixty and Republic Act Numbered Three thousand ten, is further amended to read as follows:
Sec. 38. *The City Fiscal and Assistant City Fiscals.* — There shall be in the Office of the City Fiscal one chief to be known as the City Fiscal with the rank, salary and privileges of a Judge of the Court of First Instance, an assistant chief to be known as the first assistant city fiscal, three second assistant city fiscals who shall be the chiefs of divisions, and fifty-seven assistant fiscals, who shall discharge their duties under the general supervision of the Secretary of Justice. *To be eligible for appointment as City Fiscal one must be a natural born citizen of the Philippines* and must have practiced law in the Philippines for a period of not less than ten years or held during a like period of an office in the Philippine Government requiring admission to the practice of law as an indispensable requisite. *To be eligible for appointment as assistant fiscal one must be a natural born citizen of the Philippines* and must have practiced law for at least five years prior to his appointment or held during a like period an office in the Philippine Government requiring admission to the practice of law as an indispensable requisite. (Emphasis supplied)

343 Rep. Act No. 3537 (1963).

344 Examples of these are: the Land Transportation Office Commissioner, the Mines and Geosciences Bureau Director, the Executive Director of Bicol River Basin, the Board Member of the Energy Regulatory Commission, and the National Youth Commissioner, among others.

345 Examples of these are pharmacists and officers of the Philippine Coast Guard, among others.

346 Among these incentives are state scholarships in science and certain investment rights.

> Article II, SECTION 26. The State shall **guarantee equal access to opportunities for public service**, and prohibit political dynasties as may be defined by law.
>
> Article III, SECTION 1. No person shall be deprived of life, liberty, or property without due process of law, nor shall any person be denied the **equal protection of the laws**.
>
> Article XIII, SECTION 1. The Congress shall give highest priority to the enactment of measures that **protect and enhance the right of all the people to human dignity, reduce social, economic, and political inequalities, and remove cultural inequities by equitably diffusing wealth and political power for the common good.** (Emphasis supplied)

The equal protection clause guarantees that "persons under like circumstances and falling within the same class are treated alike, in terms of 'privileges conferred and liabilities enforced.' It is a guarantee against 'undue favor and individual or class privilege, as well as hostile discrimination or oppression of inequality.'"[347]

Apart from the anonymity of their biological parents, there is no substantial distinction[348] between foundlings and children with known Filipino parents, all of whom are protected by the state from birth. The foundlings' fortuitous inability to identify their biological parents who abandoned them cannot be the basis of a law or an interpretation that has the effect of treating them as less entitled to the rights and protection given by the state. To base a classification on this circumstance would be to sanction statelessness and the marginalization of a particular class who, by force of chance, was already made to start life under tragic circumstances.

This court, as an agent of the state, is constitutionally mandated to defend the well-being and development of children. We have no competence to reify classes that discriminate children based on the circumstances of their births. These classifications are prejudicial to a child's development.

Further, inasmuch as foundlings are citizens of the Philippines, they are human beings whose dignity we value and rights we respect. Thus:

> Article II, SECTION 11. The State values the dignity of every human person and guarantees **full respect for human rights**. (Emphasis supplied)

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347 *Sameer v. Cabiles*, G.R. No. 170139, August 5, 2014 <http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2014/august2014/170139.pdf> 18 [Per J. Leonen, En Banc].

348 *People v. Cayat*, 68 Phil. 12, 18 (1939) [Per J. Moran, First Division].

V.M

Contemporaneous construction by other constitutional organs deserves consideration in arriving at a correct interpretation of the Constitution.

Illuminating guidance from how other constitutional organs interpret the fundamental legal document is premised on the understanding of a basic principle: the Constitution as law is legible to all of government as well as its People. Its plain reading, therefore, is accessible to all. Thus, interpretation and application of its provision are not the sole prerogative of this court, although this court's interpretation is final for each actual case or controversy properly raised.

The legislature has provided statutes essentially based on a premise that foundlings are Filipino citizens at birth.

It is also our state policy to protect children's best interest. In Republic Act No. 9344, otherwise known as the Juvenile Justice and Welfare Act of 2006:

> **SEC. 2.** ***Declaration of State Policy.*** - The following State policies shall be observed at all times:
>
> . . . .
>
> **(b) The State shall protect the best interests of the child through measures that will ensure the observance of international standards of child protection, especially those to which the Philippines is a party.** Proceedings before any authority shall be conducted in the best interest of the child and in a manner which allows the child to participate and to express himself/herself freely. The participation of children in the program and policy formulation and implementation related to juvenile justice and welfare shall be ensured by the concerned government agency. (Emphasis supplied)

The "best interest of the child" is defined as the "totality of the circumstances and conditions which are most congenial to the survival, protection and feelings of security of the child and most encouraging to the child's physical, psychological and emotional development."[349]

Consistent with this law is the Philippines' ratification[350] of the United Nations Convention on the Rights of the Child. This treaty has the effect of

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[349] Section 4(b).
[350] Ratified on August 21, 2000.

law and requires the domestic protection of children's rights to immediate registration and nationality after birth, against statelessness, and against discrimination based on their birth status.[351] Pertinent provisions of the treaty read:

> **Preamble**
>
> The State Parties to the present Convention,
>
> Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the **inherent dignity and of the equal and inalienable rights of all members of the human family** is the foundation of freedom, justice and peace in the world,
>
> Bearing in mind that the peoples of the United Nations have, in the Charter, **reaffirmed their faith in fundamental human rights and in the dignity and worth of the human person,** and have determined to promote social progress and better standards of life in larger freedom,
>
> Recognizing that the United Nations has, in the Universal Declaration of Human Rights and in the International Covenants on Human Rights, proclaimed and agreed that **everyone is entitled to all the rights and freedoms** set forth therein, **without distinction of any kind**, such as race, colour, sex, language, religion, political or other opinion, **national or social origin**, property, **birth or other status**,
>
> Recalling that, in the Universal Declaration of Human Rights, the United Nations has proclaimed that **childhood is entitled to special care and assistance**,
>
> . . . .
>
> Have agreed as follows:
>
> . . . .
>
> **Article 2**
>
> 1. State parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction **without discrimination of any kind, irrespective of the child's or his or her parent's** or legal guardian's race, colour, sex, language, religion, political or other opinion, national, **ethnic or social origin, property, disability, birth or other status**.
>
> 2. **States Parties shall take appropriate measures to ensure that the child is protected against all forms of**

[351] *See* United Nations Treaty Collection, *Convention on the Rights of the Child* <https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-11&chapter=4&lang=en> (visited March 7, 2016).

> **discrimination** or punishment **on the basis of the status,** activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.
>
> **Article 3**
>
> 1. **In all actions concerning children,** whether undertaken by public or private social welfare institutions, **courts of law,** administrative authorities or legislative bodies, **the best interests of the child shall be a primary consideration.**
>
> 2. **States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being,** taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.
>
> . . . .
>
> **Article 7**
>
> 1. The child shall be **registered immediately after birth** and shall have the right from birth to a name, the **right to acquire a nationality** and. as far as possible, the right to know and be cared for by his or her parents.
>
> 2. States Parties **shall ensure the implementation of these rights** in accordance with their national law and their obligations under the relevant international instruments in this field, **in particular where the child would otherwise be stateless.** (Emphasis supplied)

The Philippines also ratified[352] the 1966 International Covenant on Civil and Political Rights. This treaty, which has the effect of law, also requires that children have access to immediate registration and nationality, and defends them against discrimination, thus:

> Article 24. . . .
>
> 1. **Every child shall have, without any discrimination as to** race, colour, sex, language, religion, national or social origin, property **or birth**, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State.
>
> 2. Every child shall be **registered immediately after birth** and shall have a name.
>
> 3. Every child has the **right to acquire a nationality**.
>
> . . . .

[352] Ratified on October 23, 1986.

> Article 26. **All persons** are equal before the law and are **entitled without any discrimination to the equal protection of the law.** In this respect, the law shall **prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground** such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, **birth or other status.** (Emphasis supplied)

Treaties are "international agreement[s] concluded between states in written form and governed by international law, whether embodied in a single instrument or in two or more related instruments and whatever its particular designation."[353] They require concurrence by the Senate before they become binding upon the state. Thus, Article VII, Section 21 of the Constitution provides:

> SECTION 21. No treaty or international agreement shall be valid and effective unless concurred in by at least two-thirds of all the Members of the Senate.

Ratification of treaties by the Senate makes it legally effective and binding by transformation. It is treated similar to a statute. In *Pharmaceutical and Health Care Association of the Philippines v. Duque III, et al.*:[354]

> Under the 1987 Constitution, international law can become part of the sphere of domestic law either by transformation or incorporation. **The transformation method requires that an international law be transformed into a domestic law through a constitutional mechanism such as local legislation.** The incorporation method applies when, by mere constitutional declaration, international law is deemed to have the force of domestic law.
>
> **Treaties become part of the law of the land through transformation pursuant to Article VII, Section 21 of the Constitution which provides that "[n]o treaty or international agreement shall be valid and effective unless concurred in by at least two-thirds of all the members of the Senate." Thus, treaties or conventional international law must go through a process prescribed by the Constitution for it to be transformed into municipal law that can be applied to domestic conflicts.**[355] (Emphasis supplied)

No further legislative act apart from ratification is necessary. Government—including the judiciary—is obligated to abide by these treaties

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[353] *See Bayan v. Zamora*, 396 Phil. 623, 657–660 (2000) [Per J. Buena, En Banc], *citing* the Vienna Convention on the Laws of Treaties.

[354] 561 Phil. 386 (2007) [Per J. Austria-Martinez, En Banc].

[355] Id. at 397–398.

in accordance with the Constitution and with our international obligations captured in the maxim *pacta sunt servanda.*

Foundlings, by law and through our Constitution, cannot be discriminated against. They are legally endowed with rights to be registered and granted nationality upon birth. Statelessness unduly burdens them, discriminates against them, and is detrimental to their development.

V.N

Republic Act No. 8552, otherwise known as the Domestic Adoption Act of 1998, is entitled An Act Establishing the Rules and Policies on Domestic Adoption **of Filipino Children** and for Other Purposes. It was enacted as a means to "provide alternative protection and assistance through foster care or adoption of every child who is neglected, orphaned, or abandoned."[356]

Abandoned children may include foundlings:[357]

> SECTION 5. *Location of Unknown Parent(s).* — It shall be the duty of the Department or the child-placing or child-caring agency which has custody of the child to exert all efforts to locate his/her unknown biological parent(s). **If such efforts fail, the child shall be registered as a foundling and subsequently be the subject of legal proceedings where he/she shall be declared abandoned.** (Emphasis supplied)

Similarly, Republic Act No. 8043, otherwise known as the Inter-Country Adoption Act of 1995, is entitled An Act establishing the Rules to

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[356] Rep. Act No. 8552 (1998), sec. 2(b) provides:
Section 2 (b). In all matters relating to the care, custody and adoption of a child, his/her interest shall be the paramount consideration in accordance with the tenets set forth in the United Nations (UN) Convention on the Rights of the Child; UN Declaration on Social and Legal Principles Relating to the Protection and Welfare of Children with Special Reference to Foster Placement and Adoption, Nationally and Internationally; and the Hague Convention on the Protection of Children and Cooperation in Respect of Intercountry Adoption. Toward this end, the State shall provide alternative protection and assistance through foster care or adoption for every child who is neglected, orphaned, or abandoned.

[357] *See also* Rep. Act No. 9523 (2009), An Act Requiring the Certification of the Department of Social Welfare and Development (DSWD) to Declare a "Child Legally Available for Adoption" as a Prerequisite for Adoption Proceedings, Amending for this Purpose Certain Provision of Rep. Act No. 8552, otherwise known as the Inter-country Adoption Act of 1995, Pres. Dec. No. 603, otherwise known as the Child and Youth Welfare Code, and for Other Purposes.
SECTION 2. *Definition of Terms.* — As used in this Act, the following terms shall mean:
(1) Department of Social Welfare and Development (DSWD) is the agency charged to implement the provisions of this Act and shall have the sole authority to issue the certification declaring a child legally available for adoption.
. . . .
(3) Abandoned Child refers to a child who has no proper parental care or guardianship, or whose parent(s) have deserted him/her for a period of at least three (3) continuous months, which includes a foundling.

Govern Inter-Country **Adoption of Filipino Children**, and For Other Purposes. It includes foundlings among those who may be adopted:

> SECTION 8. *Who May Be Adopted.* — Only a legally free child may be the subject of inter-country adoption. In order that such child may be considered for placement, the following documents must be submitted to the Board:
>
> a) Child study;
>
> **b) Birth certificate/foundling certificate;**
>
> c) Deed of voluntary commitment/decree of abandonment/death certificate of parents;
>
> d) Medical evaluation/history;
>
> e) Psychological evaluation, as necessary; and
>
> f) Recent photo of the child. (Emphasis supplied)

Further, foundling certificates may be presented in lieu of authenticated birth certificates as requirement for the issuance of passports to foundlings to be adopted by foreign parents under Republic Act No. 8043:

> SECTION 5. If the applicant is an adopted person, he must present a certified true copy of the Court Order of Adoption, certified true copy of his original and amended birth certificates as issued by the OCRG. If the applicant is a minor, a Clearance from the DSWD shall be required. In case the applicant is for adoption by foreign parents under R.A. No. 8043, the following, shall be required:
>
> a) Certified true copy of the Court Decree of Abandonment of Child, the Death Certificate of the child's parents, or the Deed of Voluntary Commitment executed after the birth of the child.
>
> b) Endorsement of child to the Intercountry Adoption Board by the DSWD.
>
> **c) Authenticated Birth or Foundling Certificate.**[358] (Emphasis supplied)

The statutes providing for adoption only allow the recognition of filiation for children who are Filipinos. They allow adoption of foundlings. Therefore, foundlings are, by law, presumed to be Filipino.

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[358] DFA Order No. 11-97, Implementing Rules and Regulations for Rep. Act No. 9239 (1997), Philippine Passport Act.

The executive branch has also assumed petitioner's natural-born status as Filipina.

Petitioner's citizenship status was never questioned throughout her entire life until she filed her Certificate of Candidacy for President in 2015. Until the proceedings that gave rise to these consolidated cases, her natural-born status was affirmed and reaffirmed through different government acts.

Petitioner was granted an order of reacquisition of natural-born citizenship under Republic Act No. 9225 by the Bureau of Immigration on July 18, 2006. The President of the Philippines appointed her as Chairperson of the Movie and Television Review and Classification Board—a government position that requires natural-born citizenship[359]—on October 6, 2010. The Commission on Elections also allowed her to run for Senator in the 2013 Elections despite public knowledge of her foundling status. Petitioner's natural-born status was recognized by the People when she was elected, and by the Senate Electoral Tribunal when it affirmed her qualifications to run for Senator on November 17, 2015.

Petitioner was likewise provided a foundling certificate after she was found. She was also the subject of an adoption process.

V.O

Even if there is no legal presumption of natural-born status for all foundlings, enough evidence was presented by petitioner before the Commission on Elections to prove that at least one—if not both—of her parents were Filipino citizens.

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[359] Pres. Decree No. 1986, sec. 2 provides:
Section 2. Composition; qualifications; benefits. – The BOARD shall be composed of a Chairman, a Vice-Chairman and thirty (30) members, who shall all be appointed by the President of the Philippines. The Chairman, the Vice-Chairman, and the members of the BOARD, shall hold office for a term of one (1) year, unless sooner removed by the President for any cause; Provided, That they shall be eligible for re-appointment after the expiration of their term. If the Chairman, or the Vice-Chairman or any member of the BOARD fails to complete his term, any person appointed to fill the vacancy shall serve only for the unexpired portion of the term of the BOARD member whom he succeeds.
No person shall be appointed to the BOARD, unless he is a natural-born citizen of the Philippines, not less than twenty-one (21) years of age, and of good moral character and standing in the community; Provided, That in the selection of the members of the BOARD due consideration shall be given to such qualifications as would produce a multi-sectoral combination of expertise in the various areas of motion picture and television; Provided, further, That at least five (5) members of the BOARD shall be members of the Philippine Bar. Provided, finally That at least fifteen (15) members of the BOARD may come from the movie and television industry to be nominated by legitimate associations representing the various sectors of said industry.
The Chairman, the Vice-Chairman and the other members of the BOARD shall be entitled to transportation, representation and other allowances which shall in no case exceed FIVE THOUSAND PESOS (P5,000.00) per month.

Petitioner's Filipino biological lineage cannot be proven easily by direct evidence such as birth certificates or witness testimonies of her birth. Her status as an abandoned child makes it improbable, if not too expensive, to prove her citizenship through DNA evidence.

Our rules, however, allow different manners of proving whether any one of her biological parents were Filipinos.

Aside from direct evidence, facts may be proved by using circumstantial evidence. In *Suerte-Felipe v. People*:[360]

> Direct evidence is that which proves the fact in dispute without the aid of any inference or presumption; (Lack County vs. Neilon, 44 Or. 14, 21, 74 P. 212) while circumstantial evidence is the proof of fact or facts from which, taken either singly or collectively, the existence of a particular fact in dispute may be inferred as a necessary or probable consequence (State vs. Avery, 113 Mo. 475, 494, 21 S.W. 193; Reynolds Trial Ev., Sec. 4, p. 8).[361]

Circumstantial evidence is further defined in *People v. Raganas*:[362]

> Circumstantial evidence is that which relates to a series of facts other than the fact in issue, which by experience have been found so associated with such fact that in a relation of cause and effect, they lead us to a satisfactory conclusion.[363] (Citation omitted)

Rule 133, Section 4 of the Rules of Court provides when circumstantial evidence is sufficient for conviction:

> **Section 4.** *Circumstantial evidence, when sufficient.* — Circumstantial evidence is sufficient for conviction if:
>
> (a) There is more than one circumstances;
>
> (b) The facts from which the inferences are derived are proven; and
>
> (c) The combination of all the circumstances is such as to produce a conviction beyond reasonable doubt.

Circumstantial evidence is generally used for criminal cases. This court, however, has not hesitated to use circumstantial evidence in other

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360 571 Phil. 170 (2008) [Per J. Chico-Nazario, Third Division].
361 Id. at 189–190.
362 374 Phil. 810 (1999) [Per J. Quisumbing, Second Division].
363 Id. at 822.

cases.[364] There is no reason not to consider circumstantial facts as evidence as a method of proof.

If circumstantial evidence may be sufficient to satisfy conviction on the basis of the highest standard of proof, i.e. beyond proof beyond reasonable doubt, then it can also satisfy the less stringent standard of proof required in cases before the Commission on Elections. As a quasi-judicial body, the Commission on Elections requires substantial evidence, or "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion."[365]

Petitioner was found in Jaro, Iloilo at a parish church on September 3, 1968.[366] Iloilo, as in most if not all provinces of the Philippines, had a population composed mostly of Filipinos.[367] Petitioner is described as having "brown almond-shaped eyes, a low nasal bridge, straight black hair and an oval-shaped face."[368] She is only 5 feet and 2 inches tall.[369]

Petitioner wants this court to take judicial notice that majority of Filipinos are Roman Catholics. Many Filipinos are poor. Poverty and shame may be dominant reasons why infants are abandoned.[370]

There was also no international airport in Jaro, Iloilo at the time when petitioner was born.

These circumstances provide substantial evidence to infer the citizenship of her biological parents. Her physical characteristics are consistent with that of many Filipinos. Her abandonment at a Catholic Church is consistent with the expected behavior of a Filipino in 1968 who lived in a predominantly religious and Catholic environment. The nonexistence of an international airport in Jaro, Iloilo can reasonably provide context that it is illogical for a foreign father and a foreign mother to visit a rural area, give birth and leave their offspring there.

The Solicitor General adds that petitioner is, in terms of probability, more likely born a Filipina than a foreigner with the submission of this table:[371]

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364 *See Lua v. O'Brien, et al.*, 55 Phil. 53 (1930) [Per J. Street, En Banc]; *Vda. De Laig, et al. v. Court of Appeals*, 172 Phil. 283 (1978) [Per J. Makasiar, First Division]; *Baloloy v. Huller*, G.R. No. 157767, September 9, 2004, 438 SCRA 80 [Per J. Callejo, Sr., Second Division]; and *Heirs of Celestial v. Heirs of Celestial*, G.R. No. 142691, August 5, 2003, 408 SCRA 291 [Per J. Ynares-Santiago, First Division].

365 *Ang Tibay v. Court of Industrial Relations*, 69 Phil. 635 (1940) [Per J. Laurel, En Banc].

366 *Rollo* (G.R. No. 221697), p. 5, Petition.

367 *Rollo* (G.R. No. 221698–221700), p. 4874, Petitioner's Memorandum.

368 Id.

369 Id.

370 Id.

NUMBER OF FOREIGN AND FILIPINO CHILDREN BORN IN THE PHILIPPINES: 1965–1975 AND 2010–2014

YEAR	FOREIGN CHILDREN BORN IN THE PHILIPPINES	FILIPINO CHILDREN BORN IN THE PHILIPPINES
1965	1,479	795,415
1966	1,437	823,342
1967	1,440	840,302
1968	1,595	898,570
1969	1,728	946,753
1970	1,521	966,762
1971	1,401	963,749
1972	1,784	968,385
1973	1,212	1,045,290
1974	1,496	1,081,873
1975	1,493	1,223,837
2010	1,244	1,782,877
2011	1,140	1,746,685
2012	1,454	1,790,367
2013	1,315	1,751,523
2014	1,351	1,748,782

Source: Philippine Statistics Authority
[illegible]

Based on the above data, out of the 900,165 recorded births in the Philippines in 1968, only 1,595 or 0.18% of newborns were foreign. This translates to roughly 99.8% chance that petitioner was born a Filipina at birth.

VI

Petitioner committed no material misrepresentation with respect to her residency. The facts that can reasonably be inferred from the evidence presented clearly show that she satisfied the requirement that she had residency 10 years immediately preceding the election.

VI.A

The requirement for residency is stated in the 1987 Constitution as: "[n]o person may be elected President unless he is . . . a resident of the Philippines for at least ten years immediately preceding such election."[372]

In this jurisdiction, "residence" does not admit of a singular definition. Its meaning varies to relate to the purpose. The "term 'resides,' like the terms 'residing' and 'residence,' is elastic and should be interpreted in light

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371 *Rollo* (G.R. No. 221698-221700), p. 4566, Annex C of the Solicitor General's Memorandum, Certification issued on February 9, 2016 by the Philippine Statistics Office, signed by Deputy National Statistician Estela T. De Guzman.

372 CONST., art. VII, sec. 2.

of the object or purpose of the statute or rule in which it is employed."[373] Residence, thus, is different under immigration laws, the Civil Code or the Family Code, or election laws.

Article 50 of the Civil Code spells out a distinction between "residence" and "domicile":

> Article 50. For the exercise of civil rights and the fulfillment of civil obligations, the domicile of natural persons is the place of their habitual residence.

This distinction has been further explained, as follows:

> There is a difference between domicile and residence. 'Residence' is used to indicate the place of abode, whether permanent or temporary' 'domicile' denotes a fixed permanent residence to which, when absent, one has the intention of returning. A man may have a residence in one place and a domicile in another.' 'Residence is not domicile, but domicile is residence coupled with intention to remain for an unlimited time. A man can have but one domicile for one and the same purpose at any time, but he may have numerous places of residence. His place of residence generally is his place of domicile, but is not by any means necessarily so, since no length of residence without intention of remaining will constitute domicile.[374]

Procedural law on venue follows this conception of residence as "the place of abode, whether permanent or temporary"[375] and which is distinct from domicile (also referred to as "legal residence") as "fixed permanent residence."[376] In *Ang Kek Chen v. Spouses Calasan*:[377]

> The crucial distinction that must be made is between "actual residence" and "domicile." The case of *Garcia Fule v. Court of Appeals* had already made the distinction in 1976. The pertinent portion of the case reads as follows:
>
> > But, the far-ranging question is this: What does the term "resides" mean? . . . We lay down the doctrinal rule that the term "resides" connotes *ex vi termini* "actual residence" as distinguished from "legal residence or domicile." This term "resides," like the terms "residing" and "residence," is elastic and should be interpreted in the light of the object or purpose of the statute or rule in which it is employed. In the application of venue statutes and rules — . . . residence rather than domicile is the significant

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373 *Fule v. Court of Appeals*, 165 Phil. 785, 797 (1976) [Per J. Martin, First Division].

374 KENNAN ON RESIDENCE AND DOMICILE 26, 31–35, *as cited in In re: Wilfred Uytengsu v. Republic of the Philippines*, 95 Phil. 890 (1954) [Per J. Concepcion, En Banc].

375 Id.

376 Id.

377 555 Phil. 115 (2007) [Per J. Velasco, Jr, Second Division].

> factor. Even where the statute uses the word "domicile" still it is construed as meaning residence and not domicile in the technical sense. Some cases make a distinction between the terms "residence" and "domicile" but as generally used in statutes fixing venue, the terms are synonymous, and convey the same meaning as the term "inhabitant." In other words, "resides" should be viewed or understood in its popular sense, meaning the personal, actual or physical habitation of a person, actual residence or place of abode. It signifies physical presence in a place and actual stay thereat. In this popular sense, the term means merely residence, that is personal residence, not legal residence or domicile. Residence simply requires bodily presence as an inhabitant in a given place, while domicile requires bodily presence in that place and also an intention to make it one's domicile. No particular length of time of residence is required though; however, the residence must be more than temporary.[378]

It is clear that in granting respondents' Motion for Reconsideration, the CA accepted the argument of respondent Atty. Calasan that "residence" is synonymous with "domicile."

In *Saludo, Jr. v. American Express International, Inc.*, the term "residence" was equated with "domicile" as far as election law was concerned. However, the case also stated that:

> [F]or purposes of venue, the less technical definition of "residence" is adopted. Thus, it is understood to mean as "the personal, actual or physical habitation of a person, actual residence or place of abode. It signifies physical presence in a place and actual stay thereat. In this popular sense, the term means merely residence, that is, personal residence, not legal residence or domicile. Residence simply requires bodily presence as an inhabitant in a given place, while domicile requires bodily presence in that place and also an intention to make it one's domicile."[379] (Citations omitted)

In this jurisdiction, it is settled doctrine that for election purposes, the term "residence" contemplates "domicile."[380]

As early as 1928, when the Jones Law of 1916 was still in effect, this court noted in *Nuval v. Guray*[381] that the term residence "is so used as synonymous with domicile."[382] The 1941 case of *Gallego v. Vera*,[383] which

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[378] Id. at 123–124.

[379] Id. at 601.

[380] *Gallego v. Vera*, 73 Phil. 453, 455–456 (1941) [Per J. Ozaeta, En Banc]; *Romualdez-Marcos v. Commission on Elections*, 318 Phil. 329 (1995) [Per J. Kapunan, En Banc]; and *Co v. Electoral Tribunal of the House of Representatives*, 276 Phil. 758 (1991) [Per J. Gutierrez, Jr., En Banc].

[381] 52 Phil. 645 (1928) [Per J. Villareal, En Banc].

[382] Id at 651.

[383] *Gallego v. Vera*, 73 Phil. 453 (1941) [Per J. Ozaeta, En Banc].

was promulgated when the 1935 Constitution was in effect, cited *Nuval* and maintained the same position. Under the auspices of the present 1987 Constitution, this court stated in *Co v. Electoral Tribunal of the House of Representatives*[384] that "the term residence has been understood as synonymous with domicile not only under the previous Constitutions but also under the 1987 Constitution."[385]

For the same purpose of election law, the question of residence is ***mainly one of intention***.[386] In *Gallego v. Vera*:[387]

> The term "residence" as used in the election law is synonymous with "domicile," which imports not only intention to reside in a fixed place but also personal presence in that place, coupled with conduct indicative of such intention. In order to acquire a domicile by choice, there must concur (1) residence or bodily presence in the new locality, (2) an intention to remain there, and (3) an intention to abandon the old domicile. In other words, there must be an animus non revertendi and an animus manendi. The purpose to remain in or at the domicile of choice must be for an indefinite period of time. The acts of the person must conform with his purpose. The change of residence must be voluntary; the residence at the place chosen for the domicile must be actual; and to the fact of residence there must be added the animus manendi.[388]

Jurisprudence has established three (3) fundamental principles governing domicile: "first, that a man [or woman] must have a residence or domicile somewhere; second, that where once established it remains until a new one is acquired; and third, a man [or woman] can have but one domicile at a time."[389]

Domicile may be categorized as: "(1) domicile of origin, which is acquired by every person at birth; (2) domicile of choice, which is acquired upon abandonment of the domicile of origin; and (3) domicile by operation of law, which the law, attributes to a person independently of his residence or intention."[390]

Domicile of origin is acquired at birth and continues until replaced by the acquisition of another domicile. In effect, one's domicile of origin is the

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384 *Co v. Electoral Tribunal of the House of Representatives*, 276 Phil. 758 (1991) [Per J. Gutierrez, Jr., En Banc].

385 Id at 792.

386 *Limbona v. Commission on Elections*, 578 Phil. 364, 374 (2008) [Per J. Ynares-Santiago, En Banc].

387 73 Phil. 453 (1941) [Per J. Ozaeta, En Banc].

388 Id. at 455–456, *citing Nuval vs. Guray*, 52 Phil. 645 (1928) [Per J. Villareal, En Banc] and 17 Am. Jur., section 16, pp. 599–601.

389 *Limbona v. Commission on Elections*, 578 Phil. 364, 374 (2008) [Per J. Ynares-Santiago, En Banc]. Gender bias corrected.

390 *Ugroracion, Jr. v. Commission on Elections*, 575 Phil. 253, 263 (2008) [Per. J. Nachura, En Banc].

domicile of one's parents or of the persons upon whom one is legally dependent at birth.[391]

Building on this concept, this court has emphasized that as a rule, "domicile of origin is not easily lost and that it is lost only when there is an actual removal or change of domicile, a bona fide intention of abandoning the former residence and establishing a new one, and acts which correspond with such purpose."[392] Consistent with this, it has held that there is a "presumption in favor of a continuance of an existing domicile."[393] Controversies adverting to loss of domicile must overcome the presumption that domicile is retained.[394] The burden of proof is, thus, on the party averring its loss.[395] This presumption is "particularly strong"[396] when what is involved is domicile of origin.[397]

The rationale for this was explained in this court's citation in *In re Eusebio v. Eusebio*:[398]

> It is often said, particularly in the English cases, that there is a stronger presumption against change from a domicile of origin than there is against other changes of domicile. 'Domicile of origin . . . differs from domicile of choice mainly in this — that is character is more enduring, its hold stronger, and less easily shaken off.' The English view was forcibly expressed in a Pennsylvania case in which Lewis, J., said: 'The attachment which every one feels for his native land is the foundation of the rule that the domicile of origin is presumed to continue until it is actually changed by acquiring a domicile elsewhere. No temporary sojourn in a foreign country will work this change.' In a federal case in Pennsylvania the same point was emphasized.[399]

Likewise, in *Faypon v. Quirino*:[400]

> It finds justification in the natural desire and longing of every person to return to the place of his birth. This strong feeling of attachment to the place of one's birth must be overcome by positive proof of abandonment for another.[401]

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391 *Macalintal v. Commission on Elections*, 453 Phil. 586, 634–635 (2003) [Per J. Austria-Martinez, En Banc].
392 *Ugroracion v. Commission on Elections*, 575 Phil. 253, 264 (2008) [Per J. Nachura, En Banc].
393 *Sabili v. Commission on Elections*, 686 Phil. 649, 701 (2012) [Per J. Sereno, En Banc].
394 *In re Eusebio v. Eusebio*, 100 Phil. 593, 598 (1956) [Per J. Concepcion, En Banc].
395 Id.
396 Id. at 598.
397 Id. *See also Romualdez-Marcos v. COMELEC*, 318 Phil. 329 (1995) [Per J. Kapunan, En Banc].
398 100 Phil. 593 (1956) [Per J. Concepcion, En Banc].
399 Id. at 598–599, *citing* I BEALE, THE CONFLICTS OF LAW 129.
400 96 Phil. 294 (1956) [Per J. Padilla, Second Division].
401 Id. at 300.

Domicile may be lost and reacquired. Domicile of choice "is a domicile chosen by a person to replace his or her former domicile."[402] It is the domicile acquired by a person through the exercise of his or her own free will and shown by his or her specific acts and conduct.

The election of a new domicile must be shown by clear and convincing evidence that: one, there is an actual removal or an actual change of domicile; two, there is a bona fide intention of abandoning the former place of residence and establishing a new one; and three, there must be definite acts which correspond to the purpose of establishing a new domicile.[403]

As mentioned, domicile by operation of law is the "domicile that the law attributes to a person independent of a person's residence or intention."[404] This court has previously stated that "a minor follows the domicile of his parents."[405] Thus, a minor's domicile of origin is replaced (by operation of law) when the minor's parents take the minor along with them in reestablishing their own domicile.

VI.B

This jurisdiction's imposition of residency as a qualification for elective public office traces its roots from the United States' own traditions relating to elections. These traditions were imparted to the Philippines as it transitioned from Spanish colonial rule to American colonial rule, evolving alongside the Philippines' passage from a colony to a commonwealth of the United States, and ultimately, to an independent state.

The fifth paragraph of Article II, Section 1 of the United States Constitution[406] sets forth the eligibility requirements for President of the United States:

> No Person except a natural born Citizen, or a Citizen of the United States, at the time of the Adoption of this Constitution, shall be eligible to the Office of President; neither shall any Person be eligible to that Office who shall not have attained to the Age of thirty-five Years, *and been fourteen Years a Resident within the United States.*[407] (Emphasis supplied)

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402 J. Puno, Concurring and Dissenting Opinion in *Macalintal v. Commission on Elections*, 453 Phil. 586, 719 (2003) [Per J. Austria-Martinez, En Banc].

403 *Romualdez- Marcos v. Commission on Elections*, 318 Phil. 329 (1995) [Per J. Kapunan, En Banc].

404 *Macalintal v. Commission on Elections*, 453 Phil. 586 (2003) [Per J. Austria-Martinez, En Banc].

405 *Romualdez- Marcos v. Commission on Elections*, 318 Phil. 329 (1995) [Per J. Kapunan, En Banc].

406 U.S. CONST, art. 2, sec. 1: ". . . No person except a natural born citizen, or a citizen of the United States, at the time of the adoption of this Constitution, shall be eligible to the office of President; neither shall any person be eligible to that office who shall not have attained to the age of thirty five years, and been fourteen Years a resident within the United States[.]"

407 U.S. CONST, art. 2, sec. 1: ". . . No person except a natural born citizen, or a citizen of the United States, at the time of the adoption of this Constitution, shall be eligible to the office of President;

The residency requirement was included in order that the People may "have a full opportunity to know [the candidate's] character and merits, and that he may have mingled in the duties, and felt the interests, and understood the principles and nourished the attachments, belonging to every citizen in a republican government."[408] Under the framework of the United States Constitution, residence was "to be understood as not an absolute inhabitancy within the United States during the whole period; but such an inhabitancy, as includes a permanent domicile in the United States."[409]

In the Philippines, residency as a requirement for elective public office was incorporated into the Jones Law of 1916, pertinent provisions of which provided:

> Section 13.—Election and Qualification of Senators. That the members of the Senate of the Philippines, except as herein provided, shall be elected for terms of six and three years, as hereinafter provided, by the qualified electors of the Philippines. Each of the senatorial districts defined as hereinafter provided shall have the right to elect two senators. No person shall be an elective member of the Senate of the Philippines who is not a qualified elector and over thirty years of age, and who is not able to read and write either the Spanish or English language, and *who has not been a resident of the Philippines for at least two consecutive years and an actual resident of the senatorial district from which chosen for a period of at least one year immediately prior to his election.*
>
> Section 14.—Election and Qualifications of Representatives. That the members of the House of Representatives shall, except as herein provided, be elected triennially by the qualified electors of the Philippines. Each of the representative districts hereinafter provided for shall have the right to elect one representative. No person shall be an elective member of the House of Representatives who is not a qualified elector and over twenty-five years of age, and who is not able to read and write either the Spanish or English language, *and who has not been an actual resident of the district from which elected for at least one year immediately prior to his election*: *Provided,* That the members of the present Assembly elected on the first Tuesday in June, nineteen hundred and sixteen, shall be the members of the House of Representatives from their respective districts for the term expiring in nineteen hundred and nineteen. [410] (Emphasis supplied)

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neither shall any person be eligible to that office who shall not have attained to the age of thirty five years, and been fourteen Years a resident within the United States[.]"

408 3 JOSEPH STORY, COMMENTARIES ON THE CONSTITUTION 1472–1473 (1833).

409 Id.

410 Philippine Autonomy Act of 1916, Sections 13 - Election and Qualification of Senators.That the members of the Senate of the Philippines, except as herein provided, shall be elected for terms of six and three years, as hereinafter provided, by the qualified electors of the Philippines. Each of the senatorial districts defined as hereinafter provided shall have the right to elect two senators. No person shall be an elective member of the Senate of the Philippines who is not a qualified elector and over thirty years of age, and who is not able to read and write either the Spanish or English language, and who has not been a resident of the Philippines for at least two consecutive years and an actual resident

Under the Jones Law of 1916, the requirement was relevant solely to members of the Legislature as it was only the positions of Senator and Member of the House of Representatives that were susceptible to popular election. Executive power was vested in the Governor-General who was appointed by the President of the United States with the advice and the consent of the Senate of the United States.[411]

The Independence Act of 1934, otherwise known as the Tydings-McDuffie Act, paved the way for the Philippines' transition to independence. Under this Act, the 1935 Constitution was adopted. The residency requirement, which under the Jones Law already applied to legislators, was extended to the President and the Vice President. Relevant provisions of the 1935 Constitution stated:

> Article VI. Section 2. No person shall be a Member of the National Assembly unless he has been five years a citizen of the Philippines, is at least thirty years of age, and, at the time of his election, a qualified elector, *and a resident of the province in which he is chosen for not less than one year immediately prior to his election.*
>
> Article VII. Section 3. No person may be elected to the office of President or Vice-President, unless he be a natural-born citizen of the Philippines, a qualified voter, forty years of age or over, *and has been a resident of the Philippines for at least ten years immediately preceding the election.* (Emphasis supplied)

When the 1973 Constitution was adopted, the same residency requirement of 10 years was retained for the position of President. The 1973 Constitution abolished the position of Vice President. Article VII, Section 2 of the 1973 Constitution provided:

> No person may be elected President unless he is a natural-born citizen of the Philippines. a registered voter, able to read and

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of the senatorial district from which chosen for a period of at least one year immediately prior to his election; and 14 Election and Qualifications of Representatives. That the members of the House of Representatives shall, except as herein provided, be elected triennially by the qualified electors of the Philippines. Each of the representative districts hereinafter provided for shall have the right to elect one representative. No person shall be an elective member of the House of Representatives who is not a qualified elector and over twenty-five years of age, and who is not able to read and write either the Spanish or English language, and who has not been an actual resident of the district from which elected for at least one year immediately prior to his election: *Provided,*That the members of the present Assembly elected on the first Tuesday in June, nineteen hundred and sixteen, shall be the members of the House of Representatives from their respective districts for the term expiring in nineteen hundred and nineteen.

[411] Philippine Autonomy Act of 1916, Section 21 (a).Title, appointment, residence.—That the supreme executive power shall be vested in an executive officer, whose official title shall be "The Governor-General of the Philippine Islands." He shall be appointed by the President, by and with the advice and consent of the Senate of the United States, and hold his office at the pleasure of the President and until his successor is chosen and qualified. The Governor-General shall reside in the Philippine Islands during his official incumbency, and maintain his office at the seat of Government.

> write, at least fifty years of age on the day of election for President, *and a resident of the Philippines for at least ten years immediately preceding such election.* (Emphasis supplied)

The 1973 Constitution also retained the residency requirement for those seeking to become members of the Batasang Pambansa. Article VIII, Section 4 of the 1973 Constitution provided:

> No person shall be a Member of the Batasang Pambansa as a regional representative 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, a registered voter in the Region 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.*
>
> A sectoral representative shall be a natural-born citizen, able to read and write, and shall have such other qualifications as may be provided by law. (Emphasis supplied)

The present 1987 Constitution retains the residency requirement for elective officials both in the executive (i.e., President and Vice President) and legislative (i.e., Senators and Members of the House of Representatives) branches:

> Article VI. Section 3. No person shall be a Senator unless he is a natural-born citizen of the Philippines, and, on the day of the election, is at least thirty-five years of age, able to read and write, a registered voter, *and a resident of the Philippines for not less than two years immediately preceding the day of the election.*
>
> Article VI. 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.*
>
> Article VII. Section 2. No person may be elected President unless he is a natural-born citizen of the Philippines, a registered voter, able to read and write, at least forty years of age on the day of the election, *and a resident of the Philippines for at least ten years immediately preceding such election.*
>
> Article VII. Section 3. There shall be a Vice-President who shall have the *same qualifications and term of office and be elected with and in the same manner as the President.* He may be removed from office in the same manner as the President.

> The Vice-President may be appointed as a Member of the Cabinet. Such appointment requires no confirmation. (Emphasis supplied)

Similarly, Section 39(a) of the Local Government Code[412] provides that, in order to be eligible for local elective public office, a candidate must possess the following qualifications: (1) a citizen of the Philippines; (2) a registered voter in the barangay, municipality, city, or province or in the case of a member of the Sangguniang Panlalawigan, Sangguniang Panlungsod, or Sangguniang Bayan, the district where he or she intends to be elected; (3) *a resident therein for at least one (1) year immediately preceding the day of the election*; and (4) able to read and write Filipino or any other local language or dialect.

VI.C

This jurisdiction's requirement of residency for elective public office seeks to ensure that a candidate is acquainted with the conditions of the community where he or she seeks to be elected and to serve.[413] It is meant "to give candidates the opportunity to be familiar with the needs, difficulties, aspirations, potentials for growth and all matters vital to the welfare of their constituencies; likewise, it enables the electorate to evaluate the office seekers' qualifications and fitness for the job they aspire for."[414] Stated differently, it seeks "to exclude a stranger or newcomer, unacquainted with the conditions and needs of a community and not identified with the latter, from an elective office to serve that community[.]"[415] As *Aquino v. Commission on Elections*[416] added, it is also a safeguard against candidates "from taking advantage of favorable circumstances existing in that community for electoral gain."[417]

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412 LOC. GOV. CODE, sec. 39 provides:
SECTION 39. Qualifications. – (a) An elective local official must be a citizen of the Philippines; a registered voter in the barangay, municipality, city, or province or, in the case of a member of the sangguniang panlalawigan, sangguniang panlungsod, or sangguniang bayan, the district where he intends to be elected; a resident therein for at least one (1) year immediately preceding the day of the election; and able to read and write Filipino or any other local language or dialect.
(b) Candidates for the position of governor, vice-governor, or member of the sangguniang panlalawigan, or mayor, vice-mayor or member of the sangguniang panlungsod of highly urbanized cities must be at least twenty-three (23) years of age on election day.
(c) Candidates for the position of mayor or vice-mayor of independent component cities, component cities, or municipalities must be at least twenty-one (21) years of age on election day.
(d) Candidates for the position of member of the sangguniang panlungsod or sangguniang bayan must be at least eighteen (18) years of age on election day.
(e) Candidates for the position of punong barangay or member of the sangguniang barangay must be at least eighteen (18) years of age on election day.
(f) Candidates for the sangguniang kabataan must be at least fifteen (15) years of age but not more than twenty-one (21) years of age on election day.

413 *Gallego v. Vera*, 73 Phil. 453, 459 (1941) [Per J. Ozaeta, En Banc].

414 *Torayno, Sr. v. Commission on Elections*, 392 Phil. 342, 345 (2000) [Per J. Panganiban, En Banc].

415 *Gallego v. Vera*, 73 Phil. 453, 459 (2000) [Per J. Ozaeta, En Banc].

416 *Aquino v. Commission on Elections*, 318 Phil. 467 (1995) [Per J. Kapunan, En Banc].

417 Id. at 449.

The length of residency required for an elective post is commensurate with what is deemed to be the period necessary to acquire familiarity with one's intended constituency and sensitivity to their welfare.

VI.D

Both requirements for elective public office, citizenship and residency, are two distinct concepts. One is not a function of the other; the latter is not contingent on the former. Thus, the loss or acquisition of one does not necessarily result in the loss or acquisition of the other. Change of domicile as a result of acquiring citizenship elsewhere is neither inevitable nor inexorable. This is the clear import of *Japzon v. Commission on Elections*,[418] where this court dissociated domicile from citizenship by explaining that the reacquisition of one does not *ipso facto* result in the reacquisition of the other:

> As has already been previously discussed by this Court herein, Ty's reacquisition of his Philippine citizenship under Republic Act No. 9225 had no automatic impact or effect on his residence / domicile. He could still retain his domicile in the USA, and he *did not necessarily regain his domicile* in the Municipality of General Macarthur, Eastern Samar, Philippines. *Ty merely had the option* to again establish his domicile in the Municipality of General Macarthur, Eastern Samar, Philippines, said place becoming his new domicile of choice. The length of his residence therein shall be determined from the time he made it his domicile of choice, and it shall not retroact to the time of his birth.[419] (Emphasis supplied)

Though distinct, residency and citizenship may both consider locus. They both have geographical aspects: citizenship entails inclusion in a political community, which generally has established territory; residency pertains to one's place of abode.

Thus, in *Caballero v. Commission on Elections*,[420] citing *Coquilla v. Commission on Elections*,[421] we noted that the acquisition of citizenship in a foreign country ***may*** result in an abandonment of domicile in the Philippines. This statement was premised on the specific observation that in Canada, permanent residence was a requirement for naturalization as a Canadian citizen. Caballero's naturalization as a Canadian citizen, therefore, also necessarily meant that he was a resident of Canada:

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[418] 596 Phil. 354 (2009) [Per J. Chico-Nazario, En Banc].

[419] *Japzon v. Commission on Elections*, 596 Phil. 354, 369–370 (2009) [Per J. Chico-Nazario, En Banc].

[420] *Caballero v. Commission on Elections*, G.R. No. 209835, September 22, 2015 <http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2015/september2015/209835.pdf> [Per J. Peralta, En Banc].

[421] *Coquilla v. Commission on Elections*, 434 Phil. 861 (2002) [Per J. Mendoza, En Banc].

> Petitioner was a natural born Filipino who was born and raised in Uyugan, Batanes. Thus, it could be said that he had his domicile of origin in Uyugan, Batanes. However, he later worked in Canada and became a Canadian citizen. In *Coquilla v. COMELEC* we ruled that naturalization in a foreign country ***may*** result in an abandonment of domicile in the Philippines. This holds true in petitioner's case as permanent resident status in Canada is required for the acquisition of Canadian citizenship. Hence, petitioner had effectively abandoned his domicile in the Philippines and transferred his domicile of choice in Canada. His frequent visits to Uyugan, Batanes during his vacation from work in Canada cannot be considered as waiver of such abandonment.[422] (Emphasis supplied)

VI.E

Even as this court has acknowledged that citizenship may be associated with residency, the decisive factor in determining whether a candidate has satisfied the residence requirement remains to be the unique "fact of residence."[423]

There is no shortcut to determining one's domicile. Reference to formalities or indicators may be helpful—they may serve as guideposts—but these are not conclusive. *It remains that domicile is a matter of intention.* For domicile to be lost and replaced, there must be a manifest intention to abandon one's existing domicile. If one does not manifestly establish his or her (new) domicile of choice, his or her (old) domicile of origin remains.

The primacy of intention is settled. In *Limbona v. Commission on Elections*,[424] this court stated in no uncertain terms that "for purposes of election law, the question [of] residence is *mainly one of intention.*"[425]

This primacy is equally evident in the requisites for acquisition of domicile of choice (and concurrent loss of one's old domicile):

> In order to acquire a domicile by choice, these must concur: (1) residence or bodily presence in the new locality, (2) an intention to remain there[in], and (3) an intention to abandon the old domicile.[426]

These requisites were refined in *Romualdez-Marcos*:[427]

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422 *Caballero v. Commission on Elections*, G.R. No. 209835, September 22, 2015 <http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2015/september2015/209835.pdf> [Per J. Peralta, En Banc].

423 *Romualdez-Marcos v. Commission on Elections*, 318 Phil. 329 (1995) [Per J. Kapunan, En Banc].

424 578 Phil. 364 (2008) [Per J. Ynares-Santiago, En Banc].

425 *Limbona v. COMELEC*, 578 Phil. 364, 374 (2008) [Per J. Ynares- Santiago, En Banc].

426 *Gallego v. Vera*, 73 Phil. 453, 456 (1941) [Per J. Ozaeta, En Banc].

427 318 Phil. 329 (1995) [Per J. Kapunan, En Banc].

> [D]omicile of origin is not easily lost. To successfully effect a change of domicile, one must demonstrate:
> 1. An actual removal or an actual change of domicile;
> 2. A bona fide intention of abandoning the former place of residence and establishing a new one; and
> 3. Acts which correspond with the purpose.[428]

Intention, however, is a state of mind. It can only be ascertained through overt acts. Ascertaining the second requirement—a bona fide intention to abandon and replace one's domicile with another—further requires an evaluation of the person's "acts, activities and utterances."[429] *Romualdez-Marcos*' inclusion of the third requirement demonstrates this; bona fide intention cannot stand alone, it must be accompanied by and attested to by "[a]cts which correspond with the purpose."[430]

Examining a person's "acts, activities and utterances"[431] requires a nuanced approach. It demands a consideration of context. This court has made it eminently clear that there is no expedient solution as to how this is determined: "There is no hard and fast rule by which to determine where a person actually resides."[432] Domicile is ultimately a factual matter and is not so easily resolved by mere reference to whether formalities have been satisfied or whether preconceived *a priori* indicators are attendant.

The better considered cases delved deeply and analytically into the overt acts of the person whose domicile is under scrutiny.

For instance, in *Co v. Electoral Tribunal of the House of Representatives*,[433] respondent Jose Ong, Jr. was proclaimed by the Commission on Elections as the duly elected Representative of the Second Congressional District of Samar. Petitioner Antonio Co protested Ong's proclamation, but the House of Representatives Electoral Tribunal upheld his election. This court sustained the ruling of the House of Representatives Electoral Tribunal. Adverting to the concept of *animus revertendi*, this court noted that Ong's prolonged stay in Manila to study and to practice his profession as an accountant was not tantamount to abandoning his domicile of origin in Laoang, Samar. Instead, the court appreciated his many trips back to Laoang, Samar as indicative of animus revertendi:

> [T]he private respondent stayed in Manila for the purpose of finishing his studies and later to practice his profession. There was no intention to abandon the residence in Laoang, Samar. On the

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428 Id.
429 *Faypon v. Quirino*, 96 Phil. 294, 298 (1956) [Per J. Padilla, Second Division].
430 *Romualdez-Marcos v. COMELEC*, 318 Phil. 329 (1995) [Per J. Kapunan, En Banc].
431 *Faypon v. Quirino*, 96 Phil. 294, 298 (1956) [Per J. Padilla, Second Division].
432 *Limbona v. COMELEC*, 578 Phil. 364, 374 (2008) [Per J. Ynares- Santiago, En Banc]
433 276 Phil. 758 (1991) [Per J. Gutierrez, Jr., En Banc].

> contrary, the periodical journeys made to his home province reveal that he always had the animus revertendi.[434]

In *Mitra v. Commission on Elections,*[435] this court considered as grave abuse of discretion the Commission on Elections' use of "highly subjective non-legal standards" in determining whether an individual has established a new domicile.[436]

To hearken to *Japzon,* naturalization has no automatic effect on domicile. One who changes his or her citizenship merely acquires an option to establish his or her new domicile of choice.[437]

Romualdez-Marcos[438] emphasized that "it is the fact of residence, not a statement in a certificate of candidacy which ought to be decisive in determining whether or not an individual has satisfied the constitution's residency qualification requirement."[439] A singular statement in a prior certificate of candidacy should "not, however, be allowed to negate the fact of residence . . . if such fact were established by means more convincing than a mere entry on a piece of paper."[440]

Likewise, this court has held that being a registered voter in a specific district does not *ipso facto* mean that a candidate must have been domiciled in that district, thereby precluding domicile in another district.[441] So too, it has been held that the exercise of the right of suffrage does not sufficiently establish election of residency in a specific place, although it engenders a strong presumption of residence.[442]

In appropriate cases, this court has not shied away from laboring to scrutinize attendant facts. This court's pronouncements in *Dumpit-Michelena v. Commission on Elections*[443] hinged on the observation that a beach house can hardly be considered a place of residence as it is at most a place of temporary relaxation.[444] In *Sabili v. Commission on Elections*,[445] this court noted that apart from the presence of a place (i.e., a house and lot) where one can actually live in, actual physical presence may also be

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434 Id. at 794.
435 636 Phil. 753 (2010) [Per J. Brion, En Banc].
436 See *Mitra v. COMELEC*, 636 Phil. 753 (2010) [Per J. Brion, En Banc].
437 596 Phil. 354 (2009) [Per J. Chico-Nazario, En Banc].
438 318 Phil. 329 (1995) [Per J. Kapunan, En Banc].
439 Id
440 Id.
441 See *Perez v. COMELEC*, 375 Phil. 1106 (1999) [Per J. Mendoza,En Banc].
442 See *Pundaodaya v. COMELEC*, 616 Phil. 167 (2009) [Per J. Ynares-Santiago, En Banc].
443 See *Dumpit-Michelena v. COMELEC*, 511 Phil. 720 (2005) [Per J. Carpio, En Banc].
444 See *Dumpit-Michelena v. COMELEC*, 511 Phil. 720 (2005) [Per J. Carpio, En Banc].
445 *Sabili v. Commission on Elections*, 686 Phil. 649 (2012) [Per J. Sereno, En Banc].

established by "affidavits of various person . . . and the Certification of [the] barangay captain."[446]

Even less does the residence requirement justify reference to misplaced, inordinate standards. A person is not prohibited from travelling abroad lest his or her domicile be considered lost. This court has clarified that, if at all, return to the Philippines after travelling abroad affirms one's animus manendi and animus revertendi.[447] So too, this court has emphasized that the establishment of a new domicile does not require one to be in that abode 24 hours a day, seven (7) days a week.[448] It has been stressed that ultimately, what matters is the candidate's demonstration of intention to establish domicile through clear acts.

Blanket reliance on pre-determined indicators of what suffices to establish or retain domicile is misguided. Each case arises from a unique context. A nuanced, context-based examination of each case is imperative.

VI.F

Ideally, one can point to a singular definitive moment when new residence is acquired and previous residence is simultaneously lost. Good sense, however, dictates that this situation is hardly availing. This is especially true when a person is not acting out of a premeditated design to establish formalistic compliance with legal requirements.

Thus, this court has acknowledged that establishing residence may be an "incremental process"[449] that may last for an extended period. This highlights the factual nature of residency questions. Acknowledging that establishing residence may be effected through a step-by-step process requires a careful examination of the acts of the person whose residence is in question.

This court has expressly acknowledged that "initial"[450] and "preparatory moves"[451] count. Thus, residence is deemed acquired (or changed) as soon as these moves are established. Equally vital are the context in which he or she accomplished such actions and even seemingly innocuous nuances that could have actually tilted the course of that person's actions.

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446 Id.
447 See *Japzon v. COMELEC*, 596 Phil. 354 (2009) [Per J. Chico- Nazario, En Banc].
448 *Jalover v. Osmeña*, G.R. No. 209286, September 23, 2014, 736 SCRA 267, 284 [Per J. Brion, En Banc], *citing Fernandez v. HRET*, G.R. No. 187478, December 21, 2009, 608 SCRA 733.
449 *Mitra v. Commission on Elections*, 636 Phil. 753–815 (2010) [Per J. Brion, En Banc].
450 Id.
451 Id.

This court's Decision in *Mitra*[452] illustrates how the acquisition or establishment of residence may transpire through an incremental process. This court agreed with the position of gubernatorial candidate Abraham Mitra that he had established a new domicile in Aborlan, Palawan as early as 2008. This court, thus, disagreed with the Commission on Elections' observation that "the Maligaya Feedmill building could not have been Mitra's residence because it is cold and utterly devoid of any indication of Mitra's personality and that it lacks loving attention and details inherent in every home to make it one's residence."[453]

The following actions of Mitra were instead particularly notable: in January 2008, he "started a pineapple growing project in a rented farmland near Maligaya Feedmill and Farm located in Barangay Isaub, Aborlan";[454] a month later, he "leased the residential portion of the said Maligaya Feedmill."[455] In March 2008, he "started to occupy and reside in said premises."[456]

Holding that the Commission on Elections committed grave abuse of discretion in concluding that Mitra failed to satisfy the residence requirement to qualify him as a candidate for Governor of Palawan, this court explained:

> The respondents significantly ask us in this case to adopt the same faulty approach of using subjective norms, as they now argue that given his stature as a member of the prominent Mitra clan of Palawan, and as a three term congressman, it is highly incredible that a small room in a feed mill has served as his residence since 2008.
>
> We reject this suggested approach outright for the same reason we condemned the COMELEC's use of subjective non-legal standards. *Mitra's feed mill dwelling cannot be considered in isolation* and separately from the circumstances of his transfer of residence, specifically, his expressed intent to transfer to a residence outside of Puerto Princesa City to make him eligible to run for a provincial position; *his preparatory moves starting in early 2008; his initial transfer through a leased dwelling*; the purchase of a lot for his permanent home; and the construction of a house in this lot that, parenthetically, is adjacent to the premises he leased pending the completion of his house. *These incremental moves do not offend reason at all*, in the way that the COMELEC's highly subjective non-legal standards do.[457] (Emphasis supplied, citations omitted)

Sabili v. Commission on Elections[458] similarly acknowledged that establishing residence may be an incremental process. In sustaining

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452 Id.
453 Id.
454 Id. at 772.
455 Id.
456 Id.
457 Id. at 789.
458 *Sabili v. Commission on Elections*, 686 Phil. 649 (2012) [Per J. Sereno, En Banc].

petitioner Meynardo Sabili's position that he has been a resident of Lipa City for two (2) years and eight (8) months leading to the May 2010 Elections, thereby qualifying him to run for Mayor of Lipa City, this court explained:

> [A] transfer of domicile/residence need not be completed in one single instance. Thus, in *Mitra v. Commission on Elections*, where the evidence showed that in 2008, petitioner Mitra had leased a small room at Maligaya Feedmills located in Aborlan and, in 2009 purchased in the same locality a lot where he began constructing his house, we recognized that petitioner "transferred by incremental process to Aborlan beginning 2008 and concluded his transfer in early 2009" and thus, he transferred his residence from Puerto Princesa City to Aborlan within the period required by law. We cannot treat the transfer to the Pinagtong-ulan house any less than we did Mitra's transfer to the Maligaya Feedmills room.[459]

In approaching residence questions, therefore, what is crucial is a comprehensive or holistic, rather than a myopic or isolationist, appreciation of the facts. Not only must all the pertinent facts be considered, so too must be their relationships and synergies. To do otherwise would be to render lip service to the basic imperative of an exacting consideration of facts in residence controversies.

VI.G

Applying these doctrinal principles, petitioner satisfied the residence requirement provided in Article VII, Section 2 of the 1987 Constitution. It was grave abuse of discretion for the Commission on Elections to hold that she committed a material misrepresentation in her Certificate of Candidacy for President.

The Commission on Elections committed a grievous error when it invoked the date petitioner's Philippine citizenship was reacquired (i.e., July 7, 2006) as the earliest possible point when she could have reestablished residence in the Philippines. This erroneous premise was the basis for summarily setting aside all the evidence submitted by petitioner which pointed to the reestablishment of her residence at any point prior to July 7, 2006. Thus, by this faulty premise, the Commission on Elections justified the evasion of its legally enjoined and positive duty to treat petitioner's residence controversy as a factual matter and to embark on a meticulous and comprehensive consideration of the evidence.

At the onset, the Commission on Elections flat-out precluded the timely reestablishment of petitioner's residence in the Philippines because it held that "the earliest possible date that the respondent could have re-

[459] Id. at 685.

established her residence in the Philippines is when she reacquired her Filipino Citizenship on July 2006."[460] In doing so, it relied on this court's Decisions in *Coquillia v. Commission on Elections,*[461] *Japzon v. Commission on Elections*,[462] and *Caballero v. Commission on Elections.*[463]

In its assailed December 23, 2015 Resolution denying petitioner's Motion for Reconsideration with respect to the Petition filed by Elamparo, the Commission on Elections explained:

> Foremost, the Commission is not convinced that the Second Division "chose to rely on a single piece of evidence" – respondent's 2013 COC, to the exclusion of all others, in resolving the issue of residence. It does not persuade us that as the Second Division "entirely omitted" to mention the evidence of respondent enumerated in Respondent's Motion, it did not consider them at all. A judge is not bound to mention in his decision every bit of evidence on record. He is presumed to have regularly discharged his duty to consider and weigh all evidence formally offered by the parties which are admissible.
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> . . . .
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> To indulge respondent, however, the Commission now looks, one by one on the pieces of evidence allegedly ignored by the Second Division which are, along with their purpose for offer, are enumerated in Respondent's Motion. Unfortunately, an examination of these evidence leads to but one crucial and fatal conclusion: that all of them were executed before July 2006, and/or are offered to prove that she can reckon her residency before July 2006 - the date of reacquisition by respondent of her Filipino citizenship. This is fatal because, following the cases of Coquilla v. COMELEC, Japzon v. COMELEC, and Caballero v. COMELEC, the earliest possible date that respondent could have re-established her residence in the Philippines is when she re-acquired her Filipino Citizenship on July 2006. Yes, on this finding, we affirm the Second Division for the reasons that follow.[464]

In its assailed December 23, 2015 Resolution denying petitioner's Motion for Reconsideration with respect to the petitions filed by Tatad, Contreras, and Valdez, the Commission on Elections explained:

> As a US citizen and a foreigner, Respondent was allowed only temporary residence in the Philippines, Respondent's alien citizenship remained a legal impediment which prevented her from establishing her domicile in the Philippines. To establish permanent residence in the Philippines, it was necessary for Respondent to secure prior authorization

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460 *Rollo* (G.R. No. 221697, Vol. V), p. 3667, COMELEC Comment.

461 434 Phil. 861 (2002) [Per J.Mendoza, En Banc].

462 *See Japzon v. COMELEC*, 596 Phil. 354 (2009) [Per J. Chico-Nazario, En Banc].

463 *Caballero v. COMELEC,* G.R. No. 209835, September 22, 2015 <http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2015/september2015/209835.pdf> [Per J. Peralta, En Banc].

464 *Rollo* (G.R. No. 221697, Vol. I), pp. 236–237, Resolution of the COMELEC En Banc dated December 23, 2015.

> from the Bureau of Immigration and Deportation ""BID"), such as in the form of a permanent resident visa issued by the Republic of the Philippines showing that she was authorized to permanently reside in the Philippines. This is the rule enunciated by the Supreme Court in the case of *Coquilla vs. Commission on Elections et al.*[465]

It is this dogmatic reliance on formal preconceived indicators that this court has repeatedly decried is grave abuse of discretion. Worse, the Commission on Elections relied on the wrong formal indicators of residence.

The Commission on Elections ignored the basic distinction between citizenship and residence. Likewise, it erroneously considered a visa—a mere permission to enter—as a badge of residence, and equated an immigrant with one who is domiciled in the Philippines. So too, the Commission on Elections' indiscriminate reliance on *Coquilla*, *Japzon*, and *Caballero* indicates a failure in properly appreciating the factual nuances of those cases as against those of this case.

Citizenship and residency are distinct, mutually exclusive concepts. One is not a function of the other. Residence is not necessarily contingent on citizenship. The loss or acquisition of one does not mean the automatic loss or acquisition of the other. Change of domicile as a result of acquiring citizenship elsewhere is neither inevitable nor inexorable.

Japzon v. Commission on Elections[466] could not have been more emphatic: "[R]eacquisition of . . . Philippine citizenship . . . [has] no automatic impact or effect on residence/domicile."[467]

Residence, as does citizenship, entreats a consideration of locus or geography. It is true that they may be related or connected, but association is different from causation.

Caballero v. Commission on Elections[468] was extremely careful in its syntax: "naturalization in a foreign country ***may*** result in an abandonment of domicile in the Philippines."[469] The use of the word "may" reveals this court's recognition that citizenship is not conclusive of domicile. In controversies relating to a candidate's residence, citizenship may be considered and it may engender implications, but these implications are never to be considered infallible.

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[465] *Rollo* (G.R. No. 221698-221700, Vol. I), pp. 372–373, Resolution of the COMELEC En Banc dated December 23, 2015.

[466] 596 Phil. 354 (2009) [Per J. Chico-Nazario, En Banc].

[467] Id. at 369–370.

[468] *Caballero v. Commission on Elections*, G.R. No. 209835, September 22, 2015, http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2015/september2015/209835.pdf [Per J. Peralta, En Banc].

[469] Id.

VI.H

As with citizenship, non-possession of a permanent resident or immigrant visa does not negate residency for election purposes.

A visa is but a travel document given by the issuing country to travelers for purposes of border control.[470] Holders of a visa are "conditionally authorised to enter or leave a territory for which it was issued, subject to permission of an immigration official at the time of actual entry."[471] Conditions of entry usually include date of validity, period of stay, number of allowed entry, and territory covered.[472]

In this jurisdiction, visas are issued by a consular officer of the Philippine Embassy or Consulate as a permit to go to the Philippines and seek permission to enter the country at its port of entry. The decision to admit or disallow entry into the country belongs to immigration authorities at the port of entry.[473] Hence, the mere issuance of a visa does not denote actual admission into, let alone prolonged stay, i.e., domicile, in the country.

The statutory definition of "immigrant," as provided in Section 50 (j) of Commonwealth Act No. 613, otherwise known as the Philippine Immigration Act of 1940, sustains the distinction between an immigrant and one who is actually domiciled in the Philippines:

> SEC. 50. As used in this Act:–
>
> ...
>
> (j) The term "immigrant" means any alien *departing from* any place outside the Philippines *destined for* the Philippines, other than a nonimmigrant. (Emphasis supplied)

The definition's operative terms are contained in the phrases "departing from" and "destined for." These phrases, which are but different sides of the same coin, attest to how an immigrant is not necessarily one who establishes domicile in the Philippines, but merely one who travels from a foreign country into the Philippines. ***As with a visa, the pivotal consideration is entry into, not permanent stay, in the Philippines.***[474]

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[470] *See* Department of Foreign Affairs, Visa Guidelines/Requirements <http://www.dfa.gov.ph/guidelines-requirements> (visited March 7, 2016).

[471] RONGXING GUO, CROSS-BORDER MANAGEMENT: THEORY, METHOD, AND APPLICATION 368 (2015).

[472] Id.

[473] *See* Department of Foreign Affairs, Visa Guidelines/Requirements <http://www.dfa.gov.ph/guidelines-requirements> (visited March 7, 2016).

[474] Section 50(j) references or distinguishes an "immigrant" from a "nonimmigrant." This may tempt one into concluding that an "immigrant" must be exclusively or wholly equated with a "permanent

In fact, a former Filipino may obtain an immigrant visa without even intending to reside or actually residing in the Philippines. As petitioner pointed out:

> 5.289.5. Thus, a former Filipino who has previously been allowed entry into the Philippines may secure a "non-quota immigrant visa" provided he or she submits the following documentary requirements: (a) "Letter request addressed to the Commissioner;" (b) "Duly accomplished CGAF (BI Form CGAF-001-Rev 2);" (c) "Photocopy of passport bio-page and latest admission with valid authorized stay;" (d) "Birth Certificate of the applicant;" (e) "Valid National Bureau of Investigation [NBI] Clearance, if application is filed six (6) months ormore from the date of first arrival in the Philippines;" (f) "BI Clearance Certificate;" and (g) "Original or certified true copy of Bureau of Quarantine Medical Clearance, if applicant is a national of any of the countries listed under Annex 'A' of Immigration Operations order No. SBM-14-059-A who arrived in the Philippines on or after June 2014."
>
> 5.289.6. *None of the 7 documentary requirements listed above would indicate whether the applicant intends to make the Philippines his or her "permanent home." None of these documents would show whether he or she, indeed, necessarily intends to abandon his or her foreign domicile*. Indeed, a foreigner may want to be an permanent resident here, but would always want to return to his or her home country, which intent to return is determinative of what domicile is under election law.
>
> 5.289.7. *It is highly probable, therefore, for a former Filipino to secure an "immigrant" visa, without really being a "resident" of the Philippines*, as the term is understood in election law.[475] (Emphasis supplied)

The Commission on Elections insists that petitioner should have obtained a visa that supposedly evidences permanent resident status. However, it failed to acknowledge that petitioner did not even need a visa to accomplish the purpose that a visa serves, that is, to enter the Philippines.

Beginning May 24, 2005, petitioner's entries to the Philippines were through the visa-free Balikbayan Program provided for by Republic Act No.

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resident." However, the concept of a nonimmigrant, provided in Section 9, also encompasses returning permanent residents. Thus, a line cannot be drawn between "immigrants" and "nonimmigrants" that exclusively and wholly equates an "immigrant" with a "permanent resident." Section 9(e) of the Philippine Immigration Act of 1940 states:

> SEC. 9. Aliens departing from any place outside the Philippines, who are otherwise admissible and who qualify within one of the following categories, may be admitted as nonimmigrants:
>
> ....
>
> (e) A person previously lawfully admitted into the Philippines for permanent residence, who is returning from a temporary visit abroad to an unrelinquished residence in the Philippines; and
>
> ....

[475] *Rollo* (G.R. No. 221697, Vol. VI), pp. 4064–4065, Petitioner's Memorandum, *citing* BI Form V-I-011-Rev, Conversion to Non-Quota Immigrant Visa of a Former Filipino Citizen Naturalize in a Foreign Country (taken from www.immigration.gov.ph).

6768, as amended by Republic Act No. 9174. Section 3(c) of Republic Act No. 6768, as amended, provides:

> SEC. 3 Benefits and Privileges of the Balikbayan. - The balikbayan and his or her family shall be entitled to the following benefits and privileges:
>
> ....
>
> (c) Visa-free entry to the Philippines for a period of one (1) year for foreign passport holders, with the exception of restricted nationals;

Petitioner falls within the definition of a balikbayan, under Section 2(a) of Republic Act No. 6768, as amended.[476] She is a "Filipino citizen . . . who had been naturalized in a foreign country [who came] or return[ed] to the Philippines."[477] She was, thus, well-capacitated to benefit from the Balikbayan Program.

The Balikbayan Program is not only a scheme that dispenses with the need for visas; it is a system that affirmatively works to enable balikbayans to reintegrate themselves into the Philippines. Alternatively stated, it works to enable balikbayans to reestablish domicile in the Philippines. Pertinent provisions of Republic Act No. 6768, as amended, spell out a "Kabuhayan Program":

> Section 1. Balikbayan Program. - . . .
>
> The program shall include a kabuhayan shopping privilege allowing tax-exempt purchase of livelihood tools providing the opportunity to avail of the necessary training to enable the balikbayan to become economically self-reliant members of society upon their return to the country. The program shall likewise showcase competitive and outstanding Filipino-made products.
>
> Sec. 6. Training Programs. - The Department of Labor and Employment (DOLE) through the OWWA, in coordination with the Technology and Livelihood Resource Center (TLRC), Technical Education and Skills Development Authority (TESDA), livelihood corporation and other concerned government agencies, shall provide the necessary entrepreneurial training and livelihood skills programs and marketing assistance to a balikbayan, including his or her immediate family members,

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[476] Rep. Act No. 6768 (1989), sec. 2 provides:
SEC. 2. Definition of Terms. - For purposes of this Act:
(a) The term "balikbayan" shall mean a Filipino citizen who has been continuously out of the Philippines for a period of at least one (1) year, a Filipino overseas worker, or former Filipino citizen and his or her family, as this term is defined hereunder, who had been naturalized in a foreign country and comes or returns to the Philippines;

[477] Rep. Act No. 6768 (1989), sec. 2(a), as amended.

> who shall avail of the kabuhayan program in accordance with the existing rules on the government's reintegration program.
>
> In the case of non-OFW balikbayan, the Department of Tourism shall make the necessary arrangement with the TLRC and other training institutions for possible livelihood training.

Enabling balikbayans to establish their livelihood in the Philippines, Republic Act No. 6768, as amended, can have as a logical result their reestablishment here of their permanent abodes.

VI.I

The Commission on Elections' erroneous reliance on *Coquilla, Japzon*, and *Caballero* demonstrates its evasion of its duty to engage in the required meticulous factual analysis. A closer examination of these cases as well as of a similar case that private respondents Elamparo and Valdez invoked in the February 16, 2016 oral arguments—*Reyes v. Commission on Elections*[478]—reveals that the conclusions in those cases were reached not because of a practically spellbound invocation of citizenship.

Rather, they were reached because: first, the persons whose residence were in question failed to present any evidence at all of reestablishing residence of choice in the Philippines before their repatriation was effected (or if they did, their evidence were deemed negligible); and second, the countervailing evidence presented against them demonstrated that they failed to reestablish residence ahead of their repatriation.

Coquilla involved only two (2) pieces of evidence in favor of Teodulo Coquilla:[479] first, his Community Tax Certificate; and second, his own *verbal* statements regarding his intent to run for public office. With only these in support of his cause, the more reasonable conclusion was that Coquilla did not intend to return for good to the Philippines, but only to temporarily vacation.[480]

Japzon was not even about reestablishing residence ahead of reacquiring natural-born citizenship pursuant to Republic Act No. 9225. *Japzon* even militates against the Commission on Elections' position as it expressly stated that "reacquisition of his Philippine citizenship under Republic Act No. 9225 had no automatic impact or effect on [the candidate's] residence / domicile"[481] and, thus, should be taken as an indicator of when residence may or may not be reckoned.

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478 G.R. No. 207264, October 22, 2013, 708 SCRA 197 [Per J. Perez, En Banc].
479 *Coquilla v. COMELEC*, 434 Phil. 861, 875 (2002) [Per J. Mendoza, En Banc].
480 Id.
481 *Japzon v. COMELEC*, 596 Phil. 354, 369–370 (2009) [Per J. Chico-Nazario, En Banc].

In *Reyes*, Regina Ongsiako-Reyes argued that she never lost her domicile of origin (i.e., Boac, Marinduque).[482] As to her claim that she satisfied the residence requirement, this court approvingly quoted the following observations of the Commission on Elections First Division:

> 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.[483] (Citations omitted)

Caballero cited *Coquilla* and, as previously discussed, took pains to dissociate residence from citizenship. In any case, Rogelio Batin Caballero, candidate for Mayor of Uyugan, Batanes, himself admitted that he only had an actual stay of nine (9) months in Uyugan, Batanes prior to the 2013 Elections, albeit claiming that it was substantial compliance with the Local Government Code's one-year residence requirement.[484]

In contrast with *Coquilla*, *Japzon*, *Reyes*, and *Caballero*, petitioner here presented a plethora of evidence attesting to the reestablishment of her domicile well ahead of her reacquisition of Philippine citizenship on July 7, 2006:

(1) United States Passport No. 017037793 issued to petitioner on December 18, 2001, indicating that she travelled back to the Philippines on May 24, 2005, consisting of 13 pages

(2) E-mail exchanges on various dates from March 18, 2005 to September 29, 2006 between petitioner and her husband and representatives of Victory Van Corporation, and National Veterinary Quarantine Service of the Bureau of Animal Industry of the Philippines, consisting of 23 pages

(3) Official Transcript of Records of Brian Daniel Poe Llamanzares, issued by the Beacon School, consisting of one (1) page

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482 *Reyes v. COMELEC*, G.R. No. 207264, June 25, 2013, 699 SCRA 522 [Per J. Perez, En Banc].

483 Id. at 543.

484 *Caballero v. Commission on Elections*, G.R. No. 209835, September 22, 2015 <http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2015/september2015/209835.pdf> [Per J. Peralta, En Banc].

(4) Certification issued by the Registrar of La Salle Green Hills dated April 15, 2015, consisting of one (1) page

(5) Elementary Pupil's Permanent Record for Hanna Mackenzie Llamanzares, issued by Assumption College, consisting of two (2) pages

(6) Secondary Student's Permanent Record for Hanna Mackenzie Llamanzares, issued by Assumption College, consisting of two (2) pages

(7) Certificate of Attendance dated April 8, 2015, issued by the Directress of the Learning Connection, Ms. Julie Pascual Peñaloza, consisting of one (1) page

(8) Certification dated April 14, 2015 issued by the Directress of the Green Meadows Learning Center, Ms. Anna Villaluna-Reyes, consisting of one (1) page

(9) Elementary Pupil's Permanent Record for JesusaAnika Carolina Llamanzares, issued by Assumption College, consisting of one (1) page

(10) Identification Card, issued by the Bureau of Internal Revenue to petitioner on July 22, 2005, consisting of one (1) page

(11) Condominium Certificate of Title No. 11985-R covering Unit 7F of One Wilson Place, issued by the Registry of Deeds of San Juan City on February 20, 2006, consisting of four (4) pages

(12) Condominium Certificate of Title No. 11986-R covering the parking slot for Unit 7F of One Wilson Place, issued by the Registry of Deeds of San Juan City on February 20, 2006, consisting of two (2) pages

(13) Declaration of Real Property No. 96-39721 covering Unit 7F of One Wilson Place, issued by the Office of the City Assessor of San Juan City on April 25, 2006, consisting of one (1) page

(14) Declaration of Real Property No. 96-39722 covering the parking slot of Unit 7F of One Wilson Place, issued by the Office of the City Assessor of San Juan City on April 25, 2006, consisting of one page

(15) Receipt No. 8217172, issued by the Salvation Army on February 23, 2006, consisting of one (1) page

(16) Receipt No. 8220421, issued by the Salvation Army on February 23, 2006, consisting of one (1) page

(17) E-mail from the U.S.A. Postal Service, sent on March 28, 2006 to petitioner's husband, confirming the latter's submission of a request for change of address to the U.S.A. Postal Service, consisting of one (1) page

(18) Final Statement issued by the First American Title Insurance Company, which indicates as Settlement Date: "04-27/2006", consisting of two (2) pages

(19) Transfer Certificate of Title No. 290260 covering a 509-square meter lot at No. 106, Rodeo Drive, Corinthian Hills, Barangay Ugong Norte, Quezon City, issued by the Registry of Deeds of Quezon City on June 1, 2006, consisting of four (4) pages

(20) Questionnaire Information for Determining Possible Loss of U.S. Citizenship issued by the U.S. Department of State, Bureau of Consular Affairs, accomplished by petitioner on July 12, 2011

(21) Affidavit of Jesusa Sonora Poe dated November 8, 2015, consisting of three (3) pages

(22) Affidavit of Teodoro Llamanzares dated November 8, 2015, consisting of three (3) pages[485]

The Commission on Elections chose to ignore all these pieces of evidence showing reestablishment of residence prior to July 7, 2006 by the mere invocation of petitioner's then status as one who has not yet reacquired Philippine citizenship. The Commission on Elections relied on a manifestly faulty premise to justify its position that all of petitioner's evidence relating to the period before July 7, 2006 deserved no consideration. Clearly, this was grave abuse of discretion on the part of the Commission on Elections in two (2) respects: first, in using citizenship as a shortcut; and second, in evading its positive duty to scrutinize the facts and evidence.

VI.J

As with *Mitra* and *Sabili*, petitioner has shown by substantial evidence that the incremental process of establishing her residence in the Philippines commenced on May 24, 2005 and was completed in the latter part of April 2006. The Constitution requires that a candidate for the May 9,

[485] *Rollo* (G.R. No. 221698-221700), pp.151–157, Petition.

2016[486] Presidential Elections must establish residency at least by May 9, 2006.

Her evidence satisfies the three (3) requisites for establishing domicile of choice in the Philippines:

First, bodily presence in the Philippines is demonstrated by her actual arrival in the country on May 24, 2005.

Second, *animus manendi* or intent to remain in the Philippines is demonstrated by:

(1) Petitioner's travel records, which indicate that even as she could momentarily leave for a trip abroad, she nevertheless constantly returned to the Philippines;

(2) Affidavit of Jesusa Sonora Poe, which attests to how, upon their arrival in the Philippines on May 24, 2005, petitioner and her children first lived with her at 23 Lincoln St., Greenhills West, San Juan City, thereby requiring a change in the living arrangements at her own residence;

(3) The school records of petitioner's children, which prove that they have been continuously attending Philippine schools beginning in June 2005;

(4) Petitioner's Tax Identification Number Identification Card, which indicates that "shortly after her return in May 2005, she considered herself a taxable resident and submitted herself to the Philippines' tax jurisdiction";[487] and

(5) Two condominium certificates of title (one for Unit 7F, One Wilson Place, and another for a corresponding parking slot which were both purchased in early 2005), and along with corresponding Declarations of Real Property Tax Declarations which establish intent to permanently reside in the Philippines.

Lastly, *animus non revertendi* or intent to abandon domicile in the United States is demonstrated by:

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[486] CONST., art. VII, sec. 4, par. 3 states: "Unless otherwise provided by law, the regular election for President and Vice President shall be held on the second Monday of May."

[487] *Rollo* (G.R. No. 221697, Vol. VI), p. 4016, Petitioner's Memorandum.

(1) Affidavit of Jesusa Sonora Poe, which "attests to, among others, the reasons which prompted [petitioner] to leave the [United States] and return permanently to the Philippines";[488]

(2) Affidavit of petitioner's husband, which affirms petitioner's explanations of how they made arrangements for their relocation to the Philippines as early as March 2005;

(3) Petitioner and her husband's documented inquiries and exchanges with property movers as regards the transfer of their effects and belongings from the United States to the Philippines, which affirms their intent to permanently leave the United States as early as March 2005;

(4) The actual relocation and transfer of effects and belongings, "which were packed and collected for storage and transport to the Philippines on February and April 2006";[489]

(5) Petitioner's husband's act of informing the United States Postal Service that he and his family are abandoning their address in the United States as of March 2006;

(6) Petitioner and her husband's sale of their family home in the United States on April 27, 2006;

(7) Petitioner's husband's resignation from his work in the United States effective April 2006; and

(8) Petitioner's husband's actual return to the Philippines on May 4, 2006.

With due recognition to petitioner's initial and preparatory moves (as was done in *Mitra* and *Sabili*), it is clear that petitioner's residence in the Philippines was established as early as May 24, 2005.

Nevertheless, even if we are to depart from *Mitra* and *Sabili* and insist on reckoning the reestablishment of residence only at that point when all of its steps have been consummated, it remains that petitioner has proven that she has satisfied Article VII, Section 2 of the 1987 Constitution's ten-year residence requirement.

VI.K

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[488] Id. at 4017.
[489] Id.

The evidence relied upon by the Commission on Elections fail to controvert the timely reestablishment of petitioner's domicile.

Insisting that petitioner failed to timely reestablish residence, the Commission on Elections underscores three (3) facts: first, her husband, Teodoro Llamanzares, "remained a resident of the US in May 2005, where he kept and retained his employment";[490] second, petitioner, using her United States passport, supposedly travelled frequently to the United States from May 2005 to July 2006; and third, a statement in the Certificate of Candidacy she filed for Senator indicating that she was a resident of the Philippines for only six (6) years and six (6) months as of May 13, 2013, which must mean that: first, by May 9, 2016, she shall have been a resident of the Philippines for a cumulative period of nine (9) years and six (6) months; and second, she started to be a resident of the Philippines only in November 2006.

None of these facts sustain the Commission on Elections' conclusions.

Relying on the residence of petitioner's husband is simply misplaced. He is not a party to this case. No incident relating to his residence (or even citizenship) binds the conclusions that are to be arrived at in this case. Petitioner was free to establish her own residence.

The position that the residence of the wife follows that of the husband is antiquated and no longer binding. Article 110 of the Civil Code[491] used to provide that "[t]he husband shall fix the residence of the family." But it has long been replaced by Article 152 of the Family Code,[492] which places the wife on equal footing as the husband.

To accept the Commission on Elections' conclusions is to accept an invitation to return to an antiquated state of affairs. The Commission's conclusions not only run counter to the specific text of Article 152 of the Family Code; it renounces the entire body of laws upholding "the fundamental equality before the law of women and men."[493]

Chief of these is Republic Act No. 7192, otherwise known as the Women in Development and Nation Building Act. Section 5 of this Act specifically states that "[w]omen of legal age, regardless of civil status, shall have the capacity to act . . . which shall in every respect be equal to that of

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490 *Rollo* (G.R. No. 221698–221700), p. 254, COMELEC First Division Resolution (SPA Nos. 15-002 (DC), 15-007 (DC), and 15-139 (DC)).

491 Article 110. The husband shall fix the residence of the family. But the court may exempt the wife from living with the husband if he should live abroad unless in the service of the Republic.

492 Art. 152. The family home, constituted jointly by the husband and the wife or by an unmarried head of a family, is the dwelling house where they and their family reside, and the land on which it is situated.

493 CONST., art. II, sec. 14.

men under similar circumstances." As underscored by Associate Justice Lucas P. Bersamin in the February 9, 2016 oral arguments, a wife may choose "to have her own domicile for purposes of conducting her own profession or business":[494]

> JUSTICE BERSAMIN:
> Yes. Is the position of the COMELEC like this, that a dual citizen can only have one domicile or . . .
>
> COMMISSIONER LIM:
> Yes, definitely because that is the ruling in jurisprudence, "A person can have only one domicile at that time. "
>
> JUSTICE BERSAMIN:
> Alright, who chooses that domicile for her?
>
> COMMISSIONER LIM:
> In the . . . (interrupted)
>
> JUSTICE BERSAMIN:
> At that time when he or she was a dual citizen.
>
> COMMISSIONER LIM:
> In the context of marriage, it's a joint decision of husband and wife, Yes, Your Honor.
>
> JUSTICE BERSAMIN:
> Okay, we have a law, a provision in the Civil Code reiterated in the Family Code . . . (interrupted)
>
> COMMISSIONER LIM:
> Yes . . .
>
> JUSTICE BERSAMIN:
> . . . that it is the husband who usually defines the situs of the domicile?
>
> COMMISSIONER LIM:
> Yes, Your Honor.
>
> JUSTICE BERSAMIN:
> Except if the wife chooses to have her own domicile for purposes of conducting her own profession or business.
>
> COMMISSIONER LIM:
> Yes, Your Honor.
>
> JUSTICE BERSAMIN:
> That's under the Women in Nation Building Act.
>
> COMMISSIONER LIM:
> Yes, Your Honor.[495]

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494 TSN, February 9, 2016 Oral Arguments, pp. 101–102.
495 Id.

Reliance on petitioner's husband's supposed residence reveals an even more basic flaw. This presupposes that residence as used in the Civil Code and the Family Code is to be equated with residence as used in the context of election laws. Even if it is to be assumed that the wife follows the residence fixed by the husband, it does not mean that what is reckoned in this sense as residence, i.e., the family home, is that which must be considered as residence for election purposes.

In any case, petitioner amply demonstrated that their family home had, in fact, been timely relocated from the United States. Initially, it was in her mother's residence at 23 Lincoln St., Greenhills West, San Juan City. Later, it was transferred to Unit 7F, One Wilson Place; and finally to Corinthian Hills, Quezon City.

Apart from the sheer error of even invoking a non-party's residence, petitioner's evidence established the purpose for her husband's stay in the United States after May 24, 2005: that it was "for the sole and specific purpose of 'finishing pending projects, and to arrange for the sale of the family home there.'"[496] This assertion is supported by evidence to show that a mere seven (7) days after their house in the United States was sold, that is, as soon as his reason for staying in the United States ceased, petitioner's husband returned to the Philippines on May 4, 2006.[497]

Equally unavailing are petitioner's travels to the United States from May 2005 to July 2006.

In the first place, petitioner travelled to the United States only twice within this period. This hardly qualifies as "frequent," which is how the Commission on Elections characterized her travels.[498] As explained by petitioner:

> Her cancelled U.S.A. Passport shows that she travelled to the U.S.A. only twice during this period. Moreover, each trip (from 16 December 2005 to 7 January 2006 and from 14 February 2006 to 11 March 2006) did not last more than a month.[499]

The Commission on Elections' choice to characterize as "frequent" petitioner's two trips, neither of which even extended longer than a month, is a red flag, a badge of how it gravely abused its discretion in refusing to go about its task of meticulously considering the evidence.

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496 *Rollo* (G.R. No. 221697), p. 4026, Petitioner's Memorandum.
497 Id. at 21.
498 *Rollo* (G.R. No. 221698-700), p. 254.
499 Id. at 4027.

Moreover, what is pivotal is not that petitioner travelled to the United States. Rather, it is the purpose of these trips. If at all, these trips attest to the abandonment of her domicile in the United States and her having reestablished it in the Philippines. As petitioner explained, it was not out of a desire to maintain her abode in the United States, but it was precisely to wrap up her affairs there and to consummate the reestablishment of her domicile in the Philippines:

> 5.258.1. In her Verified Answers, Sen. Poe explained why she had to travel to the U.S.A. on 14 February 2006, and it had, again, nothing to do with supposedly maintaining her domicile in the U.S.A.
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> 5.258.2. To reiterate, Sen. Poe's trip to the U.S.A. in February 2006 was "for the purpose of supervising the disposal of some of the family's remaining household belongings." The circumstances that lead to her travel to the U.S.A. were discussed in detail in pars. 5.241 to 5.243 above. During this February 2006 trip to the U.S.A., Sen. Poe even donated some of the family's household belongings to the Salvation Army.
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> 5.258.3. On the other hand, Sen. Poe's trip to the U.S.A. from 16 December 2005 to 7 January 2006 was also intended, in part, to "to attend to her family's ongoing relocation."[500]

The Commission on Elections' begrudging attitude towards petitioner's two trips demonstrates an inordinate stance towards what animus non revertendi or intent to abandon domicile in the United States entails. Certainly, reestablishing her domicile in the Philippines cannot mean a prohibition against travelling to the United States. As this court emphasized in *Jalover v. Osmeña*,[501] the establishment of a new domicile does not require a person to be in his home 24 hours a day, seven (7) days a week.[502] To hold otherwise is to sustain a glaring absurdity.

The statement petitioner made in her Certificate of Candidacy for Senator as regards residence is not fatal to her cause.

The assailed Commission on Elections' Resolution in G.R. No. 221697 stated that:

> Respondent cannot fault the Second Division for using her statements in the 2013 COC against her. Indeed, the Second Division correctly found that this is an admission against her interest. Being such, it is 'the best evidence which affords the greatest certainty of the facts in dispute. The rationale for the rule is based on the presumption that no man would declare anything against himself unless such declaration was

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[500] Id. at 4028.
[501] G.R. No. 209286, September 23, 2014, 736 SCRA 267 [Per J. Brion, En Banc].
[502] Id. at 284.

> true. Thus, it is fair to presume that the declaration corresponds with the truth, and it is his fault if it does not.'
>
> Moreover, a [Certificate of Candidacy], being a notarial document, has in its favor the presumption of regularity. To contradict the facts stated therein, there must be evidence that is clear, convincing and more than merely preponderant. In order for a declarant to impugn a notarial document which he himself executed, it is not enough for him to merely execute a subsequent notarial document. After executing an affidavit voluntarily wherein admissions and declarations against the affiant's own interest are made under the solemnity of an oath, the affiant cannot just be allowed to spurn them and undo what he has done.
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> Yes, the statement in the 2013 COC, albeit an admission against interest, may later be impugned by respondent. However, she cannot do this by the mere expedient of filing her 2016 COC and claiming that the declarations in the previous one were "honest mistakes". The burden is upon her to show, by clear, convincing and more than preponderant evidence, that, indeed, it is the latter COC that is correct and that the statements made in the 2013 COC were done without bad faith. Unfortunately for respondent, she failed to discharge this heavy burden.[503]

Untenable is the Commission on Elections' conclusion that a certificate of candidacy, being a notarized document, may only be impugned by evidence that is clear, convincing, and more than merely preponderant because it has in its favor a presumption of regularity. Notarizing a document has nothing to do with the veracity of the statements made in that document. All that notarization does is to convert a private document into a public document, such that when it is presented as evidence, proof of its genuineness and due execution need no longer be shown.[504] Notarization does not sustain a presumption that the facts stated in notarized documents are true and correct.

More importantly, *Romualdez-Marcos*[505] has long settled that "[i]t is the fact of residence, not a statement in a certificate of candidacy which ought to be decisive in determining whether or not an individual has satisfied the constitution's residency qualification requirement."[506] It further stated that an "honest mistake should not, however, be allowed to negate the fact of residence . . . if such fact were established by means more convincing than a mere entry on a piece of paper."[507]

The facts—as established by the evidence—will always prevail over whatever inferences may be drawn from an admittedly mistaken declaration.

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503 *Rollo* (G.R. No. 221697), p. 241, COMELEC Resolution dated December 23, 2015.

504 See *Elena Leones vda. de Miller v. Atty. Rolando Miranda*, A.C. 8507, November 10, 2015 <http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2015/november2015/8507.pdf> [Per J. Perlas-Bernabe, First Division].

505 318 Phil. 329 (1995) [Per J. Kapunan, En Banc].

506 Id. at 380.

507 Id.

Jurisprudence itself admits of the possibility of a mistake. Nevertheless, the mistaken declaration serves neither as a perpetually binding declaration nor as estoppel. This is the unmistakable import of *Romualdez*.

This primacy of the fact of residence, as established by the evidence, and how it prevails over mere formalistic declarations, is illustrated in *Perez v. Commission on Elections*.[508]

In *Perez,* the petitioner Marcita Perez insisted that the private respondent Rodolfo Aguinaldo, a congressional candidate in the 1998 Elections, remained a resident of Gattaran, Cagayan, and that he was unable to establish residence in Tuguegarao, Cagayan. In support of her claims, she "presented private respondent's [previous] certificates of candidacy for governor of Cagayan in the 1988, 1992, and 1995 elections; his voter's affidavit which he used in the 1987, 1988, 1992, 1995, and 1997 elections; and his voter registration record dated June 22, 1997, in all of which it is stated that he is a resident of Barangay Calaoagan Dackel, Municipality of Gattaran."[509]

This court did not consider as binding "admissions" the statements made in the documents presented by Perez. Instead, it sustained the Commission on Elections' appreciation of other evidence proving that Aguinaldo managed to establish residence in Tuguegarao. It also cited *Romualdez-Marcos* and affirmed the rule that the facts and the evidence will prevail over prior (mistakenly made) declarations:

> In the case at bar, the COMELEC found that private respondent changed his residence from Gattaran to Tuguegarao, the capital of Cagayan, in July 1990 on the basis of the following: (1) the affidavit of Engineer Alfredo Ablaza, the owner of the residential apartment at 13-E Magallanes St., Tuguegarao, Cagayan, where private respondent had lived in 1990; (2) the contract of lease between private respondent, as lessee, and Tomas T. Decena, as lessor, of a residential apartment at Kamias St., Tanza, Tuguegarao, Cagayan, for the period July 1, 1995 to June 30, 1996; (3) the marriage certificate, dated January 18, 1998, between private respondent and Lerma Dumaguit; (4) the certificate of live birth of private respondent's second daughter; and (5) various letters addressed to private respondent and his family, which all show that private respondent was a resident of Tuguegarao, Cagayan for at least one (1) year immediately preceding the elections on May 11, 1998.
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> There is thus substantial evidence supporting the finding that private respondent had been a resident of the Third District of Cagayan and there is nothing in the record to detract from the merit of this factual finding.
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> . . . .

[508] 375 Phil. 1106 (1999) [Per J. Mendoza, En Banc].
[509] Id.

Moreover, as this Court said in *Romualdez-Marcos v. COMELEC*:

> It is the fact of residence, not a statement in a certificate of candidacy, which ought to be decisive in determining whether or not an individual has satisfied the constitution's residency qualification requirement. The said statement becomes material only when there is or appears to be a deliberate attempt to mislead, misinform, or hide a fact which would otherwise render a candidate ineligible.
>
> In this case, although private respondent declared in his certificates of candidacy prior to the May 11, 1998 elections that he was a resident of Gattaran, Cagayan, the fact is that he was actually a resident of the Third District not just for one (1) year prior to the May 11, 1998 elections but for more than seven (7) years since July 1990. His claim that he had been a resident of Tuguegarao since July 1990 is credible considering that he was governor from 1988 to 1998 and, therefore, it would be convenient for him to maintain his residence in Tuguegarao, which is the capital of the province of Cagayan.[510]

Even assuming that an "admission" is worth considering, the mere existence of any such admission does not imply its conclusiveness. "No doubt, admissions against interest may be refuted by the declarant."[511] This is true both of admissions made outside of the proceedings in a given case and of "[a]n admission, verbal or written, made by the party in the course of the proceedings in the same case."[512] As regards the latter, the Revised Rules on Evidence explicitly provides that "[t]he admission may be contradicted . . . by showing that it was made through palpable mistake." Thus, by *mistakenly* "admitting," a party is not considered to have brought upon himself or herself an inescapable contingency. On the contrary, that party is free to present evidence proving not only his or her mistake but also of what the truth is.

Petitioner here has established her good faith, that is, that she merely made an honest mistake. In addition, she adduced a plethora of evidence, "more convincing than a mere entry on a piece of paper,"[513] that proves the fact of her residence, which was reestablished through an incremental process commencing on May 24, 2005.

The fact of petitioner's honest mistake is accounted for. Working in her favor is a seamless, consistent narrative. This controverts any intent to deceive. It is an honest error for a layperson.

Firstly, her Certificate of Candidacy for Senator must be appreciated for what it is: a document filed in relation to her candidacy for Senator, *not*

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[510] Id. at 1117–1119.
[511] *Rufina Patis Factory v. Alusitain*, 478 Phil. 544, 558 (2004) [Per J. Carpio Morales, Third Division].
[512] RULES OF COURT, Rule 129, sec. 4.
[513] *Romualdez-Marcos v. COMELEC*, 318 Phil. 329, 382 (1995) [Per J. Kapunan, En Banc].

for President. Under Article VI, Section 3 of the 1987 Constitution, all that election to the Senate requires is residence in the Philippines for "not less than two years immediately preceding the day of the election." For purposes of her Certificate of Candidacy for Senator, petitioner needed to show residence for only two (2) years and not more. As petitioner explained, she accomplished this document without the assistance of a lawyer.[514] Thus, it should not be taken against her (and taken as a badge of misrepresentation) that she merely filled in information that was then apropos, though inaccurate.

As Commission on Elections Chairperson Andres Bautista noted in his Concurring and Dissenting Opinion to the assailed Commission on Elections' Resolution in G.R. No. 221697:

> [The] residency requirement for Senator is two (2) years. Hence, when [petitioner] stated in her 2013 COC that she was a resident . . . for [6 years and 6 months], it would seem that she did so without really considering the legal or constitutional requirement as contemplated by law. After all, she had already fully complied with the two-year residence requirement.[515]

The standard form for the certificate of candidacy that petitioner filed for Senator required her to specify her "Period of Residence in the Philippines before May 13, 2013."[516] This syntax lent itself to some degree of confusion as to what the "period before May 13, 2013" specifically entailed. It was, thus, quite possible for a person filling out a blank certificate of candidacy to have merely indicated his or her period of residence *as of the filing of his or her Certificate of Candidacy*. This would not have been problematic for as long as the total period of residence relevant to the position one was running for was complied with.

Affirming the apparent tendency to confuse, the Commission on Elections itself revised the template for certificates of candidacy for the upcoming 2016 Elections. As petitioner pointed out, the certificate of candidacy prepared for the May 9, 2016 Elections is now more specific. It now requires candidates to specify their "Period of residence in the Philippines *up to the **day before May 09, 2016***."[517]

It is true that reckoning six (6) years and six (6) months from October 2012, when petitioner filed her Certificate of Candidacy for Senator, would indicate that petitioner's residence in the Philippines commenced only in April 2006. This seems to belie what petitioner now claims: that her

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514 *Rollo* (G.R. No. 221697), p. 29, Petition.
515 Id. at 290.
516 Id.
517 *Rollo* (G.R. No. 221697), p. 4037, Petitioner's Memorandum. Emphasis supplied.

residence in the Philippines commenced on May 24, 2005. This, however, can again be explained by the fact that petitioner, a layperson, accomplished her own Certificate of Candidacy for Senator without the better advice of a legal professional.

To recall, jurisprudence appreciates the establishment of domicile as an incremental process. In this incremental process, even initial, preparatory moves count.[518] Residence is deemed acquired (or changed) as soon as these moves are demonstrated.[519] Nevertheless, the crucial fact about this manner of appreciating the establishment of domicile is that this is a technical nuance in jurisprudence. Laypersons can reasonably be expected to not have the acumen to grasp this subtlety. Thus, as petitioner explained, it was reasonable for her to reckon her residency from April 2006, when all the actions that she and her family needed to undertake to effect their transfer to the Philippines were consummated.[520] Indeed, as previously pointed out, the latter part of April leading to May 2006 is the terminal point of the incremental process of petitioner's reestablishing her residence in the Philippines.

Insisting on November 2006 as petitioner's supposedly self-declared start of residence in the Philippines runs afoul of the entire corpus of evidence presented. Neither petitioner's evidence nor the entirety of the assertions advanced by respondents against her manages to account for any significant occurrence in November 2006 that explains why petitioner would choose to attach her residency to this date. In the face of a multitude of countervailing evidence, nothing sustains November 2006 as a starting point.

There were two documents—a 2012 Certificate of Candidacy for Senator and a 2015 Certificate of Candidacy for President—that presented two different starting points for the establishment of residency. Logic dictates that if one is true, the other must be false.

The Commission on Elections insisted, despite evidence to the contrary, that it was the 2015 Certificate of Candidacy for President that was false. Petitioner admitted her honest mistake in filling out the 2012 Certificate of Candidacy for Senator. She explained how the mistake was made. She further presented evidence to show that it is the 2015 Certificate of Candidacy that more accurately reflects what she did and intended.

By itself, the Commission on Elections' recalcitrance may reasonably raise public suspicion that its conclusions in its Resolutions were preordained despite the compendium of evidence presented. It was clearly

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[518] *Mitra v. COMELEC*, 636 Phil. 753, 786 (2010) [Per J. Brion, En Banc].
[519] Id. at 788.
[520] *Rollo* (G.R. No. 221697), p. 4047–4048.

unfounded and arbitrary—another instance of the Commission on Elections' grave abuse of discretion.

Accordingly, the conclusion warranted by the evidence stands. The fact of petitioner's residence as having commenced on May 24, 2005, completed through an incremental process that extended until April/May 2006, was "established by means more convincing than a mere entry on a piece of paper."[521]

VI.L

Another fact cited against petitioner is her continuing ownership of two (2) real properties in the United States. Specifically, Valdez noted that petitioner "still maintains two (2) residential houses in the US, one purchased in 1992, and the other in 2008."[522]

This fails to controvert the timely reestablishment of petitioner's residence in the Philippines.

First, Valdez's characterization of the two properties as "residential" does not mean that petitioner has actually been using them as her residence. Classifying real properties on the basis of utility (e.g., as residential, agricultural, commercial, etc.) is merely a descriptive exercise. It does not amount to an authoritative legal specification of the relationship between the real property owner and the property. Thus, one may own agricultural land but not till it; one may own a commercial property but merely lease it out to other commercial enterprises.

To say that petitioner owns "residential" property does not mean that petitioner is actually residing in it.

In the Answer[523] she filed before the Commission on Elections, petitioner has even explicitly denied Valdez's assertion "insofar it is made to appear that (she) 'resides' in the 2 houses mentioned."[524] As against Valdez's allegation, petitioner alleged and presented supporting evidence that her family's residence has been established in Corinthian Hills, Quezon City. As pointed out by petitioner, all that Valdez managed to do was to make an allegation, considering that he did not present proof that any of the two (2) properties in the United States has been and is still being used by petitioner's family for their residence.

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521 Id.
522 Id.
523 Id.
524 Id.

Second, even on the assumption that the remaining properties in the United States may indeed be characterized as petitioner's residence, Valdez's assertion fails to appreciate the basic distinction between residence and domicile. It is this distinction that permits a person to maintain a separate residence simultaneously with his or her domicile.

Ultimately, it does not matter that petitioner owns residential properties in the United States, or even that she actually uses them as temporary places of abode. What matters is that petitioner has established and continues to maintain domicile in the Philippines.

Romualdez-Marcos[525] is on point:

> Residence, in its ordinary conception, implies the factual relationship of an individual to a certain place. It is the physical presence of a person in a given area, community or country. The essential distinction between residence and domicile in law is that residence involves the intent to leave when the purpose for which the resident has taken up his abode ends. One may seek a place for purposes such as pleasure, business, or health. If a person's intent be to remain, it becomes his domicile; if his intent is to leave as soon as his purpose is established it is residence. It is thus, quite perfectly normal for an individual to have different residences in various places. However, a person can only have a single domicile, unless, for various reasons, he successfully abandons his domicile in favor of another domicile of choice. In *Uytengsu vs. Republic*, we laid this distinction quite clearly:
>
> > "There is a difference between domicile and residence. 'Residence['] is used to indicate a place of abode, whether permanent or temporary; 'domicile' denotes a fixed permanent residence to which, when absent, one has the intention of returning. A man may have a residence in one place and a domicile in another. Residence is not domicile, but domicile is residence coupled with the intention to remain for an unlimited time. A man can have but one domicile for the same purpose at any time, but he may have numerous places of residence. His place of residence is generally his place of domicile, but it is not by any means necessarily so since no length of residence without intention of remaining will constitute domicile."[526] (Citations omitted)

There is nothing preventing petitioner from owning properties in the United States and even from utilizing them for residential purposes. To hold that mere ownership of these is tantamount to abandonment of domicile is to betray a lack of understanding of the timelessly established distinction between domicile and residence.

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[525] 318 Phil. 329 (1995) [Per J. Kapunan, En Banc].
[526] Id. at 377–378.

VII

It was grave abuse of discretion for the Commission to Elections to cancel petitioner's Certificate of Candidacy on grounds that find no support in law and jurisprudence, and which are not supported by evidence. Petitioner made no false representation in her Certificate of Candidacy, whether in respect of her citizenship or in respect of her residence. She is a natural-born Filipina at the time of her filing of her Certificate of Candidacy. She satisfies the requirement of having been a resident of the Philippines 10 years prior to the upcoming elections.

The burden of evidence rests on the person who makes the affirmative allegation. In an action for cancellation of certificate of candidacy under Section 78 of the Omnibus Election Code, it is the person who filed the action who has the burden of showing that the candidate made false representations in his or her certificate of candidacy.

To prove that there is misrepresentation under Section 78, the person claiming it must not only show that the candidate made representations that are false and material. He or she must also show that the candidate intentionally tried to mislead the electorate regarding his or her qualifications. Without showing these, the burden of evidence does not shift to the candidate.

Private respondents failed to show the existence of false and material misrepresentation on the part of petitioner. Instead, it relied on petitioner's admission that she is a foundling.

Relying on the single fact of being an abandoned newborn is unreasonable, arbitrary, and discriminatory. It fails to consider all other pieces of evidence submitted by petitioner for the fair and unbiased consideration of the Commission on Elections.

The principles of constitutional construction favor an interpretation that foundlings like petitioner are natural-born citizens of the Philippines absent proof resulting from evidence to the contrary. Such proof must show that ***both***—not only one—of petitioner's parents were foreigners at the time of her birth.

Without conceding that foundlings are not—even presumptively—natural-born Filipinos, petitioner has presented substantial evidence that her biological parents are Filipinos.

The Constitution provides for only two types of citizens: (1) natural-born, and (2) naturalized citizens. Natural-born citizens are specifically defined as persons who do not have to perform any act to acquire or perfect their Filipino citizenship. These acts refer to those required under our naturalization laws. More particularly, it involves the filing of a petition as well as the establishment of the existence of all qualifications to become a Filipino citizen.

Petitioner never had to go through our naturalization processes. Instead, she has been treated as a Filipino citizen upon birth, subject to our laws. Administrative bodies, the Commission on Elections, the President, and most importantly, the electorate have treated her as a Filipino citizen and recognized her natural-born status.

Not being a Filipino by naturalization, therefore, petitioner could have acquired Filipino citizenship because her parent/s, from her birth, has/have always been considered Filipino citizen/s who, in accordance with our *jus sanguinis* principle, bestowed natural-born citizenship to her under Article IV, Section 1(1) to (3) of the Constitution.

Our Constitution and our domestic laws, including the treaties we have ratified, enjoin us from interpreting our citizenship provisions in a manner that promotes exclusivity and an animus against those who were abandoned and neglected.

We have adopted and continue to adopt through our laws and practice policies of equal protection, human dignity, and a clear duty to always seek the child's well-being and best interests. We have also obligated ourselves to defend our People against statelessness and protect and ensure the status and nationality of our children immediately upon birth.

Therefore, an interpretation that excludes foundlings from our natural-born citizens is inconsistent with our laws and treaty obligations. It necessarily sanctions unequal treatment of a particular class through unnecessary limitation of their rights and capacities based only on their birth status.

Petitioner cannot be expected to present the usual evidence of her lineage. It is precisely because she is a foundling that she cannot produce a birth record or a testimony on the actual circumstances and identity of her biological parents.

However, the circumstances of and during her birth lead to her parent/s' Filipino citizenship as the most probable inference.

Petitioner was born in Jaro, Iloilo, the population of which consisted mainly of Filipinos. Her physical features are consistent with the physical features of many Filipinos. She was left in front of a Catholic Church, no less—consistent with the expectation from a citizen in a predominantly Catholic environment. There was also no international airport in Jaro, Iloilo to and from which foreigners may easily come and go to abandon their newborn children. Lastly, statistics show that in 1968, petitioner had a 99.8% chance of being born a Filipino.

For these reasons, a claim of material misrepresentation of natural-born status cannot be based solely on a candidate's foundling status. Private respondents should have been more diligent in pursuing their claim by presenting evidence other than petitioner's admission of foundling status.

The conclusion that she is a natural-born Filipina is based on a fair and reasonable reading of constitutional provisions, statutes, and international norms having the effect of law, and on the evidence presented before the Commission on Elections.

Petitioner has shown by a multitude of evidence that she has been domiciled in the Philippines beginning May 24, 2005. Her reestablishment of residence was not accomplished in a singular, definitive episode but spanned an extended period. Hers was an incremental process of reestablishing residence.

This incremental process was terminated and completed by April 2006 with the sale of her family's former home in the United States and the return of her husband to the Philippines following this sale. Specifically, her husband returned to the Philippines on May 4, 2006.

Whichever way the evidence is appreciated, it is clear that petitioner has done all the acts necessary to become a resident on or before May 9, 2006, the start of the ten-year period for reckoning compliance with the 1987 Constitution's residence requirement for presidential candidates.

The Commission on Elections did not examine the evidence deliberately and with the requisite analytical diligence required by our laws and existing jurisprudence. Instead, it arbitrarily ignored petitioner's evidence. It chose to anchor its conclusions on formalistic requirements and technical lapses: reacquisition of citizenship, issuance of a permanent resident or immigrant visa, and an inaccuracy in a prior Certificate of Candidacy.

Misplaced reliance on preconceived indicators of what suffices to establish or retain domicile—a virtual checklist of what one should, could, or would have done—is precisely what this court has repeatedly warned against. This is tantamount to evasion of the legally ordained duty to engage in a meticulous examination of the facts attendant to residency controversies.

Worse, the Commission on Elections went out of its way to highlight supposedly damning details—the circumstances of petitioner's husband, her intervening trips to the United States—to insist upon its conclusions. This conjectural posturing only makes more evident how the Commission on Elections gravely abused its discretion. Not only did it turn a blind eye to the entire body of evidence demonstrating the restoration of petitioner's domicile; it even labored at subverting them.

Clearly, the Commission on Elections' actions constituted grave abuse of discretion amounting to utter lack of jurisdiction. These actions being unjust as well as unchristian, we have no choice except to annul this unconstitutional act.

Admittedly, there is more to democracy than having a wider choice of candidates during periodic elections. The quality of democracy increases as people engage in meaningful deliberation often moving them to various types of collective action to achieve a better society. Elections can retard or aid democracy. It weakens society when these exercises reduce the electorate to subjects of entertainment, slogans, and empty promises. This kind of elections betrays democracy. They transform the exercise to a contest that puts premium on image rather than substance. The potential of every voter gets wasted. Worse, having been marginalized as mere passive subjects, voters are then manipulated by money and power.

Elections are at their best when they serve as venues for conscious and deliberate action. Choices made by each voter should be the result of their own reasoned deliberation. These choices should be part of their collective decision to choose candidates who will be accountable to them and further serious and workable approaches to the most pressing and relevant social issues. Elections are at their best when the electorate are not treated simply as numbers in polling statistics, but as partners in the quest for human dignity and social justice.

This case should be understood in this context. There are no guarantees that the elections we will have in a few months will lead us to more meaningful freedoms. How and when this comes about should not solely depend on this court. In a working constitutional democracy framed by the rule of just law, how we conceive and empower ourselves as a people should also matter significantly.

ACCORDINGLY, I vote to **GRANT** the consolidated Petitions for Certiorari. The assailed Resolutions dated December 1, 2015 of the Commission on Elections Second Division and December 23, 2015 of the Commission on Elections En Banc in SPA No. 15-001 (DC), and the assailed Resolutions dated December 11, 2015 of the Commission on Elections First Division and December 23, 2015 of the Commission on Elections En Banc in SPA No. 15-002 (DC), SPA No. 15-007 (DC), and SPA No. 15-139 (DC) must be **ANNULLED and SET ASIDE**.

Petitioner Mary Grace Natividad S. Poe-Llamanzares made no material misrepresentation in her Certificate of Candidacy for President in connection with the May 9, 2016 National and Local Elections. There is no basis for the cancellation of her Certificate of Candidacy.

MARVIC M.V.F. LEONEN
Associate Justice