



Republic of the Philippines  
Supreme Court  
Manila

EN BANC

PHILIP HERNANDEZ PICCIO,  
Petitioner,

G.R. No. 248985\*

Present:

GESMUNDO, C.J.,  
PERLAS-BERNABE,\*\*  
LEONEN,\*\*  
CAGUIOA,  
HERNANDO,  
CARANDANG,  
LAZARO-JAVIER,  
INTING,  
ZALAMEDA,  
M. LOPEZ,  
GAERLAN,  
ROSARIO,  
J. LOPEZ, and  
DIMAAMPAO, JJ.

- versus -

HOUSE OF  
REPRESENTATIVES  
ELECTORAL TRIBUNAL and  
ROSANNA VERGARA  
VERGARA,

Respondents.

Promulgated:

October 5, 2021

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DECISION

CAGUIOA, J.:

This is a Petition for *Certiorari*<sup>1</sup> (Petition) filed pursuant to Rule 65 of the Rules of Court (Rules) by Philip Hernandez Piccio (Piccio), assailing the

\* The present case was previously consolidated with G.R. No. 236115 entitled "*Vergara v. House of Representatives Electoral Tribunal, et al.*" However, the petition in G.R. No. 236113 was subsequently withdrawn.

\*\* No part.

\*\*\* On official leave.

<sup>1</sup> Captioned "Petition for Review on *Certiorari*" rollo, pp. 3-36.

Decision<sup>2</sup> dated May 23, 2019 (assailed Decision) and Resolution<sup>3</sup> dated June 27, 2019 (assailed Resolution) of the House of Representatives Electoral Tribunal (HRET) in HRET Case No. 16-025 (QW) for having been issued with grave abuse of discretion. The assailed Decision dismissed, for lack of merit, the petitions for *quo warranto* filed by Piccio and therein petitioner-intervenor Aurelio Matias Umali (Umali) against Congresswoman Rosanna Vergara Vergara (Vergara) and affirmed Vergara's proclamation as duly-elected Member of the House of Representatives (House), representing the Third District of Nueva Ecija in the May 2016 National and Local Elections. The assailed Resolution denied Piccio's Motion for Reconsideration (MR).

### The Facts

Vergara is a natural-born Filipino citizen, having been born to Filipino parents, Leopoldo Lucas Vergara and Francisca L. Garcia, on November 5, 1963 in the City of Manila. In 1994, she moved to Cabanatuan City where she married her husband and later established their family home.

On May 20, 1998, prompted by her desire to pursue job opportunities, Vergara moved to the United States of America (USA), obtained a Certificate of Naturalization as an American citizen, and was thereby issued an American passport.<sup>4</sup>

Sometime in November 2006, Vergara filed with the Philippine Bureau of Immigration (BI) a Petition for the Issuance of an Identification Certificate (IC) pursuant to Republic Act No. (R.A.) 9225<sup>5</sup> for the retention/reacquisition of Philippine citizenship (R.A. 9225 Petition). The same was docketed as CRR No. 06-11/28-11184, No. AFF-06-10552.<sup>6</sup> As part of the documentary requirements supporting her R.A. 9225 Petition,<sup>7</sup> Vergara took her Oath of Allegiance to the Republic of the Philippines on November 26, 2006.<sup>8</sup>

Finding that Vergara had complied with all the requirements of R.A. 9225 and BI Memorandum Circular No. (BI M.C.) AFF-05-002,<sup>9</sup> the BI Task Force on the Citizenship Retention and Reacquisition Act of 2003 (BI-TFCRRA), through Manuel Ferdinand C. Arbas (Arbas), issued a Memorandum dated November 28, 2006, recommending the approval of

<sup>2</sup> *Rollo*, pp. 37-64. Penned by then Associate Justice and Chairperson of the HRET Diosdado M. Peralta and signed by then Associate Justice Francis H. Jardeleza, and Representatives Jorge T. Almonte, Gavini C. Pancho, Abigail Faye C. Ferriol-Pascual, Joaquin M. Chipeco, Jr., Wilter Wee Palma II, and Abdullah D. Dimaporo. Associate Justice and then HRET Member Estela M. Perlas-Bernabe took no part.

<sup>3</sup> *Id.* at 65.

<sup>4</sup> *Id.* at 38.

<sup>5</sup> Otherwise known as the "CITIZENSHIP RETENTION AND RE-ACQUISITION ACT OF 2003," approved on August 29, 2003.

<sup>6</sup> *Rollo*, p. 38.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.* at 70.

<sup>9</sup> REVISED RULES GOVERNING PHILIPPINE CITIZENSHIP UNDER REPUBLIC ACT (R.A.) NO. 9225 AND ADMINISTRATIVE ORDER (A.O.) NO. 91, SERIES OF 2004. See Whereas Clause designating the BI as the Implementing Agency of R.A. 9225; *rollo*, p. 38.

Vergara's R.A. 9225 Petition and the issuance of an IC in her favor.<sup>10</sup> In an Order dated November 30, 2006,<sup>11</sup> BI Commissioner Alipio F. Fernandez, Jr. (Commissioner Fernandez) granted Vergara's R.A. 9225 Petition, holding that, upon a careful review of her submitted documents, she had taken her Oath of Allegiance and, so, thereby deemed to have re-acquired her Philippine citizenship. The Order further stated that Vergara had complied with all the requirements of R.A. 9225 and directed the issuance of an IC in her favor.<sup>12</sup>

Hence, Vergara was issued IC No. 06-12955 likewise dated November 30, 2006, recognizing her as having re-acquired her Philippine citizenship pursuant to R.A. 9225.<sup>13</sup> Subsequently, Vergara executed an Affidavit of Renunciation of Foreign Citizenship dated September 4, 2015.<sup>14</sup>

### *Proceedings before the Commission on Elections*

On October 15, 2015, Vergara filed with the Commission on Elections (COMELEC) a Certificate of Candidacy (CoC) for Representative of the Third District of Nueva Ecija for the May 9, 2016 National and Local Elections.<sup>15</sup>

On October 19, 2015, Piccio, as registered voter, filed a Petition to Deny Due Course and/or Cancel Certificate of Candidacy under Section 78 of the Omnibus Election Code (Section 78 Petition) against Vergara, alleging her failure to comply with the citizenship, residency, and voter registration requirements for Members of the House. In her Verified Answer to the Section 78 Petition, Vergara asserted her eligibility, as she had long re-acquired Philippine citizenship.<sup>16</sup>

In the May 11, 2016 elections, Vergara won and was proclaimed as duly-elected Representative of the Third District of Nueva Ecija. On June 30, 2016, she took her oath of office and assumed her position as Member of the House.<sup>17</sup>

In a Resolution dated June 7, 2016, the COMELEC dismissed the Section 78 Petition for lack of merit. It found, *inter alia*, that, prior to Vergara's filing of a CoC, she had already re-acquired her Philippine citizenship under R.A. 9225. The COMELEC likewise found Vergara to be a natural-born Filipino citizen, a legitimate resident and registered voter of the Third District of Nueva Ecija.<sup>18</sup> Piccio filed an MR. Later, the COMELEC *en banc* issued an Order dated September 8, 2016, noting Piccio's *ex-parte*

<sup>10</sup> *Rollo*, pp. 38-39.

<sup>11</sup> *Id.* at 40.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.* at 41.

<sup>14</sup> *Id.* at 41-42.

<sup>15</sup> *Id.* at 42.

<sup>16</sup> *Id.*

<sup>17</sup> *Id.* at 43.

<sup>18</sup> *Id.*

Manifestation stating that he earlier filed a Petition for *Quo Warranto Ad Cautelam* against Vergara before the HRET and that, in view thereof, his petition before the COMELEC should then be considered withdrawn.<sup>19</sup>

*The incidents leading to the present controversy*

Meanwhile, Piccio tried to secure from the Office of the Clerk of Court (OCC) and *Ex-Officio* Sheriff of the City of Manila a certified true copy of Vergara's Oath of Allegiance. The Assistant Clerk of Court, Clemente M. Clemente, issued a Certification dated May 24, 2016, stating that Atty. Alejandro B. Cinco (Atty. Cinco) — the Notary Public before whom Vergara's Oath of Allegiance was acknowledged on November 26, 2006 — did not submit Book IV of his Notarial Report, corresponding to the period from February 2006 to December 2007, which supposedly contained said Oath of Allegiance. The Certification read:

Atty. Alejandro B. Cinco submitted his Notarial Report for the months of February 2006 to December 2007 consisting of Pages 1-68 of Book 1 (one) only. This office could not issue a certified true copy of the document denominated as "Oath of Allegiance" executed by Rosanna Garcia Vergara, alleged to have been acknowledged before said Notary Public on November 26, 2006 with Doc. No. 115; Page No. 42; Book No. IV, Series of 2006, inasmuch as Book No. IV is not among those submitted to this Office.<sup>20</sup>

On May 16, 2016,<sup>21</sup> Piccio wrote a letter to the BI asking for certified true copies of Vergara's R.A. 9225 documents, which documents she had submitted to the COMELEC in support of her CoC. However, then BI Commissioner Ronaldo A. Geron (Commissioner Geron), in his Letter dated May 20, 2016, informed Piccio that the requested certified true copies could not be issued because the BI's Record's Section only had photocopies of Vergara's R.A. 9225 documents.<sup>22</sup>

On May 23, 2016, Piccio wrote another letter, this time requesting for a certification from the BI on the existence of Vergara's IC No. 06-12955.<sup>23</sup> In response, Commissioner Geron wrote Piccio a Letter dated June 2, 2016, again refusing to issue a Certification, albeit offering a different reason this time — that based on existing records of the BI, no R.A. 9225 Petition in favor of Vergara was received or processed by the BI and that no record of IC No. 06-12955 exists in the BI's files.<sup>24</sup>

<sup>19</sup> Id.

<sup>20</sup> Id. at 44. Underscoring in the original.

<sup>21</sup> Id. at 74.

<sup>22</sup> Id. at 44.

<sup>23</sup> Id.

<sup>24</sup> Id. at 45.

In a third Letter dated May 25, 2016, Piccio wrote Commissioner Geron, seeking an explanation why the BI only has in its records a photocopy of Vergara's Oath of Allegiance.<sup>25</sup> However, the latter, in a Letter dated June 29, 2016, merely reiterated his June 2, 2016 Letter regarding the non-existence of Vergara's R.A. 9225 documents with the BI.<sup>26</sup>

Upon learning of the conflicting replies of Commissioner Geron, Vergara wrote the BI a Letter dated July 4, 2016, asking for clarification on the matter. In her letter, Vergara narrated that she had filed with the BI the original copies of the required documents in support of her R.A. 9225 Petition, that said petition was granted, and that she was accordingly issued IC No. 06-12955. She further stated that, upon her request on December 15, 2015 and June 27, 2016, she was, in fact, issued certified true copies of her IC, together with its relevant documents, which issuances were accompanied by official receipts attached as enclosures to her letter.<sup>27</sup>

In response to Vergara, then newly-appointed Commissioner Jaime H. Morente (Commissioner Morente), in a Letter-Reply dated August 10, 2016, stated that the Acting Chief of the Board of Special Inquiry (BI-BSI) confirmed that Vergara's R.A. 9225 Petition had been duly received, processed, and approved by the BI and that she had been issued IC No. 06-12955. Further, her R.A. 9225 records reportedly containing photocopied documents were borrowed by Commissioner Geron on May 16, 2016. Commissioner Morente likewise declared that he had ordered the conduct of an investigation on the alleged tampering of Vergara's R.A. 9225 records.<sup>28</sup>

#### *Proceedings before the HRET*

On July 11, 2016, Piccio filed a *quo warranto* petition against Vergara before the HRET,<sup>29</sup> averring that Vergara is ineligible to sit as a Member of the House, as she remained to be an American citizen, not having complied with the requirements of R.A. 9225 for re-acquisition of Philippine citizenship. He cited, as basis: 1) the Certification dated May 24, 2016 of the Manila City OCC and 2) Commissioner Geron's three letters. Umali basically only adopted the position of Piccio.

Vergara, on the other hand, denied Piccio's allegations and maintained that she had duly re-acquired her Philippine citizenship in compliance with R.A. 9225.<sup>30</sup>

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<sup>25</sup> Id.

<sup>26</sup> Id. at 45-46.

<sup>27</sup> Id. at 46.

<sup>28</sup> Id. at 46-47.

<sup>29</sup> Id. at 49.

<sup>30</sup> Id.

On July 27, 2017, Pre-trial Conference was held.<sup>31</sup> Later, the HRET issued the Pre-Trial Order dated July 28, 2017. Thereafter, trial on the merits followed.<sup>32</sup>

*The Ruling of HRET*

In the assailed Decision, the HRET found no merit in the *quo warranto* petitions of Piccio and Umali, and disposed of the case, thus:

**WHEREFORE**, the instant petitions for *quo warranto* are DISMISSED for lack of merit, and the proclamation of respondent ROSANNA VERGARA as the duly elected Member of the House of Representatives representing the Third District of Nueva Ecija in the May 2016 National and Local Elections is AFFIRMED.

x x x x

SO ORDERED.<sup>33</sup>

The HRET held that Piccio and Umali utterly failed to establish their claims that Vergara remained to be an American citizen.<sup>34</sup> The HRET ruled that, to the contrary, the evidence unmistakably show that she had duly filed her R.A. 9225 Petition and had submitted the required documents therefor, resulting in the grant of said petition and the issuance of an IC.<sup>35</sup>

Piccio's MR was denied in the assailed Resolution. Thus, the present Petition.

Here, Piccio alleges that the HRET gravely abused its discretion when it declared that Vergara had duly re-acquired her Philippine citizenship, despite the fact that both she and the BI only have photocopies of Vergara's R.A. 9225 documents.<sup>36</sup> He insists that Vergara failed to sufficiently explain the loss of her original documents, hence, incapacitating her to validly present in evidence the photocopies of her documents.<sup>37</sup> He likewise bewails the failure of the BI to explain the missing originals and asserts that the presumption of regularity in the performance of official functions may no longer work to its advantage.<sup>38</sup>

Piccio further alleges that the HRET plagiarized the assailed Decision because most, if not all, of its contents can be found in Vergara's Answer and

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<sup>31</sup> Id. at 160.

<sup>32</sup> Id.

<sup>33</sup> Id. at 6.

<sup>34</sup> Id.

<sup>35</sup> Id. at 52.

<sup>36</sup> Id. at 8-9.

<sup>37</sup> Id. at 13.

<sup>38</sup> Id. at 9.

Memorandum filed before it. Allegedly, this casts suspicion as to the HRET's fairness, impartiality, and integrity.<sup>39</sup>

On the other hand, Vergara, in her Comment<sup>40</sup> dated October 28, 2019, alleges that the Petition suffers from serious procedural infirmities which warrant its outright dismissal.<sup>41</sup> In any case, she avers that the Petition must fail on its merits as all of the issues raised therein were already correctly ruled upon by the HRET. She maintains that she had proven her compliance with R.A. 9225 to re-acquire her Philippine citizenship. Finally, she submits that Piccio's allegations of plagiarism by the HRET must be stricken down for being misleading and contrary to Piccio's own cited case law.<sup>42</sup>

In turn, public respondent HRET, through the Office of the Solicitor General (OSG), in its Comment<sup>43</sup> dated January 8, 2020, avers that the Petition must be dismissed outright for being moot and academic, as Vergara had already fully served her 2016–2019 term as Representative of Nueva Ecija.<sup>44</sup> At any rate, the OSG maintains that the HRET did not commit any grave abuse of discretion as its dismissal of the *quo warranto* petitions was supported by the evidence on record.<sup>45</sup> Moreover, it refers to a number of resolutions from various quasi-judicial bodies which had ruled on the same issues as the present case, and attached copies thereof to its Comment.<sup>46</sup> Finally, the OSG submits that as petitioners before it failed to prove their allegations, the dismissal of the *quo warranto* petitions was warranted and the general rule that the HRET's judgment is beyond judicial interference must be upheld.<sup>47</sup>

In Piccio's Reply to Comment<sup>48</sup> dated February 23, 2020, he argues against the OSG's submission that the present case is mooted by the expiration of Vergara's first term as Member of the House. He cited cases which the Court still resolved on the merits although supervening events have rendered them moot, and reiterates the exceptional character of the present case as one being capable of repetition yet evading review.

### Issues

The issues raised by the parties may be summarized as follows:

- 1) Whether the Petition should be dismissed for being moot and academic;

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<sup>39</sup> Id. at 20-31.  
<sup>40</sup> Id. at 276-301.  
<sup>41</sup> Id. at 278-280.  
<sup>42</sup> Id. at 293-298.  
<sup>43</sup> Id. at 314-336.  
<sup>44</sup> Id. at 322-323.  
<sup>45</sup> Id. at 324.  
<sup>46</sup> Id. at 330.  
<sup>47</sup> Id. at 332-334.  
<sup>48</sup> Id. at 379-387.



- 2) Whether the Petition should be dismissed for procedural lapses;
- 3) Whether the HRET gravely abused its discretion when it dismissed the *quo warranto* petitions and ruled that Vergara is qualified to sit as a Member of the House; and
- 4) Whether the HRET gravely abused its discretion by committing plagiarism in its assailed Decision.

### The Court's Ruling

The Petition fails. The Petition is dismissed.

*The case cannot be dismissed for being moot and academic.*

The HRET seeks the outright dismissal of the Petition for being moot and academic, in light of the completion of Vergara's 2016-2019 term as Representative of the Third District of Nueva Ecija.<sup>49</sup>

The present case is not moot.

A case becomes moot when it ceases to present a justiciable controversy so that a determination thereof would be without practical use and value.<sup>50</sup> Here, the issue of Vergara's eligibility to sit as a Member of the House on the ground of her citizenship is not mooted by the expiration of her 2016 term, nor by the passing of the 2019 elections. There is no dispute that Vergara was re-elected in 2019 as Representative of Nueva Ecija's Third District, hence, continues to serve as an incumbent Member of the House to this day.

The 1987 Constitution requires Members of the House to be natural-born citizens of the Philippines.<sup>51</sup> Likewise, the Local Government Code (LGC)<sup>52</sup> requires Philippine citizenship as a qualification for an elective local official.<sup>53</sup> Hence, Philippine citizenship is an indispensable requirement for holding an elective office.<sup>54</sup> Qualifications for public office are continuing requirements and must be possessed, not only at the time of election or

<sup>49</sup> Id. at 322-323.

<sup>50</sup> *De Guzman v. COMELEC*, G.R. No. 180048, June 19, 2009, 590 SCRA 149, 155.

<sup>51</sup> CONSTITUTION, Article VI, Sec. 6 provides:

*Section 6.* No person shall be a Member of the House of Representatives unless he is a natural-born citizen of the Philippines x x x.

<sup>52</sup> R.A. 7160 entitled, "AN ACT PROVIDING FOR A LOCAL GOVERNMENT CODE OF 1991," approved on October 10, 1991. *See* Section 39.

<sup>53</sup> Section 39 of the LGC provides:

SECTION 39. *Qualifications.* – (a) An elective local official must be a citizen of the Philippines x x x.

<sup>54</sup> *Labo, Jr. v. COMELEC*, G.R. Nos. 105111 and 105384, July 3, 1992, 211 SCRA 297, 308.

assumption of office, but during the officer's entire tenure.<sup>55</sup> The Court has held in *Limkaichong v. COMELEC*.<sup>56</sup>

The 1998 HRET Rules, as amended, provide for the manner of filing either an election protest or a petition for *quo warranto* against a Member of the House of Representatives. In our Decision, we ruled that the ten-day prescriptive period under the 1998 HRET Rules does not apply to disqualification based on citizenship, because qualifications for public office are continuing requirements and must be possessed not only at the time of appointment or election or assumption of office but during the officer's entire tenure. Once any of the required qualifications is lost, his title may be seasonably challenged. Accordingly, the 1987 Constitution requires that Members of the House of Representatives must be natural-born citizens not only at the time of their election but during their entire tenure. Being a continuing requirement, one who assails a member's citizenship or lack of it may still question the same at any time, the ten-day prescriptive period notwithstanding.<sup>57</sup>

Hence, the resolution of the present case remains relevant as Vergara's continued tenure as a Member of the House hinges on the resolution of the issue of whether she had validly re-acquired her Philippine citizenship. Stated differently, should the Court find that she is ineligible for not being a Philippine citizen, she must be removed from office. Needless to say, the issue of her citizenship remains to be a justiciable controversy, hence, the case is not rendered moot and academic.

At any rate, the present case is capable of repetition yet evading review, thus exempting it from the mootness rule, as held in *Vilando v. HRET*,<sup>58</sup> which bears facts similar to the present case, thus:

It should be noted that Limkaichong's term of office as Representative of the First District of Negros Oriental from June 30, 2007 to June 30, 2010 already expired. As such, the issue questioning her eligibility to hold office has been rendered moot and academic by the expiration of her term. Whatever judgment is reached, the same can no longer have any practical legal effect or, in the nature of things, can no longer be enforced. Thus, the petition may be dismissed for being moot and academic.

Moreover, there was the conduct of the 2010 elections, a supervening event, in a sense, has also rendered this case moot and academic. A moot and academic case is one that ceases to present a justiciable controversy by virtue of supervening events, so that a declaration thereon would be of no practical value. As a rule, courts decline jurisdiction over such case, or dismiss it on ground of mootness.

Citizenship, being a continuing requirement for Members of the House of Representatives, however, may be questioned at anytime. For this

<sup>55</sup> *Frivaldo v. COMELEC*, G.R. No. 87193, June 23, 1989, 174 SCRA 245, 255.

<sup>56</sup> G.R. Nos. 178831-32, 179120, 179132-33 & 179240-41, July 30, 2009, 594 SCRA 434.

<sup>57</sup> *Id.* at 447.

<sup>58</sup> G.R. Nos. 192147 & 192149, August 23, 2011, 656 SCRA 17.

reason, the Court deems it appropriate to resolve the petition on the merits. This position finds support in the rule that courts will decide a question, otherwise moot and academic, if it is “capable of repetition, yet evading review.” The question on Limkaichong’s citizenship is likely to recur if she would run again, as she did run, for public office, hence, capable of repetition.<sup>59</sup>

In light of the foregoing, the Court now proceeds to resolve the Petition.

*Under the circumstances, while the failure of the Petition to comply with the Material Data Rule may be excused, its failure to attach vital annexes is fatal.*

Vergara submits that the Petition must be dismissed outright for failing to state the date when Piccio received the assailed Decision, pursuant to the Court’s Revised Circular No. 1-88<sup>60</sup> which states:

Considering the provisions of Section 12, Article XVIII of the 1987 Constitution, mandating the adoption of a systematic plan to expedite the decision or resolution of cases or matters pending in the Supreme Court and complementing further the Court’s Resolution of April 7, 1988, implementing Administrative Circular No. 1 of January 28, 1988, the Supreme Court, effective January 1, 1989, will entertain only petitions that comply strictly with the pertinent provisions of the Rules of Court, more particularly the following:

x x x x

**(4) Verified statement of material dates.** — A petition under Rule 45 or 65 shall in all cases contain a verified statement of the date when notice of the judgment, order or resolution subject thereof was received, when a motion for reconsideration, if any, was filed, and when notice of the denial thereof was received; otherwise, the petition may be dismissed. (Emphasis supplied)

The rationale behind the requirement to state the material dates in a petition is to enable the appellate court to determine whether such petition was filed within the period fixed in the rules.<sup>61</sup> In *Technological Institute of the Philippines Teachers and Employees Organization (TIPTEO) v. Court of Appeals*,<sup>62</sup> the Court deferred to the CA’s exercise of its discretion when it gave due course to the petition therein and held that the same was filed on time.

<sup>59</sup> Id. at 23-24.

<sup>60</sup> Entitled, “SUBJECT: IMPLEMENTATION OF SEC. 12, ART. XVIII OF THE 1987 CONSTITUTION AND COMPLEMENTING ADMINISTRATIVE CIRCULAR NO. 1 OF JANUARY 28, 1988 ON EXPEDITIOUS DISPOSITION OF CASES PENDING IN THE SUPREME COURT,” dated July 1, 1991.

<sup>61</sup> *Technological Institute of the Philippines Teachers and Employees Organization (TIPTEO) v. Court of Appeals*, G.R. No. 158703, June 26, 2009, 591 SCRA 112, 127.

<sup>62</sup> Id.

Similarly, the Court defers to the HRET which took cognizance of Piccio's MR filed before it on June 20, 2019.<sup>63</sup> Further, a copy of the MR is attached to the present Petition and the same states that Piccio received the assailed Decision on June 10, 2019 and that the filing of such MR is, thus, timely.<sup>64</sup> Finally, while the Court's Revised Circular No. 1-88 mandates strict compliance with the Rules, its use of the words "may be dismissed" nevertheless shows that the Court retains the discretion to observe liberality and excuse procedural missteps, as the circumstances may warrant.

The more serious procedural defect pointed out by Vergara is the failure of the Petition to attach its declared annexes, some of which constitute vital evidence to support its claims.<sup>65</sup>

Specifically, Vergara assails the failure of Piccio to attach Annexes "A" to "L" of the Petition for *Quo Warranto* (marked as Annex "C" of the Petition)<sup>66</sup> and Annexes "1" to "8-g" of the Verified Answer of Vergara (marked as Annex "E" of the Petition),<sup>67</sup> as a violation of Section 1, Rule 65 of the Rules,<sup>68</sup> which requires a petition for *certiorari* to "x x x be accompanied by a certified true copy of the judgment, order or resolution subject thereof, and copies of all pleadings and documents relevant and pertinent thereto x x x."<sup>69</sup>

While the rules of procedure should not be strictly enforced at the cost of substantial justice,<sup>70</sup> this should not mean that the Rules may be ignored at will to the prejudice of the orderly administration of justice.<sup>71</sup> Hence, there must be a *healthy balance* between the strict enforcement of procedural rules and the guarantee that every litigant be given the full opportunity for the just disposition of his cause.<sup>72</sup>

Not all pleadings and parts of the records are required to be attached to a petition — only such as would give the reviewing body enough documentary and evidentiary bases to resolve the issues and, ultimately, the case before it.<sup>73</sup> The crucial question to consider, then, is whether the documents accompanying the petition sufficiently substantiate the allegations therein.<sup>74</sup>

<sup>63</sup> *Rollo*, p. 65.

<sup>64</sup> *Id.* at 254.

<sup>65</sup> *Id.* at 279-280.

<sup>66</sup> *Id.* at 66-84.

<sup>67</sup> *Id.* at 90-114.

<sup>68</sup> *Id.* at 271-280.

<sup>69</sup> RULES OF COURT, Rule 65, Sec. 1 provides:

**SEC. 1.** x x x 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 paragraph of Section 3, Rule 46. (1a)

<sup>70</sup> *Union Industries, Inc. v. Vales*, G.R. No. 140102, February 9, 2006, 482 SCRA 17, 21.

<sup>71</sup> *Id.*

<sup>72</sup> *Spouses Cordero v. Octaviano*, G.R. No. 241385, July 7, 2020, accessed at <<https://sc.judiciary.gov.ph/14876>>.

<sup>73</sup> *Id.*

<sup>74</sup> *Galvez v. Court of Appeals*, G.R. No. 157445, April 3, 2013, 695 SCRA 10, 21.

This is evident from the “guideposts” laid down in *Air Philippines Corporation v. Zamora*<sup>75</sup> (*Air Philippines*) to determine the necessity of attaching pleadings and portions of the records in a Rule 65 petition, thus:

*First*, not all pleadings and parts of case records are required to be attached to the petition. Only those which are relevant and pertinent must accompany it. The test of relevancy is whether the document in question will support the material allegations in the petition, whether said document will make out a *prima facie* case of grave abuse of discretion as to convince the court to give due course to the petition.

*Second*, even if a document is relevant and pertinent to the petition, it need not be appended if it is shown that the contents thereof can also be found in another document already attached to the petition. Thus, if the material allegations in a position paper are summarized in a questioned judgment, it will suffice that only a certified true copy of the judgment is attached.

*Third*, a petition lacking an essential pleading or part of the case record may still be given due course or reinstated (if earlier dismissed) upon showing that petitioner later submitted the documents required, or that it will serve the higher interest of justice that the case be decided on the merits.<sup>76</sup>

Here, the records reveal that the crucial and relevant documentary evidence that can substantiate petitioner’s arguments are among those he failed to attach to the Petition. These include *all* of the exhibits enumerated in his Pre-trial Brief with the HRET, thus:

- 1) *Petition to Deny Due Course and/or Cancel Certificate of Candidacy* filed before the COMELEC last October 19, 2015. (Exhibit “A”);
- 2) *Certification* issued by [the] Office of the Clerk of Court and *Ex-Officio* Sheriff of the City [of] Manila dated May 24, 2016. (Exhibit “B”);
- 3) *Oath of Allegiance* of [Vergara] purportedly subscribed and sworn to before a notary public for Manila [—] Notary Public Atty. Alejandro B. Cinco, under Document No. 115, Page No. 42, Book IV, Series of 2006. (Exhibit “B-1”);
- 4) *Notarial Commission and attachments* of Atty. Alejandro B. Cinco for the year 2006 to 2007. (Exhibit “B-2” and “series”)
- 5) *A sample Notarial Register/Book* (Exhibit “C”)
- 6) *Letter* dated May 16, 2016 of [Piccio] addressed to former Immigration Commissioner Geron; *Answer letter* by then Immigration Commissioner Geron; *Follow-up Letter* dated May 16, 2016 of [Piccio] addressed to former Immigration Commissioner Geron; *Answer letter* by then Immigration Commissioner Geron; *Letter* dated May 25, 2016 of [Piccio] addressed to former Immigration Commissioner Geron (Exhibits “D” and “series”)

<sup>75</sup> G.R. No. 148247, August 7, 2006, 498 SCRA 59.

<sup>76</sup> Id. at 69-70.

- 7) The *Oath of Allegiance* dated 26 November 2006; *Memorandum* dated 28 November 2006; *Order* dated 30 November 2006; and *Identification Certificate No. 06-12955* [(sic)] all of Respondent Vergara (Exhibits "E" and "series").<sup>77</sup>

Nonetheless, the Court has held in *Spouses Cordero v. Octaviano*<sup>78</sup> (*Spouses Cordero*) and *Air Philippines* that if the material contents of the relevant documents omitted are substantially summarized in the assailed decision accompanying the petition, then the omission to attach said documents must be excused. Unfortunately, this doctrine cannot save the Petition.

It appears that the assailed Decision of the HRET,<sup>79</sup> while quoting or substantially summarizing some key evidence of the Petition, nevertheless fails to sufficiently reflect others, either because it merely mentions the same or completely omits mentioning them. These documents which the Petition fails to adequately summarize include Vergara's Oath of Allegiance itself; items 3 to 5 of the above exhibits in his Pre-trial Brief; some of the letters in item 6; and all four of the documents in item 7.

Verily, the peculiarities of the present Petition demand a higher sense of diligence from Piccio to ensure the sufficiency of its supporting evidence.

*First*, the Petition is one for *certiorari*, thus, requiring proof of, not mere error or abuse of discretion on the part of the HRET, but grave abuse of discretion.

*Second*, unlike in an appeal where the records with the lower tribunal are elevated to the appellate court, a petition for *certiorari* is an original and independent action. Hence, the petition must be accompanied by all evidence necessary to support its arguments. In this sense, the present case differs from *Spouses Cordero* where the Court noted the option of the CA to direct the clerk of court of the trial courts, whose decisions were appealed, to elevate the original records of the case.

*Third*, the issues of the case are factual and evidentiary in nature, hence, the pleadings and attachments must be sufficient to support the Court's conclusions as it is, generally, not a trier of facts and does not conduct hearings.

Hence, the failure of Piccio to comply with procedural rules, under the circumstances, renders the Petition dismissible. Nevertheless, even if the Court excuse these technical blunders, the Petition still fails on its merits.

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<sup>77</sup> *Rollo*, p. 117.

<sup>78</sup> *Supra* note 72.

<sup>79</sup> *Rollo*, pp. 37-64.

*Guiding principles in resolving Rule 65 petitions involving electoral tribunals*

In resolving the merits of the case, the Court is guided by basic principles in electoral tribunal cases brought to it on petition for *certiorari*.

*First*, the burden to prove the ineligibility of a duly elected public official is upon the person asserting such ineligibility.<sup>80</sup> A petitioner in a *quo warranto* case must first prove the very fact of disqualification of the candidate by substantial evidence.<sup>81</sup> Once the petitioner makes a *prima facie* case, the burden of evidence shifts to the candidate who should now defend himself or herself with countervailing evidence.<sup>82</sup> A taint of doubt is *not* enough to discharge the burden.<sup>83</sup>

Hence, Piccio and Umali have the burden of proving, with substantial evidence, their allegations that Vergara failed to re-acquire her Filipino citizenship.

*Second*, the Court, in determining whether a *quo warranto* petitioner has discharged his or her burden of proving the ineligibility of an elected official, must resolve “all possible doubts x x x in favor of [a winning] candidate’s eligibility, for to rule otherwise is to defeat the true will of the electorate, x x x [which is] paramount.”<sup>84</sup> Election laws are liberally and equitably construed to give fullest effect to the manifest will of the people.<sup>85</sup> In the landmark case of *Frivaldo v. COMELEC and Lee*,<sup>86</sup> the Court pronounced:

x x x To successfully challenge a winning candidate’s qualifications, the petitioner must clearly demonstrate that the ineligibility is so patently antagonistic to constitutional and legal principles that overriding such ineligibility and thereby giving effect to the apparent will of the people would ultimately create greater prejudice to the very democratic institutions and juristic traditions that our Constitution and laws so zealously protect and promote. x x x<sup>87</sup>

Hence, the Court must exercise utmost caution before disqualifying a winning candidate who has been shown to be the clear choice of the constituents that he or she represents.<sup>88</sup>

<sup>80</sup> *Frivaldo v. COMELEC and Lee*, 327 Phil. 521, 574-575 (1996). See also *Fernandez v. House of Representatives Electoral Tribunal*, G.R. No. 187478, December 21, 2009, 508 SCRA 733; *Mitra v. Commission on Elections*, G.R. No. 191938, July 2, 2010, 622 SCRA 744; *Poe-Llamanzares v. COMELEC*, G.R. Nos. 221697 & 221698-700, March 8, 2016, 786 SCRA 1; *David v. Senate Electoral Tribunal*, G.R. No. 221538, September 20, 2016, 803 SCRA 435.

<sup>81</sup> *David v. Senate Electoral Tribunal*, id. at 475.

<sup>82</sup> Id. at 509.

<sup>83</sup> Id. at 510.

<sup>84</sup> *Sinaca v. Mula*, G.R. No. 135691, September 27, 1999, 315 SCRA 266, 282.

<sup>85</sup> *Fernandez v. House of Representatives Electoral Tribunal*, supra note 80, at 753.

<sup>86</sup> Supra note 55.

<sup>87</sup> Id. at 574-575.

<sup>88</sup> *Fernandez v. House of Representatives Electoral Tribunal*, supra note 80, at 753.

Here, it is uncontroverted that Vergara was the duly-elected and proclaimed Representative of the Third District of Nueva Ecija, not just in the 2016 elections, but likewise in the 2019 elections. The people of Nueva Ecija *twice* exercised their will to install Vergara as their Representative in the House.

*Third*, the HRET is made by no less than the Constitution to be “the sole judge of all contests relating to the election, returns and qualifications” of the members of the House.<sup>89</sup> The use of the word “sole” emphasizes the exclusive character of the jurisdiction conferred.<sup>90</sup> The authority conferred upon it is full, clear and complete<sup>91</sup> and its jurisdiction is original and exclusive.<sup>92</sup> The Court has said:

x x x [S]o long as the Constitution grants the HRET the power to be the sole judge of all contests relating to election, returns and qualifications of members of the House of Representatives, any final action taken by the HRET on a matter within its jurisdiction shall, as a rule, not be reviewed by this Court x x x, [T]he power granted to the Electoral Tribunal is full, clear and complete and “excludes the exercise of any authority on the part of this Court that would in any wise restrict it or curtail it or even affect the same.”<sup>93</sup>

Hence, the judgments of the HRET are, as a rule, beyond judicial interference, and the only exception is in the exercise of the Court’s so-called extraordinary jurisdiction upon a determination that the Tribunal’s decision was rendered without or in excess of its jurisdiction.<sup>94</sup> The Court meddles only upon a clear showing of such arbitrary and improvident use of power as will constitute a denial of due process.<sup>95</sup>

*Fourth*, a petition for *certiorari* — the only vehicle to challenge a decision of the HRET by a finding of it having gravely abused its discretion in so deciding — may *not* be used to correct mere errors in the HRET’s evidence and factual findings.<sup>96</sup> By reason of the special knowledge and expertise of an administrative body like the HRET over matters falling under its jurisdiction, it is in a better position to pass judgment upon such matters. Thus, its findings of fact in that regard are generally accorded great respect, if not finality by the courts.<sup>97</sup>

<sup>89</sup> See CONSTITUTION, Art. VI, Sec. 17.

<sup>90</sup> *Lerias v. House of Representatives Electoral Tribunal*, G.R. No. 97105, October 15, 1991, 202 SCRA 808, 841.

<sup>91</sup> *Co v. Electoral Tribunal of the House of Representatives*, G.R. Nos. 92191-92 & 92202-03, July 30, 1991, 199 SCRA 692, 699.

<sup>92</sup> *Lazatin v. House Electoral Tribunal*, No. L-84297, December 8, 1988, 168 SCRA 391, 401.

<sup>93</sup> *Id.* at 403-404.

<sup>94</sup> *Co v. Electoral Tribunal of the House of Representatives*, *supra* note 91, at 700.

<sup>95</sup> *Id.*

<sup>96</sup> *Domalanta v. COMELEC*, G.R. No. 125586, June 29, 2000, 334 SCRA 555, 573.

<sup>97</sup> See *Malabaguio v. Commission on Elections*, G.R. No. 142507, December 1, 2000, 346 SCRA 699, 706.

The only exception is when there is absolutely no evidence or no substantial evidence in support of such factual findings.<sup>98</sup> This means that there are manifestly gross errors in the HRET's factual inferences such that critical evidence which have been introduced by the parties are ignored or not accounted for.<sup>99</sup> It means that the conclusions are founded on a gross misreading, if not misrepresentation, of the evidence.<sup>100</sup> The Court has succinctly explained the extent of the Court's power in reviewing factual findings of the HRET, thus:

An inquiry as to the correctness of the evaluation of evidence is not within the ambit of the extraordinary remedy of *certiorari*. "Where the court has jurisdiction over the subject matter, its orders upon all questions pertaining to the cause are orders within its jurisdiction, and however erroneous they may be, they cannot be corrected by *certiorari*." This rule applies to decisions by the HRET whose independence as a constitutional body has consistently been upheld by this Court.<sup>101</sup>

Another well-settled rule is that the Court is not a trier of facts, and factual issues are beyond its authority to review, absent a showing of grave abuse of discretion by the lower tribunal challenged.<sup>102</sup>

Here, the present Petition challenges the findings of the HRET on Vergara's compliance with the requirements of R.A. 9225 — specifically, whether she took her oath of allegiance thereunder. Without a doubt, this is an issue that is factual in nature. In essence, the present Rule 65 petition seeks a re-examination by this Court of the evidence presented before the HRET. Hence, the Court must observe utmost caution, bearing in mind that it is not a trier of facts and can do no more than to abide by the HRET's appreciation of the facts in cases within its unquestioned exclusive jurisdiction.<sup>103</sup>

<sup>98</sup> *Reyes v. Commission on Elections*, G.R. No. 207264, June 25, 2013, 708 SCRA 197, 226.

<sup>99</sup> *David v. Senate Electoral Tribunal*, supra note 80, at 472, citing *Abosta Shipmanagement Corporation v. National Labor Relations Commission*, 670 Phil. 136, 151 (2011).

<sup>100</sup> *Mitra v. Commission on Elections*, supra note 80, at 778.

<sup>101</sup> *Locsin v. House of Representatives Electoral Tribunal*, G.R. No. 204123, March 19, 2013, 693 SCRA 635, 644.

<sup>102</sup> *Id.*

<sup>103</sup> In *Francisco v. Commission on Elections*, G.R. No. 230249, April 24, 2018, 862 SCRA 654, the Court upheld the authority of the COMELEC to make factual determinations in relation to the election contests before it, as a consequence of its constitutional power to settle all contests relating to the elections, returns, and qualifications of all elective regional, provincial, and city officials, thus:

As enunciated, the COMELEC's adjudicative function over election contests is quasi-judicial in character since the COMELEC is a governmental body, other than a court, that is vested with jurisdiction to decide the specific class of controversies it is charged with resolving. In adjudicating the rights of persons before it, the COMELEC is not just empowered but is in fact required to investigate facts or ascertain the existence of facts, hold hearings, weigh evidence, and draw conclusions from them as basis for their official action and exercise of discretion in a judicial nature. This is simply in congruence with the concept of due process that all administrative adjudicatory bodies are enjoined to observe.

The COMELEC is, thus, fully-clothed with authority to make factual determinations in relation to the election contests before it. This has been the thrust of the decades worth of constitutional revisions that



In sum, the Court is called to assess, in the present Petition, whether the HRET gravely abused its discretion in finding that petitioners before it failed to clearly demonstrate, by substantial evidence, the ineligibility of Vergara. The showing of ineligibility must be clear, for all doubts must necessarily be resolved in favor of retaining her as Representative of Nueva Ecija's Third District, having been installed as such by the will of the people, twice expressed through the ballots. A taint of doubt cannot nearly suffice as substantial evidence.

“Gravely abused its discretion” means that the HRET — which has the sole constitutional prerogative to judge the qualifications of Vergara to sit in the House, and whose factual and evidentiary findings are generally beyond the Court's powers to review — had absolutely no evidence or substantial evidence to support its factual finding that Vergara is so qualified.

It is against the backdrop of the foregoing basic legal principles and settled facts, that the Court had judiciously examined the records, and hereby resolves to dismiss the Petition for lack of merit.

*The evidence on record shows that Vergara duly re-acquired her Philippine citizenship pursuant to R.A. 9225.*

The twin requirements for natural-born Filipinos to re-acquire Philippine citizenship, and to qualify for public office are provided in R.A. 9225, thus:

SEC. 3. *Retention of Philippine Citizenship.* — Any provision of law to the contrary notwithstanding, natural-born citizens of the Philippines who have lost their Philippine citizenship by reason of their naturalization as citizens of a foreign country are hereby deemed to have re-acquired Philippine citizenship upon taking the following oath of allegiance to the Republic x x x.

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:

x x x x

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transformed the COMELEC from a purely administrative body, whose scope of decision-making is limited to those incidental to its duty to enforce election laws, to a polling commission that also exercises original and exclusive, as well as appellate, jurisdiction over election contests. (Id. at 670.)

Similarly, the HRET, which is the sole judge of all contests relating to the election, returns and qualifications of Members of the House of Representatives, wields the same power to determine factual questions relative to the election contests before it, such as the issue, in the present case, of Vergara's compliance with the requirements for re-acquisition of Philippine citizenship.



(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;

x x x x

Hence, in order that a natural-born Filipino citizen, who has lost his or her Filipino citizenship by reason of naturalization abroad, may qualify to run for elective public office in the Philippines, must 1) re-acquire Philippine citizenship by taking an oath of allegiance to the Republic of the Philippines; and 2) make a personal and sworn renunciation of his foreign citizenship.

It is beyond dispute that Vergara, a natural-born Filipino citizen who was later naturalized as an American citizen, had complied with the second requisite. The contest lies as to whether she had observed the first.

The HRET found that the pieces of evidence adduced in the case unmistakably show that Vergara had duly filed a petition for the re-acquisition of her Filipino citizenship pursuant to R.A. 9225 and sufficiently complied with the requirements of the law,<sup>104</sup> and that this resulted in the granting of such petition by the BI and the corresponding issuance in her favor of an IC. In short, the HRET found that Vergara had duly re-acquired her Philippine citizenship by observing the requirements of the law, foremost of which is the taking of the Oath of Allegiance.

The Court agrees.

*Vergara took her Oath of Allegiance in accordance with R.A. 9225. The Oath exists and was duly executed. Petitioner failed to prove any defect in its notarization or that such defect, if any, renders the document void.*

Vergara presented a copy of her Oath of Allegiance to the Republic of the Philippines dated November 26, 2006. Nevertheless, Piccio challenges the existence and due execution thereof, in particular, by attempting to establish defects in its notarization. A reading of his *quo warranto* petition filed before the HRET shows that he presented in evidence, the signatures of Atty. Cinco — the Notary Public before whom Vergara's Oath of Allegiance was acknowledged on November 26, 2006 — as appearing on said document and on Atty. Cinco's 2006 Notarial Commission;<sup>105</sup> as well as 2) the Certification issued by the Manila City OCC dated May 24, 2016 which stated that Atty.

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<sup>104</sup> *Rollo*, p. 52.

<sup>105</sup> *Id.* at 156-157.



Cinco's Book IV of notarial records which contained the entry for Vergara's Oath of Allegiance was not among those he submitted with the said office.<sup>106</sup>

On the documents showing Atty. Cinco's signatures, Piccio claimed that a comparison thereof would show that the same were "absolutely contradistinctive."<sup>107</sup> The Court cannot agree.

As intimated earlier, Piccio failed to attach the documents he refers to and merely vaguely reproduced in the present Petition pages 8 and 9 of his *quo warranto* petition. Said printouts cannot be sufficient and reliable bases for a reasonable comparison of signatures — a process that requires meticulousness because of the numerous factors involved and its highly technical nature.<sup>108</sup>

Moreover, forgery, as a rule, cannot be presumed and the burden rests upon the claimant thereof to prove the same by clear, positive, and convincing evidence.<sup>109</sup> The fact of forgery can only be established by a comparison between the alleged forged signature and the authentic and genuine signature of the person whose signature is claimed to have been forged.<sup>110</sup> In *Republic v. Harp*,<sup>111</sup> the Court ruled that a finding of forgery must be based on an examination of the original document and cannot be supported by an examination of a mere photocopy thereof, thus:

From Senate Committee Report No. 256 dated 7 August 2003, it appears that the supposed discovery of alterations was based on a mere photocopy of Manuel's Certificate of Live Birth. Since the original document was not inspected, the committees could not make any categorical finding of purported alterations. They were only able to conclude that Manuel's birth certificate *appeared to be* "simulated, if not, highly suspicious." The Court cannot rely on this inconclusive finding. In the same way that forgery cannot be determined on the basis of a comparison of photocopied instruments, the conclusion that a document has been altered cannot be made if the original is not examined.<sup>112</sup>

Hence, Piccio is burdened to prove that Atty. Cinco's signature on the Oath of Allegiance of Vergara was forged and is patently dissimilar to his specimen signatures as a notary public. This may only be demonstrated by a presentation to the Court of competent documents that can enable it to arrive at a reasonable conclusion. Unlike a recital or reproduction of a document in a certified true copy of an assailed decision of a lower court or tribunal, which suffices to prove the existence and contents of such document,<sup>113</sup> a reproduction in a photocopy of a self-serving pleading simply cannot suffice.

<sup>106</sup> Id. at 142-143.

<sup>107</sup> Id. at 73.

<sup>108</sup> *Gepulle-Garbo v. Sps. Garabato*, 750 Phil. 846, 856-857 (2015).

<sup>109</sup> *Heirs of the Late Felix Bucton v. Sps. Go*, 721 Phil. 851, 860 (2013).

<sup>110</sup> Id.

<sup>111</sup> 787 Phil. 33 (2016).

<sup>112</sup> Id. at 51. Citations omitted.

<sup>113</sup> *Spouses Cordero v. Octaviano*, supra note 72.

The second evidence, the OCC Certificate dated May 24, 2016, states:

Atty. Alejandro B. Cinco submitted his Notarial Report for the months of February 2006 to December 2007 consisting of Pages 1-68 of Book 1 (one) only. This office could not issue a certified true copy of the document denominated as "Oath of Allegiance" executed by Rosanna Garcia Vergara, alleged to have been acknowledged before said Notary Public on November 26, 2006 with Doc. No. 115; Page No. 42; Book No. IV, Series of 2006, inasmuch as Book No. IV is not among those submitted to this Office.<sup>114</sup>

This is invoked by Piccio to prove the spuriousness of Vergara's Oath.

On this point, the Court completely agrees with the HRET — that the Certification pertains only to the failure of the Notary Public Atty. Cinco to submit to the court the book supposedly containing Vergara's Oath. It is not proof of the non-existence of the Oath itself, nor does it prove the Oath's invalidity.<sup>115</sup> Such conclusion cannot be taken from the language of the Certification. In *Vitangcol v. People*<sup>116</sup> (*Vitangcol*), the Court rejected a similar Certification issued by the Office of the Civil Registrar (OCR), thus

Norberto argues that the first element of bigamy is absent in this case. He presents as evidence a Certification from the Office of the Civil Registrar of Imus, Cavite, which states that the Office has no record of the marriage license allegedly issued in his favor and his first wife, Gina.

X X X X

This Certification does not prove that petitioner's first marriage was solemnized without a marriage license. It does not categorically state that Marriage License No. 8683519 does not exist.<sup>117</sup>

A defect in the notarization of a document or the failure of the notary public to comply with his or her duty to submit his or her notarial reports does not, as it cannot, render such document void. A different interpretation would be unjust to the parties relying upon them in good faith, and who cannot be expected to ensure that the notary public observes his or her administrative duties. In a similar case, the Court ruled:

At the outset, the ruling of the CA was correct. Indeed, the notarized deed of sale should be admitted as evidence despite the failure of the Notary Public in submitting his notarial report to the notarial section of the RTC Manila. It is the swearing of a person before the Notary Public and the latter's act of signing and affixing his seal on the deed that is material and not the submission of the notarial report.

<sup>114</sup> *Rollo*, p. 44. Underscoring omitted.

<sup>115</sup> *Id.* at 53-54.

<sup>116</sup> G.R. No. 207406, January 23, 2016, 780 SCRA 598.

<sup>117</sup> *Id.* at 604-608.

Parties who appear before a notary public to have their documents notarized should not be expected to follow up on the submission of the notarial reports. They should not be made to suffer the consequences of the negligence of the Notary Public in following the procedures prescribed by the Notarial Law. x x x<sup>118</sup>

Hence, the negligence or failure of Atty. Cinco to comply with his duty to deliver his notarial reports should not affect the validity, much less the existence, of Vergara's Oath of Allegiance. If any, it merely exposes Atty. Cinco to administrative liabilities, in light of his failure to perform his duties as a notary public. Likewise, the authenticity of his signatures cannot be judiciously determined from the present documents available to the Court.

In sum, the existence, due execution and genuineness of Vergara's Oath of Allegiance stand as the same were not successfully refuted.

*Vergara's presentation of the original of her IC No. 06-12955, the existence and genuineness of which are not contested, is prima facie proof that she complied with the requirements of R.A. 9225 to re-acquire her Philippine Citizenship.*

Vergara presented before the HRET her original IC No. 06-12955, the genuineness and existence of which are not contested.<sup>119</sup> Under R.A. 9225 in relation to Administrative Order (AO) No. 91, Series of 2004 and the BI M.C. AFF-05-002, a petition for the Issuance of an IC (for the retention/acquisition of Philippine citizenship) requires, as part of the documentary support to the petition, the submission of a duly accomplished Oath of Allegiance to the Republic of the Philippines.<sup>120</sup> Piccio, in the present Petition, likewise makes an admission that the "Certificate is given after application, verification and approval of the petition as required by [R.A.] 9225."<sup>121</sup> Moreover, the BI officials presented as witnesses before the HRET testified that the original documents are required to be submitted for an R.A. 9225 Petition to be approved, and the same is likewise admitted by Piccio.<sup>122</sup>

Hence, the mere issuance and existence of the genuine and authentic IC of Vergara, while not conclusive proof as correctly pointed out by Piccio,<sup>123</sup> is, at the very least, *prima facie* proof of Vergara's compliance with R.A. 9225, including the submission of the petition therefor and its supporting documents as well as their due processing and approval by the BI.

<sup>118</sup> *Destreza v. Atty. Riñoza-Plazo, et al.*, 619 Phil. 775, 782-783 (2009).

<sup>119</sup> *Rollo*, p. 53.

<sup>120</sup> *Id.* at 38.

<sup>121</sup> *Id.* at 14.

<sup>122</sup> *Id.* at 14-15.

<sup>123</sup> *Id.* at 14.

*The photocopies of Vergara's R.A. 9225 documents were validly introduced in evidence, as she had sufficiently established and explained the loss of their originals.*

Piccio maintains that the acquisition by Vergara of the IC was irregular because of her failure to produce the original documents supporting her R.A. 9225 Petition in accordance with the Rules on Evidence, and the concomitant failure of the BI to explain why it only has photocopies of the documents in its records. Piccio further faults Vergara for omitting to offer a plausible explanation why she only has photocopies in her possession and the original cannot be produced or found.<sup>124</sup>

The contentions fail.

At the outset, the Court clarifies that the absence of the original documents is *not fatal* to Vergara's case. To emphasize, the issue in the present case pertains to the existence and due execution of these documents — and not their contents. Hence, the Best Evidence Rule, requiring the production of the original document, does not apply.

The Best Evidence Rule is embodied in Section 3,<sup>125</sup> Rule 130 of the Rules, and stipulates that “in proving the terms” of a written document, the

<sup>124</sup> Id. at 10.

<sup>125</sup> Under the 2019 Proposed Amendments to the Revised Rules on Evidence (A.M. No. 19-08-15-SC), this Rule now reads:

**1. Original Document Rule**

**Sec. 3. *Original document must be produced; exceptions.*** — When the subject of inquiry is the contents of a document, writing, recording, photograph or other record, no evidence is admissible other than the original document itself, except in the following cases:

- (a) When the original is lost or destroyed, or cannot be produced in court, without bad faith on the part of the offeror;
- (b) When the original is in the custody or under the control of the party against whom the evidence is offered, and the latter fails to produce it after reasonable notice, or the original cannot be obtained by local judicial processes or procedures;
- (c) When the original consists of numerous accounts or other documents which cannot be examined in court without great loss of time and the fact sought to be established from them is only the general result of the whole;
- (d) When the original is a public record in the custody of a public officer or is recorded in a public office; and
- (e) When the original is not closely-related to a controlling issue. (3a)

**Sec. 4. *Original of document.*** —

- (a) An “original” of a document is the document itself or any counterpart intended to have the same effect by a person executing or issuing it. An “original” of a photograph includes the negative or any print therefrom. If data is stored in a computer or similar device, any printout or other output readable by sight or other means, shown to reflect the data accurately, is an “original.”
- (b) A “duplicate” is a counterpart produced by the same impression as the original, or from the same matrix, or by means of photography, including enlargements and miniatures, or by mechanical or electronic re-recording, or by chemical reproduction, or by other equivalent techniques which accurately reproduce the original.

original of the document must be produced in court. The rule excludes any evidence, other than the original writing, to prove the contents thereof, unless the offeror proves: (a) the existence or due execution of the original; (b) the loss and destruction of the original, or the reason for its non-production in court; and (c) the absence of bad faith on the part of the offeror to which the unavailability of the original can be attributed.<sup>126</sup>

In *Heirs of Margarita Prodon v. Heirs of Maximo Alvarez*<sup>127</sup> (*Heirs of Prodon*) the Court explained that the Best Evidence Rule applies only when the terms of a writing are in issue. When the issues concern external facts like the existence, execution or delivery of the writing, the Rule cannot be invoked and secondary evidence may be admitted even without accounting for the original. Thus:

But the evils of mistransmission of critical facts, fraud, and misleading inferences arise only when the issue relates to the *terms of the writing*. Hence, the Best Evidence Rule applies only when the terms of a writing are in issue. When the evidence sought to be introduced concerns external facts, such as the existence, execution or delivery of the writing, without reference to its terms, the Best Evidence Rule cannot be invoked. In such a case, secondary evidence may be admitted even without accounting for the original.<sup>128</sup> (*Italics in the original*)

In *Heirs of Prodon*, the Court had occasion to mention the following:

The foregoing notwithstanding, good trial tactics still required Prodon to establish and explain the loss of the original of the deed of sale with right to repurchase to establish the genuineness and due execution of the deed. This was because the deed, although a collateral document, was the foundation of her defense in this action for quieting of title. Her inability to produce the original logically gave rise to the need for her to prove its existence and due execution by other means that could only be secondary under the rules on evidence. Towards that end, however, it was not required to subject the proof of the loss of the original to the same strict standard to which it would be subjected had the loss or unavailability been a precondition for presenting secondary evidence to prove the terms of a writing.

A review of the records reveals that Prodon did not adduce proof sufficient to show the loss or explain the unavailability of the original as to justify the presentation of secondary evidence. Camilon, one of her witnesses, testified that he had given the original to her lawyer, Atty. Anacleto Lacanilao, but that he (Camilon) could not anymore retrieve the original because Atty. Lacanilao had been recuperating from his heart ailment. Such evidence without showing the inability to locate the original from among Atty. Lacanilao's belongings by himself or by any of his

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(c) A duplicate is admissible to the same extent as an original unless (1) a genuine question is raised as to the authenticity of the original, or (2) in the circumstances, it is unjust or inequitable to admit the duplicate in lieu of the original. (4a)  
(Underscoring in the original)

<sup>126</sup> *Citibank, N.A. Mastercard v. Teodoro*, G.R. No. 150905, September 23, 2003, 411 SCRA 577, 584-585.

<sup>127</sup> G.R. No. 170604, September 2, 2013, 704 SCRA 465.

<sup>128</sup> *Id.* at 479. Citations omitted.

assistants or representatives was inadequate. Moreover, a duplicate original could have been secured from Notary Public Razon, but no effort was shown to have been exerted in that direction.<sup>129</sup>

Hence, what *Heirs of Prodon* held were as follows: (1) although secondary evidence is admissible if the issue is not the terms of the document even without first accounting for the original, it is a matter of *good trial tactics* that the loss of the original document still be established and explained; (2) such proof of loss will be subjected to less stringent standards than if the Best Evidence Rule applies; (3) to prove such loss, there must be evidence submitted that the original document cannot be found in the possession of its alleged custodian, either by the latter or his or her representatives, and efforts should be made to obtain a duplicate original from the concerned Notary Public, if any; and (4) proof that consists of products of ministerial acts, such as registration of instruments for purposes of notice, may be rejected.

Applying the foregoing here, there is no question that Vergara (1) submitted proof that her documents could not be found in the possession of its last custodian — the BI. The BI itself, through several testimonies, documents and letters, admitted that the original documents are not in its custody, while likewise admitting that they were duly filed by Vergara; (2) the original of the Oath of Allegiance cannot likewise be found with the Notary Public, as shown by the Certificate dated May 24, 2016 of the OCC of Manila. Stated differently, the fact of loss of the original Oath of Allegiance and Vergara's other R.A. 9225 documents was duly proven.

Vergara had likewise reasonably explained such loss. She narrated that she submitted said original documents to the BI, together with her R.A. 9225 Petition, when she applied for re-acquisition of Filipino citizenship.<sup>130</sup> This is confirmed by: (1) the BI itself through its officials; (2) the BI General Instructions for Petitions for Retention/Re-acquisition of Philippine Citizenship under R.A. 9225<sup>131</sup> (General Instructions) which requires two originals of the Oath as supporting documents for R.A. 9225 petitions, and provides that such originals “will not be returned to the petitioner and will be part of the Bureau's record;” and (3) AO No. 91, Series of 2004 designating the BI as the “repository of Certificates of Oath of Allegiance.”

Moreover, unlike the registration of a deed, the issuance of the IC is **not a ministerial act** by the BI. This requires careful exercise of discretion. Indeed, as may be drawn from the law and evidence, including the testimonies of the BI officials presented before the HRET, a thorough investigation is conducted — which in the case of Vergara was actually done by the BI Task Force on the Citizenship Retention and Reacquisition Act of 2003<sup>132</sup> — after

<sup>129</sup> Id. at 483-484. Citations omitted.

<sup>130</sup> *Rollo*, p. 38.

<sup>131</sup> BI FORM 2014-01-004 Rev 1, accessed at  
<<https://immigration.gov.ph/images/RetentionReacquisition/dualcitizenshipChecklist.pdf>>.

<sup>132</sup> *Rollo*, pp. 38-39.

which the investigating body makes a recommendation to the BI. The BI then exercises its own discretion by considering the investigation report and recommendation, after which it approves the petition and orders the issuance of an IC, or disapproves the same. In fact, the BI General Instructions advises applicants and petitioners to seek legal advice from lawyers and/or BI accredited entities in applying under R.A. 9225.<sup>133</sup>

Hence, applying *Heirs of Prodon*, Vergara more than sufficiently observed the requirements of the law for the admission of her secondary evidence, specifically the photocopies of her R.A. 9225 documents.

In any case, as pointed out in the assailed Decision,<sup>134</sup> the Revised Rules of the HRET (HRET Rules) provides that the Rules is applicable only by analogy or in a suppletory character.<sup>135</sup> The HRET “is not strictly bound by technical rules of procedure” as “[it] may suspend [them] in the higher interest of justice and apply other rules of procedure as may be applicable at its discretion.”<sup>136</sup>

Indeed, legal technicalities aside, from the facts of the case, it was virtually impossible for Vergara to produce her original R.A. 9225 documents after she had filed them with the BI. With good reason, Vergara believed that the presentation of the original IC was sufficient to prove the existence of the documents which were required for its issuance. Hence, upon learning of Commissioner Geron’s letters stating that her R.A. 9225 files purportedly do not exist in the BI records, she immediately sought clarification from the BI through incumbent BI Commissioner Morente.<sup>137</sup> In response to this letter-query, Commissioner Morente confirmed that her R.A. 9225 Petition was received, processed, and approved by the BI as a result of which she was issued an IC.<sup>138</sup>

The Court deems these efforts as more than reasonable under the circumstances, considering that, in the end, Vergara was assured by the BI that its records reflect the existence and due processing of her R.A. 9225 documents. From these facts, there is nothing more that she could have done or was supposed to do. To be sure, it is established by the evidence that the original documents are not with the BI, as it only has possession of their photocopies. To the Court’s mind, this only confirms the hopelessness of Vergara’s situation — there was no way for her to produce said original documents because they went missing from the BI’s custody. *Lex non cogit ad impossibilia*. The law does not require the impossible.<sup>139</sup>

<sup>133</sup> Supra note 131. See General Instructions, Item No. 10.

<sup>134</sup> *Rollo*, pp. 50-51.

<sup>135</sup> 2015 REVISED RULES OF THE HOUSE OF REPRESENTATIVES ELECTORAL TRIBUNAL, Rule 3.

<sup>136</sup> *Id.*

<sup>137</sup> *Rollo*, p. 55.

<sup>138</sup> *Id.*

<sup>139</sup> *Hughey v. JMS Development Corporation*, 78 F.3d 1523 (11<sup>th</sup> Cir. 1996); Black’s Law Dictionary 1844 (9<sup>th</sup> ed. 2009).

Hence, the HRET was more than correct when it considered and gave due weight to the following R.A. 9225 documents of Vergara, despite the absence of originals of the following:

1. Oath of Allegiance to the Republic of the Philippines dated November 26, 2006;
2. Memorandum dated November 28, 2006 issued by the BI-TFCRRA through Arbas, recommending the approval of her R.A. 9225 Petition; and
3. Order dated November 30, 2006 issued by the BI through Commissioner Fernandez, recognizing that she had taken an Oath of Allegiance to the Philippines and that she had complied with all the requirements of R.A. 9225 for re-acquisition of Philippine citizenship and thereby granting her R.A. 9225 Petition.

*That the original documents are not with the BI — their official custodian — does not mean that they never existed or that they were never filed, processed, and granted.*

That the original documents do not appear to exist in the BI's records at the time when they were sought does not mean that they never existed. It does not — as it logically cannot — lead to a conclusion that Vergara's R.A. 9225 documents were never filed, duly processed, and granted.

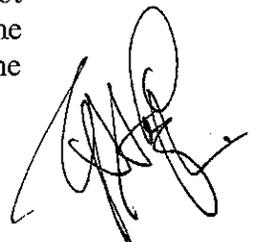
In the *Vitangcol* case mentioned above — a Bigamy case against a husband who produced a Certification from the OCR, stating that it has no record of the marriage license allegedly issued in the husband's and his first wife's favor — the Court ruled that such Certification does not prove that there was no marriage license, thus:

This Certification does not prove that petitioner's first marriage was solemnized without a marriage license. It does not categorically state that Marriage License No. 8683519 does not exist.

Moreover, petitioner admitted the authenticity of his signature appearing on the marriage contract between him and his first wife, Gina. The marriage contract between petitioner and Gina is a positive piece of evidence as to the existence of petitioner's first marriage. This "should be given greater credence than documents testifying merely as to [the] absence of any record of the marriage[.]"

x x x x

The appreciation of the probative value of the certification cannot be divorced from the purpose of its presentation, the cause of action in the case, and the context of the presentation of the certification in relation to the



other evidence presented in the case. We are not prepared to establish a doctrine that a certification that a marriage license cannot be found may substitute for a definite statement that no such license existed or was issued. Definitely, the Office of the Civil Registrar of Imus, Cavite should be fully aware of the repercussions of those words. That the license now cannot be found is not basis per se to say that it could not have been issued.<sup>140</sup>

Like *Vitangcol*, none of the evidence presented in the present case *categorically* stated that Vergara's R.A. 9225 documents do not exist. On the contrary, all of the BI officials declared that the BI has photocopies of such documents in its records. In fact, the BI admitted that the original documents existed, and were filed, processed and approved by it, according to its investigation, on the basis of its records, formal hearings conducted and the reports and comments of its relevant offices. Hence, the effective admission by the BI that the originals of the documents are *presently* not in its records cannot be taken to mean that such documents never existed.

Moreover, similar to *Vitangcol's* marriage certificate (a document bearing the signature of the adverse party which he admitted to be authentic), the genuineness and existence of Vergara's IC are also not disputed. Hence, it must likewise be treated as positive evidence of the existence and due processing of Vergara's R.A. 9225 documents.

*The pieces of evidence coming from the BI officials are competent proof of Vergara's compliance with R.A. 9225. The conclusions reached therein are duly substantiated and are not solely reliant on the presumption of regularity. Under the circumstances, only the two June letters of Commissioner Geron are anomalous, hence, only these letters should not be given credence by the Court.*

Both Piccio and Vergara presented in evidence several BI documents and testimonies of BI officials during the HRET trial, thus:

A. BI official documents:

Type, Date and Author	Pertinent Contents
Memorandum dated November 28, 2006 <sup>141</sup> issued by BI Task Force on the Citizenship Retention and Reacquisition Act of 2003	Stating that 1) an evaluation of the documents submitted by Vergara shows, among others, that she had taken an Oath of Allegiance, thereby deemed to have re-acquired her Philippine citizenship; 2) it appears that Vergara complied with R.A. 9225 and implementing rules; and 3)

<sup>140</sup> *Vitangcol v. People*, supra note 116, at 608-610.

<sup>141</sup> *Rollo*, pp. 38-39; common evidence of Piccio and Vergara.

(BI-TFCRRA), through Arbas	recommending the approval of Vergara's R.A. 9225 Petition and the issuance of an IC in her favor.
Order dated November 30, 2006, <sup>142</sup> Commissioner Fernandez	1) granting Vergara's R.A. 9225 Petition; 2) holding that, upon a careful review of her submitted documents, she had taken her Oath of Allegiance and, so, thereby deemed to have re-acquired her Philippine Citizenship; 3) stating that Vergara had complied with all the requirements of R.A. 9225; and 4) directing the issuance of an IC in her favor.
Letter dated May 20, 2016 of then Commissioner Geron, addressed to Piccio <sup>143</sup>	Informing Piccio that 1) the certified true copies of Vergara's R.A. 9225 documents cannot be issued; 2) because the BI's Record's Section only has photocopies of said documents.
Letter dated June 2, 2016 of Commissioner Geron addressed to Piccio <sup>144</sup>	Informing Piccio 1) that the Certification requested cannot be issued, 2) that based on existing records of the BI, no R.A. 9225 Petition in favor of Vergara was received or processed by the BI; and 3) that no record of IC No. 06-12955 exists in the BI's files.
Letter dated June 29, 2016 of Commissioner Geron addressed to Piccio <sup>145</sup>	Reiterating the statements in his June 2, 2016 letter 1) that based on existing records of the BI, no R.A. 9225 Petition in favor of Vergara was received or processed by the BI; and 2) that no record of IC No 06-12955 exists in the Bureau's files.
Letter dated August 10, 2016 by then newly-appointed Commissioner Morente addressed to Vergara <sup>146</sup>	Stating: 1) that the Acting Chief of the Board of Special Inquiry (BI-BSI) confirmed that Vergara's R.A. 9225 Petition has been duly received, processed and approved by the BI; 2) that she has been issued IC No. 06-12955; and 3) that her R.A. 9225 records, reportedly containing photocopied documents, were borrowed by Commissioner Geron on May 16, 2016 but that the same were returned to the Records Section in the same condition as they were borrowed; and 3) ordering the conduct of an investigation on alleged tampering of Vergara's R.A. 9225 records.
Certification dated August 4, 2016 signed by Maria Maceda (Maceda), Acting Chief, Records Section <sup>147</sup>  (Attached to the Letter dated August 10, 2016 of Commissioner Morente)	Stating that 1) Vergara's records contain all photocopied documents; and 2) it was borrowed by Commissioner Geron on May 16, 2016 but that the same were returned to the Records Section in the same condition as they were borrowed.

<sup>142</sup> Id. at 40; common evidence of Piccio and Vergara.

<sup>143</sup> Id. at 44; Offered in evidence by Piccio.

<sup>144</sup> Id. at 45; Offered in evidence by Piccio.

<sup>145</sup> Id. at 45-46; Offered in evidence by Piccio.

<sup>146</sup> Id. at 46-47; Offered in evidence by Vergara.

<sup>147</sup> Id. at 55; Offered in evidence by Vergara.

<p>Certification dated August 11, 2016, signed by Atty Estanislao Canta (Atty Canta), Acting Chief, Board of Special Inquiry (BI-BSI)<sup>148</sup></p> <p>(Attached to the Letter dated August 10, 2016 of Commissioner Morente)</p>	<p>Stating that 1) based on the database of the Dual Citizenship Office, Vergara's R.A. 9225 Petition has been duly received, processed and approved by the BI on November 30, 2006; and 2) she has been issued IC No. 06-12955.</p> <p>This was earlier submitted to the BI Panel created to investigate the deportation case filed by Piccio against Vergara.<sup>149</sup></p>
<p>BI Investigation Report (on the alleged tampering of Vergara's R.A. 9225 documents) dated August 28, 2016, of the BI Investigation Committee headed by Atty. Cesar G. Santos (Atty. Santos) and approved by Commissioner Morente on August 30, 2016<sup>150</sup></p> <p>(This is a product of the investigation ordered by Commissioner Morente as stated in his letter dated August 10, 2016.)<sup>151</sup></p>	<p>Declared and concluded that 1) Vergara's R.A. 9225 Petition was duly processed and approved by BI; and 2) this resulted to the issuance of her IC.</p>
<p>The Transcript of Stenographic Notes (TSN) of the hearing conducted by the Committee on Good Government and Public Accountability, House, on August 16, 2017<sup>152</sup></p> <p>(The existence, genuineness and due execution of this document were admitted by Piccio in his Manifestation dated November 22, 2018.)<sup>153</sup></p>	<p>Containing a statement of BI Records Section Chief Maceda to the effect that: 1) in the years 2005 and 2006, before the BI established a Verification and Compliance Division, it was not unusual that only photocopies of the original filings for R.A. 9225 were transmitted to the Records Section; 2) but that the same were considered valid documentation.<sup>154</sup></p> <p>(The statement was confirmed by Maceda during the HRET trial.)<sup>155</sup></p>

#### B. Pertinent testimonies of BI officials during the HRET trial:

- 1) Atty. Santos, Chief, BI Legal Division and Chairman, Investigation Committee, who testified that: a) an investigation was conducted on

<sup>148</sup> Id. at 56; Offered in evidence by Vergara.

<sup>149</sup> Id. at 170-171.

<sup>150</sup> Id. at 48, 167; Offered in evidence by Vergara.

<sup>151</sup> Id. at 46-47; Offered in evidence by Vergara.

<sup>152</sup> Id. at 168; Offered in evidence by Vergara.

<sup>153</sup> Id. at 16.

<sup>154</sup> Id. at 61.

<sup>155</sup> Id.

the alleged tampering of Vergara's R.A. 9225 records and the Investigation Report concluded that the files therein were duly received and processed, resulting to the issuance of IC No. 06-12955;<sup>156</sup> b) the Investigation Committee conducted formal hearings and several meetings, and required relevant officials to submit their comments and reports which they did;<sup>157</sup> c) the investigation centered on whether Vergara applied for re-acquisition of citizenship, if the same was approved and if there was tampering of the documents during that process;<sup>158</sup> and d) during the investigation in 2016, Vergara's records contained only photocopies of documents.<sup>159</sup>

Atty. Santos likewise confirmed under oath that because the original documents are required to be submitted, the presumption is that these original documents are in the custody of the BI.<sup>160</sup>

- 2) Atty. Canta, member of the BI-BSI, who testified that: a) there were entries in the electronic database of the dual citizenship office which indicates the processing of Vergara's documents;<sup>161</sup> b) that Vergara's documents have been implemented with Transaction Number/Entry Reference No. 10552;<sup>162</sup> c) the BI database records all transactions including the processing of documents;<sup>163</sup> d) tampering (of the BI electronic database) is highly unlikely (and will not go unnoticed) because any change will be reflected and all entries would be affected;<sup>164</sup> and e) original documents are required to be submitted in an application for re-acquisition of citizenship, especially the Oath of Allegiance.<sup>165</sup>
- 3) Acting Records Officer Maria Graciella Maceda (Maceda) who testified that: a) the mandate of the Records Section is to safekeep records transmitted officially by the several BI offices, regardless of whether said documents transmitted are original or photocopies;<sup>166</sup> and b) the Records Section merely receives such transmitted documents, after which they conduct inventories and prepare record statistics. The documents are then stored in the BI warehouse.<sup>167</sup>

Maceda likewise confirmed a statement that she made in a session of the Committee on Good Governance and Public Accountability

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<sup>156</sup> Id. at 22.

<sup>157</sup> Id. at 195-197.

<sup>158</sup> Id. at 190.

<sup>159</sup> Id.

<sup>160</sup> Id. at 59.

<sup>161</sup> Id. at 60.

<sup>162</sup> Id.

<sup>163</sup> Id.

<sup>164</sup> Id. at 60-61.

<sup>165</sup> Id. at 204-207.

<sup>166</sup> Id. at 15-17.

<sup>167</sup> Id. at 15-16.



of the House on August 16, 2017 to the effect that in the years 2005 and 2006, before the BI established a Verification and Compliance Division, it was not unusual that only photocopies of the original filings for R.A. 9225 were transmitted to the Records Section but that the same were considered valid documentation.<sup>168</sup>

Piccio challenges the conclusions of the BI officials in Vergara's favor for relying solely on the presumption of regularity.<sup>169</sup> Associate Justice Ramon Paul Hernando (Justice Hernando), during the case deliberations, likewise raised the concern that the BI Investigation Committee, in concluding that Vergara's R.A. 9225 Petition was duly received, processed, and approved, merely based such finding on the photocopies of Vergara's documents and the presumption of regularity in the performance of official duties. He opines that the material contradictions coming from BI Commissioners Geron and Morente, cast doubt upon the reliability of Commissioner Morente's letter and defeats the presumption of regularity in the performance of official duty by the BI.

The Court must differ.

Foremost, the records clearly show that, in reaching their conclusions that suggest Vergara's valid re-acquisition of her Philippine citizenship, the BI officials did not rely on the presumption of regularity alone. From the clear language of the BI Investigation Report and the testimonies of the BI officials before the HRET, the BI's position is supported by the available records, the BI electronic database, the Dual Citizenship Office database, several meetings, formal hearings and investigations, as well as certifications, reports and comments from relevant BI offices.<sup>170</sup>

From this, it becomes clear that only the June 2016 letters of Commissioner Geron are suspect, but these need not taint the credibility and evidentiary value of the numerous other pieces of evidence from the BI officials presented by the parties which are consistent, logical and supported by other evidence on record.

*First*, the very letters coming from Commissioner Geron contradict one another. As pointed out by the HRET, in his May 20, 2016 letter, Commissioner Geron narrated that the BI had photocopies of Vergara's documents and even enumerated the nature of these documents therein, thus:

Dear Mr. Piccio,

This refers to your letter dated 16 May 2016 requesting for certified true copies of the [R.A.] 9225 dual citizenship documents of ROSANNA VERGARA VERGARA.

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<sup>168</sup> Id. at 61.

<sup>169</sup> Id. at 9.

<sup>170</sup> Id. at 60, 195-197.



Please be advised that upon verification, it was found that the Records Section only has photocopies of the following documents:

1. Oath of Allegiance dated 26 November 2006;
2. Memorandum dated 28 November 2006;
3. Order dated 30 November 2006; and
4. Identification Certificate No. 06-12955.

x x x x<sup>171</sup>

Commissioner Geron thereafter directly contradicted his statements in the foregoing letter when he issued his succeeding June 2, 2016 letter which then stated that no record of IC No. 06-12955 exists in the BI's files (including photocopies thereof), and that based on existing records, Vergara's petition was never received and processed by the BI, thus:

Dear Mr. Piccio,

x x x [P]lease be informed that based on existing records of the Bureau of Immigration, no Petition for the Issuance of an Identification Certificate in favor of ROSANNA VALERIANA GARCIA VERGARA @ ROSANNA VERGARA (VERGARA) was received or processed by the Bureau. Further, no record of Identification Certificate No. 06-12955 allegedly issued to Vergara exists in the Bureau's files.

x x x x<sup>172</sup>

The latter message is reiterated in Commissioner Geron's letter dated June 29, 2016.<sup>173</sup>

*Second*, the June letters were apparently written with knowledge that, contrary to what they stated, the BI does have records of Vergara's R.A. 9225 documents. To recall, per the Certification dated August 4, 2016 of Records Section Chief Maceda, Commissioner Geron borrowed Vergara's R.A. 9225 files on May 16, 2016, which thus accounts and substantiates the first letter dated May 20, 2016 where Commissioner Geron unequivocally stated the fact that the BI has photocopies of the documents. This leads to no other conclusion than that the subsequent issuance of the June letters, which contradicted the May letter and are inconsistent with Maceda's Certification, was deliberate and tainted with malice.

Therefore, the Court agrees with the HRET's conclusion that the obvious contradictions in the statements of Commissioner Geron impeaches his credibility in writing the June letters.<sup>174</sup> In truth, it is difficult to see how

<sup>171</sup> Id. at 44. Underscoring omitted.

<sup>172</sup> Id. at 45. Underscoring omitted.

<sup>173</sup> Id.

<sup>174</sup> See Rule 132, Section 11, Rules on Evidence which states:

SEC. 11. *Impeachment of adverse party's witness.* — A witness may be impeached by the party against whom he was called, by contradictory evidence, by evidence that his general reputation for truth, honesty, or integrity is bad, or by evidence



the contradictions of Commissioner Geron's positions can impair the reliability of Commissioner Morente's letters.

*Third*, Commissioner Geron's June letters are belied by the subsequent letter of Commissioner Morente dated August 10, 2016, written in response to Vergara's letter, which sought to clarify the statements of Commissioner Geron that the BI has no records of her R.A. 9225 documents. Commissioner Morente therein declared that Vergara's petition "has been duly received, processed and approved by the [BI] and that [she has] been issued Identification Certificate No. 06-12955,"<sup>175</sup> thus:

x x x x

Dear Congresswoman Vergara:

This is in response to your 04 July 2016 and 03 August 2016 letters seeking assistance and clarification regarding the 02 June 2016 letter of former Commissioner Ronaldo A. Geron (*Annex "A"*) stating that no record of Identification Certificate No. 06-12955 exists in the Bureau's files.

The Acting Chief, Board of Special Inquiry confirmed that your petition for Reacquisition/Retention of Philippine Citizenship under R.A. 9225 has been duly received, processed[,] and approved by the Bureau of Immigration and that you have been issued Identification Certificate No. 06-12955 pursuant thereto (*Annex "B"*).

We wish to inform you that based on our inquiry, we learned that on 16 May 2016, the Records Section brought to the Office of Commissioner Geron your [R.A.] 9225 records reportedly containing photocopied documents. On the same date, your [R.A.] 9225 records were returned to the Records Section in the same condition as [they] were borrowed according to the certification issued by Acting Chief, Records Section (*Annex "C"*).

I have ordered for the conduct of an investigation as to the allegations that your [R.A.] 9225 records were tampered.

x x x x<sup>176</sup>

Moreover, unlike the June letters of Commissioner Geron, Commissioner Morente's letter was based on two certifications, duly issued by the concerned BI offices:<sup>177</sup> (1) Certification dated August 4, 2016 of Records Section Chief Maceda;<sup>178</sup> and (2) Certification of BI-BSI Chief Atty. Canta.<sup>179</sup> These certifications were attached to Commissioner Morente's letter. For obvious reasons, between Commissioner Geron's June letters — which contradict his own May 20, 2016 letter, and fails to cite any reasonable

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that he has made at other times statements inconsistent with his present testimony, but not by evidence of particular wrongful acts, except that it may be shown by the examination of the witness, or the record of the judgment, that he has been convicted of an offense. (15) (Emphasis supplied)

<sup>175</sup> *Rollo*, p. 47.

<sup>176</sup> *Id.* Underscoring omitted.

<sup>177</sup> *Id.* at 47, 55-56.

<sup>178</sup> *Id.* at 55.

<sup>179</sup> *Id.* at 56.

basis for his contradictory statements — and that of Commissioner Morente's letter, the latter deserves greater credence.

*Finally*, the June letters of Commissioner Geron are belied, not only by his own letter dated May 20, 2016, by the Certification dated August 4, 2016 of Records Section Chief Maceda, by the letter dated August 10, 2016 of Commissioner Morente, but also by all the other documents, letters, and testimonies coming from all the other BI officials submitted in evidence during the hearings before the HRET.

The contents and statements in these pieces of evidence may be summarized as follows:

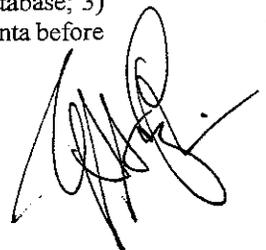
- 1) In 2006, the BI officials who evaluated Vergara's application for re-acquisition of her Philippine citizenship determined that she had taken her Oath of Allegiance, thereby resulting to her having reacquired her Philippine citizenship; that Vergara had complied with the requirements of R.A. 9225; that her R.A. 9225 Petition must be/was approved; and that, accordingly, an IC was issued in her favor.<sup>180</sup>
- 2) In 2016, the BI's Records Section only has photocopies of Vergara's R.A. 9225 documents.<sup>181</sup>
- 3) Based on the series of investigations, meetings and formal hearings, the comments and reports of relevant BI officials, the entries in the BI electronic database and the database of the BI Dual Citizenship Office, as well as the available BI records, Vergara's R.A. 9225 Petition and its accompanying documents were all received, processed, and approved by the BI on November 30, 2016, as a consequence of which she was issued IC No. 06-12955.<sup>182</sup>
- 4) The filing, processing, and approval of Vergara's R.A. 9225 documents in 2006 are recorded and reflected in the BI electronic database, which records all BI transactions including any changes in the entries therein. Hence, tampering of records will likewise be shown.<sup>183</sup>

<sup>180</sup> As stated in: 1) Memorandum dated November 28, 2006 of BI-TFCRA through Arbas; and 2) Order dated November 30, 2006 of BI Commissioner Fernandez.

<sup>181</sup> As stated in 1) Letter dated May 20, 2016 of BI Commissioner Geron; 2) Letter dated August 10, 2016 of BI Commissioner Morente; 3) Certification dated August 4, 2016 signed by BI Records Section Chief Maceda; 4) Testimony of BI Legal Division Chief Atty. Santos; and 5) Testimony of BI-BSI Chief Atty. Canta.

<sup>182</sup> As stated in 1) Letter dated August 10, 2016 of BI Commissioner Morente; 2) Certification dated August 11, 2016 of BI-BSI Chief Atty. Canta; 3) BI Investigation Report dated August 28, 2016 of the BI Investigation Committee headed by Atty. Santos; 4) Testimony of Atty Santos before the HRET; and 5) Testimony of BI-BSI Chief Atty. Canta before the HRET.

<sup>183</sup> *Rollo*, pp. 60-61. As shown in the 1) BI electronic database; 2) Dual Citizenship Office database; 3) Certification dated August 11, 2016 of BI-BSI Chief Atty. Canta; and 4) Testimony of Atty. Canta before the HRET.



- 5) The BI requires the submission of original documents in an R.A. 9225 application.<sup>184</sup> However, in the years 2005 and 2006, before the BI established a Verification and Compliance Division, it was not unusual that only photocopies of the original filings for R.A. 9225 were transmitted to the Records Section but that the same were considered valid documentation.<sup>185</sup>

In short, the BI officials, including Commissioner Geron himself in his May 10, 2016 letter to Piccio, are consistent in saying that 1) the BI has photocopies of Vergara's R.A. 9225 documents and 2) that such documents were duly filed, processed, and approved by the BI, as a consequence of which she was issued IC No. 06-12955.

Directly contradicting this substantial body of evidence are only the identical June letters of Commissioner Geron, which stated that 1) based on the records, no R.A. 9225 Petition was received or processed in favor of Vergara and 2) no record (photocopy or original) of IC No. 06-12955 exists in the BI's files.<sup>186</sup>

Hence, the proper way to view the serious irregularities heavily relied upon by Piccio and Justice Hernando is this: it was Commissioner Geron ALONE who, by his June letters to Piccio, contradicted not only himself but likewise all of the BI officials called to testify, under oath, and all of the documents and letters coming from the BI. Viewed from this angle, it would be absurd to conclude from this that the Court should now question Commissioner Morente's reliability. The facts, established during trial and through testimonies made under oath, show that it is Commissioner Geron's June letters, in response to Piccio, that should be doubted and not be given credence. In this light, given that all of the BI's officials were consistent in their statements before the HRET and on the documents they submitted, then it is Commissioner Geron's June letters that can be said to be "anomalous."

*The rulings of other government bodies which resolved, in Vergara's favor, the same issues as the ones raised in the present case, regarding her compliance with R.A. 9225 and tampering and irregularities in the processing of her R.A. 9225 Petition, deserve great respect.*

The records reveal that, as pointed out in the OSG's Comment,<sup>187</sup> Piccio had filed several suits against Vergara, before different quasi-judicial and administrative agencies, based on the same main issue and collateral

<sup>184</sup> As stated in 1) Testimony of BI Investigation Committee headed Atty. Santos before the HRET; and 2) Testimony of BI-BSI Chief Atty. Canta before the HRET.

<sup>185</sup> As stated in the Testimony of Records Section Chief Maceda before the HRET.

<sup>186</sup> As stated in the Letters dated June 2 and June 29, 2016 of Commissioner Geron.

<sup>187</sup> *Rollo*, pp. 314-338.

issues as the ones raised in the present case — Vergara’s compliance with the requirements of R.A. 9225 to re-acquire her Philippine citizenship, and the alleged tampering, fraud, and irregularities surrounding her R.A. 9225 records with the BI.<sup>188</sup> All of these suits were resolved in Vergara’s favor and, hence, against Piccio, thus:

First, the said issue was already determined by the [BI] – the government agency tasked to implement [R.A.] 9225 – in favor of [Vergara] when it issued the *Order* on November 30, 2006 or more than thirteen (13) years ago, granting her *Petition for the Issuance of Identification Certificate* to reacquire Filipino citizenship. x x x

Second, when [Piccio] opposed the candidacy of [Vergara], he raised the same issue that the latter did not comply with [R.A.] 9225. However, the COMELEC First Division, in its *Resolution* dated June 7, 2016, DISMISSED for lack of merit [Piccio’s] petition x x x. It found that [Vergara] had complied with the requirements of [R.A.] 9225.

Third, [Piccio] also filed x x x a deportation complaint against [Vergara] for allegedly tampering with her [R.A.] 9225 records. The complaint x x x was dismissed for lack of merit by Order dated October 7, 2016 issued by BI Commissioner [Morente]. It affirmed the Investigation Committee’s findings that, “based on the Bureau’s available records, and considering the presumption of regularity in the performance of duties,” it appears that [Vergara’s] petition x x x “was duly processed and approved by the [BI].”

Fourth, the *Joint Resolution* dated June 16, 2017 and the *Resolution* dated November 7, 2017 of the Office of the City Prosecutor of Manila in NPS No. XV-07-INV-17C dismissing the *complaints for falsification* filed by [Piccio] against [Vergara], x x x involving the very same documents in the instant case x x x. The City Prosecutor found no probable cause for the imputations against [Vergara].<sup>189</sup>

To emphasize, the BI (twice), the COMELEC, the City Prosecutor of Manila and the HRET — all administrative and quasi-judicial agencies tasked to enforce the relevant laws and charged with technical knowledge of the matters falling within their primary jurisdiction — all dismissed the different suits filed by Piccio against Vergara concerning the very *factual* issues brought before the Court at present, and involving the same R.A. 9225 documents of Vergara.

At this juncture, the Court quotes, with approval, the HRET’s assailed Decision where it stated: “[t]o contradict the findings of these quasi-judicial bodies would run counter to the elementary principle that findings of administrative agencies deserve great respect, if not finality, by reason of the special knowledge and expertise of said bodies over matters falling under their primary jurisdiction.”<sup>190</sup>

<sup>188</sup> Id. at 328-330.

<sup>189</sup> Id. at 56-57.

<sup>190</sup> Id. at 57.

*In sum, there is overwhelming competent evidence proving Vergara's compliance with R.A. 9225 for the re-acquisition of her Philippine citizenship.*

The foregoing discussion shows that the records are replete with competent evidence, offered by both Piccio and Vergara, supporting the conclusion that Vergara had duly re-acquired her Philippine citizenship, in compliance with the requirements of R.A. 9225.

**First**, Vergara's original and genuine IC No. 06-12955. This establishes *prima facie* that the documents required for its issuance, including her Oath of Allegiance, were all duly submitted to the BI. As testified to by the BI Legal Division Chief Atty. Santos and BI-BSI Chief Atty. Canta, these submissions should have been in their original form.<sup>191</sup>

**Second**, the photocopies of Vergara's R.A. 9225 documents<sup>192</sup> including her Oath of Allegiance itself. To emphasize, these secondary pieces of evidence are competent and admissible to prove the existence and due execution of the original documents.

**Third**, the letters, documents, and testimonies of different BI officials which, except only the June letters of Commissioner Geron, are all consistent in saying that: 1) Vergara's R.A. 9225 Petition and its attachments were duly received, processed, and approved by the BI, as a result of which she was issued IC No. 06-12955; and 2) the BI has photocopies of Vergara's R.A. 9225 documents.

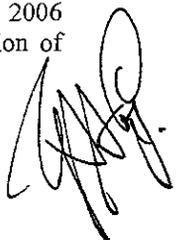
These conclusions were based on the BI records, the BI electronic database, several formal hearings, investigations, and meetings conducted on the alleged tampering of Vergara's R.A. 9225 files, as well as on certifications, reports, and comments from the relevant BI offices.

**Fourth**, the rulings and decisions of other quasi-judicial bodies and government agencies, resolving the same issues as those raised in the present case, regarding Vergara's compliance with R.A. 9225, and the collateral issues of tampering, forgery, and irregularities in the processing of her R.A. 9225 Petition. These rulings — which dismissed all such suits filed — coming from administrative agencies possessing special knowledge and experience over the matters under their primary jurisdiction, deserve great respect, if not finality, by the Court.

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<sup>191</sup> Id. at 49, 204-207.

<sup>192</sup> 1) Oath of Allegiance; 2) Memorandum dated November 28, 2006 of BI-TFCRA through Arbas, recommending the approval of Vergara's R.A. 9225 Petition; 3) the Order dated November 30, 2006 signed by Commissioner Fernandez, granting her petition; and 4) her Affidavit of Renunciation of Foreign Citizenship dated September 4, 2015.



*Fifth*, the BI electronic database and the Dual Citizenship's Office database, which record all BI transactions, showing that Vergara's R.A. 9225 application was duly received, supported by the required documents, processed and granted. As testified to by BI-BSI Chief Atty. Canta, any tampering of records will reflect in the database. As pointed out by the HRET, these recordings are entries in official records under Section 44,<sup>193</sup> Rule 130 of the Rules, hence, *prima facie* evidence of the facts stated therein.<sup>194</sup>

On the other hand, Piccio's scant pieces of evidence fail, not just because Vergara's own evidence is overwhelming, but likewise because they are inherently defective for being inadequate, tangential and anomalous.

*First*, the poor reproductions of Notary Public Atty. Cinco's signatures as appearing on Vergara's Oath of Allegiance and Atty. Cinco's notarial commission are gravely inadequate to prove Piccio's theory of forgery. It is settled that comparison of signatures requires the presentation of original documents.

*Second*, the Certification of the Manila City OCC merely demonstrates the failure of Atty. Cinco to comply with his duty to submit his notarial books to the court. It cannot be taken to prove that Vergara's Oath of Allegiance that was notarized by Atty. Cinco does not exist.

*Third*, the June 2016 letters of Commissioner Geron, as earlier discussed, are highly suspicious and cannot be given any credence. They are refuted by all the other BI officials as well as an earlier letter of Commissioner Geron himself. Moreover, they were maliciously written and lack any reasonable basis.

*Piccio's evidence is tainted by a circumstance of suspicion, hence, deserves little credence, if any.*

In the earlier-discussed case of *Vitangcol*, the Court rejected, as proof of the alleged non-existence of marriage between petitioner (the husband charged with Bigamy) and his first wife, the OCR Certification stating that the marriage license cannot be located. Apart from the lack of a categorical declaration in the Certification that no such marriage license exists, the Court likewise appreciated the "circumstance of suspicion" that the petitioner fraudulently caused the issuance of the document to evade conviction for Bigamy.

<sup>193</sup> RULES OF COURT, Rule 130, Sec. 44 provides:

**SEC. 44. Entries in official records.** — Entries in official records made in the performance of his duty by a public officer of the Philippines, or by a person in the performance of a duty specially enjoined by law, are *prima facie* evidence of the facts therein stated. (38)

<sup>194</sup> *Rollo*, p. 61.

*Vitangcol* differentiated itself from *Republic v. Court of Appeals and Castro*<sup>195</sup> (*Castro*) — a case involving an action for declaration of nullity of a marriage, wherein the plaintiff presented a similar certification from the OCR that the marriage license “cannot be located as said license x x x does not appear from [the local civil registrar’s] records”.<sup>196</sup> Thus:

This court held [in *Castro*] that “[t]he certification x x x enjoys probative value, [the local civil registrar] being the officer charged under the law to keep a record of all data relative to the issuance of a marriage license.” This court further said that “[u]naccompanied by any circumstance of suspicion and pursuant to Section 29, Rule 132 of the Rules of Court, a certificate of ‘due search and inability to find’ sufficiently proved that [the local civil registrar] did not issue [a] marriage license x x x to the contracting parties.”

The circumstances in *Castro* and in this case are different. *Castro* involved a civil case for declaration of nullity of marriage that does not involve the possible loss of liberty. The certification in *Castro* was unaccompanied by any circumstance of suspicion, there being no prosecution for bigamy involved. On the other hand, the present case involves a criminal prosecution for bigamy. To our mind, this is a circumstance of suspicion, the Certification having been issued to Norberto for him to evade conviction for bigamy.

The appreciation of the probative value of the certification cannot be divorced from the purpose of its presentation, the cause of action in the case, and the context of the presentation of the certification in relation to the other evidence presented in the case. We are not prepared to establish a doctrine that a certification that a marriage license cannot be found may substitute for a definite statement that no such license existed or was issued. Definitely, the Office of the Civil Registrar of Imus, Cavite should be fully aware of the repercussions of those words. That the license now cannot be found is not basis *per se* to say that it could not have been issued.

A different view would undermine the stability of our legal order insofar as marriages are concerned. Marriage licenses may be conveniently lost due to negligence or consideration. The motivation to do this becomes greatest when the benefit is to evade prosecution.<sup>197</sup>

Hence, proof presented by a party with a “circumstance of suspicion” may be rejected by the Court in favor of more credible evidence produced by the opposing party, even when such rejected proof was issued by an official custodian of the document allegedly missing. In *Castro*, the Court explained that the doctrine is based on Section 29, Rule 132 of the Rules,<sup>198</sup> which provides:

**SEC. 29. How judicial record impeached.** — Any judicial record may be impeached by evidence of: (a) want of jurisdiction in the court or

<sup>195</sup> G.R. No. 103047, September 2, 1994, 236 SCRA 257.

<sup>196</sup> *Vitangcol v. People*, supra note 116, at 609.

<sup>197</sup> *Id.* at 609-610. Underscoring supplied.

<sup>198</sup> *Republic v. Court of Appeals and Castro*, supra note 195, at 261-262.

judicial officer, (b) collusion between the parties, or (c) fraud in the party offering the record, in respect to the proceedings. (26a)

Here, the party who can be said to have a “circumstance of suspicion” is Piccio, who not only filed multiple suits regarding the same issues which were all dismissed by the different concerned administrative and quasi-judicial agencies, but likewise maliciously presented the contradicting and misleading letters he secured from Commissioner Geron. To stress, the contradictions between Commissioner Geron’s May 20, 2016 letter, on the one hand, and his two June letters, on the other, are so flagrant, that their presentation in evidence can hardly be said to have been innocently done. Hence, the fraudulent circumstances surrounding Piccio renders his already measly evidence all the weaker and less credible.

On the other hand, unlike petitioner in *Vitangcol* who had the primordial interest to escape criminal liability for Bigamy, Vergara had no interest *at all* in the non-existence or loss of her documents with the BI. In fact, that is the very reason why her disqualification is being sought — her original R.A. 9225 documents cannot be located with the BI where it was filed and which is its official repository under the law. Far from having such interest, Vergara vigorously tried to prove — as she did prove — the existence of her original Oath.

On the other hand, the BI, which admitted through its officials that the originals are not in its custody despite their submission by Vergara, has no motive to forge documents or make misrepresentations. In fact, it is against its own interest to admit that Vergara did file her original documents but that the same are not in its custody. It would have been so easy for the BI to “evade” censure by confirming Piccio’s theory that Vergara did not at all submit her original documents. This way, the BI washes its hands of any liability which it may incur in the wrong handling of said documents. That it admitted that it did not have the originals speaks volumes about the credibility of the BI.

*The official custodian of public records bears the responsibility of safekeeping such documents which were duly filed with it. Hence, its failure to preserve such public records should not prejudice the public, who filed the same and relied, in good faith, on the custodian’s safekeeping as mandated by law.*

It is uncontroverted that the BI is the official repository of documents — including oaths of allegiance — relating to applications for retention of re-acquisition of Philippine citizenship under R.A. 9225. Indeed, this is categorically provided in AO No. 91, entitled “Designating the Bureau of Immigration as the Implementing Agency of Republic Act No. 9225

otherwise known as the ‘Citizenship Retention and Reacquisition Act of 2003,’” thus:

**SEC. 2. Functions** – The Bureau of Immigration, shall:

- a. Promulgate and issue rules and regulations implementing the provisions of the Citizenship Retention and Reacquisition Act of 2003;
- b. Prescribe appropriate forms and documentary requirements as well as required fees for the processing of applications for retention and reacquisition of Philippine citizenship under the law;
- c. Act as repository of Certificates of Oath of Allegiance, Applications for Retention or Reacquisition of Philippine citizenship, supporting documents and other pertinent documents in pursuance with the requirements of the law and its implementing rules and regulations;

x x x x

The same is also reflected in the BI General Instructions, which declares that sworn statements, the original of which must be filed with the BI as part of the R.A. 9225 petition, shall be retained by the BI and be made part of its record, thus:

**GENERAL INSTRUCTIONS**

**To avoid summary dismissal/delay in the processing of your application/petition, please be advised of the following:**

x x x x

2. All documents required for submission must be complied with, arranged in the order as listed in the Checklist of Documentary Requirements (CDR), compiled in a legal size (8½ x 14 in.) folder and shall be submitted within the prescribed period, if applicable. Otherwise, your application or petition shall not be accepted.
3. All sworn statements or affidavits must be original, signed and duly notarized.

x x x x

8. All original documents submitted as part of the petition will not be returned to the petitioner and will be part of the Bureau’s record.

x x x x

10. It is recommended that you seek legal advice from lawyers and/or BI-accredited entities.<sup>199</sup>

On the other hand, the BI General Instructions’ R.A. 9225 Checklist<sup>200</sup> (R.A. 9225 Checklist) requires the submission of two original copies of the

<sup>199</sup> Supra note 131.

<sup>200</sup> Checklist Of Documentary Requirements For Petition For Retention/Re-Acquisition Of Philippine Citizenship Under R.A. 9225, id.

Oath of Allegiance, taken before an authorized BI Legal Officer or otherwise.<sup>201</sup>

Finally, the BI General Instructions form contains a Certification required to be filled up by the pertinent BI Officer that the supporting documents of the R.A. 9225 petitions filed are complete and complies with the requirements, thus:

#### CERTIFICATION

This is to certify that the documents submitted in support of the application/petition of (Name of Applicant) are complete and in accordance with the provided checklist.

Central Receiving Unit Evaluator:

\_\_\_\_\_  
Signature over Printed Name

\_\_\_\_\_  
Date<sup>202</sup>

As extensively discussed, there is overwhelming evidence — and the BI itself had admitted through several of its officers — that Vergara’s R.A. 9225 Petition and its supporting documents, including the original copy of her Oath of Allegiance, were duly filed and processed, resulting in the petition being granted by the BI which, in turn, resulted to the issuance of IC No. 06-12955 in her favor on November 30, 2006. Hence, the same is established. This means that the BI, by law, should have in its records, these documents. However, as it appears, it only has photocopies of some of such documents and it cannot account for the apparent loss of the originals.

Piccio would have the Court believe that Vergara’s inability to present the original documents and BI’s failure to offer reasonable explanation for their absence in its records — in 2016, when Vergara’s citizenship became the object of the public’s attention after she filed her CoC for the 2016 elections — are proof that she did not re-acquire her Philippine citizenship pursuant to R.A. 9225.

As earlier intimated, the Court disagrees.

At the outset, it bears clarifying that Vergara’s R.A. 9225 documents, which were filed with the BI, are public records, defined under R.A. 9470,<sup>203</sup> thus:

SEC. 4. *Definition of Terms.* — For purposes of this Act, the following definitions shall hereby apply:

<sup>201</sup> Id., Item nos. 3 and 4.

<sup>202</sup> Id.

<sup>203</sup> AN ACT TO STRENGTHEN THE SYSTEM OF MANAGEMENT AND ADMINISTRATION OF ARCHIVAL RECORDS, ESTABLISHING FOR THE PURPOSE THE NATIONAL ARCHIVES OF THE PHILIPPINES, AND OTHER PURPOSES, otherwise known as the “NATIONAL ARCHIVES OF THE PHILIPPINES ACT OF 2007,” approved on May 21, 2007.

x x x x

(w) "Public records" refers to record or classes of records, in any form, in whole or in part, created or received, whether before or after the effectivity of this Act, by a government agency in the conduct of its affairs, and have been retained by that government agency or its successors as evidence or because of the information contained therein.

(x) "Records" refers to information, whether in its original form or otherwise, including documents, signatures, seals, texts, images, sounds, speeches, or data compiled, recorded, or stored, as the case may be:

- (1) In written form on any material;
- (2) On film, negative, tape or other medium so as to be capable of being reproduced; or
- (3) By means of any recording device or process, computer or other electronic device or process.

x x x x

R.A. 9470 likewise mandates the State to "give utmost priority for the safeguard, protection and preservation of its public documents and records, x x x as fundamental instruments for efficient and effective governance x x x."<sup>204</sup>

Piccio challenges the evidentiary value of Vergara's IC No. 06-12955, although he does not contest its existence and genuineness, because of allegedly evident irregularities uncovered in the BI, such as its failure to explain the absence in its records of Vergara's documents, and the conflicting statements of its officials.

To recall, among the numerous statements from the BI, only Commissioner Geron's June letters, which were submitted by Piccio to refute Vergara's IC, conflicted with the rest and seemed anomalous. Hence, only these pieces of evidence deserve no credence.

In any case, assuming *arguendo* that the BI or its officials are guilty of indiscretions in the custody of Vergara's documents, such may not be imputed against Vergara, absent any showing that she participated therein. Allowing such prejudice violates the basic legal maxim, *res inter alios acta alteri nocere non debet* expressed in Section 28, Rule 130 of the Rules which states:

SEC. 28. *Admission by third-party.* — The rights of a third party cannot be prejudiced by an act, declaration, or omission of another, except as hereinafter provided. (25a)

<sup>204</sup> R.A. 9470, Sec 2. Declaration of Policy.



This is founded on a principle of good faith and mutual convenience — a man's own acts are binding upon himself or herself and are evidence against him or her. So are his or her conduct and declarations. Yet it would not only be rightly inconvenient, but also manifestly unjust, that a man or woman should be bound by the acts of mere unauthorized strangers. And if a party ought not to be bound by the acts of strangers, neither ought their acts or conduct be used as evidence against him or her.<sup>205</sup>

Among the exceptions to the *res inter alios acta* rule are: (1) admission by third party, (2) admission by co-partner or agent, (3) admission by conspirator, and (4) admission by privies.<sup>206</sup> None of these exceptions apply. There is neither allegation nor proof presented that Vergara had any hand in whatever irregularity the BI had committed, if any.

Hence, to prejudice Vergara with the acts, declarations or omissions of the BI or its officials would be to violate not only the *res inter alios acta* rule under the Rules but likewise the principles of good faith, mutual convenience, and justice that the rule is founded on.

Moreover, the allegations of irregularity on the part of the BI are premised solely on its failure to produce Vergara's original R.A. 9225 documents, without reasonable explanation, when they were sought in 2016, or 10 years after they were admittedly filed by Vergara in 2006. In other words, any such irregularities attended the documents' custody and safekeeping, after they were received by the BI. The conclusion that such irregularities likewise attended the receipt and processing of the documents which, again, occurred some 10 years prior, is *non sequitur*. More importantly, as repeatedly discussed, there is overwhelming evidence proving that these latter processes were above board and the same was admitted by the BI.

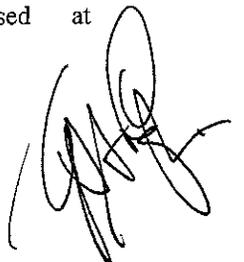
Further, from a practical and doctrinal standpoint, the failure of the BI to comply with its mandate under the law to safekeep said documents should not be imputed to Vergara who cannot be expected to regularly police the BI, and ensure that her documents are safely in the BI's custody. That there is a law mandating the BI to keep said documents safe must be enough basis for Vergara's trust that the documents are indeed safe in the possession of the agency.

A contrary interpretation — that Vergara must bear the consequence of BI's negligence or fault in safekeeping her files — would be grossly unjust to Vergara. More concerning is the dangerous precedent that the Court will then set, that is, that documents duly filed but have gone missing while in the custody of the receiving agency, without fault or even knowledge of the

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<sup>205</sup> *People v. Bernardo*, G.R. No. 242696, November 11, 2020, accessed at <<https://sc.judiciary.gov.ph/15680/>>, p. 9.

<sup>206</sup> *Tan Siok Kuan v. Ho*, G.R. No. 175085, June 1, 2016, 791 SCRA 567, 579.



persons filing, will be rendered useless and void, as if they never existed at all. This will bestow great injustice, not just upon Vergara or other similarly situated public officials, but likewise upon the general public who, in the first place, is powerless to prevent such mishaps.

On the other hand, placing the burden on the erring government agency would encourage prudence and vigilance on the part of such agency and its officials and employees to safekeep documents entrusted to them by the public in accordance with the standards set by law.

The foregoing is consistent with the policy of the State to hold the government accountable in ensuring the maintenance and preservation of public records in its custody, and to strengthen public confidence on the safekeeping and preservation of such public records.

*The Court cannot uphold Piccio's allegation that the HRET gravely abused its discretion in committing mosaic plagiarism.*

Piccio submits that the assailed Decision is an “obnoxious example of simple and mosaic plagiarism.”<sup>207</sup> He quotes portions of the assailed Decision and compares them to quoted portions of Vergara’s Verified Answer and Memorandum, and concludes that as they are the same, the HRET had committed “mosaic plagiarism/patchwork plagiarism.”<sup>208</sup> He submits that this is “unacceptable, unethical[,] and open[s] [the HRET] to suspicion as to its fairness, impartiality[,] and integrity.”<sup>209</sup> He alleges that “such callous and dishonest conduct endangers the credibility and integrity of the Tribunal,”<sup>210</sup> and then cites the case of *In the Matter of the Charges of Plagiarism, Etc., Against Associate Justice Mariano C. Del Castillo*<sup>211</sup> (*In re Del Castillo*).

The Court rejects these submissions.

Foremost, it bears stressing that the charge of plagiarism in the *In re Del Castillo* case cited by Piccio was dismissed for lack of merit. In essence, the Court found therein that Justice Del Castillo (and his researcher) lacked any motive or reason for omitting attribution for the lifted passages to their authors.<sup>212</sup> The Court stressed the element of fraudulent intent in plagiarism which it defined as “to take (ideas, writings, etc.) from (another) and pass them off as one’s own.’ The passing off of the work of another as one’s own is thus an indispensable element of plagiarism.”<sup>213</sup>

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<sup>207</sup> *Rollo*, p. 19.

<sup>208</sup> *Id.* at 20. Emphasis omitted.

<sup>209</sup> *Id.* at 23.

<sup>210</sup> *Id.*

<sup>211</sup> A.M. No. 10-7-17-SC, October 12, 2010, 632 SCRA 607.

<sup>212</sup> *Id.* at 629.

<sup>213</sup> *Id.* at 619.

In the subsequent Resolution of the petitioners' motion for reconsideration in *In re Del Castillo*,<sup>214</sup> the Court had occasion to clarify and distinguish judges from the academe where the element of malicious intent in plagiarism is disregarded — in the academe, original scholarship is highly valued because the writing is intended to earn for the student an academic degree, honor or distinction. In contrast, court decisions are not written to earn merit as an original piece of work or art. Rather, deciding disputes is a service rendered for the public good.<sup>215</sup>

Moreover, as accuracy of words in law is foremost, the tendency to copy of judges and lawyers is explicable. Hence, the Court recognized the right of judges to use legal materials which belong to the public domain, even without attribution, including liftings from a party's pleading, thus:

“A judge writing to resolve a dispute, whether trial or appellate, is exempted from a charge of plagiarism even if ideas, words or phrases from a law review article, novel thoughts published in a legal periodical or language from a party's brief are used without giving attribution. Thus judges are free to use whatever sources they deem appropriate to resolve the matter before them, without fear of reprisal. This exemption applies to judicial writings intended to decide cases for two reasons: the judge is not writing a literary work and, more importantly, the purpose of the writing is to resolve a dispute. As a result, judges adjudicating cases are not subject to a claim of legal plagiarism.”

If the Court were to inquire into the issue of plagiarism respecting its past decisions from the time of Chief Justice Cayetano S. Arellano to the present, it is likely to discover that it has not on occasion acknowledged the originators of passages and views found in its decisions. These omissions are true for many of the decisions that have been penned and are being penned daily by magistrates from the Court of Appeals, the Sandiganbayan, the Court of Tax Appeals, the Regional Trial Courts nationwide and with them, the municipal trial courts and other first level courts. Never in the judiciary's more than 100 years of history has the lack of attribution been regarded and demeaned as plagiarism.

x x x x

The Court will not, therefore, consistent with established practice in the Philippines and elsewhere, dare permit the filing of actions to annul the decisions promulgated by its judges or expose them to charges of plagiarism for honest work done.<sup>216</sup> (Emphasis omitted)

The Dissenting Opinion of Senior Associate Justice Antonio T. Carpio (SAJ Carpio) in *In re Del Castillo* is more instructive for cases involving judges quoting or copying from pleadings of parties:

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<sup>214</sup> A.M. 10-7-17-SC, February 8, 2011, 642 SCRA 11.

<sup>215</sup> Id. at 20.

<sup>216</sup> Id. at 22-24.



*b. Copying from Pleadings of Parties*

In writing judicial decisions, the judge may copy passages from the pleadings of the parties with proper attribution to the author of the pleading. However, the failure to make the proper attribution is not actionable.

Pleadings are submitted to the court precisely so that the *pleas*, or the arguments written on the pleadings, are accepted by the judge. **There is an implied offer by the pleader that the judge may make any use of the pleadings in resolving the case.** If the judge accepts the pleader's arguments, he may copy such arguments to expedite the resolution of the case. In writing his decision, the judge does not claim as his own the arguments he adopts from the pleadings of the parties. Besides, the legal arguments in the pleadings are in most cases merely reiterations of judicial precedents, which are Works of the Government.

However, misquoting or twisting, with or without attribution, any passage from the pleadings of the parties, **if done to mislead the parties or the public**, is actionable. Under Canon 3 of the Code of Judicial Conduct, a judge "should perform official duties honestly." Rule 3.01 and Rule 3.02 of the Code provide that a judge must be faithful to the law, maintain professional competence, and strive diligently to ascertain the facts and the applicable law.<sup>217</sup>

Hence, from the foregoing, failure of judges to make proper attributions when quoting pleadings of parties filed before them is not actionable. What can be said to be an exception is when there is twisting of such passages from pleadings done with intent to mislead the parties or the public. To twist means "to distort or pervert the meaning of."<sup>218</sup>

In the present case, the Court does not find any misquoting or twisting of passages from Vergara's pleadings. Neither is there any showing of intent to mislead the parties by the HRET. Hence, there is no basis for the Court to sustain Piccio in this respect.

On this note, the Court takes exception to the rather callous language of this portion of Piccio's Petition, and its strong suggestion of partiality by the HRET — a constitutional body charged with the important mandate of resolving all contests relating to the election, returns, and qualifications of the country's legislators.<sup>219</sup> Piccio's counsel is reminded to observe and maintain the respect due the HRET, as the same is essential to the orderly administration of justice.<sup>220</sup>

<sup>217</sup> Id. at 36-37. Emphasis in the original.

<sup>218</sup> *In the Matter of the Charges of Plagiarism, etc., against Associate Justice Mariano C. Del Castillo*, supra note 211, at 632.

<sup>219</sup> 1987 CONSTITUTION, Art. VI, Sec. 17.

<sup>220</sup> *In the Matter of Proceeding for Disciplinary Action Against Atty. Vicente Raul Almacen, et al. v. Yaptinchay*, 142 Phil. 353, 371 (1970).

The Court had enjoined lawyers, in the assertion of their clients' rights, to "rein up their tempers," even as it understands the frustration brought by a court's dismissal of one's cause, the merit of which he or she so passionately believes in, thus:

"The counsel in any case may or may not be an abler or more learned lawyer than the judge, and it may tax his patience and temper to submit to rulings which he regards as incorrect, but discipline and self-respect are as necessary to the orderly administration of justice as they are to the effectiveness of an army. The decisions of the judge must be obeyed, because he is the tribunal appointed to decide, and the bar should at all times be the foremost in rendering respectful submission." (*In Re Scouten*, 40 Atl. 481)

"We concede that a lawyer may think highly of his intellectual endowment. That is his privilege. And he may suffer frustration at what he feels is others' lack of it. That is his misfortune. Some such frame of mind, however, should not be allowed to harden into a belief that he may attack a court's decision in words calculated to jettison the time-honored aphorism that courts are the temples of right." (Per Justice Sanchez in *Rheem of the Philippines* [v.] *Ferrer*, L-22979, June 26, 1967)<sup>221</sup>

The ascription of improper motives to the HRET is especially alarming for it implies that the HRET was moved by considerations other than its sense of justice and fair play, and calls into question its integrity and impartiality. This chips away at the public's confidence on the overall judicial and quasi-judicial system in its fair dispensation of justice. Such tone cannot be countenanced especially as the accusation of plagiarism, as discussed, lacks merit.

It bears noting that the Petition quotes a small portion of *In re Del Castillo*, leading to the fair assumption that the whole Decision and Resolution thereon were read and understood by Piccio's counsel. To stress the obvious, *In re Del Castillo* is the very case which declared the afore-discussed exceptional rules applying to plagiarism charges against courts and lawyers. These are the very doctrines applied by the Court herein, leading to the dismissal of Piccio's accusations of "mosaic plagiarism" by the HRET. It is, thus, curious that the Petition still fiercely insists on its claim, to the point of calling the HRET "unethical," "dishonest," and "callous," when a simple reading of the Court's discussion in *In re Del Castillo* would show its clear lack of merit.

*The HRET did not commit grave abuse of discretion when it issued the assailed Decision. Piccio and Umali failed to discharge their burden before the HRET*

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<sup>221</sup> Id. at 372.



*to prove the ineligibility of Vergara by substantive evidence.*

To recall, the present case is one for *certiorari*, which means that no less than **grave abuse of discretion** amounting to lack or excess of jurisdiction on the part of the HRET is needed for the Petition to prosper.

“Grave abuse of discretion” has been defined as the capricious and whimsical exercise of judgment, the exercise of power in an arbitrary manner, where the abuse is so patent and gross as to amount to an evasion of positive duty. Time and again, this Court has held that mere abuse of discretion is not enough. The abuse of discretion must be grave as when the power is exercised in an arbitrary or despotic manner by reason of passion or personal hostility, and must be so patent and so gross as to amount to an evasion of a positive duty or to a virtual refusal to perform the duty enjoined or to act at all in contemplation of law.<sup>222</sup>

However, as mentioned earlier, no grave abuse of discretion may be attributed to a court simply because of its alleged misappreciation of facts and evidence. A writ of *certiorari* may not be used to correct a lower tribunal’s evaluation of the evidence and factual findings.<sup>223</sup> By reason of the special knowledge and expertise of an administrative body like the HRET over matters falling under its jurisdiction, it is in a better position to pass judgment upon such matters. Thus, its findings of fact in that regard are generally accorded great respect, if not finality by the courts,<sup>224</sup> except when there is absolutely no evidence or no substantial evidence in support of such findings.<sup>225</sup>

Hence, a determination of whether the HRET gravely abused its discretion in the present case necessarily requires a prior determination of the merits of the *quo warranto* petitions filed before it. On this note, the starting point is determined by the party who bears the burden of proof. In the case of a petition for *quo warranto*, that party is he or she who alleges the ineligibility or disqualification of the elected official.<sup>226</sup>

Thus, Piccio and Umali, bore the burden of proving Vergara’s ineligibility before the HRET. The creation of mere doubt is insufficient to discharge such burden.<sup>227</sup>

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<sup>222</sup> *Vinzons-Chato v. House of Representatives Electoral Tribunal*, G.R. No. 204637, April 16, 2013, 696 SCRA 573, 587.

<sup>223</sup> *Garcia v. House of Representatives Electoral Tribunal*, G.R. No. 134792, August 12, 1999, 312 SCRA 353, 363.

<sup>224</sup> See *Malabaguio v. COMELEC*, supra note 97, at 706.

<sup>225</sup> *Reyes v. COMELEC*, supra note 98.

<sup>226</sup> *David v. Senate Electoral Tribunal*, supra note 80, at 509-510.

<sup>227</sup> See *id.* at 510.



In light of the above discussion, petitioners before the HRET clearly and utterly failed to prove their assertion that Vergara did not comply with the requirements of R.A. 9225 for the re-acquisition of her Filipino citizenship. All of the evidence they adduced have been, and are, debunked by contrary evidence presented by Vergara and the relevant laws.

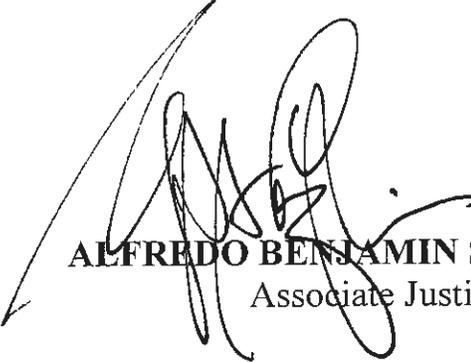
At this juncture, the Court qualifies Justice Hernando's point that the burden to show that the procedure in the retention of Philippine citizenship were strictly followed lies with the person claiming that he or she has complied with it. This burden of evidence shifts to the candidate if, and only if, the party challenging the elected official's citizenship and, hence, his or her eligibility, had adduced substantial evidence to prove such ineligibility.

Nevertheless, Vergara, while not carrying any burden of evidence as the burden of proof had not shifted from Piccio, proved, by sufficient and substantial evidence, that she had duly taken her oath and duly executed an affidavit of renunciation in compliance with the requirements of R.A. 9225.

Hence, the HRET — far from having committed grave abuse of discretion — was actually very correct in the issuance of its assailed Decision and Resolution, and in ruling that Vergara is qualified to continue sitting as a Member of the House. There is abundant evidence to support this conclusion.

**WHEREFORE**, the Petition is **DISMISSED** for lack of merit. The Decision dated May 23, 2019 and Resolution dated June 27, 2019 of the House of Representatives Electoral Tribunal are **AFFIRMED**.

**SO ORDERED.**



**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice

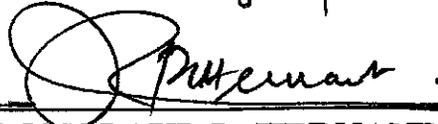
WE CONCUR:



**ALEXANDER G. GESMUNDO**  
Chief Justice

(No part)  
**ESTELA M. PERLAS-BERNABE**  
Senior Associate Justice

*I dissent -  
See Dissenting Opinion.*

  
**RAMON PAUL L. HERNANDO**  
Associate Justice

(On official leave)  
**MARVIC M.V.F. LEONEN**  
Associate Justice

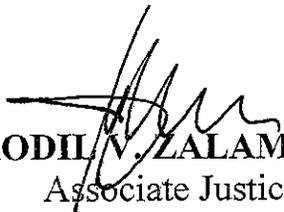
*I join the dissent of  
J. R. Hernandez*

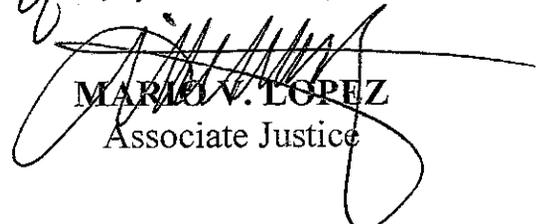
  
**ROSMARI D. CARANDANG**  
Associate Justice

*Pls see concurrence.*

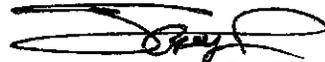
  
**AMY C. LAZARO-JAVIER**  
Associate Justice

  
**HENRI JEAN PAUL B. INTING**  
Associate Justice

  
**RODIL V. ZALAMEDA**  
Associate Justice

*I join the dissent  
of J. Ramon Hernandez*  
  
**MARIO V. LOPEZ**  
Associate Justice

*I join the dissent  
of J. Ramon Hernandez*

  
**SAMUEL H. GAERLAN**  
Associate Justice

  
**RICARDO R. ROSARIO**  
Associate Justice

  
**JHOSEP Y. LOPEZ**  
Associate Justice

*I concur with the  
dissenting opinion of Justice  
Ramon Paul Hernandez*  
  
**JAPAR B. DIMAAMPAO**  
Associate Justice



**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court.

  
ALEXANDER G. GESMUNDO  
Chief Justice

