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G.R. No. 248985 ***(Philip Hernandez Piccio v. House of Representatives Electoral Tribunal and Rosanna Vergara)***

Promulgated:

October 5, 2021

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CONCURRING OPINION

LAZARO-JAVIER, *J.*:

Facts

In **November 2006**, respondent applied with the Bureau of Immigration (BI) for the re-acquisition of her Filipino citizenship under Republic Act No. 9225 (RA 9225) and its implementing rules. She was then a naturalized citizen of the United States of America.

By end of November 2006, BI finished its investigation of respondent's application. BI reported its favorable action on her application in its Memorandum dated November 28, 2006 and Order dated November 30, 2006. She then took her Oath of Allegiance. BI issued to her Identification Certificate No. 06-12955 dated November 30, 2006.

In support of respondent's Identification Certificate No. 06-12955 dated November 30, 2006, which was the final outcome of her application, she had her petition under RA 9225 and its implementing rules, BI's Memorandum dated November 28, 2006 and Order dated November 30, 2006, and her Oath of Allegiance.

Nine (9) years later, in 2015, she **filed her certificate of candidacy** for Representative of the third congressional district of Nueva Ecija for the 2016 elections. She also submitted her Affidavit of Renunciation of Foreign Citizenship.

Not long after, **to prevent respondent from running in the 2016 elections and ever again**, *only then* did petitioner initiate a **barrage of complaints** against respondent questioning her reacquisition of Filipino citizenship.

As stressed by the learned *ponente*, Justice Alfredo Benjamin S. Caguioa, quoting the House of Representatives Electoral Tribunal (HRET), these **complaints** are borne in the following proceedings, thus:

> Fifth, the rulings and decisions of other quasi-judicial bodies and government agencies resolving the same issue in the present case regarding

the compliance of Vergara with RA 9225 and the collateral issues of tampering, forgery and irregularities in the processing of her RA 9225 petition. These were brought to the fore by the HRET, thus:

> First, the said issue was already determined by the [BI] – the government agency tasked to implement RA 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.
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> x x x x
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> Second, when [Piccio] opposed the candidacy of [Vergara], he raised the same issue that the latter did not comply with RA 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 RA 9225.
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> Third, [Piccio] also filed xxx a deportation complaint against [Vergara] for allegedly tampering with her RA No. 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 xxx was duly processed and approved by the [BI]."
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> 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-INC-17C dismissing the complaints for falsification filed by [Piccio] against [Vergara], x x x involving the same documents in the instant case x x x. The City Prosecutor found no probable cause for the imputations against [Vergara].

As shown, aside from HRET itself, the COMELEC, the BI, and the Office of the City Prosecutor of Manila, one after another, **consistently affirmed** respondent's **valid reacquisition** of her Filipino citizenship under RA 9225 and **invariably dismissed** petitioner's complaints.

The Dissent

The dissenters would like to reverse the ruling of HRET because –

One. The **presumption of regularity** in the issuance of respondent's **Identification Certificate No. 06-12955 dated November 30, 2006** *and* this **certificate** itself as the process' *confirmative ready-to-hand document* **can be**

overcome by a *mere* **suggestion** of "a deviation from the standard conduct of official duty required by law."[1]

Two. Despite the issuance of an **identification certificate** under RA 9225 and its implementing rules, which is the final document issued as proof of one's reacquisition of Filipino citizenship under the RA 9225 process, the **burden of proof** to show **strict compliance with** the **procedure** for the reacquisition of Filipino citizenship *lies with* the **person claiming** such privilege.[2]

Three. Respondent's Oath of Allegiance is **seriously doubtful** as to its **authenticity** or **genuineness, notarization,** and **status** as a **public document,** because of the **certification** from the Office of the Clerk of Court for the Regional Trial Court in Manila City that it **could not issue** a certified true copy of her Oath of Allegiance, acknowledged before Notary Public Atty. Cinco on November 26, 2006 with Cod. No. 115, Page No. 42, Book No. IV, Series of 2006, since **Book No. IV was not among those submitted to this office**.

Four. A **comparison by the dissent** of the signature of Notary Public Atty. Cinco in respondent's Oath of Allegiance with his signatures inscribed on his notarial commission and oath of office as notary public **showed that they were "demonstrably dissimilar."**

Further, the dissent also noted that a handwriting expert was **not needed** to notice that "there [was] **evidently a missing portion** of Atty. Cinco's admittedly genuine signature on Vergara's Oath of Allegiance."

The dissent cited ***Basilio v. Court of Appeals***[3] to support the comparison it had made and its conclusion from such comparison, thus –

> In *Basilio v. Court of Appeals*, the Court conducted its own visual analysis of the questioned document and after doing so, was convinced that the purported signature of the petitioner in the Deed of Absolute Sale was patently dissimilar from his admittedly genuine signatures.

Five. The November 28, 2006 BI Memorandum recommending approval of respondent's RA 9225 petition, the November 30, 2006 BI Order granting respondent's RA 9225 petition, her Oath of Allegiance, and her Identification Certificate No. 06-12955 are all **public documents** under Section 19 (a) and (b) of Rule 132 of the *Revised Rules of Evidence* (1989).

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[1] The dissent states: "Thus, the presumption of regularity cannot be applied here because such presumption only works when nothing on the record suggests that there was a deviation from the standard conduct of official duty required by law."

[2] The dissent states: "At this juncture, it is worth pointing out 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."

[3] 400 Phil. 120, 126 (2000).

Unfortunately, respondent **failed** to prove the **existence, due execution,** and **authenticity** of these public documents **in the manner** specified by **Sections 24** and **25** of **Rule 132** of the *Revised Rules of Evidence* (1989), *i.e.*, by a copy attested by the officer having the legal custody of the record, or by his deputy *and* by an attestation stating in substance that the copy is a correct copy of the original, or a specific part thereof, as the case may be.

Six. *Because* BI **has only photocopies** of the November 28, 2006 BI Memorandum recommending approval of respondent's RA 9225 petition, the November 30, 2006 BI Order granting respondent's RA 9225 petition, her Oath of Allegiance, and her Identification Certificate No. 06-12955, it **follows** that "**no originals** [thereof] exist on file."[4]

My Reflections (from the brain)

The following commentaries are intended for our cerebral concerns.

First. According to the dissent, the presumption that *public officers performed their official duties regularly* and *legally* and *in compliance with applicable laws*, *in good faith*, and *in the exercise of sound judgment* "**only works** when nothing on record **suggests** that there was a deviation from the standard conduct of official duty required by law."

With due respect, the **correct standard of proof** is **clear and convincing evidence**. The dissent itself affirmed this doctrine in ***Arakor Construction and Development Corporation v. Sta. Maria***[5] – the **presumption of regularity** may be rebutted *only* by **clear and convincing evidence** to the contrary. ***Arakor*** also stressed that "**forgery cannot be presumed** and **must be proved by clear, positive** and **convincing evidence** by the **party alleging the same**."

In ***Republic v. Apex Mining Corporation***,[6] in the context of administrative agencies rendering decisions and performing other quasi-judicial functions, the Court held:

> It bears stressing that **courts will not interfere in matters** which are **addressed to the sound discretion of the government agency entrusted with the regulation of activities** coming under the special and technical training and knowledge of such agency. In their evaluation of evidence and **exercise of adjudicative functions, administrative agencies are given wide latitude**, which includes the authority to take judicial notice of the facts within their special competence.

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[4] The dissent states: "... It is plain from the testimony of Atty. Santos that the original attachments in support of Vergara's RA 9225 petition do not exist in the Records Section of the BI. To reiterate, what the Bureau have are mere photocopies of Vergara's supporting documents. Consequently, the BI cannot issue a copy of the said documents with an attestation that the same are correct copies of the original as required by the rules, simply because no originals exist on file."

[5] G.R. No. 215006, January 11, 2021.

[6] G.R. No. 220828, October 7, 2020.

> **Additionally, administrative agencies** like the DENR **enjoy a strong presumption of regularity in the performance of official duties**; they are vested with quasi-judicial powers in enforcing the laws affecting their respective fields of activity, the proper regulation of which requires of them such technical mastery of all relevant conditions obtaining in the nation. **Unless rebutted by clear and convincing evidence to the contrary, the presumption becomes conclusive.**

This presumption of regularity **includes** the public officer's official actuations **in all the phases** of their[7] work.[8] It is **so well entrenched** as a **legal doctrine** so that "**every reasonable intendment** will be made **in support of the presumption** and **in case of doubt** as to an **officer's act being lawful or unlawful**, construction should be **in favor of its lawfulness.**"[9]

In every case to nullify a **government action,** a petitioner invariably **stands against this presumption of regularity.** Regardless of the appearance or non-appearance of the respondent agency, regardless of the absence of any testimonial, documentary or object evidence on its behalf, the **presumption stands as an obstacle** to the petitioner's ultimate prayer. There is **no other way** of surmounting this **legal barrier** but by the petitioner successfully discharging his or her burden of proving the contrary by **clear and convincing evidence.**

Clear and convincing evidence is the quantum of proof that requires more than preponderance of evidence but less than proof beyond reasonable doubt.[10]

In **preponderance of evidence,** the parties' **opposing evidence** are **matched against each other,** and the standard is met if the evidence is able to prove that the **proposition** is *more likely to be true than not true* or *more probable than improbable,* and *more likely to be true* or *more probable than what the opposing pieces of evidence prove,* that is, the **proof** generated by the evidence is **any value greater than fifty percent chance** that the proposition is true as against what the opposing evidence sought to establish.[11]

On the other hand, **clear and convincing evidence** means that the evidence presented by a party during the trial must be ***highly and substantially more probable to be true than not*** and the trier of fact must have a ***firm belief*** or ***conviction*** **in its factuality.**[12] In this standard, under the **clear and convincing standard,** the evidence must be ***substantially greater than a 50% likelihood*** of **being true.**

No matter how we examine petitioner's pieces of evidence, they **can never amount** to proof ***substantially greater*** *than a 50% likelihood* of being

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[7] I use "their" here and elsewhere in this Reflections to stress gender neutrality, indeterminacy or non-affiliation.
[8] *De Chavez v. Ombudsman,* 543 Phil. 600, 616 (2007).
[9] *Bustillo v. People,* 634 Phil. 547, 556 (2010).
[10] G.R. No. 196359, May 10, 2021.
[11] *Miller v. Minister of Pensions* [1947] 2 All ER 372.
[12] *Colorado v. New Mexico,* 467 U.S. 310 (1984).

true. There is **no clear and convincing evidence** refuting the **presumption of regularity** in the issuance of respondent's **Identification Certificate No. 06-12955**. More on this below.

Second. With due respect, the dissent has **imprecisely** assigned the **allocation** of the burden of proof here. The **identification certificate** under RA 9225 and its implementing rules is the **final document** issued as **proof of one's reacquisition of Filipino citizenship.**[13] It is **accepted by various government agencies** as such proof.[14]

The **identification certificate** is the end of the RA 9225 process. It is **preceded by** the **Order of Approval**, which under BI Memorandum Circular No. AFF-04-01 (March 10, 2004)[15] **indicates compliance with all the requisites** of RA 9225 and its implementing rules.

Hence, since respondent has been issued **Identification Certificate No. 06-12955**, she has in her favor the **presumption of regularity** in *all the phases leading to its issuance*. Therefore, the **burden of proof** lies upon petitioner to contradict this presumption by **clear and convincing evidence**. It is *erroneous* to allocate the **burden of proof** upon respondent when she has the presumption in her favor.

For example, we do **not presume** that a driver's license, passport, government employee ID, or a PhilHealth/GSIS/SSS card is *invalid* and then **assign the burden** of proving its validity upon its holder. If the rule were to

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[13] BI Memorandum Circular No. AFF-04-01 (March 10, 2004): Section 11. Approval Procedures – If the petition is found to be sufficient in form and in substance, the evaluating officer shall submit the findings and recommendation to the Commissioner of Immigration or Consul-General, as the case may be, within five (5) days from date of assignment. For applications filed under Sections 2 and 4 of these Rules, the Commissioner of Immigration shall issue, within five (5) days from receipt thereof, **an Order of Approval indicating that the petition complies with the provisions of R.A. No. 9225 and its IRR**, and further direct the Chief of the Alien Registration Division (ARD) to cancel the subject ACR **and/or to issue the corresponding IC to the applicant**; BI Memorandum Circular No. MCL-07-005 (December 27, 2007): "SECTION 12. Procedures in the Processing of Applications for Recognition as Filipino Citizen. – Applications for recognition as Filipino citizen shall observe the following procedures, to wit: ... 11. Assignment to registration officer, updating of records and preparation of Filipino Identification Certificate; 12. Issuance of Filipino Identification Certificate, picture and fingerprint impression taking; 13. Signing by the Commissioner of the Identification Certificate; 14.Releasing of the Identification Certificate; and 15. Document archiving.

[14] See also *e.g.*, Overseas Voting Act of 2013, the identification certificate or the BI's order of approval is the *prima facie* evidence of one's reacquisition of Filipino citizenship under RA 9225. "Applicants who availed themselves of the 'Citizen Retention and Reacquisition Act' (Republic Act No. 9225) shall present the original or certified true copy of the order of approval of their application to retain or reacquire their Filipino citizenship issued by the post or their identification certificate issued by the Bureau of Immigration;" Revised Implementing Rules of "An Act Providing for a Comprehensive Law on Firearms and Ammunition and Providing Penalties for Violations Thereof," accepting the identification certificate as proof of reacquired Filipino citizenship.

[15] As amended in 2008 by BI Memorandum Circular No. MCL-08-005. Section 11 states:
SECTION 11. Approval Procedures. — If the petition is found to be sufficient in form and in substance, the evaluating officer shall submit the findings and recommendation to the Commissioner of Immigration or Consul-General, as the case may be, within five (5) days from date of assignment. For applications filed under Sections 2 and 4 of these Rules, the Commissioner of Immigration shall issue, within five (5) days from receipt thereof, an **Order of Approval indicating that the petition complies with the provisions of R.A. No. 9225 and its IRR**, and further direct the Chief of the Alien Registration Division (ARD) to cancel the subject ACR **and/or to issue the corresponding IC to the applicant**. Each cancelled ACR shall, however, be attached to the Order of Approval to form part of the records of the applicant...."

be as the dissent proposed it, **government transactions** will **halt** and the **rule of law** (which is built to a large extent on the presumption of regularity) will come to a **standstill.**

Consider this: If I were traversing the intersection of Padre Faura Street and Taft Avenue, and directed by a Traffic Enforcer to stop to give way to vehicles from the opposite side, I *cannot disobey* this public officer *on my belief* that his work ID is *fake* and thus *invalid* and has *no mandate to* give such traffic direction order. **Law and order demands** that I **presume** the Traffic Enforcer's government ID as valid and all the actions taken by the authority of such ID (as a symbol of the Traffic Enforcer's mandate) as binding. Otherwise, traffic at that busy corner will result in a gridlock.

The **burden of proof** does **not** rest upon respondent to prove her compliance with RA 9225 and its implementing rules **because** she has in her favor **Identification Certificate No. 06-12955**. As this document itself **already indicates, compliance** with the requisites, as *presumed* by both the *evidentiary presumption* in Section 3 (m) of Rule 132 of the *Revised Rules of Evidence* (1989) **and** Section 11 of BI Memorandum Circular No. AFF-04-01 (March 10, 2004), the **burden** is upon petitioner to disprove such compliance by *clear and convincing evidence.*

Third. I discuss here the **first** of **four pieces of evidence** upon which the dissent concluded that respondent had **not** validly reacquired her Filipino citizenship. I refer to respondent's Oath of Allegiance which the dissent pronounced is **not genuine**, has **not been notarized**, and is **not a public document** simply because the Notary Public Atty. Cinco's **Book IV** was not submitted to the Office of the Clerk of Court (OCC) in Manila City.

As a matter of **logic though**, the fact that Book IV was **not submitted** does **not** mean that **all** the notarized documents recorded therein were **fake, not duly** or even **actually notarized**, and therefore are **not public documents**. What the **non-submission** signified was simply that *Book IV was **not submitted** and is **not** in the records of the OCC and that as a result, it would **not be possible** for the OCC to issue certified true copies of the documents registered in Book IV, including respondent's Oath of Allegiance.*

As a matter of law, the **non-submission** of one of a Notary Public's notarial books does **not** make the documents recorded in that notarial book *fake*, *unnotarized* and *unpublic* documents. There is **no law**, jurisprudence, or rule, to that effect.

The dissent cited ***Dizon v. Matti Jr.***,[16] which is based on ***DECS v. Del Rosario***,[17] which in turn cited ***Bernardo v. Ramos***.[18]

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[16] G.R. No. 215614, March 27, 2019.
[17] 490 Phil. 193, 208 (2005).
[18] 433 Phil. 8, (2002).

Dizon v. Matti Jr. *boldly* (or respectfully, *recklessly*) enunciated a rule of presumption –

> ... the Certification... issued by the notarial records section of the Office of the Clerk of Court... certifying that the alleged notarized Deed... does not exist in the notarial records of the said office... casts very serious doubt on respondent['s]... claim that the notarization of the Deed... was completely in order. In this connection, it is **apropos to mention** that **if there is no copy of the instrument in the notarial records, there arises a presumption that the document was not notarized and is not a public document.**

I say **boldly** and **recklessly** *because* –

(i) The **alleged reference** of this rule, ***DECS v. Del Rosario***, did ***not*** lay down the above-quoted presumption. The **complete** and **correct statement** of the rule of presumption in ***DECS*** consists of two (2) premises, not a single one as reduced in ***Dizon*** – the subject instrument **must both** be *not recorded in the notarial register* **and** *not included in the notarial records*. Thus, ***DECS*** held:

> If the instrument is *not recorded in the notarial register* **and** there is *no copy in the notarial records*, the presumption arises that the document was not notarized and is not a public document.

(ii) The OCC certification in ***Dizon*** is **different** from the certification in the present case.

The certification in ***Dizon*** certified that "the alleged notarized Deed of Absolute Sale **does not exist in the notarial records** of the said office."

On the other hand, the wording of the certification here is that **Book IV was not among the submissions by Atty. Cinco** to the OCC in Manila City.

(iii) ***DECS*** cited ***Bernardo v. Ramos***. But ***Bernardo*** did **not** lay down a **presumption** as the one made in ***DECS,*** much less, the one laid down in ***Dizon***. To be precise, ***Bernardo*** held:

> If the document or instrument **does not appear in the notarial records** *and* there is **no copy of it therein**, **doubt is engendered** that the document or instrument was **not really notarized**, so that it is **not a public document** and **cannot bolster any claim** made based on this document. Considering the evidentiary value given to notarized documents, the **failure of the notary public to record the document in his notarial registry** is **tantamount to falsely making it appear** that the document was notarized when in fact it was not.

The rule in ***Bernardo*** is **consistent** with our holding in ***Spouses Santiago v. Court of Appeals***[19] that –

> And surely, **the parties to a notarized document are not the persons obligated to furnish a copy thereof to the Records Management and Archives Division**, such task being that of the notary. The **failure of the notary public to so furnish** a copy of the deed **to the proper office** is a **ground for disciplining him, but certainly not for invalidating the document** or **for setting aside the transaction** therein involved.

The **doubt** that ***Bernardo*** said was engendered by the **faulty notarization** of the document should be **qualified more leniently** (and *not harshly*) by the above-quoted rule in ***Spouses Santiago*** that the **non-submission** of one of the notary books is **not a ground for invalidating** the **document** or the **transaction** it memorializes. What is important, following ***Spouses Santiago***, is that the **notary public** who had notarized respondent's Oath of Allegiance was **duly** and **legally commissioned when he notarized** respondent's Oath of Allegiance.

Clearly, **there is no basis in law** for the claim made by the dissent as well as those in ***Dizon*** and ***DECS*** that a **presumption** arises if the document or instrument **does not appear in the notarial records** *and* there is **no copy of it therein**. There is **no rule of presumption** enunciated in the alleged **ultimate** source of this rule – ***Bernardo v. Ramos***, and its antecedent, ***Spouses Santiago***.

What ***Bernardo*** simply laid down was that such **twin facts**, *and* ***not*** *just one*, **could** ***(not*** **should)** create a ***doubt*** but **not a presumption**.

It is **important to distinguish** a **doubt** from a **presumption** since a **doubt** in a *civil* case may be **rebutted** by **preponderant** evidence while a **presumption** requires **clear and convincing evidence** to refute.

At any rate, here, **neither** doubt **nor** presumption arose because the OCC only certified that Book IV was **not submitted** by the Notary Public. There is **no certification** that respondent's Oath of Allegiance **was not recorded, *much less,* does not exist** in the notarial records of the OCC.

Assuming that the **certifications** in ***Dizon*** and in the present case amount to the **same thing**, *neither* **doubt** *nor* **presumption** will still arise **because** the Oath of Allegiance ***was in fact recorded*** on November 26, 2006 in "Cod. No. 115, Page No. 42, Book No. IV, Series of 2006" of Notary Public Atty. Cinco. Evidently, the **two premises** to generate the *presumption* in ***Dizon*** will **not** apply to the *certification here* since **only one** of these premises is actually present.

Singly or in connection with the three (3) other pieces of evidence canvassed by the dissent, the OCC Certification obtained by petitioner does

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[19] 317 Phil. 400, 409 (1995).

not amount to clear and convincing evidence to rebut the **presumptive validity** of respondent's **Identification Certificate** and the **probative value** of the evidence **offered** in the present case **supporting this presumption**.

Fourth. The comparison between the **original specimens** of Atty. Cinco's signatures in his notarial commission and oath of office and the **copy** of his signature on respondent's Oath of Allegiance is **not an acceptable procedure** for a **handwriting examination**.

Cambe v. Office of the Ombudsman[20] stressed that the use of a **mere photocopy** of the alleged **forged** signature *to establish forgery* is **not reliable**:

> Besides, the Ombudsman aptly observed that Azores and Pagui admittedly **used mere photocopies** of the PDAF documents in their handwriting analyses. In *Heirs of Gregorio v. Court of Appeals*, this Court ruled that "**[w]ithout the original document containing the alleged forged signature**, one **cannot make a definitive comparison** which would establish forgery," and that "[a] **comparison based on a mere [photo] copy** or reproduction of the document under controversy **cannot produce reliable results**."

Loyola Life Plans v. Lumiqued[21] underscored **the same** ruling:

> Noticeably, the language used by Atty. Pagui in his findings is not definitive and cannot be considered a reliable examination of the genuineness of Dwight's signature. While it concludes that the questioned and standard signatures could not have been affixed by one and the same person, **this conclusion is made on the assumption that the standard signatures provided by ATR are authentic copies of the originals.** Moreover, **only the carbon-original copy of Dwight's questioned document was examined, not the original questioned document bearing his signature**. Atty. Pagui **admitted that the original copy of the document where the questioned signature appears is "preferably the most desired to be examined."** Even Mely Feliciano Sora, Chief of the Questioned Document Examination Division of the Philippine National Police Crime Laboratory, opined that **it is impossible to conduct a reliable handwriting examination of Dwight's signature appearing on the Timeplan Application**. According [to] her, **the Application is a mere carbon original wherein the minute details are not clear**.... Given the **unreliable quality of the available sample signatures of Dwight in the records**, the Court is **inclined to refuse conducting an independent examination of the genuineness of his signature** in the disputed Timeplan application.

In ***Republic v. Harp***,[22] alterations or forgeries **cannot be reliably established** when the questioned writing is **just a photocopy**:

> 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**

[20] 802 Phil. 190, 220-221 (2016).
[21] G.R. No. 228402, August 26, 2020.
[22] 787 Phil. 33, 51 (2016).

> **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.**

Another. While the dissent based its **conclusion of forgery** on alleged ***"evidently missing portion"*** of the Notary Public's signature in the Oath of Allegiance, the dissent **did not explain** what this omission was. This is **unfair** because it **deprives** respondent the **ability to meet** the supposed deficiency, especially when the supposedly forged signature **appeared only as a copy** of the original.

The **analysis** in the dissent is **contrary** to what was done in ***Civil Service Commission v. Dampilag***, where the Court **painstakingly itemized** the **stark differences** between the *genuine* signature and the *forged* one –

> Here, the evidence presented includes certified true copy of the PSP and the PDS. After a careful comparison, **we noted stark differences in the structure, strokes, form and general appearance** of Dampilag's signatures and handwriting in the PDS and in the PSP. The **letters "M," "J," and "N" were written differently and the strokes of the signatures were not similar**. It cannot also escape our attention that the purported examinee wrote his name as "HILARIO D. DAMPILAG" in the PSP and not "HILARIO J. DAMPILAG." In the circumstances and based on the evidence on record, there is no doubt that the person who took the December 1, 1996 CSPE is not Dampilag. Someone impersonated Dampilag and took the examination in behalf of him.

Lastly, the dissent's reference to ***Basilio v. Court of Appeals***[23] is **most inappropriate** since the handwriting examination done by the Court was **merely cumulative** of the overwhelming evidence adduced that the questioned deed of sale was forged. It is **very much unlike the present case** where the Court's **evidence of forgery** was **only** the dissent's examination of the signature's **copy** that was compared to the other signatures of the Notary Public:

> In this case, **petitioners presented handwriting experts and other persons familiar with the handwriting** of Dionisio Z. Basilio in order **to show that the signature contained in the questioned deed of sale was forged.**
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> According to the **report of the handwriting experts of the National Bureau of Investigation**, there were "fundamental, significant differences in writing characteristics between the questioned and the standard/sample specimen signatures," particularly, the "movement and manner of execution strokes," "structural pattern of letters/elements," and "minute/inconspicuous identifying details."

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[23] Supra note 1.

> **Evelyn Basilio, daughter of Dionisio Z. Basilio, confirmed that the signature on the questioned deed of sale was forged**, stating that she knew the authentic signature of her father because he used to sign her school report card periodically.
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> **Carmelita Basilio, wife of Dionisio Z. Basilio, stayed beside her husband from the time of his illness until his death.** She was **certain that from the time of his illness in 1987 until his death in 1988, Dionisio did not have the strength to sign a document** much less **personally appear before a notary public** in the latter's office to acknowledge the execution of a deed of sale.
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> Moreover, **our own analytical study of the questioned document** showed that the signature of Dionisio Z. Basilio on the deed of sale dated March 19, 1987 was forged. **We have examined the signature of Dionisio Z. Basilio on the deed of sale dated March 19, 1987, compared with other documents with his admittedly genuine signature. We find the signatures to be patently dissimilar.**

Thus, again, singly or in connection with the three other pieces of evidence identified in the dissent, the **questionable** and **unreliable signature examination** done by the dissent **cannot** constitute clear and convincing evidence to rebut the presumptive validity of respondent's **Identification Certificate** and the **probative value** of the pieces of evidence adduced in this case that corroborate this presumption.

Fifth. The dissent **inaccurately referred** to Section 24 and Section 25 of Rule 132, *Revised Rules of Evidence* (1989) as *one of respondent's inadequacies* in proving her reacquisition of Filipino citizenship under RA 9225 and its implementing rules.

This is **because** the present case **has nothing to do with the contents** of the requisite documents. Section 24 and Section 25 of Rule 132 are **relevant** only if the documents' proponent is **obliged** to produce the **original**, and this is the case **only if the contents** of the documents are **in issue**.

But here, the **issue** is the **existence, genuineness,** and **due execution** of the **November 28, 2006 BI Memorandum** recommending approval of respondent's RA 9225 petition, the **November 30, 2006 BI Order** granting respondent's RA 9225 petition, her **Oath of Allegiance**, and her **Identification Certificate No. 06-12955**. For this purpose, any probative **secondary evidence** may be **offered** by respondent.

As held in ***Heirs of Prodon v. Heirs of Alvarez,***[24] the **range of secondary evidence** that may be offered to prove the **existence, due execution,** and **authenticity** of the requisite documents is **wide**. Good trial tactics would surely call attention to adducing the **original document** itself. But this **does not mean** that if the **originals are missing**, all is already lost for the proponent. **Far from it.** As ***Heirs of Prodon*** clarified –

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[24] 717 Phil. 54, 70-71 (2013).

> .... 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.**

Secondary evidence may be offered to prove the *existence, due execution,* and *genuineness* of documents. The **manner of proving** these matters **is not as stringent** as proving the **terms of a writing,** the **process** for which is laid down in Sections 5, 6, 7 of Rule 130 of the *Revised Rules of Evidence* (1989). The ***less stringent*** **manner of proving** the *existence, due execution,* and *genuineness* of documents will go through the **ordinary procedure** for adducing testimonial, object, or documentary evidence.

Republic v. Sandiganbayan[25] spelled out when the **originals** are necessary and when they **are not.**

> Under the Best Evidence Rule, the **original document must be produced whenever its contents are the subject of inquiry.** The rule is encapsulated in Section 3, Rule 130 of the Rules of Court....
>
> Why **the Best Evidence Rule applies only when the terms of a writing are the subject of inquiry** are suitably explained in *Heirs of Margarita Prodon v. Heirs of Maximo S. Alvarez*:
>
> > The **primary purpose** of the Best Evidence Rule is to ensure that the **exact contents of a writing** are brought before the court, considering that (a) the **precision in presenting to the court the exact words** of the writing is of more than average importance, particularly as respects operative or dispositive instruments, such as deeds, wills and contracts, because a slight variation in words may mean a great difference in rights; (b) there is a **substantial hazard of inaccuracy in the human process of making a copy by handwriting or typewriting**; and (c) as respects **oral testimony purporting to give from memory the terms of a writing, there is a special risk of error,** greater than in the case of attempts at describing other situations generally. The rule further acts as an **insurance against fraud.** Verily, if a **party is in the possession of the best evidence** and withholds it, and seeks to substitute inferior evidence in its place, the **presumption naturally arises that the better evidence is withheld for fraudulent purposes** that its production would expose and default. Lastly, the **rule protects against misleading inferences** resulting from the intentional or unintentional **introduction of selected portions** of a larger set of writings.
>
> 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

[25] 733 Phil. 196, 245-248 (2014).

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**.

Although the application of the Best Evidence Rule may be simple, **determining whether the contents** or terms **of a writing** are the **subject of the inquiry**, or **whether a piece of evidence** (other than the original document) **intends to prove the contents** of a writing, is **more difficult** than it seems. In *Railroad Management Company LLC v. CFS Louisiana Midstream Co.*, the US Court of Appeals (Fifth Circuit), which was faced with the complex task of determining *whether to admit* in evidence the *affidavits of certain witnesses* that had been submitted in evidence *supposedly to prove the existence of an assignment agreement*, acknowledged the *difficulty in applying* the Best Evidence Rule particularly because the party proffering the affidavits had contended that they were not intended to "prove the content" of the document (agreement), but only their "existence." It held that the *affidavits were in fact submitted to prove the contents* of the agreement, and observed as follows:

The purpose, flexibility, and fact-intensive nature of the application of the best evidence rule persuade us that **the following factors are appropriately considered when distinguishing between whether it is the content** of the document or **merely its existence** that a witness intends to testify concerning:

(a) the **relative importance of content** in the case, (b) the **simplicity or complexity of content** and consequent risk of error in admitting a testimonial account, (c) the **strength of the proffered evidence** and the **presence or absence of bias** or self-interest on the part of the witnesses, (d) the **breadth of the margin for error** within which **mistake in a testimonial account** would not undermine the point to be proved, (e) the **presence or absence** of the **actual dispute** as to **content**, (f) the **ease or difficulty of producing** the writing, and (g) the **reasons** why the proponent of other proof of its content does **not have** or **offer the writing itself**.

Indeed, when the terms or contents of a writing must be proved to make a case or put up a defense, the Best Evidence Rule is controlling. But **when the** terms or **contents are not in issue**, and the **matter to be proved exists independently** of the writing and can be **satisfactorily established by parol evidence** (or other secondary evidence), the latter is equally primary.

Given the foregoing guidelines, the Best Evidence Rule is not controlling in the case before the Sandiganbayan. **None of the issues presented there would be resolved only upon a consideration of the contents** of any of the affected exhibits. Specifically, the exhibits (including the letters and memoranda) were presented to establish that either the Marcoses had extended undue and unwarranted influence, advantage and concessions to the respondents, or that the Marcoses had held a close relationship — financial or otherwise — with their alleged cronies. But considering that **such facts were matters that could be competently inferred from the mere existence and execution of the documents** themselves, the Republic **did not need to present the documents to prove the particular transactions** or incidents detailed in the documents. Hence,

> the production in court of the originals of the exhibits was neither crucial nor decisive.
>
> **When what is sought to be proved is an external or collateral matter**, the **original of the exhibit need not be produced** in court in order to ensure its **trustworthiness** for purposes of the case. Such **trustworthiness is already safeguarded by** the rules on **authentication and proof of documents** embodied in Section 19 to Section 33 of Rule 132, Rules of Court. The court may **safely rely on the documents thus authenticated** and proved even without producing their originals, for it was not their terms or contents that were the subject of the inquiry.

Clearly, the **original** does **not** have to be produced when a party is **simply trying to prove** an **event** or **fact** that is **memorialized in a writing**, recording, or piece of photographic evidence, such as the requisite documents for a petition under RA 9225.

For example, a witness may testify about the fact of payment. **Oral testimony** to this effect may be offered to prove payment. Additionally, the witness may enter the receipt into evidence, but since the contents of the receipt is **not in issue**, the original copy of the receipt does **not** have to be offered. But when a party is *attempting to prove payment* **does not recall** the experience of **making the payment**, *but* has a **receipt** and **wants to testify as to what the receipt shows**, the Original Evidence Rule will apply since it is the **contents** of the receipt that are being **offered**. The best evidence of **what the receipt says** is the **receipt itself** and the **original receipt** should be entered into evidence.

Here, respondent **vividly recalls** the **execution** and **submission to BI** of the requisite documents. So does **BI itself**. They therefore **do not have to produce the originals** of these documents themselves to prove their *existence*, *due execution*, and *genuineness*. Any **secondary evidence** probative of these facts **will do**.

More, the factors mentioned in ***Republic v. Sandiganbayan*** **militate against** the application of the **original document rule** as well the **rule** on **proof** of the **originals** of **public documents** stated in Section 24 and Section 25 of Rule 132. Thus:

(a) the relative importance of contents in the case – The **contents** are **not** important here. The requisite documents under RA 9225 and its implementing rules are **pro-forma documents** and their **contents** are already stipulated by law.

(b) the simplicity or complexity of content and consequent risk of error in admitting a testimonial account – The contents are **pro-forma** and therefore **identical across the board** and thus **very simple** to be testified on by a witness

(c) the strength of the proffered evidence and the presence or absence of bias or self-interest on the part of the witnesses – The proffered evidence are **copies themselves** of the requisite documents that are **in the possession** of **BI** itself as the **official repository** of these documents; the **copies** are both in **hard copies** and **electronic entries** in BI's database. We also have **testimonies of BI officials** on the **existence, due execution** (*i.e.*, **absence of fraud** and **correctness of form** and **procedure**) and **authenticity**. These witnesses are **public officers** who pursuant to the *Code of Conduct and Ethical Standards of Public Officers and Employees* must exhibit neutrality, professionalism, and trustworthiness at all times.

(d) the breadth of the margin for error within which mistake in a testimonial account would not undermine the point to be proved – There is a **very small margin of error** that the *above-mentioned* **secondary evidence**, the hard and electronic copies and testimonies, would undermine proof of the existence, genuineness and due execution of the requisite documents.

(e) the presence or absence of the actual dispute as to contents – There is **no issue** as to the **contents** of the requisite documents.

(f) the ease or difficulty of producing the writing – Pursuant to the implementing rules of RA 9225, the **original copies** of the requisite documents were submitted to BI. Hence, the production or non-production of the **originals** of these documents **depends upon** the security of BI's filing system and **not upon respondent's vested interest**.

(g) the reasons why the proponent of other proof of its content does not have or offer the writing itself – This is **because BI had custody** of the original copies of the RA 9225 requisite documents.

Taking into account all these factors, the original document rule does **not** apply to the present case. The contents of the requisite documents are **not** in issue here. Rather, it is their *existence*, *due execution,* and *genuineness* that must be prove. Proof of these matters **does not depend** on the production of the original since **secondary evidence** could **competently** and **reliably** account for them.

Consequently, respondent's **non-compliance** with Section 24 and Section 25 of Rule 132 is a **non-issue** since she has in her favor the **presumption of regularity**, and in any event, she called **secondary evidence** to prove the *existence*, *due execution* and *genuineness* of her documents.

Singly or in connection with the three other pieces of evidence mentioned in the dissent, such non-compliance **cannot constitute** clear and convincing evidence **to rebut** the **presumptive validity** of **her Identification Certificate** and the **probative value** of the evidence adduced before HRET.

Sixth. The dissent itself is **ambivalent** on *what the BI certification* that it only had copies of respondent's requisite documents *really meant.*

Expressly, the dissent concluded the *obvious* – having **only copies** of these documents, BI did **not** have the *originals* thereof in its files. This of course is **logical.**

It appears, **however,** that in **relying heavily** upon BI's certification that *only photocopies* of the requisite document were *in BI's files* **at the time** BI was asked for a certification, the dissent **had to proffer** that **giant leap** and jump in conclusion that **no originals** of the requisite documents **had ever existed.** I respectfully submit that **this conclusion** has **no basis both in logic** and **in law.**

Logically, it is **fallacious** to conclude that because *only photocopies* were ready-to-hand in year 2016, there were *no originals* thereof in 2006 when respondent reacquired Filipino citizenship under RA 9225. The **conclusion** does **not** follow from the **premises.** It is **non-sequitur.**

Legally, a certification of the type BI issued **does not mean** that *no originals* **ever existed.**

Diaz-Salgado v. Anson,[26] ***Kho v. Republic***,[27] ***Cariño v. Cariño***,[28] among others, held that a *certification of no record of marriage license or certification of "due search and inability to find" a record or entry* issued by the local civil registrar is **adequate to prove** the **non-issuance** or **non-existence** of this license.

But in ***Vitangcol v. People***,[29] a bigamy case, this **holding** was **qualified** – the above holding is true **only if** the certification was **unaccompanied by any circumstance of suspicion.** If there was any **circumstance of suspicion** accompanying the certification, ***Vitangcol*** held that this certification would **not categorically prove** that there was **no marriage license.** This is because a **certification** that *the local civil registrar had no record of the marriage license* is **not the same** as **another certification** categorically stating that *this marriage license did not exist.*

Vitangcol explained:

> 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**

[26] 791 Phil. 481 (2016).
[27] 786 Phil. 43 (2016).
[28] 403 Phil. 861 (2001).
[29] 778 Phil. 326, 338 (2016).

> **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.**

Here, the **applicable rule** is **not** the rule enunciated in ***Diaz-Salgado***, ***Kho***, and ***Cariño***,[30] among others. This is my conclusion for **two reasons**.

First, it is **not the case here** that there are **no records** of respondent's requisite documents in BI''s custody. **There are.**

For one, **hard copies** of these documents **have long existed** in BI's files.

Further, there are **electronic entries** *positively* indicating the **existence** of the **originals** of these requisite documents. As will be discussed below, there is **affirmative evidence** confirming the **reliability** and **trustworthiness** of BI's **physical** and **electronic** filing systems **to warrant the conclusion** that respondent **validly went through** the process for **reacquiring Filipino** citizenship in 2006.

Second, following ***Vitangcol***, the **probative value** of BI's certification that *it has only copies of the requisite documents* must *also* be **qualified** by such factors as 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**.

The BI Certification **cannot** and **does not support** petitioner's claim that respondent did not validly reacquire Filipino citizenship. This is because the BI Certification **must co-related** with the **other evidence** and **circumstances** attendant to this case.

As Justice Caguioa painstakingly clarified in his *ponencia*, the BI Certification is merely a **piece *but an integral one* in the overall conclusion** of BI that *respondent's "petition had been duly received, processed and approved by the BI and that she had been issued [Identification Certificate] no. 06-12955."*

The brilliant *ponencia* mentioned the **other pieces of evidence** that **supported** this BI conclusion:

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[30] Supra note 28.

The ponente is baffled by **how Acting Chief Canta and Commissioner Morente arrived at the conclusion that Vergara's RA 9225 petition had been duly received, processed and approved by the BI** considering the total absence of the petition with the BI and that it only has photocopies of the supporting documents. The **ponente emphasizes that the "only basis" for the conclusion of the BI Investigation Report dated August 28, 2016 that Vergara's RA 9225 petition was duly received, processed and approved, "were mere photocopies of Vergara's documents** in support of her RA 9225 petition and the presumption that the original documents are in the possession of the Bureau considering that the BI required these submissions."

Respectfully, **this, again,** is a **wrong postulation**. **Contrary** to the ponente's ruling, the **Investigation Report** is **based,** not only on the **photocopies of Vergara's documents** and the **presumption of regularity**, but likewise on the **entries on the BI's electronic database, formal hearings** conducted by the Investigation Committee, and the **comments and reports** the Committee required from the concerned BI officials. That the **Investigation Report** was **based on all these sources** is **clear from the testimonies** of the **BI officials** before the HRET which I discussed in my Reflections, thus:

> Fourth, the testimonies before the HRET of the following BI officials:
>
> 1) **Atty. Arvin Cesar G. Santos** (Santos), **Chief, BI Legal Division and Chairman, Investigation Committee**, who testified that: a) **an investigation was conducted** on the alleged tampering of Vergara's RA 9225 records and the **Investigation Report concluded** that the **files therein** were **duly received and processed, resulting to the documents for Vergara's petition.**
>
> 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.**
>
> 2) **Atty. Estanislao R. Canta, member of the Board of Special Inquiry**, BI, who testified that: a) there were **entries in the electronic database** of the dual citizenship office which **indicate** the **processing of Vergara's documents**; b) that **Vergara's documents** have been **implemented** with **Transaction Number/ Entry Reference no. 10552;34** c) the **BI database records all transactions including** the **processing of documents**; and 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.**

It is in **this context** that the Court **gave weight** to the BI Certification that BI has **only photocopies** of respondent's requisite documents.

This certification **did not mean** that *no originals ever existed* much less that respondent's application for reacquisition of Filipino citizenship was *not validly processed.*

Rather, what the certification **clarifies** is that BI **has records** both **physical** and **electronic** of respondent's requisite documents and **processed in accordance with RA 9225** and its implementing rules **respondent's application** for citizenship reacquisition.

Therefore, the **conclusion** that these documents *never existed* or *were never issued* is **downright false** and **fallacious**.

Clearly, whether singly or in conjunction with the other pieces of evidence, the BI Certification **does not make for *clear and convincing evidence*** of irregularities to rebut the **presumption of regularity** and the **probative value** of the *evidence corroborating this presumption* before HRET.

A last point. A **suspicious** circumstance **should caution us** in considering the BI Certification *against* respondent's claim of Filipino citizenship.

Respondent **reacquired her Filipino** citizenship in **2006**. ***Yet,*** petitioner **took *all of nine long years***, in **2015**, to **start the barrage of complaints** against her reacquisition of citizenship.

Thus, the issue raised against respondent is a **mere after-thought**, that is, after **petitioner's realization** that she was **intent on running in the 2016 elections**. Certainly, this **after-thought** is a **tell-tale sign** of a *hatchet* job against respondent.

In the words of ***Loyola Life Plans v. Lumiqued***:[31]

> The Court also agrees with the observation of the lower courts that **the allegation of forgery is a mere afterthought**. It was only on September 22, 2001, or **almost 18 months after** the death of Dwight, that ATR **belatedly assailed for the first time the genuineness of his signature.** ATR's **timing in raising the allegation of forgery is suspicious and questionable**. Thus, the Court is convinced that the signature of Dwight appearing in his Timeplan application is genuine.

My Reflections (from the inner gut)

The following commentaries are **not addressed** to our cerebral core **but** to our **passion for truth and justice**, *and* equally important, **practical sense**. At times, the **inner gut** is a *lot more* truthful and sensible mechanism than brain cells.

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[31] G.R. No. 228402, August 26, 2020.

FIRST. Like a child's **legitimacy**, a **challenge** to **another's citizenship** must be *done through* a **direct action**. ***Vazquez v. Kho***[32] confirms this **doctrine** –

> We have **constantly ruled** that an **attack on a person's citizenship** may **only be done through a direct action** for its nullity. A **disbarment case** is definitely **not the proper venue** to attack someone's citizenship. For the **lack of any ruling from a competent court** on **respondent's citizenship**, this **disbarment** case **loses its only leg to stand on** and, hence, **must be dismissed.**

How different is a **disbarment** case from a ***quo warranto*** proceeding?

Both deliberate on **one's qualifications** to engage in **noble** callings – the **former** as a **lawyer** to *engage in the practice of law*, the **latter** is *not far different*, as a **Congress Representative** who *legislates laws*. In **both** cases, a **requirement** is **Filipino** citizenship.

If **disbarment** is **not** the **proper** case **to dispute** a lawyer's **Filipino citizenship** absent a court case **divesting** the lawyer of Filipino citizenship, then a ***quo warranto*** proceeding should **not** also be a **proper** case for **assailing the Filipino citizenship** of a Congress Representative ***prior to*** the holding and conclusion of a **direct action** to *contest* the reacquisition of Filipino citizenship.

A ***quo warranto*** **proceeding** before HRET, admittedly, is **plenary** in scope.[33] It, nonetheless, **still constitutes a collateral attack** upon a person's citizenship, if this is the ground alleged for the ***quo warranto*** to proceed.

The **purpose** of a ***quo warranto*** case is to **oust** a **respondent's title** to the office, ***but*** **not to declare** their[34] **loss, lack** or **retention** of **Filipino** citizenship. This is **obvious** from the **proposed dispositive portion** of the **dissent** –

> WHEREFORE, the **Petition for *Certiorari*** is hereby **GRANTED**. The May 23, 2019 Decision of the House of Representatives Electoral Tribunal in HRET Case No. 16-025 (QW) dismissing the Petition for Quo Warranto and declaring Rosanna V. Vergara not disqualified as Member of the House of Representatives representing the Third District of Nueva Ecija, as well as its June 27, 2019 Resolution denying the motion for reconsideration, are REVERSED and SET ASIDE for having been **issued with grave abuse of discretion amounting to lack or excess of jurisdiction**. Respondent Rosanna V. Vergara is hereby found **DISQUALIFIED from HOLDING and EXERCISING the Office of a Member of the House of Representatives**. The said elective position is hereby **DECLARED VACANT**. The Commission on Elections and the House of Representatives shall **proceed to FILL the VACANCY** pursuant to Section 9, Article VI of the Constitution and Republic Act No. 6645.

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[32] 789 Phil. 368, 373-374 (2016).
[33] *Republic v. Sereno*, 833 Phil. 449, 476 (2018).
[34] To stress, I purposely used "their" to indicate gender neutrality, indeterminacy or non-affiliation.

SO ORDERED.

The **irony** of the present case is that **we debated about respondent's Filipino citizenship** as reacquired pursuant to RA 9225 and its implementing rules, **reverse** HRET's ruling (which for all intents and purposes is the **decision** of some of our **senior colleagues**), **disqualify** respondent from being a legislator (as she is allegedly **not** a Filipino citizen), yet **mention nothing** in the **dispositive portion** that she is **no longer** a ***Filipino***.

To repeat, the dissent **declares nothing** about **respondent's citizenship.** This of course is **understandable** because a ***quo warranto*** proceeding is **only** a **collateral attack** upon respondent's citizenship.

As a rule, a **collateral attack** upon citizenship is allowed where the grant, or here, the re-acquisition, of citizenship is **void on its face.**[35] But here, the supporting documents for respondent's re-acquisition of citizenship are **not void on its face.** It **appears** to have been **regularly issued.** The only **perceived** prima facie indicator of fraud, **if at all,** is the fact that the **documents in BI's custody** are **photocopies** and **entries in its reliable database.** These are **not indicators** of a **void on its face** reacquisition of Filipino citizenship.

To repeat, we should **not allow** a ***quo warranto*** petition, such as the present one, to proceed **merely because** the BI **only has photocopies** and **electronic entries** in its reliable database of the documents on respondent's re-acquisition of Filipino citizenship, since this fact does **not** make her reacquisition *void on its face.*

Notably, a **collateral** attack *most especially* under the **present circumstances** is **not** the **proper** remedy because –

(i) A **collateral attack** of one's citizenship is simply **unfair** and **unjust.**

It is **unjust** because it leaves the assailed party's **citizenship in limbo.** The **collateral** attack **deprives** the person the right or privilege subject of the attack, **yet,** it does **not cancel** their **citizenship** or the **documents** proving their citizenship. The party becomes **absolutely marginalized** because this individual can claim **no protection** as a **citizen** as this status will be **constantly under attack.**

A **collateral attack** is also **unfair** since it denies the individual of being heard **by the government agency** that **knows** all the **relevant facts** and **circumstances.**

Here, it is BI and the Department of Justice. These government agencies know **much better** the state of their **internal procedures** and **inadequacies,**

[35] *Manlan v. Beltran*, G.R. No. 222530, October 16, 2019.

especially its **records management system**. These **agencies** know better **institutional history** of their capacities and *inabilities* that occur as a result of **lack of resources** and at times **competent management skills** that **should not prejudice** the agencies' respective clienteles.

We **should know** because the offices under the Supreme Court at times would have missing records or files. This does **not mean** anything **fraudulent**. ***Far from it.*** These circumstances **merely highlight** the need for a **more efficient organizational management** and **provision of adequate resources.**

It *also bears stressing* that the **admissibility** and **relevance** of **secondary evidence** to prove the **existence, due execution,** and **authenticity** of the **original** documents which form the basis of respondent's Identification Certificate and the entirety of her re-acquisition of Philippine citizenship, **necessarily suggest** that the **direct action** is the ***more competent forum*** for this purpose.

The **direct action** is **more competent** to delve into matters why, as stated in the dissent, "[respondent's] RA 9225 petition was duly received, processed and approved based on the available records, in particular, the photocopies of Vergara's supporting documents as well as the record on the data system...."

This **direct action** could very well unearth **how** then Commissioner Geron **could have attested** that in **2006, more than ten years ago,** BI then *did not receive* respondent's verified petition but allowed her to re-acquire Filipino citizenship just the same. How did he allegedly come to know of such a fact when BI electronic system had data of respondent's re-acquisition of Philippine citizenship? Indeed, a **direct action** is more favorable to an accurate and categorical response to this and other queries.

Too, a **direct action** is **more competent** in **investigating** matters that happen **more than ten years back in 2006** when respondent processed her application under RA 9225.

Additionally, under both BI Memorandum Circular No. AFF-04-01, *Rules Governing Philippine Citizenship under Republic Act (R.A.) No. 9225 and Administrative Order(A.O.) No. 91, Series of 2004* and BI Memorandum Circular No. MCL-08-005 (*2008 Revised Rules Governing Philippine Citizenship under Republic Act (R.A.) No. 9225 and Administrative Order (A.O.) NO. 91, Series of 2004*), the **oath of allegiance** and the **Order of Approval** are **forwarded to** the **Philippine Statistics Administration** (PSA), for **recording** in the civil registry.

Unfortunately, there is **nothing** in the dissent to suggest that the PSA has been asked about respondent's re-acquisition of citizenship. A **direct action** could very well **subpoena PSA representatives** to **shed light** on **PSA's records** if **these documents** have indeed been **forwarded** to it.

Clearly, the ***quo warranto*** proceeding is a **collateral attack** that is *inappropriate in adjudicating citizenship* and *should be dismissed to give way to the direct action* for challenging RA 9225 citizenship re-acquisition. This **direct action** is found in Section 19[36] of BI Memorandum Circular No. MCL-08-005 (*2008 Revised Rules Governing Philippine Citizenship under Republic Act (R.A.) No. 9225 and Administrative Order (A.O.) NO. 91, Series of 2004*).

> (ii) **At present**, and *this rule governs* the ***present case*** *already*, under the *2019 Amendments to the Rules of Evidence*, **photocopies** are **already considered original** copies.

Photocopies are now accorded *as much probative value as* the **originals** *absent* any **cogent reason** to suspect their reliability and accuracy. As discussed above, there is **no cogent reason** to *deny* any **probative value** to respondent's and BI's **photocopies**, given the **extensive corroboration** of these photocopies' weight **by the other evidence** adduced before HRET.

The *2019 Amendments* states:

> SECTION 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.**
>
> (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)[37]

This rule applies here **because** rules of procedure **applies** to proceedings already pending at the time the rules of procedure took effect.[38]

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[36] Exemption from Administrative Review. – Retention/Reacquisition of Philippine citizenship under these Rules shall not be subject to the affirmation by the Secretary of Justice pursuant to DOJ Policy Directive of 7 September 1970 and DOJ Opinion No. 108 (series of 1996). **However, the Order of Approval issued under these Rules may be revoked by the Department of Justice upon a substantive finding of fraud, misrepresentation or concealment on the part of the applicant and after an administrative hearing initiated by an aggrieved party or by the BI.** Notwithstanding the exemption from administrative review as provided herein, nothing in these rules shall be construed as to diminish the administrative supervision of the Secretary of Justice over the BI. Consistent with this, the BI shall submit a monthly report to the DOJ of approved petitions for retention/reacquisition of Philippine citizenship.

[37] 2019 Amendments to the Rules of Evidence, Rule 130.

[38] *Recto-Sambajon v. Public Attorney's Office*, 890 Phil. 879, 890 (2017).

> (iii) As discussed above, the demand for **original** copies of documents is relevant only if the **contents of the documents** are at issue. Here, it is **not** the contents that are at issue but their **existence, due execution** and **authenticity**. The originals **alone** do **not** prove the existence, due execution and authenticity of documents; their absence **alone** does **not** disprove these matters.[39]

The **lack of originals** is **not** dispositive of respondent's claims. **Neither** is it determinative of **fraud**. It is **not** the **end-all** and **be-all** of the validity or invalidity of respondent's re-acquisition of citizenship. The reason is that **secondary evidence** is admissible and relevant to prove the **existence, due execution,** and **authenticity** of the originals upon which respondent's photocopies were based.

This is **especially true** when **respondent's requisite documents** and **data** have **long** been entered into **BI's** *reliable* **electronic data-base**, and **BI officials** themselves **testified** to confirm categorically the **validity** of **both** the **process** leading to the issuance of respondent's *Identification Certificate* and her **Identification Certificate** itself.

SECOND. I must stress two things.

One, *not only* did petitioner **fail to discharge** his **burden of proof** by means of **clear and convincing evidence, but also** respondent has **in her favor** the **corroboration** by those pieces of **evidence** presented at HRET. This is important **if only to stress** what the *ponente* has been **vigorously pointing to** all along that **respondent's case** is **not just about** the ***presumption of regularity*** which is well and good to establish her Filipino citizenship, **but also** the ***several pieces of evidence*** above-mentioned **supporting** her cause.

Two, at the risk of being too annoying because of being too repetitive, petitioner took **nine years** to complain against respondent's reacquisition of citizenship. His complaint is an **after-thought** whose ***bona fide*** is questionable.

Hence, following the admonition in ***Vitangcol*** about weighing the probative value of evidence in relation to the parties' respective circumstances, this **after-thought** should be **carefully weighed vis-à-vis the evidence** (especially the copies of her requisite documents) presented **both** for and against her.

And when petitioner **did complain**, he was rebuffed **not once, not twice**, but **four times**, on basically the **same arguments** and the **same set of evidence**. I certainly cannot point to any deficit in the capabilities, intelligence, and sense of regularity of these four government agencies

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[39] *Republic v. Sandiganbayan*, supra note 25, citing *Heirs of Margarita Prodon v. Heirs of Maximo S. Alvarez*, supra note 24.

including **some senior colleagues** *in the Court* which otherwise **could easily move us now to reverse and set aside** their decisions. This is **especially true** in the case of **HRET** because some of its members who *ruled for respondent* are **senior Justices of the Court**. I really **cannot see ourselves being now convinced** by petitioner on the **same arguments** and **evidence** that these **four government agencies have** already **rejected**.

THIRD. From the circumstances surrounding respondent's processing of her re-acquisition of Filipino citizenship **in 2006**, especially the utter **absence of motive *then* to manipulate** the process, as she would **not have gained** anything then from doing so, she **indubitably acted** in **good faith**. In any event, her **good faith** in availing of and resorting to the process is presumed.

It thus behoves the Court to ask, given the equities implicated here, **who** *should* **bear the consequences** of the *allegedly missing original documents?* **Who** *should* **bear the consequences** of the allegedly **discrepant signature** of the **notary public** in the Oath of Allegiance?

The **process** in the re-acquisition of Philippine citizenship under RA 9225 and its implementing rules is **heavily dependent** upon the *good faith* of and *diligent* and *efficient* **performance** by government agencies of their respective tasks. The **individual petitioner** has **no power** over the process **after submitting** the documents required of them.[40]

Here, **BI** is responsible for **processing** the reacquisition of Filipino citizenship, **confirming** and **recognizing** the **reacquisition** of Filipino citizenship, and **keeping** the requisite documents. **BI** is also responsible for **transmitting** the Oath of Allegiance and Order of Approval to the Philippine Statistics Authority (PSA) for recording in the civil registry. **PSA** is then responsible for **accepting** these documents, **keeping** them in custody, and **recording** them and the relevant data contained in them in the **civil registry**. The **Office of the Executive Judge** and the **Office of the Clerk of Court** of the second level court in the territorial jurisdiction are responsible for **policing the ranks** of notaries public and **accepting** and **keeping** their filings as required by the relevant rule.

Why then should the lowly **applicant**, here, **respondent**, be **penalized** for the alleged **negligence** or even supposed **fraudulent conduct** of these responsible government agencies, **to which** she was **not even a party** or **proven to be a party**?

I have **found no rule of law** that would **unjustly** allocate the burden to respondent for any of this alleged malfeasance or misfeasance if any. I also have to **stress** that **BI** itself has **not repudiated** her reacquisition of Filipino

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[40] I also use "them" to indicate gender neutrality, indeterminacy or non-affiliation with traditional gender labels.

citizenship and **has** in fact **confirmed over and over again** the **validity** of her reacquisition of Filipino citizenship.

Notably, **neither** the dissent **nor** petitioner **questions** the fact that the **notary public** of the Oath of Allegiance was **duly** and **legally commissioned** as such at time he notarized this document.

To quote again ***Spouses Santiago v. Court of Appeals***:[41]

> It is axiomatic that **good faith is always presumed.** There being absent any direct evidence of bad faith, there is need to examine what respondent Court of Appeals said are indices of bad faith on the part of petitioners.
>
> ....
>
> And surely, **the parties to a notarized document are not the persons obligated to furnish a copy thereof to the Records Management and Archives Division**, such task being that of the notary. The **failure of the notary public to so furnish** a copy of the deed **to the proper office** is a **ground for disciplining him, but certainly not for invalidating the document** or **for setting aside the transaction** therein involved.

FOURTH. The scenario depicted by the dissent is **very dangerous** not only for public officers **but most especially** for **our ordinary citizens**.

To illustrate:

Juan X, an employee at the Supreme Court, brings his son to hospital for treatment. His child is sick with pneumonia. He brings with him his PhilHealth card hoping to get the discounts he is entitled to.

Juan spends three weeks in and out of the hospital to attend and care for his child. As he is about to discharge his child from the hospital, he goes to the billing and cashier section leaving his frail child at a semi-private room.

He patiently stands in a long queue waiting for his turn. Meantime, his frail child awaits his return at the child's semi-private room for the discharge slip.

After a long and patient holdback at the queue, Juan finally reaches the billing and cashier clerk. He presents his PhilHealth card. He is met by a frown on the clerk's forehead and is told by her:

"*Sir, pasensya na po, pero yung card nyo bale wala, kasi po, sabi ng PhilHealth, wala daw po kayong application form, nawawala daw po yung original, pati mga payment history ninyo at ng employer niyo, hindi mahanap. Sabi po ni Attorney, ayon sa Piccio v. HRET, pag wala daw original, bale wala po yung card nyo.*"

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[41] Supra note 19.

Exasperated, Juan replies trying to control his emotions:

"*Ang tagal ko na po nag-work sa government, sa Supreme Court. Imposible naman na wala akong originals sa mga documents ko, kasi nga po, nabigyan naman po ako ng PhilHealth Card.*"

The clerk retorted:

"*Yun naman po pala. Taga Supreme Court po pala kayo. Dapat alam nyo po yung kaso ng Piccio v. HRET. Sabi po doon, kesa hodang matagal na kayo, basta walang original sa mga documents nyo sa PhilHealth, walang kwenta po yang PhilHealth card nyo. Kausapin nyo po mga kasamahan nyo sa Supreme Court para ipaliwanag sa inyo ang batas.... Magbayad na lang po kayo ng buo.... Pasensya na po.*"

And the clerk closes the blinds of the glass divider and leaves behind a despondent Juan gasping for the last breath he could.

Epilogue

This is the **take-away** we have from the petition and the dissent – respondent has been a Filipino citizen **for more than ten years**, then all of a sudden, because the **originals** from which her identification certificate and re-acquisition of Filipino citizenship had originated cannot be found **more than ten years after**, she is **no longer** a Filipino. The reason – the government agency in charge of these documents **could not find** the **originals** of respondent's documents, though **it has** the **photocopies** and the **entries in the electronic database** of these same documents.

We could **replicate this holding** a hundred times over in **similar scenarios** – a passport, a driver's license, a GSIS card, etc. If the custodian government agency has **none of the originals** from which these cards were issued, the **validity** and **efficacy** of these cards are **forever lost**. This will be the **unfortunate even if unintended repercussion** of the dissent in the instant case.

In 2006, respondent **was not eyeing to be a candidate in any elections** to motivate her to falsify the RA 9225 process. Her petition was lodged and processed in **2006** but ran only in the **elections of 2016**. Common sense should comfortably dictate an affirmance of the HRET ruling.

Grave abuse of discretion is **not** to be lightly ascribed. In Justice Leonen's words[42] –

> The invocation of this court's power under Article VIII, Section 1 of the Constitution "to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government" in relation to the Judicial and

[42] Dissenting Opinion, 741 Phil. 460 (2014).

> Bar Council's discretion should be read in context. It should not be read too expansively so as to undermine the constitutional limits of our relation to the Council.
>
> A showing of grave abuse of discretion should refer to a **demonstrably clear breach of a constitutional duty that is "arbitrary, capricious and whimsical."** Our constitutional duty and power of review is **not to accept the arguments of petitioner because it is plausible. Judicial review** is also **not a license to impose our own plausible interpretation** of the rules of the Council **over their own. Judicial review requires** as an absolute predicate, a **showing** that the Council's **interpretation** and **application of its rules** is so **bereft of reason and so implausible.** We **do not analyze** the **cogency of the arguments** of petitioner or the **interpretation that we would have put** had we been in the Council. Rather, **the mode of analysis** in our exercise of **judicial review** is **to scrutinize whether there are no viable reasonable bases for the interpretation, application, and actions** of the Judicial and Bar Council.
>
> In other words, **the error we need to discover before nullifying a discretionary act of another constitutional organ** is **not whether there could have been a more reasonable interpretation and application of its rules; rather, it should be** that we **clearly find** that their **interpretation** and **application cannot stand on any legal justification.** It is **not about which of the arguments posed by petitioner and respondents are better** in relation to each other. **Rather, judicial review** requires an **absolute finding** that the **actions of respondents** being reviewed are **arbitrary, capricious,** and **whimsical.**

I **cannot concede** that my senior colleagues at the HRET were **so seriously bereft of reason** and **so implausible** in **dismissing petitioner's claims** that we should now **reverse** them. I am aware that this is an *argumentum ad verecundiam* or *argument from respect*, but **it is what it is** because **they each deserve the respect they have painstakingly earned.**

Magistrates of this Court do **not** come unprepared – especially not in important cases as this one. For the HRET members, especially those from the Court, I do **not** think they **left practical sense** at the door step when they ruled **to dismiss** the ***quo warranto*** petition.

ACCORDINGLY, I join the majority and vote to **dismiss the petition** and **affirm in full** the Decision dated May 23, 2019, and Resolution, dated June 27, 2019, in HRET Case No. 16-025.

AMY C. LAZARO-JAVIER
Associate Justice