

409 Phil. 633

**EN BANC****[ G.R. No. 142840, May 07, 2001 ]****ANTONIO BENGSON III, PETITIONER, VS. HOUSE OF REPRESENTATIVES ELECTORAL TRIBUNAL AND TEODORO C. CRUZ, RESPONDENTS.****D E C I S I O N****KAPUNAN, J.:**

The citizenship of respondent Teodoro C. Cruz is at issue in this case, in view of the constitutional requirement that "no person shall be a Member of the House of Representatives unless he is a natural-born citizen."<sup>[1]</sup>

Respondent Cruz was a natural-born citizen of the Philippines. He was born in San Clemente, Tarlac, on April 27, 1960, of Filipino parents. The fundamental law then applicable was the 1935 Constitution.<sup>[2]</sup>

On November 5, 1985, however, respondent Cruz enlisted in the United States Marine Corps and, without the consent of the Republic of the Philippines, took an oath of allegiance to the United States. As a consequence, he lost his Filipino citizenship for under Commonwealth Act No. 63, Section 1(4), a Filipino citizen may lose his citizenship by, among others, "rendering service to or accepting commission in the armed forces of a foreign country." Said provision of law reads:

Section 1. *How citizenship may be lost.* — A Filipino citizen may lose his citizenship in any of the following ways and/or events:

x x x      x x x      x x x

(4) By rendering services to, or accepting commission in, the armed forces of a foreign country: *Provided*, That the rendering of service to, or the acceptance of such commission in, the armed forces of a foreign country, and the taking of an oath of allegiance incident thereto, with the consent of the Republic of the Philippines, shall not divest a Filipino of his Philippine citizenship if either of the following circumstances is present:

(a) The Republic of the Philippines has a defensive and/or offensive pact of alliance with said foreign country; or

(b) The said foreign country maintains armed forces on Philippine territory with the consent of the Republic of the Philippines: *Provided*, That the Filipino citizen concerned, at the time of rendering said service, or acceptance of said commission, and taking the oath of allegiance incident thereto, states that he does so only in connection with his service to said

foreign country; *And provided, finally*, That any Filipino citizen who is rendering service to, or is commissioned in, the armed forces of a foreign country under any of the circumstances mentioned in paragraph (a) or (b), shall not be permitted to participate nor vote in any election of the Republic of the Philippines during the period of his service to, or commission in, the armed forces of said country. Upon his discharge from the service of the said foreign country, he shall be automatically entitled to the full enjoyment of his civil and political rights as a Filipino citizen x x x.

Whatever doubt that remained regarding his loss of Philippine citizenship was erased by his naturalization as a U.S. citizen on June 5, 1990, in connection with his service in the U.S. Marine Corps.

On March 17, 1994, respondent Cruz reacquired his Philippine citizenship through repatriation under Republic Act No. 2630.<sup>[3]</sup> He ran for and was elected as the Representative of the Second District of Pangasinan in the May 11, 1998 elections. He won by a convincing margin of 26,671 votes over petitioner Antonio Bengson III, who was then running for reelection.

Subsequently, petitioner filed a case for *Quo Warranto Ad Cautelam* with respondent House of Representatives Electoral Tribunal (HRET) claiming that respondent Cruz was not qualified to become a member of the House of Representatives since he is not a natural-born citizen as required under Article VI, Section 6 of the Constitution.<sup>[4]</sup>

On March 2, 2000, the HRET rendered its decision<sup>[5]</sup> dismissing the petition for *quo warranto* and declaring respondent Cruz the duly elected Representative of the Second District of Pangasinan in the May 1998 elections. The HRET likewise denied petitioner's motion for reconsideration of the decision in its resolution dated April 27, 2000.<sup>[6]</sup>

Petitioner thus filed the present petition for *certiorari* assailing the HRET's decision on the following grounds:

1. The HRET committed serious errors and grave abuse of discretion, amounting to excess of jurisdiction, when it ruled that private respondent is a natural-born citizen of the Philippines *despite the fact that he had ceased being such in view of the loss and renunciation of such citizenship on his part*.
2. The HRET committed serious errors and grave abuse of discretion, amounting to excess of jurisdiction, when it considered private respondent as a citizen of the Philippines *despite the fact that he did not validly acquire his Philippine citizenship*.
3. Assuming that private respondent's acquisition of Philippine citizenship was invalid, the HRET committed serious errors and grave abuse of discretion, amounting to excess of jurisdiction, when it dismissed the petition *despite the fact that such reacquisition could not legally and constitutionally restore his natural-born status*.<sup>[7]</sup>

The issue now before us is whether respondent Cruz, a natural-born Filipino who became an American citizen, can still be considered a natural-born Filipino upon his reacquisition of Philippine citizenship.

Petitioner asserts that respondent Cruz may no longer be considered a natural-born Filipino since he lost his Philippine citizenship when he swore allegiance to the United States in 1995, and had to reacquire the same by repatriation. He insists that Article IV, Section 2 of the Constitution expressly states that natural-born citizens are those who are citizens from birth without having to perform any act to acquire or perfect such citizenship.

Respondent on the other hand contends that he reacquired his status as a natural-born citizen when he was repatriated since the phrase "from birth" in Article IV, Section 2 refers to the innate, inherent and inborn characteristic of being a natural-born citizen.

The petition is without merit.

The 1987 Constitution enumerates who are Filipino citizens as follows:

- (1) Those who are citizens of the Philippines at the time of the adoption of this Constitution;
- (2) Those whose fathers or mothers are citizens of the Philippines;
- (3) Those born before January 17, 1973 of Filipino mothers, who elect Philippine citizenship upon reaching the age of majority, and
- (4) Those who are naturalized in accordance with law.<sup>[8]</sup>

There are two ways of acquiring citizenship: (1) by birth, and (2) by naturalization. These ways of acquiring citizenship correspond to the two kinds of citizens: the natural-born citizen, and the naturalized citizen. A person who at the time of his birth is a citizen of a particular country, is a natural-born citizen thereof.<sup>[9]</sup>

As defined in the same Constitution, natural-born citizens "are those citizens of the Philippines from birth without having to perform any act to acquire or perfect his Philippine citizenship."<sup>[10]</sup>

On the other hand, naturalized citizens are those who have become Filipino citizens through naturalization, generally under Commonwealth Act No. 473, otherwise known as the Revised Naturalization Law, which repealed the former Naturalization Law (Act No. 2927), and by Republic Act No. 530.<sup>[11]</sup> To be naturalized, an applicant has to prove that he possesses all the qualifications<sup>[12]</sup> and none of the disqualifications<sup>[13]</sup> provided by law to become a Filipino citizen. The decision granting Philippine citizenship becomes executory only after two (2) years from its promulgation when the court is satisfied that during the intervening period, the applicant has (1) not left the Philippines; (2) has dedicated himself to a lawful calling or profession; (3) has not been convicted of any offense or violation of Government promulgated rules; or (4) committed any act prejudicial to the interest of the nation or contrary to any Government announced policies.<sup>[14]</sup>

Filipino citizens who have lost their citizenship may however reacquire the same in the manner provided by law. Commonwealth Act. No. 63 (C.A. No. 63), enumerates the three modes by which Philippine citizenship may be reacquired by a former citizen: (1) by naturalization, (2) by repatriation, and (3) by direct act of Congress.<sup>[15]</sup>

Naturalization is a mode for both acquisition and reacquisition of Philippine citizenship. As a mode of initially acquiring Philippine citizenship, naturalization is governed by Commonwealth Act No. 473, as amended. On the other hand, naturalization as a mode for reacquiring Philippine citizenship is governed by Commonwealth Act No. 63.<sup>[16]</sup> Under this law, a former Filipino citizen who wishes to reacquire Philippine citizenship must possess certain qualifications<sup>[17]</sup> and none of the disqualifications mentioned in Section 4 of C.A. 473.<sup>[18]</sup>

Repatriation, on the other hand, may be had under various statutes by those who lost their citizenship due to: (1) desertion of the armed forces;<sup>[19]</sup> (2) service in the armed forces of the allied forces in World War II;<sup>[20]</sup> (3) service in the Armed Forces of the United States at any other time;<sup>[21]</sup> (4) marriage of a Filipino woman to an alien;<sup>[22]</sup> and (5) political and economic necessity.<sup>[23]</sup>

As distinguished from the lengthy process of naturalization, repatriation simply consists of the taking of an oath of allegiance to the Republic of the Philippines and registering said oath in the Local Civil Registry of the place where the person concerned resides or last resided.

In *Angat v. Republic*,<sup>[24]</sup> we held:

xxx. Parenthetically, under these statutes [referring to RA Nos. 965 and 2630], the person desiring to reacquire Philippine citizenship would *not* even be required to file a petition in court, and all that he had to do was to take an oath of allegiance to the Republic of the Philippines and to register that fact with the civil registry in the place of his residence or where he had last resided in the Philippines. [*Italics in the original.*]<sup>[25]</sup>

Moreover, repatriation results in the *recovery of the original nationality*.<sup>[26]</sup> This means that a naturalized Filipino who lost his citizenship will be restored to his prior status as a naturalized Filipino citizen. On the other hand, if he was originally a natural-born citizen before he lost his Philippine citizenship, he will be restored to his former status as a natural-born Filipino.

In respondent Cruz's case, he lost his Filipino citizenship when he rendered service in the Armed Forces of the United States. However, he subsequently reacquired Philippine citizenship under R.A. No. 2630, which provides:

Section 1. Any person who had lost his Philippine citizenship by rendering service to, or accepting commission in, the Armed Forces of the United States, or after separation from the Armed Forces of the United States, acquired United States citizenship, may reacquire Philippine citizenship by taking an oath of allegiance to the Republic of the Philippines and registering the same with Local Civil Registry in the place where he resides or last

resided in the Philippines. The said oath of allegiance shall contain a renunciation of any other citizenship.

Having thus taken the required oath of allegiance to the Republic and having registered the same in the Civil Registry of Magantarem, Pangasinan in accordance with the aforesaid provision, respondent Cruz is deemed to have recovered his original status as a natural-born citizen, a status which he acquired at birth as the son of a Filipino father.<sup>[27]</sup> It bears stressing that the act of repatriation allows him to *recover, or return to, his original status before he lost his Philippine citizenship.*

Petitioner's contention that respondent Cruz is no longer a natural-born citizen since he had to perform an act to regain his citizenship is untenable. As correctly explained by the HRET in its decision, the term "natural-born citizen" was first defined in Article III, Section 4 of the 1973 Constitution as follows:

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

Two requisites must concur for a person to be considered as such: (1) a person must be a Filipino citizen from birth and (2) he does not have to perform any act to obtain or perfect his Philippine citizenship.

Under the 1973 Constitution definition, there were two categories of Filipino citizens which were not considered natural-born: (1) those who were naturalized and (2) those born before January 17, 1973,<sup>[28]</sup> of Filipino mothers who, upon reaching the age of majority, elected Philippine citizenship. Those "naturalized citizens" were not considered natural-born obviously because they were not Filipinos at birth and had to perform an act to acquire Philippine citizenship. Those born of Filipino mothers before the effectivity of the 1973 Constitution were likewise not considered natural-born because they also had to perform an act to perfect their Philippine citizenship.

The present Constitution, however, now considers those born of Filipino mothers before the effectivity of the 1973 Constitution and who elected Philippine citizenship upon reaching the majority age as natural-born. After defining who are natural-born citizens, Section 2 of Article IV adds a sentence: "Those who elect Philippine citizenship in accordance with paragraph (3), Section 1 hereof shall be deemed natural-born citizens." Consequently, only naturalized Filipinos are considered not natural-born citizens. It is apparent from the enumeration of who are citizens under the present Constitution that there are only two classes of citizens: (1) those who are natural-born and (2) those who are naturalized in accordance with law. A citizen who is not a naturalized Filipino, *i.e.*, did not have to undergo the process of naturalization to obtain Philippine citizenship, necessarily is a natural-born Filipino. Noteworthy is the absence in said enumeration of a separate category for persons who, after losing Philippine citizenship, subsequently reacquire it. The reason therefor is clear: as to such persons, they would either be natural-born or naturalized depending on the reasons for the loss of their citizenship and the mode prescribed by the applicable law for the reacquisition thereof. As respondent Cruz was not required by law to go through naturalization proceedings in order to reacquire his citizenship, he is perforce a natural-born Filipino.

As such, he possessed all the necessary qualifications to be elected as member of the House of Representatives.

A final point. The HRET has been empowered by the Constitution to be the "sole judge" of all contests relating to the election, returns, and qualifications of the members of the House.<sup>[29]</sup> The Court's jurisdiction over the HRET is merely to check "whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction" on the part of the latter.<sup>[30]</sup> In the absence thereof, there is no occasion for the Court to exercise its corrective power and annul the decision of the HRET nor to substitute the Court's judgment for that of the latter for the simple reason that it is not the office of a petition for *certiorari* to inquire into the correctness of the assailed decision.<sup>[31]</sup> There is no such showing of grave abuse of discretion in this case.

**WHEREFORE**, the petition is hereby *DISMISSED*.

**SO ORDERED.**

*Davide, Jr., C.J., Bellosillo, and Puno, JJ., concur.*

*Ynares-Santiago, J., C.J., Davide* certified that she joins with the majority opinion of *J. Kapunan*.

*Panganiban, J.,* has separate concurring opinion.

*Pardo and Gonzaga-Reyes, JJ.,* join the concurring opinion of *J., Panganiban*.

*Sandoval-Gutierrez, J.,* dissents, please see dissenting opinion.

*Melo and Vitug, JJ.,* no part. Chairman and member, respectively, of HRET which rendered the appealed judgement.

*Mendoza, J.,* no part, being *ponente* of decision under review.

*Quisumbing, Buena, and de Leon Jr., JJ.,* on leave.

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<sup>[1]</sup> 1987 Constitution, Article IV, Section 6.

<sup>[2]</sup> Article IV, Section 1 of the 1935 Constitution states:

The following are citizens of the Philippines:

- 1) Those who are citizens of the Philippine Islands at the time of the adoption of the Constitution;
- 2) Those born in the Philippine Islands of foreign parents who, before the adoption of this Constitution had been elected to public office in the Philippine Islands;
- 3) Those whose fathers are citizens of the Philippines;

4) Those whose mothers are citizens of the Philippines and, upon reaching the age of majority, elected Philippine citizenship; and

5) Those who are naturalized in accordance with law.

[3] An Act Providing for Reacquisition of Philippine Citizenship by Persons Who Lost Such Citizenship by Rendering Service To, or Accepting Commission In, the Armed Forces of the United States (1960).

[4] Said provision reads:

No person shall be a member of the House of Representatives unless he is a natural-born citizen of the Philippines and, on the day of the election, is at least twenty-five years of age, able to read and write, and except the party-list representatives, a registered voter in the district in which he shall be elected, and a resident thereof for a period of not less than one year immediately preceding the day of the election.

[5] *Rollo*, p. 36.

[6] *Id.*, at 69.

[7] *Id.*, at 13.

[8] Article IV, Section 1.

[9] I TOLENTINO, *COMMENTARIES AND JURISPRUDENCE ON THE CIVIL CODE OF THE PHILIPPINES 188*, 1990 Ed.

[10] 1987 Constitution, Article IV, Section 2.

[11] During the period under Martial Law declared by President Ferdinand E. Marcos, thousands of aliens were naturalized by Presidential Decree where the screening of the applicants was undertaken by special committee under Letter of Instructions No. 270, dated April 11, 1975, as amended.

[12] Section 2, Act 473 provides the following qualifications:

(a) He must be not less than 21 years of age on the day of the hearing of the petition;

(b) He must have resided in the Philippines for a continuous period of not less than ten years;

(c) He must be of good moral character and believes in the principles underlying the Philippine Constitution, and must have conducted himself in a proper and irreproachable manner during the entire period of his residence in the Philippines in his relation with the constituted government and as well as with the community in which he is living;



(d) He must own real estate in the Philippines worth not less than five thousand pesos, Philippine currency, or must have some known lucrative trade, profession, or lawful occupation;

(e) He must be able to speak and write English or Spanish and any of the principal languages; and

(f) He must have enrolled his minor children of school age, in any of the public schools or private schools recognized by the Bureau of Private Schools of the Philippines where Philippine history, government and civic are taught or prescribed as part of the school curriculum, during the entire period of the residence in the Philippines required of him prior to the hearing of his petition for naturalization as Philippine citizen.

[13] Section 4, Act 473, provides the following disqualifications:

(a) He must not be opposed to organized government or affiliated with any association or group of persons who uphold and teach doctrines opposing all organized governments;

(b) He must not be defending or teaching the necessity or propriety of violence, personal assault, or assassination for the success and predominance of their ideas;

(c) He must not be a polygamist or believer in the practice of polygamy;

(d) He must not have been convicted of any crime involving moral turpitude;

(e) He must not be suffering from mental alienation or incurable contagious diseases;

(f) He must have, during the period of his residence in the Philippines (of not less than six months before filing his application), mingled socially with the Filipinos, or who have not evinced a sincere desire to learn and embrace the customs, traditions and ideals of the Filipinos;

(g) He must not be a citizen or subject of a nation with whom the Philippines is at war, during the period of such war;

(h) He must not be a citizen or subject of a foreign country whose laws do not grant Filipinos the right to become naturalized citizens or subjects thereof.

[14] Section 1, R.A. 530.

[15] Section 2, C.A. No. 63.

[16] An Act Providing for the Ways in Which Philippine Citizenship May Be Lost or Reacquired (1936).

[17] 1. The applicant must have lost his original Philippine citizenship by naturalization in a foreign country or by express renunciation of his citizenship (Sec. 1[1] and [2],



C.A. No. 63);

2. He must be at least twenty-one years of age and shall have resided in the Philippines at least six months before he applies for naturalization (Sec. 3[1], C.A. No. 63);

3. He must have conducted himself in a proper and irreproachable manner during the entire period of his residence (of at least six months prior to the filing of the application) in the Philippines, in his relations with the constituted government as well as with the community in which he is living (Sec. 3[2], C.A. No. 63);

4. He subscribes to an oath declaring his intention to renounce absolutely and perpetually all faith and allegiance to the foreign authority, state or sovereignty of which he was a citizen or subject (Sec. 3[3], C.A. No. 63).

[18] See note 13.

[19] Sec. 4, C.A. No. 63.

[20] Sec. 1, Republic Act No. 965 (1953).

[21] Sec. 1, Republic Act No. 2630 (1960).

[22] Sec. 1, Republic Act No. 8171 (1995).

[23] *Ibid.*

[24] 314 SCRA 438 (1999).

[25] *Id.*, at 450.

[26] Jovito R. Salonga, *PRIVATE INTERNATIONAL LAW*, p. 165 (1995).

[27] See Art. IV, Sec. 1, 1935 Constitution.

[28] The date of effectivity of the 1973 Constitution.

[29] Article VI, Section 17 of the 1987 Constitution provides thus:

Sec. 17. The Senate and the House of Representatives shall each have an Electoral Tribunal which shall be the sole judge of all contests relating to the election, returns, and qualifications of their respective Members. Each Electoral Tribunal shall be composed of nine Members, three of whom shall be Justices of the Supreme Court to be designated by the Chief Justice, and the remaining six shall be Members of the Senate or the House of Representatives, as the case may be, who shall be chosen on the basis of proportional representation from the political parties and the parties or organizations registered under the party-list system represented therein. The senior Justice in the Electoral Tribunal shall be its Chairman.

[30] *Garcia vs. House of Representatives Electoral Tribunal*, 312 SCRA 353, 364 (1999).

[31] *Id*

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## CONCURRING OPINION

### PANGANIBAN, J.:

I concur in the *ponencia* of Mr. Justice Santiago M. Kapunan, holding that the House Electoral Tribunal did not gravely abuse its discretion in ruling that Private Respondent Teodoro C. Cruz remains a *natural-born* Filipino citizen and is eligible to continue being a member of Congress. Let me just add a few points.

#### **The Facts in Brief**

It is undisputed that Congressman Cruz was born on April 27, 1960 in San Clemente, Tarlac, to Filipino parents. He was, therefore, a Filipino citizen, pursuant to Section 1 (2),<sup>[1]</sup> Article IV of the Constitution. **Furthermore, not having done any act to acquire or perfect the Philippine citizenship he obtained from birth, he was a natural-born Filipino citizen, in accordance with Section 2<sup>[2]</sup> of the same Article IV.**

It is not disputed either that private respondent rendered military service to the United States Marine Corps from November 1985 to October 1993. On June 5, 1990, he was naturalized as an American citizen, in connection with his US military service. Consequently, under Section 1 (4)<sup>[3]</sup> of CA No. 63, he lost his Philippine citizenship.

Upon his discharge from the US Marine Corps, private respondent returned to the Philippines and decided to regain his Filipino citizenship. Thus, on March 17, 1994, availing himself of the benefits of Republic Act (RA) No. 2630, entitled "An Act Providing for Reacquisition of Philippine Citizenship by Persons Who Lost Such by Rendering Service to, or Accepting Commission in, the Armed Forces of the United States,"<sup>[4]</sup> Cruz took his oath of allegiance to the Republic and registered the same with the Local Civil Registry of Mangatarem, Pangasinan. On the same day, he also executed an Affidavit of Reacquisition of Philippine Citizenship.

#### **Main Issue**

The main question here is: Did the House of Representatives Electoral Tribunal (HRET) commit grave abuse of discretion in holding that, by reason of his repatriation, Congressman Teodoro C. Cruz had reverted to his original status as a natural-born citizen? I respectfully submit that the answer is "No." In fact, I believe that the HRET was correct in its ruling.

#### **1. Repatriation Is Recovery of Original Citizenship**

*First*, repatriation is simply the recovery of *original* citizenship. Under Section 1 of RA 2630, a person "who ha[s] lost his citizenship" may "reacquire" it by "taking an oath of allegiance to the Republic of the Philippines." Former Senate President Jovito R. Salonga, a noted authority on the subject, explains this method more precisely in his

treatise, *Private International Law*.<sup>[5]</sup> He defines repatriation as "the recovery of the *original* nationality upon fulfillment of certain conditions."<sup>[6]</sup> Webster buttresses this definition by describing the ordinary or common usage of *repatriate*, as "to restore or return to one's country of origin, allegiance, or citizenship; x x x."<sup>[7]</sup> In relation to our subject matter, *repatriation*, then, means *restoration of citizenship*. It is *not* a grant of a *new* citizenship, but a recovery of one's former or original citizenship.

To "reacquire" simply means "to get back as one's own again."<sup>[8]</sup> *Ergo*, since Cruz, prior to his becoming a US citizen, was a natural-born Filipino citizen, he "reacquired" the same status upon repatriation. To rule otherwise – that Cruz became a non-natural-born citizen – would not be consistent with the legal and ordinary meaning of repatriation. It would be akin to naturalization, which is the acquisition of a new citizenship. "New," because it is not the same as that with which he has previously been endowed.

In any case, "the leaning, in questions of citizenship, should always be in favor of [its] claimant x x x."<sup>[9]</sup> Accordingly, the same should be construed in favor of private respondent, who claims to be a natural-born citizen.

### 1. Not Being Naturalized, Respondent Is Natural Born

*Second*, under the present Constitution, private respondent should be deemed natural-born, because was not naturalized. Let me explain.

There are generally two classes of citizens: (1) natural-born citizens and (2) naturalized citizens.<sup>[10]</sup> While CA 63 provides that citizenship may also be acquired by direct act of the Legislature, I believe that those who do become citizens through such procedure would properly fall under the second category (naturalized).<sup>[11]</sup>

Naturalized citizens are former aliens or foreigners who had to undergo a rigid procedure, in which they had to adduce sufficient evidence to prove that they possessed all the qualifications and none of the disqualifications provided by law in order to become Filipino citizens. In contrast, as stated in the early case *Roa v. Collector of Customs*,<sup>[12]</sup> a natural-born citizen is a citizen "who has become such at the moment of his birth."

The assailed HRET Decision, penned by Mr. Justice Vicente V. Mendoza, explains clearly who are considered natural-born Filipino citizens. He traces the concept as first defined in Article III of the 1973 Constitution, which simply provided as follows:

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

Under the above definition, there are two requisites in order that a Filipino citizen may be considered "natural-born": (1) one must be a citizen of the Philippines from birth, and (2) one does not have to do anything to acquire or perfect one's Philippine citizenship.<sup>[13]</sup> Thus, under the 1973 Constitution, excluded from the class of "natural-born citizens" were (1) those who were naturalized and (2) those born before January

17, 1973, of Filipino mothers who, upon reaching the age of majority, elected Philippine citizenship.<sup>[14]</sup>

The present Constitution, however, has expanded the scope of natural-born citizens to include "[t]hose who elect Philippine citizenship in accordance with paragraph (3), Section 1 hereof," meaning those covered under class (2) above. Consequently, only naturalized Filipino citizens are not considered natural-born citizens. Premising therefrom, respondent — being clearly and concededly not naturalized — is, therefore, a natural-born citizen of the Philippines.<sup>[15]</sup>

With respect to repatriates, since the Constitution does not classify them separately, they naturally reacquire their *original* classification before the loss of their Philippine citizenship. In the case of Congressman Teodoro C. Cruz, upon his repatriation in 1994, he reacquired his lost citizenship. In other words, he regained his original status as a natural-born Filipino citizen, nothing less.

### 3. No Grave Abuse of Discretion on the Part of HRET

*Third*, the HRET did not abuse, much less gravely abused, its discretion in holding that Respondent Cruz is a natural-born Filipino citizen who is qualified to be a member of Congress. I stress that the Court, in this *certiorari* proceeding before us, is limited to determining whether the HRET committed grave abuse of discretion amounting to lack or excess of jurisdiction in issuing its assailed Decision. The Court has no power to reverse or modify HRET's rulings, simply because it differs in its perception of controversies. It cannot substitute its discretion for that of HRET, an independent, constitutional body with its own specific mandate.

The Constitution explicitly states that the respective Electoral Tribunals of the two chambers of Congress "shall be the *sole* judges of all contests relating to the election, returns, and *qualifications* of their respective members."<sup>[16]</sup> In several cases,<sup>[17]</sup> this Court has held that the power and the jurisdiction of the Electoral Tribunals are original and exclusive, as if they remained in the legislature, a coequal branch of government. Their judgments are beyond judicial interference, unless rendered without or in excess of their jurisdiction or with grave abuse of discretion.<sup>[18]</sup> In the elegant words of Mr. Justice Hugo E. Gutierrez, Jr.:<sup>[19]</sup>

"The Court does not venture into the perilous area of trying to correct perceived errors of independent branches of the Government. It comes in only when it has to vindicate a denial of due process or correct an abuse of discretion so grave or glaring that no less than the Constitution calls for remedial action."

True, there is no settled judicial doctrine on the exact effect of repatriation. But, as earlier explained, the legal and common definition of repatriation is the reacquisition of the *former* citizenship. How then can the HRET be rebuked with grave abuse of discretion? At best, I can concede that the legal definition is not judicially settled or is even doubtful. But an *interpretation* made in good faith and grounded on reason one way or the other cannot be the source of grave abuse amounting to lack or excess of

jurisdiction. The HRET did not violate the Constitution or the law or any settled judicial doctrine. It was definitely acting within its exclusive domain.

Be it remembered that our Constitution vests upon the HRET the power to be the *sole* judge of the qualifications of members of the House of Representatives, one of which is citizenship. Absent any *clear* showing of a manifest violation of the Constitution or the law or any judicial decision, this Court cannot impute grave abuse of discretion to the HRET in the latter's actions on matters over which full discretionary authority is lodged upon it by our fundamental law.<sup>[20]</sup> Even assuming that we disagree with the conclusions of public respondent, we cannot *ipso facto* attribute to it "grave abuse of discretion." Verily, there is a line between perceived error and grave abuse.<sup>[21]</sup>

By grave abuse of discretion is meant such capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction. Mere abuse of discretion is not enough. "It must be *grave* abuse of discretion 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>[22]</sup>

That the HRET, after careful deliberation and purposeful study, voted 7 to 2 to issue its Decision upholding the qualifications of Congressman Cruz could not in any wise be condemned as gravely abusive. Neither can I find any "patent or gross" arbitrariness or despotism "by reason of passion or hostility" in such exercise.

#### 4. In Case of Doubt, Popular Will Prevails

*Fourth*, the Court has a solemn duty to uphold the clear and unmistakable mandate of the people. It cannot supplant the sovereign will of the Second District of Pangasinan with fractured legalism. The people of the District have clearly spoken. They overwhelmingly and unequivocally voted for private respondent to represent them in the House of Representatives. The votes that Cruz garnered (80,119) in the last elections were much more than those of *all* his opponents combined (66,182).<sup>[23]</sup> In such instances, all possible doubts should be resolved in favor of the winning candidate's eligibility; to rule otherwise would be to defeat the will of the people.<sup>[24]</sup>

Well-entrenched in our jurisprudence is the doctrine that in case of doubt, political laws must be so construed as to give life and spirit to the popular mandate freely expressed through the ballot.<sup>[25]</sup> Public interest and the sovereign will should, at all times, be the paramount considerations in election controversies.<sup>[26]</sup> For it would be better to err in favor of the people's choice than to be right in complex but little understood legalisms.<sup>[27]</sup>

"Indeed, this Court has repeatedly stressed the importance of giving effect to the sovereign will in order to ensure the survival of our democracy. In any action involving the possibility of a reversal of the popular electoral choice, this Court must exert utmost effort to resolve the issues in a manner that would give effect to the will of the majority, for it is merely sound public policy to cause elective offices to be filled by those who are the choice of the majority. 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."<sup>[28]</sup>

### 5. Current Trend Towards Globalization

*Fifth*, the current trend, economically as well as politically, is towards globalization.<sup>[29]</sup> Protectionist barriers are being dismantled. Whereas, in the past, governments frowned upon the opening of their doors to aliens who wanted to enjoy the same privileges as their citizens, the current era is adopting a more liberal perspective. No longer are applicants for citizenship eyed with the suspicion that they merely want to exploit local resources for themselves. They are now being considered potential sources of developmental skills, know-how and capital.

More so should our government open its doors to former Filipinos, like Congressman Cruz, who want to rejoin the Filipino community as citizens again. They are not "aliens" in the true sense of the law. They are actually Filipinos by blood, by origin and by culture, who want to reacquire their former citizenship.

It cannot be denied that most Filipinos go abroad and apply for naturalization in foreign countries, because of the great economic or social opportunities there. Hence, we should welcome former Filipino citizens desirous of not simply returning to the country or regaining Philippine citizenship, but of serving the Filipino people as well. One of these admirable Filipinos is private respondent who, in only a year after being absent from the Philippines for about eight (8) years, was already voted municipal mayor of Mangatarem, Pangasinan. And after serving as such for just one term, he was overwhelmingly chosen by the people to be their representative in Congress.

I reiterate, the people have spoken. Let not a restrictive and parochial interpretation of the law bar the sovereign will. Let not grave abuse be imputed on the legitimate exercise of HRET's prerogatives.

**WHEREFORE**, I vote to **DISMISS** the petition.

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<sup>[1]</sup> "Section 1. The following are citizens of the Philippines: (2) Those whose fathers or mothers are citizens of the Philippines;

x x x    x x x    x x x"

<sup>[2]</sup> "Sec. 2. Natural-born citizens are those who are citizens from birth without having to perform any act to acquire or perfect their Philippine citizenship. xxx."

<sup>[3]</sup> "Section 1. *How citizenship may be lost.* — A Filipino citizen may lose his citizenship in any of the following ways and/or events:

x x x    x x x    x x x"

(4) By rendering services to, or accepting commission in, the armed forces of a foreign country: x x x."

[4] Sec. 1 thereof provides:

"Sec. 1. Any person who had lost his Philippine citizenship by rendering service to, or accepting commission in, the Armed Forces of the United States, or after separation from the Armed Forces of the United States, acquired U.S. citizenship, may reacquire Philippine citizenship by taking an oath of allegiance to the Republic of the Philippines and registering the same with the Local Civil Registry in the place where he resides or last resided in the Philippines. The said oath of allegiance shall contain a renunciation of any other citizenship."

[5] 1995 ed.

[6] *Ibid.*, p. 165; cited in the assailed HRET Decision, p. 13. (Italics ours.)

[7] Webster's *Third New International Dictionary: Unabridged*, 1993 ed.

[8] Webster's, *Ibid.*, defines *reacquire* as "to acquire again"; and *acquire* as "to get as one's own."

[9] *Roa v. Collector of Customs*, 23 Phil 315, 338 (1912), per Trent, J.; citing *Boyd v. Thayer*, 143 US 135.

[10] Ronaldo P. Ledesma, *An Outline of Philippine Immigration and Citizenship Laws*, 1999 ed., p. 354. See also 14 CJS §1, 1128; 3A Am Jur 2d Aliens and Citizens, §1411.

[11] See *Ledesma, Ibid.*, p. 355.

[12] *Supra*.

[13] Assailed Decision, p. 8.

[14] *Ibid.*

[15] *Ibid.*, p. 9.

[16] Sec. 17, Art. VI. (Italics ours.)

[17] *Lazatin v. HRET*, 168 SCRA 391, December 8, 1988; *Co v. Electoral Tribunal of the House of Representatives*, 199 SCRA 692, July 30, 1991; citing *Angara v. Electoral Commission*, 63 Phil 139 (1936).

[18] *Co v. HRET, Ibid.*, citing *Robles v. HRET*, 181 SCRA 780, February 5, 1990; and *Morrero v. Bocar*, 66 Phil 429 (1938). See also *Libanan v. HRET*, 283 SCRA 520, December 22, 1997.

[19] *Co v. HRET, Ibid.*



[20] *Santiago v. Guingona Jr.*, 298 SCRA 756, November 18, 1998.

[21] *Ibid.*

[22] *Tañada v. Angara*, 272 SCRA 18, May 2, 1997, per Panganiban, J.

[23] "The following were the results of the election:

Teodoro C. Cruz	80,119
Antonio E. Bengson III	53,448
Alberto B. Zamuco	11,941
Manuel R. Castro	622
Mariano A. Padlan	171"

(HRET Decision, pp. 2-3; *rollo*, pp. 37-38.)

[24] *Sinaca v. Mula*, 315 SCRA 266, September 27, 1999.

[25] *Frivaldo v. Comelec*, 257 SCRA 727, June 28, 1996; per Panganiban, J.

[26] *Olondriz v. Comelec*, 313 SCRA 128, August 25, 1999.

[27] *Frivaldo v. Comelec, supra.*

[28] *Ibid.*

[29] See Pacifico A. Agabin, "*Globalization and the Judicial Function*," *Odyssey and Legacy: The Chief Justice Andres R. Narvasa Centennial Lecture Series*, compiled and edited by Atty. Antonio M. Elicano, published by the Supreme Court Printing Services, 1998 ed. See also Artemio V. Panganiban, "*Old Doctrines and New Paradigms*," a lecture delivered during the Supreme Court Centenary Lecture Series, on February 13, 2001.

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#### DISSENTING OPINION

#### **SANDOVAL-GUTIERREZ, J.:**

With due respect, I disagree with the *ponencia* of Justice Santiago M. Kapunan. I am convinced that private respondent Teodoro C. Cruz is not a natural born citizen and, therefore, must be disqualified as a member of Congress.

Who are natural-born citizens?

The laws on citizenship – its acquisition or loss, and the rights, privileges, and immunities of citizens – have given rise to some of the most disputatious and visceral issues resolved by this Court. The problem is compounded in this petition because citizenship is taken up in connection with the sovereign right of voters to choose their representatives in Congress.

In this petition for *certiorari*, petitioner Antonio Bengson III asks this Court to deny respondent Teodoro Cruz the right to hold the Office of Representative of the Second District of Pangasinan because he does not possess the constitutional requirement of being a natural-born citizen of this country. Respondent, on the other hand, insists that he is qualified to be elected to Congress considering that by repatriation, he re-acquired his status as a natural-born Filipino citizen.

Records show that Teodoro Cruz was born in the Philippines on April 27, 1960 to Filipino parents, spouses Lamberto and Carmelita Cruz. On November 5, 1985, he enlisted in the United States Armed Forces and served the United States Marine Corps. While in the service for almost five years, he applied for naturalization with the US District Court of Northern District of California and was issued his Certificate of Naturalization No. 14556793 as an American citizen. On October 27, 1993, he was honorably discharged from the US Marine Corps. He then decided to return to the Philippines.

Cruz availed of repatriation under R.A. No. 2630, an act providing for reacquisition of Philippine citizenship by persons who lost such citizenship by rendering service to or accepting commission in the Armed Forces of the United States. On March 17, 1994, he took his oath of allegiance to the Republic of the Philippines. The oath was registered with the Local Civil Registry of Mangatarem, Pangasinan. On the same date, he executed an Affidavit of Reacquisition of Philippine Citizenship. Thus, on April 11, 1994, the Bureau of Immigration and Deportation ordered the cancellation of his Alien Certificate of Registration (ACR No. B-04628111) and Immigration Certificate of Residence (ICR No. 286582) and issued him an Identification Certificate.

The cancellation of his ACR and ICR was affirmed by the Justice Department. On January 18, 1995, the United States Embassy in Manila issued to him a Certificate of Loss of Nationality of the United States.

In the local elections of 1995, Cruz filed his certificate of candidacy for mayor of Mangatarem, Pangasinan, declaring himself to be a naturalized Filipino citizen. He won and served as mayor for one term.

Thereafter, Cruz filed his certificate of candidacy for a seat in Congress, this time declaring himself as a natural-born Filipino. Again, he won with a lead of 26,671 votes over candidate Antonio Bengson, III.

On September 3, 1998, Cruz was proclaimed winner in the congressional race in the Second District of Pangasinan.

Bengson then filed a petition for *Quo Warranto Ad Cautelam* with the House of Representatives Electoral Tribunal (HRET) on September 14, 1998, claiming that Cruz, not being a natural-born Filipino citizen when he filed his Certificate of Candidacy on March 15, 1998, is not qualified to run as a member of the House of Representatives. That he should be a natural-born citizen is a qualification mandated by Section 6,

Article VI of the Constitution which provides: "No person shall be a member of the House of Representatives unless he is a natural-born citizen of the Philippines."

After oral arguments and the submission by the parties of their respective memoranda and supplemental memoranda, the HRET rendered a decision holding that Cruz reacquired his natural-born citizenship upon his repatriation in 1994 and declaring him duly elected representative of the Second District of Pangasinan in the May 11, 1998 elections, thus:

"WHEREFORE, the petition for *quo warranto* is DISMISSED and Respondent Teodoro C. Cruz is hereby DECLARED duly elected Representative of the Second District of Pangasinan in the May 11, 1998 elections.

"As soon as this Decision becomes final and executory, let notices and copies thereof be sent to the President of the Philippines; the House of Representatives, through the Speaker, and the Commission on Audit, through its Chairman, pursuant to Rule 76 of the 1998 Rules of the House of Representatives Electoral Tribunal. Costs *de officio*."

On March 13, 2000, Bengson filed a motion for reconsideration of the said Decision but the same was denied by the HRET in Resolution No. 00-48.

Bengson now comes to us via a petition for *certiorari* assailing the HRET Decision on grounds that:

"1. The HRET committed serious errors and grave abuse of discretion, amounting to excess of jurisdiction, when it ruled that private respondent is a natural-born citizen of the Philippines *despite the fact that he had ceased being such in view of the loss and renunciation of such citizenship on his part.*

"2. The HRET committed serious errors and grave abuse of discretion, amounting to excess of jurisdiction, when it considered private respondent as a citizen of the Philippines *despite the fact that he did not validly acquire his Philippine citizenship.*

"3. Assuming that private respondent's acquisition of Philippine citizenship was invalid, the HRET committed serious errors and grave abuse of discretion, amounting to excess of jurisdiction, when it dismissed the petition *despite the fact that such reacquisition could not legally and constitutionally restore his natural-born status.*"

The sole issue raised in this petition is whether or not respondent Cruz was a natural-born citizen of the Philippines at the time of the filing of his Certificate of Candidacy for a seat in the House of Representatives.

Section 2, Article IV of the Constitution<sup>[1]</sup> provides:

"Sec. 2. Natural-born citizens are those who are citizens of the Philippines from birth without having to perform any act to acquire or perfect their Philippine citizenship. xxx."

Petitioner and respondent present opposing interpretations of the phrase "from birth" contained in the above provisions.

Petitioner contends that the phrase "from birth" indicates that citizenship must start at a definite point and must be continuous, constant and without interruption. The Constitution does not extend the privilege of reacquiring a natural-born citizen status to respondent, who at one time, became an alien. His loss of citizenship carried with it the concomitant loss of all the benefits, privileges and attributes of "natural-born" citizenship. When he reacquired his citizenship in 1994, he had to comply with the requirements for repatriation, thus effectively taking him out of the constitutional definition of a natural-born Filipino.

For his part, respondent maintains that the phrase "from birth" refers to the innate, inherent and inborn characteristic of being a "natural-born." Since he was born to Filipino parents, he has been a natural-born Filipino from birth. His reacquisition of Philippine citizenship under Republic Act No. 2630 results in his reacquisition of his inherent characteristic of being a natural-born citizen.

The state of being a natural-born citizen has been regarded, not so much in its literal sense, but more in its legal connotation.

The very first natural-born Filipinos did not acquire that status at birth. They were born as Spanish subjects. In *Roa vs. Collector of Customs*,<sup>[2]</sup> the Supreme Court traced the grant of natural-born status from the Treaty of Paris, and the Acts of Congress of July 1, 1902 and March 23, 1912, which is a reenactment of Section 4 of the former with a *proviso* which reads:

"*Provided*, That the Philippine Legislature is hereby authorized to provide by law for the acquisition of Philippine citizenship by those natives of the Philippine Islands who do not come within the foregoing provisions, the natives of other Insular possessions of the United States, and such other persons residing in the Philippine Islands who could become citizens of the United States under the laws of the United States, if residing therein."

It was further held therein that under the said provision, "every person born after the 11<sup>th</sup> of April, 1899, of parents who were Spanish subjects on that date and who continued to reside in this country are at the moment of their birth *ipso facto* citizens of the Philippine Islands."

Under the April 7, 1900 Instructions of President William McKinley to the Second Philippine Commission, considered as our first colonial charter or fundamental law, we were referred to as "people of the Islands," or "inhabitants of the Philippine Islands," or "natives of the Islands" and not as citizens, much less natural-born citizens. The first definition of "citizens of the Philippine Islands" in our law is found in Section 4 of the Philippine Bill of 1902.<sup>[3]</sup>

Philippine citizenship, including the status of natural-born, was initially a loose or even non-existent qualification. As a requirement for the exercise of certain rights and privileges, it became a more strict and difficult status to achieve with the passing of the years.

Early decisions of the Supreme Court held that Philippine citizenship could be acquired under either the *jus sanguinis* or *jus soli* doctrine.<sup>[4]</sup>

This liberal policy was applied even as the Philippine Bill of 1902 and the Jones Law or the Philippine Autonomy Act of 1916 appear to have limited "citizens of the Philippine Islands" to resident inhabitants who were Spanish subjects on April 11, 1899, their children born subsequent thereto, and later, those naturalized according to law by the Philippine legislature. Only later was *jus sanguinis* firmly applied and *jus soli* abandoned.

Hence, the status of being a natural-born citizen at its incipient is a privilege conferred by law directly to those who intended, and actually continued, to belong to the Philippine Islands. Even at the time of its conception in the Philippines, such persons upon whom citizenship was conferred did not have to do anything to acquire full citizenship.<sup>[5]</sup>

Respondent wants us to believe that since he was natural-born Filipino at birth, having been born in the Philippines to Filipino parents, he was automatically restored to that status when he subsequently reacquired his citizenship after losing it.

Public respondent HRET affirmed respondent's position when it pronounced that the definition of a natural-born citizen in Section 2, Article IV of the Constitution refers to the classes of citizens enumerated in Section 1 of the same Article, to wit:

"Section 1. The following are citizens of the Philippines:

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

Thus, respondent HRET held that under the above enumeration, there are only two classes of citizens, *i.e.*, natural-born and naturalized. Since respondent Cruz is not a naturalized citizen, then he is a natural-born Filipino citizen.

I do not agree. I reiterate that Section 2, Article IV of the Constitution defines natural-born citizens as "those who are citizens of the Philippines from birth without having to perform any act to acquire or perfect their Philippine citizenship."

Pursuant to R.A. No. 2630, quoted as follows:

"Republic Act No. 2630. AN ACT PROVIDING FOR REACQUISITION OF PHILIPPINE CITIZENSHIP BY PERSONS WHO LOST SUCH CITIZENSHIP BY RENDERING SERVICE TO, OR ACCEPTING COMMISSION IN, THE ARMED FORCES OF THE UNITED STATES, provides:

Section 1. Any person who had lost his Philippine citizenship by rendering service to, or accepting commission in the Armed Forces of the United States, or after separation from the Armed Forces of the United States, acquired United States citizenship, may reacquire Philippine citizenship by taking an oath of allegiance to the Republic of the Philippines and registering the same with the Local Civil Registry in the place where he resides or last resided in the Philippines. The said oath of allegiance shall contain a renunciation of any other citizenship."

respondent Cruz had to perform certain acts before he could again become a Filipino citizen. He had to take an oath of allegiance to the Republic of the Philippines and register his oath with the Local Civil Registry of Mangatarem, Pangasinan. He had to renounce his American citizenship and had to execute an affidavit of reacquisition of Philippine citizenship.

Clearly, he did not reacquire his natural-born citizenship. The cardinal rule in the interpretation and construction of a constitution is to give effect to the intention of the framers and of the people who adopted it. Words appearing in a Constitution are used according to their plain, natural, and usual significance and import and must be understood in the sense most obvious to the common understanding of the people at the time of its adoption.

The provision on "natural-born citizens of the Philippines" is precise, clear and definite. *Indeed, neither HRET nor this Court can construe it other than what its plain meaning conveys.* It is not phrased in general language which may call for construction of what the words imply.

In *J. M. Tuason & Co., Inc. vs. Land Tenure Administration*,<sup>[6]</sup> this Court held:

"Ascertainment of meaning of provisions of Constitution begins with the language of the document itself. The words used in the Constitution are to be given their ordinary meaning, except where technical terms are employed, in which case the significance thus attached to them prevails. As the Constitution is not primarily a lawyer's document, it being essential for the rule of law to obtain that it should ever be present in the people's consciousness, its language as much as possible, should be understood in the sense they have in common use. What it says according to the text of the provision to be construed compels acceptance and negates the power of the courts to alter it, based on the postulate that the framers and the people mean what they say."

The definition of a natural-born citizen in the Constitution must be applied to this petition according to its natural sense.

Respondent HRET likewise ruled that the "reacquisition of Philippine citizenship through any of these modes: (naturalization, repatriation and legislation under Section 3, C.A. No. 63) results in the restoration of previous status, either as a natural-born or a naturalized citizen" is a simplistic approach and tends to be misleading.

If citizenship is gained through naturalization, repatriation or legislation, the citizen concerned can not be considered natural-born. Obviously, he has to perform certain

acts to become a citizen.

As expressed in the Dissent of Justice Jose C. Vitug<sup>[7]</sup> in the instant case, concurred in by Justice Jose A.R. Melo:<sup>[8]</sup>

"Repatriation is the resumption or recovery of the original nationality upon the fulfillment of certain conditions. While an applicant need not have to undergo the tedious and time consuming process required by the Revised Naturalization Law (CA 473, as amended), he, nevertheless, would still have to make an express and unequivocal act of formally rejecting his adopted state and reaffirming his total and exclusive allegiance and loyalty to the Republic of the Philippines. It bears emphasis that, to be considered a natural-born citizen under the first part of Section 2, Article IV, of the 1987 Constitution, one should not have to perform any act at all or go through any process, judicial or administrative, to enable him to reacquire his citizenship. Willoughby opines that a natural-born citizen is one who is able to claim citizenship without any prior declaration on his part of a desire to obtain such status. Under this view, the term 'natural born' citizens could also cover those who have been collectively deemed citizens by reason of the Treaty of Paris and the Philippine Bill of 1902 and those who have been accorded by the 1935 Constitution to be Filipino citizens (those born in the Philippines of alien parents who, before the adoption of the 1935 Constitution had been elected to public office.)"

The two dissenting Justices correctly stated that the "stringent requirement of the Constitution is so placed as to insure that only Filipino citizens with an absolute and permanent degree of allegiance and loyalty shall be eligible for membership in Congress, the branch of the government directly involved and given the delicate task of legislation."

The dissenting opinion further states:

"The term 'natural-born' Filipino citizen, first constitutionally defined in the 1973 Charter, later adopted by the 1987 Constitution, particularly in Section 2, Article IV thereof, is meant to refer to those 'who are citizens of the Philippines from birth without having to perform any act to acquire or perfect their citizenship,' and to those 'who elect Philippine citizenship.' Time and again, the Supreme Court has declared that where the law speaks in clear and categorical language, there is no room for interpretation, vacillation or equivocation – there is only room for application. The phrase 'from birth' indicates that there is a starting point of his citizenship and this citizenship should be continuous, constant and without interruption."

Thus, respondent is not eligible for election to Congress as the Constitution requires that a member of the House of Representatives must be a "natural-born citizen of the Philippines."

For sure, the framers of our Constitution intended to provide a more stringent citizenship requirement for higher elective offices, including that of the office of a Congressman. Otherwise, the Constitution should have simply provided that a



candidate for such position can be merely a citizen of the Philippines, as required of local elective officers.

The spirit of nationalism pervading the 1935 Constitution, the first charter framed and ratified by the Filipinos (even as the draft had to be approved by President Franklin Delano Roosevelt of the United States) guides and governs the interpretation of Philippine citizenship and the more narrow and bounded concept of being a natural-born citizen.

Under the 1935 Constitution,<sup>[9]</sup> the requirement of natural-born citizenship was applicable only to the President and Vice President.<sup>[10]</sup> A person who had been a citizen for only five (5) years could be elected to the National Assembly.<sup>[11]</sup> Only in 1940,<sup>[12]</sup> when the first Constitution was amended did natural-born citizenship become a requirement for Senators and Members of the House of Representatives.<sup>[13]</sup> A Filipino naturalized for at least five (5) years could still be appointed Justice of the Supreme Court or a Judge of a lower court.<sup>[14]</sup>

The history of the Constitution shows that the meaning and application of the requirement of being natural-born have become more narrow and qualified over the years.

Under the 1973 Constitution,<sup>[15]</sup> the President, members of the National Assembly, Prime Minister, Justices of the Supreme Court, Judges of inferior courts, the chairmen and members of the Constitutional Commissions and the majority of members of the cabinet, must be natural-born citizens.<sup>[16]</sup> The 1987 Constitution added the Ombudsman and his deputies and the members of the Commission on Human Rights to those who must be natural-born citizens.<sup>[17]</sup>

The questioned Decision of respondent HRET reverses the historical trend and clear intendment of the Constitution. It shows a more liberal, if not a cavalier approach to the meaning and import of natural-born citizen and citizenship in general.

It bears stressing that we are tracing and enforcing a doctrine embodied in no less than the Constitution. *Indeed, a deviation from the clear and constitutional definition of a "natural-born Filipino citizen" is a matter which can only be accomplished through a constitutional amendment.* Clearly, respondent HRET gravely abused its discretion.

Respondent Cruz has availed himself of the procedure whereby his citizenship has been restored. He can run for public office where natural-born citizenship is not mandated. But he cannot be elected to high offices which the Constitution has reserved only for natural-born Filipino citizens.

**WHEREFORE**, I vote to *GRANT* the petition.

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<sup>[1]</sup> 1987 Constitution of the Republic of the Philippines.

<sup>[2]</sup> 23 Phil 315 (1912).

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

[4] *Roa vs. Collector of Customs, supra; Lim Teco vs. Collector*, 24 Phil 84 (1913); *United States vs. Lim Bin*, 36 Phil 924 (1917).

[5] *Roa vs. Collector of Customs, Ibid.*

[6] 31 SCRA 413 (1970).

[7] Member of the HRET.

[8] Chairman, *Ibid.*

[9] This refers to the 1935 Constitution as adopted by the Philippine Constitutional Convention on February 8, 1935, signed by President Franklin D. Roosevelt on March 23, 1935 and ratified by Filipino voters in a plebiscite held on May 14, 1935

[10] Section 3, Article VII, 1935 Constitution.

[11] Section 2, Article VI, *Ibid.*

[12] The 1935 Constitution was *amended* by Resolution Numbered Seventy-three, adopted by the Second National Assembly on the 11<sup>th</sup> day of April 1940, and approved by the President of the United States on December 2, 1940.

[13] Sections 4 and 7, Article VI, 1935 Constitution, as amended.

[14] Sections 6 and 8, Article VIII, *Ibid.*

[15] This refers to the 1973 Constitution as approved by the Filipino people in a referendum held between January 10, 1973 and January 15, 1973 and which became effective on January 17, 1973.

[16] Section 2, Article VII; Section 4, Article VIII; Sections 3 and 4, Article IX; Section 3 (1) and (2), Article X; Section 1(1) Article XII-B, Section 1(1), Article XII-C; Section 1 (1) Article XII-D, 1973 Constitution.

[17] Section 8, Article XI; and Section 17(2), Article XIII, 1987 Constitution.



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