



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

N O T I C E

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated September 7, 2022, which reads as follows:

“G.R. No. 229768 (Philip H. Piccio, in his capacity as a registered voter of Precinct No. 0098B, Brgy. Kapitan Pepe, Poblacion, Cabanatuan City, Nueva Ecija v. Rosanna Vergara y Vergara, Precinct No. 0078A, Brgy. Rizdelis, Cabanatuan City, The Board of Election Inspectors, Precinct No. 0078A, Brgy. Rizdelis, Cabanatuan City, et al.).— This Petition for Review on Certiorari¹ assails the Decision² dated 6 May 2016 and the Resolution³ dated 3 February 2017 of the Court of Appeals (CA), which denied the Petition for Certiorari filed by petitioner Philip H. Piccio, and the Motion for Reconsideration thereof, respectively, in CA-G.R. SP No. 144409.

The prevenient facts follow.

On 5 November 1963, respondent Rosanna Vergara (Vergara) was born in Manila to her Filipino parents, Leonardo Lucas Vergara and Francisca Garcia. She moved to Cabanatuan City in 1994 and there married Cesar Vergara. Three years later, i.e., on 21 June 1997, she applied for registration as a voter of Barangay Bantug Norte, Cabanatuan City.⁴

The following year, she was naturalized as a citizen of the United States of America; on 20 May 1998, an American passport was released to her.⁵

Upon her return to the Philippines, she applied on 27 December 2000 with the Commission on Elections (COMELEC) for the transfer of her registration records from Barangay Bantug Norte, Cabanatuan City to Barangay Rizdelis, Cabanatuan City. Three years thereafter, she had her

¹ *Rollo*, pp. 15-33.

² Id. at 34-44. Penned by Associate Justice Melchor Q.C. Sadang (now retired) and concurred in by Associate Justices Celia C. Librea-Leagogo (now retired) and Amy C. Lazaro-Javier (now a Member of the Court).

³ Id. at 45-48. Penned by Associate Justices Celia C. Librea-Leagogo (now retired) and concurred in by Associate Justices Amy C. Lazaro-Javier (now a Member of the Court) and Ramon Paul L. Hernando (now a Member of the Court).

⁴ Id. at 35, 52, & 61.

⁵ Id.

biometrics taken for validation of her registration and subsequently, Voter Identification No. 490-0078A-K0 563RVV2000 was assigned to her.⁶

Sometime in November 2006, Vergara initiated with the Bureau of Immigration (BI) a Petition for the Issuance of an Identification Certificate (IC) pursuant to Republic Act (RA) No. 9225.⁷ She took her Oath of Allegiance to the Republic of the Philippines as part of the documentary requirements supporting the aforesaid Petition.⁸

Finding that she had complied with all the requirements, the BI recommended its approval. Ensuingly, IC No. 06-12955 was issued in her favor. Later on, she executed an Affidavit of Renunciation of Foreign Citizenship dated 4 September 2015. The following month, she submitted her certificate of candidacy as Representative of the Third District of Nueva Ecija.⁹

As it happened, on 28 January 2016, petitioner lodged a Petition to exclude Vergara from the Voter's List of Precinct 0078A, *Barangay Rizdelis*, Cabanatuan City, with the Municipal Trial Court in Cities (MTCC) of Cabanatuan City, Branch 1. The case was docketed as Election Case No. 13(16). He adamantly postulated that: (1) Vergara's registration on 21 June 1997 as a voter of *Barangay Bantug Norte* was rendered *functus officio* when she became a citizen of the United States (US) on 20 May 1998; (2) her application for transfer of registration to *Barangay Rizdelis* on 27 December 2000, as well as her validation as a registered voter on 7 December 2003 under RA No. 10637,¹⁰ were both null and void *ab initio* because she was then a US citizen; and (3) she failed to register anew in time for the May 2006 elections when she reacquired her Filipino citizenship on November 2006.¹¹

Conversely, Vergara avouched, *inter alia*, that a petition for exclusion is not the proper remedy. Instead, an action to deactivate her registration under Section 27(f) of RA No. 8189¹² should have been filed before the Election Registration Board (ERB), and not with the MTCC. Moreover, deactivation is distinct from cancellation as, in the former, the voter remains a registered voter albeit with an inactive status, while the latter takes place only in the case of death of the voter or fraudulent registration.¹³

Given that her status as a registered voter was never nullified nor deactivated by the ERB, she maintained that there was no necessity to register

⁶ Id.

⁷ CITIZENSHIP RETENTION AND RE-ACQUISITION ACT OF 2003, approved on 29 August 2003.

⁸ *Rollo*, pp. 35, 52-53, & 61.

⁹ Id. at 35-36, 52-53, & 61.

¹⁰ AN ACT PROVIDING FOR MANDATORY BIOMETRICS VOTER REGISTRATION, approved on 15 February 2013.

¹¹ *Rollo*, pp. 36, 53, & 61-62.

¹² THE VOTER'S REGISTRATION ACT OF 1996, approved on 11 June 1996.

¹³ *Rollo*, pp. 36, 53, & 62.

again as a voter when she reacquired her Filipino citizenship under RA No. 9225.¹⁴

In due course, the MTCC handed down its Decision¹⁵ on 4 February 2016, granting the petition for exclusion, the *fallo* of which reads:

WHEREFORE, premises considered, for failure of Rosanna Vergara y Vergara to possess the qualification of Filipino citizenship required by Section 1, Article V of the 1987 Constitution of the Republic of the Philippines and Section 9 of Republic Act No. 8189 (Continuing Registration Act) when she registered on December 7, 2003, thus rendering her ineligible to be validly registered as a voter in Precinct No. 0078A of Barangay Rizdelis, Cabanatuan City, the extent (sic) petition for the exclusion of Rosanna Vergara y Vergara from the COMELEC's Voter's List is GRANTED.

The Election Registration Board of Cabanatuan City, upon finality of this Decision, is directed to remove the voter's registration record of Rosanna Vergara y Vergara from the corresponding book of voters, enter the order of exclusion therein, and thereafter place the record in the inactive file.

The Sheriff of this Court is directed to serve in accordance with the law[,] copies of this Decision to the petitioner, respondents, and their respective counsels, the members of the Election Registration Board of Cabanatuan City, and the Commission on Elections, Cabanatuan City.

SO ORDERED.¹⁶

Disgruntled, Vergara appealed with the RTC, which found merit therein and thus, reversed and set aside¹⁷ the MTCC Decision –

WHEREFORE, the appeal is GRANTED. The Decision dated February 4, 2016[,] of the MTCC, Branch 1, Cabanatuan City, in the case entitled[,] [“]Philip H. Piccio, in his capacity as a registered voter of Precinct No. 0098B, Barangay Kapitan Pepe Poblacion, Cabanatuan City, Nueva Ecija vs. Rosanna Vergara y Vergara, Precinct 0078A, Barangay Rizdelis, Cabanatuan City, The Board of Election Inspectors of Registration Board, Cabanatuan City and The City Election Officer of Precinct 0078A, Brgy. Rizdelis, Cabanatuan City, and the City Election Officer of Cabanatuan City, Nueva Ecija[”], docketed therein as Election Case No. 13(16), is hereby REVERSED AND SET ASIDE. The Election Registration Board, Cabanatuan City, is directed to maintain in its active files the Voter's Registration Record of [Vergara]. [Vergara] remains a registered voter in the Voter's list of Precinct 0078A, Brgy. Rizdelis, Cabanatuan City, Nueva Ecja.

This Decision is immediately final and executory. No motion for reconsideration shall be entertained.

¹⁴ Id. at 36-37, 54, & 62.

¹⁵ Id. at 51-59. Penned by Executive Judge Kelly B. Belino.

¹⁶ Id. at 58-59.

¹⁷ Id. at 60-74. Penned by Executive Judge Primo G. Sio, Jr.

SO ORDERED.¹⁸

Ascribing grave abuse of discretion on the RTC, petitioner filed a petition for *certiorari* with the CA. All the same, the CA denied the petition and affirmed the RTC.¹⁹

Unruffled, petitioner moved for a reconsideration of the CA Decision, insisting, for the first time, that the Oath of Allegiance executed by Vergara was of doubtful authenticity and genuineness. Still and all, the CA denied the motion, decreeing that new issues cannot be raised for the first time on appeal.²⁰

Perforce, petitioner now comes to this Court, intransigently asseverating that the loss of Vergara's Philippine citizenship in 1998 amounted to an automatic deactivation of her registration as a voter given that Filipino citizenship is one of the qualifications therefor. Simply put, having lost one of the qualifications of a voter, Vergara did not remain a registered voter and could not have validly applied for transfer of registration in 2003. This being so, her name should be removed from the list of voters. Moreover, anent Vergara's dubious Oath of Allegiance, such newly discovered evidence must be considered even during appeal as procedural technicalities should be set aside in the interest of justice.

The Petition lacks merit.

Prefatorily, it is well to explicate the nature of a petition for exclusion of voter from the list. Exclusion proceedings are part of the voters' registration process and are treated under Section 35 of RA No. 8189 which provides:

Sec. 35. Petition for Exclusion of Voters from the List. - Any registered voters, representative of a political party or the Election Officer, may file with the court a sworn petition for the exclusion of a voter from the permanent list of voters giving the name, address and the precinct of the challenged voter at any time except one hundred (100) days prior to a regular election or sixty-five (65) days before a special election. The petition shall be accompanied by proof of notice to the Board and to the challenged voter and shall be decided within ten (10) days from its filing.

If the decision is for the exclusion of the voter from the list, the Board shall, upon receipt of the final decision, remove the voter's registration record from the corresponding book of voters, enter the order of exclusion therein, and thereafter place the record in the inactive file.²¹

¹⁸ Id. at 74.

¹⁹ Id. at 39-44.

²⁰ Id. at 46-48.

²¹ Specifically, for the May 2016 general elections, Section 50 of COMELEC Resolution No. 9853, states:

SEC. 50. Petition for Exclusion of Voters from the List. - Any registered voter, representative of a political party or the EO, may file with the court a sworn petition for the exclusion of a voter from the permanent list of voters giving the name, address and the precinct of the challenged voter at any time but not later than January 30, 2016. The petition shall be accompanied by proof of notice to the Board

In this regard, the disquisition of the Court in the case of *Velasco v. COMELEC*²² on the issues involved in a petition for exclusion, is quite illuminating— “[i]nclusion/exclusion proceedings essentially involve the simple issue of whether a petitioner shall be included in or excluded from the list of voters based on the qualifications required by law and the facts presented to show possession of these qualifications.”²³ These qualifications are demarcated under Article V, Section 1 of the Constitution,²⁴ and are reflected in Section 9 of RA No. 8189, establishing who may register as voters, thus: “[a]ll citizens of the Philippines not otherwise disqualified by law who are at least eighteen (18) years of age, and who shall have resided in the Philippines for at least one (1) year, and in the place wherein they propose to vote, for at least six (6) months immediately preceding the election, may register as a voter.”

In light of the above, in an exclusion proceeding, it is primal that a person’s application for voter registration had already been acted upon by the concerned agency and correspondingly accepted. In effect, the petitioner is praying for such person’s removal from the voter’s list, proscribing him or her from voting. Should the petition be denied, the voter remains on the list and is able to vote.

Guided by the foregoing jurisprudential precepts and pertinent rules, the Court rules and so holds that the CA correctly ratiocinated that the RTC committed no whimsicality in denying the petition to exclude Vergara from the voter’s list.

To iterate, exclusion proceedings presume that a person’s name has already been entered into the voter’s list, and the petitioner is therefore praying for its removal based on the lack of any of the qualifications or possession of disqualification at the time the application is filed. In the case at bench, the Court discerns that at the time the petition for exclusion was instituted by petitioner before the MTCC on 28 January 2016, or in time for the 9 May 2016 elections, **Vergara was in possession of all the qualifications as well as none of the disqualifications of a registered voter of Cabanatuan City, Nueva Ecija.** In actual fact, she reacquired Philippine citizenship on 30 November 2006, and renounced her US citizenship when she submitted her certificate of candidacy in 2015. Resultantly, the Court does not find any reason to reverse the RTC’s Decision as affirmed by the CA.

and to the challenged voter and shall be decided within ten (10) days from its filing.

If the decision is for the exclusion of the voter’s name from the list, the Board shall upon receipt of the final decision remove the voter’s registration record from the corresponding book of voters, enter the order of exclusion therein and place the record in the inactive file.

²² 595 Phil. 1172-1196 (2008).

²³ Id. at 1187. Emphasis supplied.

²⁴ **SECTION 1.** Suffrage may be exercised by all citizens of the Philippines not otherwise disqualified by law, who are at least eighteen years of age, and who shall have resided in the Philippines for at least one year and in the place wherein they propose to vote for at least six months immediately preceding the election. No literacy, property, or other substantive requirement shall be imposed on the exercise of suffrage.

In retrospect, at the time Vergara launched her application for registration with the COMELEC local office of Cabanatuan City on 21 June 1997, she was still a Philippine citizen and thus possessed such constitutional qualifications at the moment she registered as a voter. When she became an American citizen a year later, or on 20 May 1998, such did not result in an automatic deactivation of her registration as theorized by petitioner. On this score, Section 27 of RA No. 8189 could not be any clearer –

Sec. 27. Deactivation of Registration. - The board shall deactivate the registration and remove the registration records of the following persons from the corresponding precinct book of voters and place the same, properly marked and dated in indelible ink, in the inactive file after entering the cause or causes of deactivation:

x x x x

f. Any person who has lost his Filipino citizenship.

x x x The Commission may request a certified list of persons who have lost their Filipino Citizenship or declared as insane or incompetent with their addresses from other government agencies.

The Election Officer shall post in the bulletin board of his office a certified list of those persons whose registration were deactivated and the reasons therefor, and furnish copies thereof to the local heads of political parties, the national central file, provincial file, and the voter concerned. (emphasis supplied)

Upon this point, the CA unerringly held:

Clearly, under the law, when a registered voter loses his Philippine citizenship[,] it does not follow that his name is automatically removed from the list of voters. A summary process of exclusion is still required. This court therefore agrees with the ruling of the RTC that “(t)he fact that in 1998, she (Vergara) became a naturalized American citizen, did not render void her registration as the loss of her Filipino [c]itizenship only provided a ground for deactivation under Section 27 of RA [No.] 8189. But the ERB[,] for unknown reasons, did not effect deactivation of appellant’s registration, even all the time that appellant was an American citizen until she reacquired her Filipino citizenship under RA [No.] 9225 in 2006.”

Further, under Section 28 of the law, a voter who has been deactivated or placed in the inactive file may still be reactivated if he complied with the procedure of reactivation. This, a registered voter who lost his Filipino citizenship and was deactivated may still be reactivated once he reacquired Philippine citizenship. In this case, even assuming that Vergara[’s registration] was deactivated, she could still have filed an application for reactivation upon her reacquisition of Philippine citizenship. However, the records show that her name was never placed in the deactivated list by the ERB. It would have been useless or superfluous for her to file the aforesaid application. x x x²⁵

²⁵ Rollo, p. 43.

One final word. Plain as day, the question of whether or not Vergara should be excluded from the list of voters has already become moot. In the seminal case of *Medenilla v. Hon. Kayanan*,²⁶ it was pronounced that under Section 176(f)²⁷ of RA No. 180,²⁸ **once a candidate is proclaimed elected, the law regards the permanent list of voters as conclusive with respect to the question as to who had the right to vote in said election.** This rule has been reproduced in Section 254(g)²⁹ of Batas Pambansa (BP) Blg. 881,³⁰ and Rule 20, Section 13,³¹ and Rule 35, Section 14³² of the COMELEC Rules of Procedure. In this case, given that the winning candidates of the 2016 elections had long been proclaimed, there can be no more questions regarding the list of voters thereon.

Besides, in the case of *Piccio v. House of Representatives Electoral Tribunal*,³³ the *quo warranto* petition commenced by petitioner against Vergara, the Court had already declared that Vergara was qualified to continue sitting as a Member of the House, having validly complied with all of the requirements under RA No. 9225 for the reacquisition of Filipino citizenship. To now rule that she should be excluded from the list of voters would indirectly reverse the Court's aforesaid verdict insofar as the prerequisite of being a registered voter³⁴ is a qualification for her eligibility as a Member of the House of Representatives.

WHEREFORE, the Petition for Review on *Certiorari* is hereby **DENIED**. The *Decision* dated 6 May 2016 and the *Resolution* dated 3 February 2017 of the Court of Appeals in CA-G.R. SP No. 144409 are **AFFIRMED**.

²⁶ 148-B Phil. 133-150 (1971).

²⁷ (f) In election contest proceedings, the registry list, as finally corrected by the board of inspectors, shall be conclusive in regard to the question as to who had the right to vote in said election.

²⁸ REVISED ELECTION CODE, approved on 21 June 1947.

²⁹ (g) In election contest proceedings, the permanent registry list of voters shall be conclusive in regard to the question as to who had the right to vote in said election.

³⁰ OMNIBUS ELECTION CODE, approved on 3 December 1985.

³¹ Section 13. Book of Voters as Evidence. - In election contests, the book of voters shall be conclusive in regard to the question as to who has the right to vote in said election.

³² Section 14. Book of Voters as Evidence. - The book of voters shall be conclusive evidence in regard to the question as to who has the right to vote in said election.

³³ G.R. No. 248985, 5 October 2021.

³⁴ See Article VI, Section 6 of the Constitution, which provides:

SECTION 6. No person shall be a Member of the House of Representatives unless he is a natural-born citizen of the Philippines and, on the day of the election, is at least twenty-five years of age, able to read and write, and, except the party-list representatives, a registered voter in the district in which he shall be elected, and a resident thereof for a period of not less than one year immediately preceding the day of the election. (Emphasis supplied)

See also Article IX, Section 64 of BP Blg. 881, which provides:

Section 64. Qualifications for Members of the Batasang Pambansa. - No person shall be elected Member of the Batasang Pambansa as provincial, city or district representative unless he is a natural-born citizen of the Philippines and, on the day of the election, is at least twenty-five years of age, able to read and write, a registered voter in the constituency in which he shall be elected, and a resident thereof for a period of not less than six months immediately preceding the day of the election.

SO ORDERED.”

By authority of the Court:

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