

EN BANC

[G.R. Nos. 192147 & 192149, August 23, 2011]

RENALD F. VILANDO, PETITIONER, VS. HOUSE OF REPRESENTATIVES ELECTORAL TRIBUNAL, JOCELYN SY LIMKAICHONG AND HON. SPEAKER PROSPERO NOGRALES, RESPONDENTS.

D E C I S I O N

MENDOZA, J.:

This is a petition for certiorari under Rule 65 of the Revised Rules of Court assailing the March 24, 2010 Decision^[1] of the House of Representatives Electoral Tribunal (*HRET*) dismissing the petitions for *quo warranto* and declaring private respondent Jocelyn Sy Limkaichong (*Limkaichong*) not disqualified as Member of the House of Representatives representing the First District of Negros Oriental and its Resolution^[2] dated May 17, 2010, denying the motion for reconsideration.

In the May 14, 2007 elections, Limkaichong filed her certificate of candidacy for the position of Representative of the First District of Negros Oriental. She won over the other contender, Olivia Paras.

On May 25, 2007, she was proclaimed as Representative by the Provincial Board of Canvassers on the basis of Comelec Resolution No. 8062^[3] issued on May 18, 2007.

On July 23, 2007, she assumed office as Member of the House of Representatives.

Meanwhile, petitions involving either the disqualification or the proclamation of Limkaichong were filed before the Commission on Elections (*COMELEC*) which reached the Court.

The petitions, which questioned her citizenship, were filed against Limkaichong by her detractors: Louis Biraogo (G.R. No. 179120);^[4] Olivia Paras (G.R. Nos. 179132-33);^[5] and Renald F. Vilando (G.R. Nos. 179240-41).^[6] These three (3) petitions were consolidated with the petition for certiorari filed by Limkaichong (G.R. Nos. 178831-32) assailing the Joint Resolution issued by the COMELEC which resolved the disqualification cases against her.

On April 1, 2009, the Court granted the aforesaid petition of Limkaichong, reversed the Joint Resolution of the Comelec, dismissed the three (3) other petitions, and directed the petitioners to seek relief before the HRET by way of a petition for *Quo Warranto*.

On April 21, 2009 and May 27, 2009, petitioner Renald F. Vilando (*Vilando*), as taxpayer; and Jacinto Paras, as registered voter of the congressional district

concerned, filed separate petitions for *Quo Warranto* against Limkaichong before the HRET. These petitions were consolidated by the HRET as they both challenged the eligibility of one and the same respondent. Petitioners asserted that Limkaichong was a Chinese citizen and ineligible for the office she was elected and proclaimed. They alleged that she was born to a father (Julio Sy), whose naturalization had not attained finality, and to a mother who acquired the Chinese citizenship of Julio Sy from the time of her marriage to the latter. Also, they invoked the jurisdiction of the HRET for a determination of Limkaichong's citizenship, which necessarily included an inquiry into the validity of the naturalization certificate of Julio Sy.

For her defense, Limkaichong maintained that she is a natural-born Filipino citizen. She averred that the acquisition of Philippine citizenship by her father was regular and in order and had already attained the status of *res judicata*. Further, she claimed that the validity of such citizenship could not be assailed through a collateral attack.

On March 24, 2010, the HRET dismissed both petitions and declared Limkaichong not disqualified as Member of the House of Representatives. Pertinent portions of the HRET decision reads:

By and large, petitioners failed to satisfy the quantum of proof to sustain their theory that respondent is not a natural-born Filipino citizen and therefore not qualified as Representative of the First District, Negros Oriental. This being so, their petitions must fail.

WHEREFORE, the Tribunal **DISMISSES** the instant petition for lack of merit and declares that respondent Jocelyn Sy Limkaichong is not disqualified as Member of the House of Representatives representing the First District, Negros Oriental.

As soon as the Decision becomes final and executory, notice of copies thereof shall be sent to the President of the Philippines, the House of Representatives through the Speaker, the Commission on Audit through the Chairman, pursuant to Rule 96 of the 2004 Rules of the House of Representatives Electoral Tribunal. Let a copy of this Decision be furnished the Chairman, Commission on Elections, for his information and appropriate action.

SO ORDERED.^[7]

The petitioners sought reconsideration of the aforesaid decision, but it was denied by the HRET in its Resolution dated May 17, 2010.

Hence, this petition for certiorari filed by Vilando anchored on the following

GROUND:

THE ONE-SIDED RESOLUTION OF THE SUBJECT PETITION FOR QUO WARRANTO AND THE UTTER FAILURE OF THE HRET TO

DISQUALIFY LIMKAICHONG AS MEMBER OF THE HOUSE OF REPRESENTATIVES DESPITE MANIFEST EVIDENCE THAT SHE IS NOT A NATURAL-BORN FILIPINO CITIZEN IS WHIMSICAL, CAPRICIOUS AND ARBITRARY BECAUSE:

- 1. THE PETITION FOR QUO WARRANTO DOES NOT OPERATE AS A COLLATERAL ATTACK ON THE CITIZENSHIP OF LIMKAICHONG'S FATHER FOR THE REASON THAT HER FATHER'S CERTIFICATE OF NATURALIZATION IS OF NO FORCE AND EFFECT FROM THE VERY BEGINNING, HENCE, THERE IS ACTUALLY NOTHING BEING ATTACKED OR ASSAILED BY THE SAME.**
- 2. LIMKAICHONG CANNOT DERIVE PHILIPPINE CITIZENSHIP FROM HER MOTHER GIVEN THAT AT THE TIME OF HER BIRTH, HER MOTHER IS NOT ALREADY A FILIPINO CITIZEN AS A RESULT OF HER MARRIAGE TO HER FATHER AS PROVIDED FOR UNDER SECTION 1 (7) OF COMMONWEALTH ACT NO. 63 IN RELATION TO ARTICLE 2 (1) CHAPTER II OF THE CHINESE REVISED NATIONALITY LAW OF FEBRUARY 5, 1959.**
- 3. HAVING THE PLENARY, ABSOLUTE AND EXCLUSIVE JURISDICTION TO DETERMINE, AMONG OTHERS, THE QUALIFICATIONS OF MEMBERS OF THE HOUSE OF REPRESENTATIVES, THE HRET CAN LOOK INTO THE ELIGIBILITY OF LIMKAICHONG EVEN IF, AS AN INCIDENT THERETO, IT WOULD MEAN LOOKING INTO THE VALIDITY OF THE CERTIFICATE OF NATURALIZATION.^[8]**

It should be noted that Limkaichong's term of office as Representative of the First District of Negros Oriental from June 30, 2007 to June 30, 2010 already expired. As such, the issue questioning her eligibility to hold office has been rendered moot and academic by the expiration of her term. Whatever judgment is reached, the same can no longer have any practical legal effect or, in the nature of things, can no longer be enforced.^[9] Thus, the petition may be dismissed for being moot and academic.

Moreover, there was the conduct of the 2010 elections, a supervening event, in a sense, has also rendered this case moot and academic. A moot and academic case is one that ceases to present a justiciable controversy by virtue of supervening events, so that a declaration thereon would be of no practical value. As a rule, courts decline jurisdiction over such case, or dismiss it on ground of mootness. ^[10]

Citizenship, being a continuing requirement for Members of the House of Representatives, however, may be questioned at anytime.^[11] For this reason, the Court deems it appropriate to resolve the petition on the merits. This position finds support in the rule that courts will decide a question, otherwise moot and academic, if it is "capable of repetition, yet evading review."^[12] The question on Limkaichong's citizenship is likely to recur if she would run again, as she did run, for public office, hence, capable of repetition.

In any case, the Court is of the view that the HRET committed no grave abuse of discretion in finding that Limkaichong is not disqualified to sit as Member of the House of Representatives.

Vilando's argument, that the quo warranto petition does not operate as a collateral attack on the citizenship of Limkaichong's father as the certificate of naturalization is null and void from the beginning, is devoid of merit.

In this petition, Vilando seeks to disqualify Limkaichong on the ground that she is a Chinese citizen. To prove his point, he makes reference to the alleged nullity of the grant of naturalization of Limkaichong's father which, however, is not allowed as it would constitute a collateral attack on the citizenship of the father. In our jurisdiction, an attack on a person's citizenship may only be done through a direct action for its nullity.^[13]

The proper proceeding to assail the citizenship of Limkaichong's father should be in accordance with Section 18 of Commonwealth Act No. 473. As held in *Limkaichong v. Comelec*,^[14] thus:

As early as the case of *Queto v. Catolico*,^[15] where the Court of First Instance judge *motu proprio* and not in the proper denaturalization proceedings called to court various grantees of certificates of naturalization (who had already taken their oaths of allegiance) and cancelled their certificates of naturalization due to procedural infirmities, the Court held that:

x x x It may be true that, as alleged by said respondents, that the proceedings for naturalization were tainted with certain infirmities, fatal or otherwise, but that is beside the point in this case. The jurisdiction of the court to inquire into and rule upon such infirmities must be properly invoked in accordance with the procedure laid down by law. Such procedure is the cancellation of the naturalization certificate. [Section 1(5), Commonwealth Act No. 63], in the manner fixed in Section 18 of Commonwealth Act No. 473, hereinbefore quoted, namely, "upon motion made in the proper proceedings by the Solicitor General or his representatives, or by the proper provincial fiscal." In other words, the initiative must come from these officers, presumably after previous investigation in each particular case.

Clearly, under law and jurisprudence, it is the State, through its representatives designated by statute, that may question the illegally or invalidly procured certificate of naturalization in the appropriate denaturalization proceedings. It is plainly not a matter that may be raised by private persons in an election case involving the naturalized citizen's descendant.

Vilando asserts that as an incident in determining the eligibility of Limkaichong, the HRET, having the plenary, absolute and exclusive jurisdiction to determine her qualifications, can pass upon the efficacy of the certificate of naturalization.

True, the HRET has jurisdiction over *quo warranto* petitions, specifically over cases challenging ineligibility on the ground of lack of citizenship. No less than the 1987 Constitution vests the HRET the authority to be the sole judge of all contests relating to the election, returns and qualifications of its Members. This constitutional power is likewise echoed in the 2004 Rules of the HRET. Rule 14 thereof restates this duty, thus:

Rule 14. Jurisdiction. - The Tribunal is the sole judge of all contests relating to the election, returns, and qualifications of the Members of the House of Representatives.

Time and again, this Court has acknowledged this sole and exclusive jurisdiction of the HRET.^[16] The power granted to HRET by the Constitution is intended to be as complete and unimpaired as if it had remained originally in the legislature.^[17] Such power is regarded as full, clear and complete and excludes the exercise of any authority on the part of this Court that would in any wise restrict it or curtail it or even affect the same.^[18]

Such power of the HRET, no matter how complete and exclusive, does not carry with it the authority to delve into the legality of the judgment of naturalization in the pursuit of disqualifying Limkaichong. To rule otherwise would operate as a collateral attack on the citizenship of the father which, as already stated, is not permissible. The HRET properly resolved the issue with the following ratiocination:

xxx We note that Jocelyn C. Limkaichong, not the father - Julio Ong Sy, is the respondent in the present case. The Tribunal may not dwell on deliberating on the validity of naturalization of the father if only to pursue the end of declaring the daughter as disqualified to hold office.

Unfortunately, much as the Tribunal wants to resolve said issue, it cannot do so because its jurisdiction is limited to the qualification of the proclaimed respondent Limkaichong, being a sitting Member of the Congress.

Evidently, there is no basis to oblige the Tribunal to reopen the naturalization proceedings for a determination of the citizenship of the ascendant of respondent. A petition for *quo warranto* is not a means to achieve that purpose. To rule on this issue in this *quo warranto* proceeding will not only be a clear grave abuse of discretion amounting to a lack or excess of jurisdiction, but also a blatant violation of due process on the part of the persons who will be affected or who are not parties in this case.^[19]