

*Rizalito Y. David,
Petitioner,*

- versus -

*SET CASE No. 001-15
For: Quo Warranto*

*Mary Grace Poe Llamanzares,
Respondent.*

Promulgated : NOV 17 2015
f. J. Llanza

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SEPARATE OPINION

SENATOR LOREN LEGARDA:

The ultimate issue in this landmark case is whether the respondent, incumbent Senator Mary Grace Poe-Llamanzares, is a natural-born citizen of the Philippines and should therefore continue being a member of the Senate, pursuant to a clear mandate granted to her by over 20 million voters in the 2013 national elections. The unsaid gut issue is whether she is qualified to be a candidate for the Presidency of our country. Her natural-born citizenship was questioned only after she had been prominently mentioned as a candidate for the said position, which also requires natural-born citizenship as a qualification.

Her case has attracted a lot of attention in media as well as in legal and political circles. Many esteemed former jurists, scholars, legislators, academicians, law practitioners, journalists and plain citizens have weighed in their opinions on this grave matter of national interest.



The following have written or have been quoted in media opining that the respondent is a natural-born citizen: Retired Chief Justice Artemio V. Panganiban (Philippine Daily Inquirer or PDI, June 14, 21, September 28 and October 24, 2015); Former Senator Rene A. V. Saguisag (PDI, September 20, 2015; Manila Bulletin, September 27 and 28, 2015); Ateneo de Manila Dean Antonio La Viña (Manila Standard, August 08 and November 11, 2015); Atty. Oscar Franklin Tan (June 08 and September 28, 2015); Atty. Romulo B. Macalintal (PDI, October 10, 2015 and his opinions over TV and radio), multi-awarded journalist Jarius Bondoc (Philippine Star, November 16, 2015) and new Philippine citizen Peter Wallace (PDI, October 15, 2015) and others.

On the other hand, the following have written or have been quoted in media saying that respondent is a naturalized, not a natural-born, citizen, or worse, is stateless and therefore has no citizenship at all: former Judge Frank E. Lobrigo (PDI, August 27, September 12 and October 12, 2015), former Representative Edcel Lagman (PDI, September 8, 2015), Professor Harry Roque (Manila Standard, July 2, 2015), former Ambassador Jaime S. Bautista (Manila Times, September 28, 2015), Atty. Joel Ruiz Butuyan (PDI, October 6, 2015), columnist Federico Pascual (Philippine Star, August 04, September 10, 17 and 22, 2015), and others.

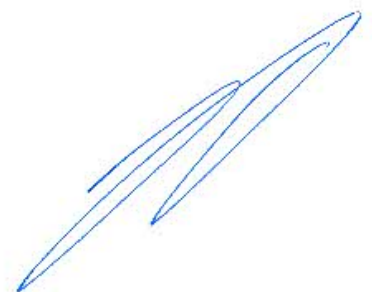
These opinions cite both the 1935 and 1987 Constitutions, various statutes, multilateral conventions and treaties, customary international laws, many Supreme Court decisions, legal authorities and publicists, and even snippets of the oral arguments in this Tribunal. And yet, they reached starkly opposing conclusions.



Indeed, the authorities clash because the issue could be reasoned out legally and politically in equally convincing manner. Which brings me to the Supreme Court en banc case of Juan G. Frivaldo vs. Commission on Elections and Raul R. Lee, decided on June 28, 1996 and published officially in Volume 328, pages 521 to 598 of the Philippine Reports, the repository of all Supreme Court decisions.

The decision was persuasively written by then Associate Justice Artemio V. Panganiban, with a strong concurring opinion from then Associate Justice Reynato S. Puno. The lone dissent was cast by then Associate Justice Hilario G. Davide, Jr. Interestingly, all these three Associate Justices later became Chief Justices. The major lesson, unreversed till now, is that in case of doubt in the interpretation of constitutional and legal provisions involving popular sovereignty, it is best to interpret such provisions in a manner that enables our electorate to elect freely their chosen leader. In resolving the citizenship of the petitioner, the Court said:

"At balance, the question really boils down to a choice of philosophy and perception of how to interpret and apply laws relating to elections: literal or liberal, the letter or the spirit, the naked provision or the ultimate purpose, legal syllogism or substantial justice, in isolation of or in the context of social conditions, harshly against or gently in favor of the voters' choice. In applying election laws, it would be far better to err in favor of popular sovereignty than to be right in complex but little understood legalisms."

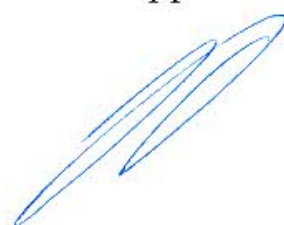


I believe that the foregoing can be applied in the present case. The ultimate question of Senator Poe's citizenship can be said to be capable of various interpretations depending on one's philosophy and perception of how to interpret laws relating to elections. This is shown by the very fact that the Senate Electoral Tribunal itself is sharply divided.

Consequently, I believe that we should interpret the controversial provisions of our 1935 and 1987 Constitutions, several statutes, international treaties and customary international laws to enable our people to express their sovereign supremacy. Verily, in our democracy, the ultimate maxim is *Vox Populi Vox Dei*. I believe that by denying Senator Poe's natural-born citizenship, we would be reversing the will of over 20 million voters. And in the process, we would also be effectively denying our entire electorate the opportunity to select their President freely and democratically.

Lawyers can argue ad infinitum on the legalisms. However, legalisms - however exalted - can always be contradicted by other legalisms. But one thing is obvious: in this case, there is no clear violation of our Constitution or our laws. Only by interpretation can anyone really say that respondent is or is not natural-born. To me, the best solution is to interpret our laws in favor of giving our people the chance to express their will via a free election.

True, our 1935 and 1987 Constitutions were approved by our people in plebiscites and are therefore expressions of their will. However, these Constitutions have no express provisions governing the citizenship of foundlings. Fortunately, this case provides the opportunity



for our people to express themselves clearly in the presidential election on May 9, 2016. Let us give them the chance to settle this debatable issue. In this manner, we likewise open the doors of opportunity to all foundlings, thus, avoid a double injustice to them who without their fault were already deprived of their right to know their biological roots.

Wherefore, I vote to DISMISS the Petition. I vote to uphold the natural-born citizenship of Senator Mary Grace Poe-Llamanzares; she should therefore remain as a member of the Philippine Senate, and ultimately allowed to be one of the candidates to be voted in the coming presidential elections.



LOREN LEGARDA
Member, Senate Electoral Tribunal

NOV 17 2015