

of the COMELEC when it rejected the bids of MAD, Lakas-NUCD, Promdi, Nationalist People's Coalition (NPC) and the Veterans Federation Party (VFP) to be declared winners in the May 2001 party-list elections.<sup>67</sup> The high court stated in its seven page resolution that, "indeed, absent patent error or serious inconsistencies, factual findings of the Comelec are conclusive upon this court."<sup>68</sup> In rejecting for the final time the attempt of the five party-list groups, the Supreme Court held that the "movants (MAD, et al.) have not shown cogent reasons why we should set aside COMELEC's compliance report. The arguments that they raised merely refute, without adequate proof, the findings made by the Commission."<sup>69</sup> Moreover, the high tribunal pointed out that the reason for rejecting the bid of the five party-list groups was that the party-list groups did not meet the requirements laid down by the Party-List Law, nor the guidelines it set in the case of *Ang Bagong Bayani*.<sup>70</sup> According to the findings of the COMELEC, Promdi, NPC and Lakas-NUCD did not represent the marginalized sectors while MAD was funded and assisted by the government and VFP is an "adjunct of the government."<sup>71</sup>

Lakas-NUCD and the Nationalist People's Coalition (NPC), two of the biggest political parties in the country, however, have urged the Supreme Court to reconsider its 10 April 2002 resolution on the basis that the latter may have been unaware of the fact that there was a resolution from the COMELEC promulgated the day before the 10 April 2002 resolution, finding them and two other groups qualified for party-list seats in the House of Representatives.<sup>72</sup> The COMELEC resolution allegedly contained a recommendation to the Supreme Court that the nominees of LAKAS-NUCD and NPC be proclaimed as winners.

67. Delon Porcalla, *Party-list groups lose last bid in SC*, available at <[http://www.philstar.com/philstar/search\\_content.asp?article=74270](http://www.philstar.com/philstar/search_content.asp?article=74270)>. (last visited May 16, 2002).

68. *Id.*

69. *Id.*

70. *Ang Bagong Bayani*, G.R. Nos. 147589 & 147613.

71. Porcalla, *supra* note 65.

72. Jess Diaz, *SC urged to reconsider ruling on party-list seats*, available at <[http://www.philstar.com/philstar/search\\_content.asp?article=75752](http://www.philstar.com/philstar/search_content.asp?article=75752)> (last visited May 18, 2002).

## Bengson III v. HRET: Resolving the Issues on Citizenship and Jurisdiction

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*Bengson III v. House of Representatives Electoral Tribunal and Cruz*<sup>1</sup> is a case which primarily deals with two issues, namely: repatriation as a mode of acquiring Filipino citizenship, and jurisdiction of the House of Representatives Electoral Tribunal (HRET) over election contests. This note attempts to analyze the discussion of the Supreme Court in these two aspects.

### I. CITIZENSHIP

#### A. Introduction

Noted constitutionalist Joaquin G. Bernas, S.J. defines citizenship as a "personal permanent membership in a political community."<sup>2</sup> In one of his

Cite as 47 ATENEO L.J. 127 (2002).

1. G.R. No. 142840 (May 7, 2001).

2. JOAQUIN G. BERNAS, S.J., *THE 1987 PHILIPPINE CONSTITUTION REVIEWER — PRIMER* 197 (1997) [hereinafter BERNAS, PRIMER].

newspaper articles, he also provided the importance of citizenship, especially with regard to one's political rights.

It denotes possession within that particular political community of full civil and political rights subject to special disqualifications such as minority. Reciprocally, it imposes the duty of allegiance to the political community. *The core value of citizenship is the capacity to enjoy political rights; that is, the right to participate in government principally through the right to vote, the right to hold public office, and the right to petition the government for redress of grievances.*<sup>3</sup>

It is with regard to these political rights, specifically the right to hold public office, that controversies over one's citizenship arise. In electoral cases, the winning candidate's citizenship is usually questioned by his losing opponent, in hopes of disqualifying the former. The Supreme Court has decided several cases of this type, among them *Co v. House Electoral Tribunal*,<sup>4</sup> *Fruvaldo v. Comelec*,<sup>5</sup> *Labo v. Comelec*,<sup>6</sup> and *Aznar v. Osmeña*.<sup>7</sup> However, in each of these cases what the Court resolved was the issue of the citizenship of each candidate at the time of his election. *Bengson III v. House of Representatives Electoral Tribunal and Cruz* is unlike any of these cases in that it presents a novel issue: whether a repatriated Filipino citizen reacquires his status as a natural-born citizen.

#### B. The Case

The case stemmed from a petition for certiorari filed by Antonio Bengson III (Bengson) against the House of Representatives Electoral Tribunal (HRET) assailing its declaration of Teodoro C. Cruz (Cruz) as the duly elected representative of the Second District of Pangasinan in the 1998 May elections.

Cruz was a natural born citizen of the Philippines, born in Tarlac on April 27, 1960 to Filipino parents. On November 5, 1985, Cruz enlisted in the United States Marine Corps, and without the consent of the Republic of the Philippines, took an allegiance to the United States. Consequently, he lost his Filipino citizenship, as mandated by Commonwealth Act No. 63.<sup>8</sup>

3. JOAQUIN BERNAS, S.J., *Citizenship, Allegiance, Suffrage*, at <http://www.today.net.ph/> (last visited May 14, 2002) (emphasis supplied).

4. 199 SCRA 692 (1991).

5. 257 SCRA 727(1996).

6. 211 SCRA 297(1992).

7. 185 SCRA 703 (1990).

8. An Act Providing For the Ways in which Philippine Citizenship May be Lost or Reacquired, Commonwealth Act No. 63 (1936).

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

(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 the 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 foreign 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.<sup>9</sup>

Further, in connection with his service in the U.S. Marine Corps, Cruz was naturalized as a US citizen on June 5, 1990. Subsequently, Cruz was repatriated under Republic Act No. 2630<sup>10</sup> on March 17, 1994. 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 margin of 26,671 votes over Bengson.

Bengson filed a case for *Quo Warranto Ad Cautelam* with the HRET, claiming that Cruz failed to meet the constitutional requirements<sup>11</sup> to be a

9. *Id.* 1(4).

10. 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, Republic Act No. 2630 (1960).

11. PHIL. CONST. art. VI, §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

member of the House of Representatives. The HRET dismissed the petition for *quo warranto* and declared Cruz the duly elected Representative of the Second District of Pangasinan. The HRET also denied Bengson's motion for reconsideration. Bengson filed a petition for certiorari with the Supreme Court claiming that Cruz ceased to become a natural-born citizen of the Philippines when he acquired US citizenship and his subsequent repatriation did not restore his status as a natural-born citizen.

### C. The Court's Ruling

In a decision penned by Associate Justice Santiago M. Kapunan, the Supreme Court *en banc* dismissed Bengson's petition. The Court quoted the types of Filipino citizens provided in Article IV of the 1987 Constitution:

SECTION I. 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.<sup>12</sup>

Justice Kapunan quoted noted civilist Arturo M. Tolentino in saying that:

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.<sup>13</sup>

As defined in the Constitution, 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.<sup>14</sup> On the other hand, naturalized citizens are those who have become Filipino citizens through naturalization, generally under the Revised Naturalization Law<sup>15</sup> and by Republic Act no. 530.<sup>16</sup>

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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).

12. PHIL. CONST. art. IV, § 1.

13. *Bengson III*, G.R. No. 142840 at 7.

14. PHIL. CONST. art. IV, § 2.

15. Commonwealth Act No. 473 (1939).

16. An Act Making Additional Provisions for Naturalization, Republic Act No. 530 (1950).

However, Filipino citizens who have lost their citizenship may reacquire the same in three (3) ways: (1) by naturalization, (2) by repatriation, and (3) by direct act of Congress.<sup>17</sup>

In this case, Cruz sought to reacquire his Filipino citizenship via the second method, repatriation, which:

[M]ay be had under various statutes by those who lost their citizenship due to: (1) desertion of the armed forces; (2) service in the armed forces of the allied forces in World War II, (3) service in the Armed Forces of the United States at any other time; (4) marriage of a Filipino woman to an alien; and (5) political and economic necessity.<sup>18</sup>

There is no question as to whether Cruz validly reacquired his Filipino citizenship. The issue here is whether such reacquisition amounted to the restoration of Cruz' status as a natural-born citizen.

In resolving this issue, the Court relied on the effects of repatriation as given by Jovito Salonga in his book, *Private International Law*. According to Salonga, repatriation results in the recovery of the original nationality. Justice Kapunan interpreted this to mean that a natural-born Filipino will be restored to his former status as a natural-born Filipino upon repatriation.<sup>19</sup> "[T]he act of repatriation allows him to recover, or to return to, his original status before he lost his Philippine citizenship."<sup>20</sup>

The Court also declared that "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."<sup>21</sup>

As Cruz had taken his oath of allegiance to the Republic and was registered in the Civil Registry of Magantarem, Pangasinan, the Court deemed Cruz to have recovered his original status as a natural-born citizen.

In drafting his *ponencia*, Justice Kapunan also explained that the Constitution recognizes only two classes of citizens and each citizen would necessarily fall under one or the other.

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

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17. Commonwealth Act No. 63 (1936).

18. *Bengson III*, G.R. No. 142840 at 9-10.

19. *Id.* at 11.

20. See generally JOVITO R. SALONGA, *PRIVATE INTERNATIONAL LAW* 165 (1995).

21. *Id.* at 10.

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 therefore 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, he is performe a natural-born Filipino.<sup>22</sup>

Hence, the Court ruled that Cruz possessed all the necessary qualifications to be elected as a member of the House of Representatives.

#### D. Mr. Justice Panganiban's Concurring Opinion

In concurring with the majority, Justice Panganiban relied on four points: (1) repatriation is recovery of original citizenship; (2) not being naturalized, Cruz is natural-born; (3) in case of doubt, under the rules on statutory construction, popular will prevails; and (4) today's current trend is towards globalization.

Since repatriation is the recovery of citizenship, Justice Panganiban believes that repatriation is a restoration of one's former or original citizenship and not a grant of a new citizenship. Since Cruz merely reacquired his status prior to becoming a US citizen, it would not be consistent with the legal and ordinary meaning of repatriation to say that Cruz is not a natural-born citizen. He based this from the simplistic legal and primary definition given to this simple procedure of reacquiring citizenship by Senator Salonga and Webster.

In discussing his second point, Justice Panganiban reiterated the decision of the majority in saying that only naturalized Filipino citizens are not considered as natural-born citizens.<sup>23</sup> Since the Constitution does not classify repatriates separately, they naturally acquire their original classification before the loss of their Philippine citizenship. Thus, Cruz — being clearly and concededly not naturalized — reacquired his former status and is therefore a natural-born citizen of the Philippines.

He then continued to state that even if there is any doubt left that repatriation did not restore the private respondent's natural citizenship, rules on statutory construction clarify any and all ambiguity in his favor. To better understand Justice Panganiban's opinion, it is best to consider his concurring

22. *Bengson III*, G.R. No. 142840 at 13-14.

23. *Id.* (Panganiban, J., concurring).

opinion in *Frivaldo v. Comelec*,<sup>24</sup> which clearly shows his ideology in resolving questions surrounding election cases.

This Court has time and again liberally and equitably construed the electoral laws of our country to give fullest effect to the manifest will of our people, for in case of doubt, political laws must be interpreted to give life and spirit to the popular mandate freely expressed through the ballot. Otherwise stated, legal niceties and technicalities cannot stand in the way of the sovereign will. Consistently, we have held: . . . [L]aws governing election contests must be liberally construed to the end that the will of the people in the choice of public officials may not be defeated by mere technical objections." 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. The real essence of justice does not emanate from quibbling over patchwork legal technicality. It proceeds from the spirit's gut consciousness of the dynamic role of law as a brick in the ultimate development of the social edifice. Thus, the Court struggled against and eschewed the easy, legalistic, technical and sometimes harsh anachronisms of the law in order to evoke substantial justice in the larger social context consistent with Frivaldo's unique situation approximating venerability in Philippine political life.

Justice Panganiban also adheres to the Court's ruling in *Roa v. Collector of Customs*,<sup>25</sup> which states that laws regulating citizenship should receive a liberal construction in favor of the claimant of it. In *Roa* the question which the court resolved was whether Tranquilino Roa, who was of Chinese lineage but born in the Philippines, had a right to reenter and reside in the Philippines. When Roa was born to a Chinaman and Filipina, the Philippines was subscribing to both the principles of *jus soli* and *jus sanguinis*.<sup>26</sup> Roa asserted the right to return and reside in the Philippines after pursuing his studies in China. However, the Collector of Customs took custody of Roa and prepared him for deportation after the Board of Special

24. 257 SCRA 727(1996).

25. 23 Phil. 315 (1912).

26. SP. CIV. CODE art. 17. The following are Spaniards: 1. Persons born in Spanish territory; 2. Children of a Spanish father or mother, even though they were born out of Spain; 3. Foreigners who may have obtained naturalization papers; 4. Those who, without said papers, may have acquired a domicile in any town of the Monarchy.

Inquiry found that he was a subject of the Emperor of China and was not entitled to reside in the Philippine Islands. However, the Supreme Court ruled that Roa was a citizen of the Philippines. The Court through Justice Trent resolved the problem of how to construe the limiting provision of section 4 of the Philippine Bill of 1902 which limited the time for a Spanish subject to elect to be a citizen of the Philippines. Trent followed the principle used by American courts in construing similar provisions, which is construing it in favor of the claimant. He wrote that laws regulating citizenship should be receive a liberal construction in favor of the claimant of it, which in the case of Roa was never intended by Congress that the said section to deprive Philippine citizenship persons similarly situated.<sup>27</sup>

After advocating for a liberal construction of repatriation Justice Panganiban opines that political parochialism should give way to globalization. He writes that:

*Fifth*, the current trend, economically as well as politically, is towards globalization. Protectionists barriers are being dismantled. Whereas, in the past, government 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.<sup>28</sup>

In sum, Justice Panganiban held that the petition was without merit for the reason the House of Representatives Electoral Tribunal did not commit any abuse of discretion in holding that by reason of Respondent Cruz's repatriation he regained his status as a natural born citizen. First, Panganiban reiterated that by reason of the concept of repatriation a natural born Filipino, such as the private respondent, may reacquire said status through a simple procedure. Second, he shortly discussed the concept and historical development of the distinction between natural-born and naturalized citizenship. Then, he stressed that the main issue should be resolved in favor of the private respondent because he won the election by a very large margin, and to hold otherwise would be contrary to the well-entrenched jurisprudential doctrine that in case of doubt, political laws must be construed as to give life and spirit to the popular mandate freely expressed through the ballot.<sup>29</sup> Lastly, Justice Panganiban pointed out that since there is a trend toward globalization in areas of economics and politics, the Government should open its doors to former Filipinos such as the private respondent who wish to serve the Philippines as a citizen.

27. *Roa*, 23 Phil. at 338-39.

28. *Bengson III*, G.R. No. 142840 at 14 (Panganiban, J., concurring).

29. *Id.* (citing *Frialdo v. Comelec*, 257 SCRA 727 (1996)).

#### *E. Mme. Justice Sandoval-Gutierrez's Dissenting Opinion*

As the cliché goes, there are two sides to every story. The main opinion penned by the distinguished Justice Santiago Kapunan was concurred in by all but one of the members of the Supreme Court. Amidst the almost landslide acceptance of the ratio of the decision lies the dissenting opinion of Justice Sandoval-Gutierrez. In her dissenting piece, she regards the majority's proffered answer to the central question: "who are natural-born citizens?" with sufficient critical analysis to raise a poignant and genuine puzzle.

Section 6, Article VI of the Constitution clearly provides that: "No person shall be a member of the House of Representatives unless he is a natural-born citizen of the Philippines." Ineluctably tied to this provision is Section 2, Article IV on Citizenship, which states that: "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."<sup>30</sup> These two provisions taken together form the backbone of the dissenting opinion. With these provisions in mind, Justice Sandoval-Gutierrez questions the HRET decision holding that Cruz reacquired his natural-born citizenship upon his repatriation in 1994, and the Supreme Court majority that found no grave abuse of discretion amounting to excess of jurisdiction on the part of the HRET.

At the outset, the conflicting points were apparent and straightforward. It was the opposing interpretation of the phrase "from birth" contained in Section 2, Article IV that fueled the controversy. The petitioner Bengson contends that the phrase "from birth" indicates that citizenship must start at a definite point and must be continuous, constant, and without interruption. Thus, the Constitution does not extend the privilege of reacquiring a natural-born citizen status to the respondent Cruz, who at one time, became an alien.<sup>31</sup> As Cruz had to comply with the requirements for repatriation, he was effectively taken out of the constitutional definition of a natural-born Filipino.<sup>32</sup> As earlier discussed in this note, the respondent Cruz maintains that the phrase "from birth" refers to the innate, inherent, and inborn characteristic of being a "natural-born." With this quality, Cruz's reacquisition of his Philippine citizenship under Republic Act No. 2630 would result in his reacquisition of his inherent characteristic of being a natural-born citizen.<sup>33</sup>

30. Emphasis supplied.

31. *Bengson III*, G.R. No. 142840 at 6 (Sandoval-Gutierrez, J., dissenting).

32. *Id.*

33. *Id.* at 7.

F. *The History of the Juristic Concept of a "Natural-Born" Citizen*

Justice Sandoval-Gutierrez starts by asserting the basic premise that the very first natural-born Filipinos did not acquire that status at birth. The very first natural-born Filipinos were born as Spanish subjects. Their natural-born status is derived from the Treaty of Paris, and the Acts of Congress of July 1, 1902 and March 23, 1912.<sup>34</sup> Of historical interest is the Philippine Bill of 1902, which was a mass naturalization law making Filipino citizens of "all inhabitants of the Philippines Islands continuing to reside in them who were Spanish subjects" on 11 April 1899 "and then resided in said islands."<sup>35</sup> The first definition of "citizens of the Philippine Islands" in our law is found in Section 4 of the said bill.<sup>36</sup> Hence, Philippine citizenship, including the status of natural-born, was initially a loose or even non-existent qualification. Nonetheless, 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.<sup>37</sup> Moreover, it could be seen that 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.<sup>38</sup> 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.

34. *Id.* The Act of Congress of March 23, 1912 is a reenactment of Section 4 of the Act of Congress of July 1, 1902, 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 possession 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." *Id.* "Every person born after the 11TH 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."

35. JOAQUIN G. BERNAS, S.J., *THE 1987 CONSTITUTION OF THE REPUBLIC OF THE PHILIPPINES: A COMMENTARY* 566 (1996) [hereinafter BERNAS, COMMENTARY].

36. *Bengson III*, G.R. No. 142840 (Sandoval-Gutierrez, J., dissenting). 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.

37. *Id.* at 8.

38. *Id.* at 9 (emphasis supplied).

G. *Assailing the Majority Opinion*

The majority upheld the contention of respondent Cruz over that of the petitioner. Cruz alleged that since he was a natural-born Filipino, having been born in the Philippines to Filipino parents, he was automatically restored to that status when he reacquired his citizenship by repatriation under the auspices of Republic Act No. 2630.<sup>39</sup> The majority had no trouble in finding that repatriation results in the recovery of the original nationality.<sup>40</sup>

From an analysis of Section 1, Article IV<sup>41</sup> of the Constitution, the HRET held that such section reveals only two classes of citizens: the natural-born and the naturalized. The main opinion refers to Section 2, Article IV of the Constitution, the last sentence adding: "those who elect Philippine citizenship in accordance with paragraph (3), Section 1 hereof shall be deemed natural-born citizens." Consequently, only naturalized Filipinos are not considered natural-born citizens.<sup>42</sup> By deduction, since respondent Cruz was not a naturalized citizen, then he was a natural-born citizen.<sup>43</sup> Indeed, a citizen who is not a naturalized Filipino, i.e., did not have to undergo the process of naturalization to obtain Philippine citizenship is necessarily a natural-born Filipino.<sup>44</sup> This conclusion was supported by fourteen other members of the bench.

Justice Sandoval-Gutierrez once again calls to attention Section 2, Article IV of the Constitution. It defines natural-born citizens as "those citizens of the Philippines from birth without having to perform any act to acquire or perfect their Philippine citizenship." A perusal of Section 1 of Republic Act No. 2630<sup>45</sup> reveals that respondent Cruz had to perform certain acts before

39. 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, Republic Act No. 2630 (1960).

40. *Bengson III*, G.R. No. 142840 at 11.

41. SECTION 1. The following are citizens of the Philippines:

- (1) Those who are citizens of the Philippines at the time of the adoption of the 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.

42. *Bengson III*, G.R. No. 142840 at 13.

43. *Id.* at 10 (Sandoval-Gutierrez, J., dissenting).

44. *Id.* at 13-14.

45. 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,

he could regain Filipino citizenship. Specifically, it required him to take an oath of allegiance to the Republic of the Philippines and to register the same with the Local Civil Registry, such oath of allegiance containing a renunciation of any other citizenship.

In the dissent, adherence to the basic rules of Constitutional construction was repeatedly stressed. 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 significant and import and must be understood in the sense most obvious to the common understanding of the people at the time of its adoption.<sup>46</sup> In *J.M. Tuason & Co., Inc. v. Land Tenure Administration*,<sup>47</sup> the 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 attached to them prevails. xxx [I]t's language should be understood in the sense they have in common use.

With the foregoing pronouncement in mind, the definition of a natural-born citizen in the Constitution must be applied to this petition according to its natural sense.<sup>48</sup> This provision is precise, clear, and definite. Thus accordingly, neither the HRET nor the Supreme Court could construe it other than what its plain meaning conveys. Furthermore, if citizenship is gained through repatriation or legislation, the citizen concerned cannot be considered natural-born. Obviously, he has to perform certain acts to become a citizen.<sup>49</sup> In fact, both Justice Jose C. Vitug and Justice Jose A. R. Melo, member and Chairman of the HRET respectively, dissented in the HRET decision. As expressed in Justice Vitug's dissent:

Repatriation is the resumption or recovery of the original nationality upon the fulfillment of certain conditions. [A]n applicant 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. [T]o be considered a natural-born citizen

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.

46. *Bengson III*, G.R. No. 142840 at 11 (Sandoval-Gutierrez, J., dissenting).

47. 31 SCRA 413, 422-23 (1970).

48. *Bengson III*, G.R. No. 142840 at 12 (Sandoval-Gutierrez, J., dissenting).

49. *Id.* at 13.

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.<sup>50</sup>

Justice Sandoval-Gutierrez proceeds to state that the reason for the requirement of natural-born is intended to provide a more stringent citizenship requirement for higher elective offices, including that of the office of a Congressman. Indeed, the history of the Constitution shows that the meaning and application of the requirement of being natural-born has become more narrow and qualified over the years.<sup>51</sup> Accordingly, the questioned Decision of the HRET reverses the historical trend and clear intent of the Constitution. It is a cavalier approach to the meaning and import of natural-born citizen and citizenship in general.<sup>52</sup>

#### H. Analysis

An analysis of the rulings of the Supreme Court shows that there are certain irregularities or inconsistencies in its decision-making pertaining to the application of the rules on statutory construction and the trend towards globalization. Moreover, the dissenting opinion of Justice Sandoval-Gutierrez further illustrates the discrepancy as to the Supreme Court's treatment of repatriation as a mode of reacquisition of Filipino citizenship.

Although *Frialdo* and *Roa* present a basis for liberal construction to laws regulating citizenship, other decisions of the Supreme Court show that some degree of care should be exercised in interpreting such laws.<sup>53</sup> Like the doctrine in *Roa*, the rule that laws providing qualifications and disqualifications should be strictly construed is also established.<sup>54</sup> For example, when there is doubt as to an applicant's qualification and absence of disqualification, his application for naturalization should be denied. In another instance the Supreme Court has had occasion to hold that procedural and substantive requirements should be complied with before a person claiming to be a Filipino may be repatriated because otherwise repatriation will open the gates to citizenship to those not entitled to it.<sup>55</sup> This policy is understandable because when an individual is granted citizenship, complete civil and political rights vest in him, which will allow

50. *Id.*

51. *Id.* at 16.

52. *Id.*

53. *Ochate v. Deling*, 105 Phil. 384 (1959); *Cornejo v. Naval*, 54 Phil. 809 (1930); *Hebron v. Reyes*, 104 Phil. 175 (1958); *Villena v. Roque*, 93 Phil. 363 (1953); *Cu v. Republic*, 115 Phil. 600 (1962).

54. RUBEN AGPALO, STATUTORY CONSTRUCTION 301(4TH ed., 1998).

55. *People v. Avengonza*, 119 SCRA 1 (1982).

him to participate in activities greatly affecting the Philippines. The core of citizenship is the capacity to enjoy political rights, that is the right to participate in government principally through the right to vote, the right to hold public office, and the right to petition the government for redress of grievances.<sup>56</sup> Hence, to accept plainly that laws regulating citizenship should be construed liberally without qualifications would lower the guard protecting the few rights and privileges reserved to Filipinos by allowing applicants to easily become citizens. Therefore, Justice Panganiban's sweeping statement should be read with caution and mindful of the reasons why some rights are reserved for citizens.

Although the trend towards globalization presents a fresh view on the future of municipal politics, Justice Panganiban in his concurring opinion states the same without giving evidence that this is a trend or developing custom. His conclusion for such political change is based merely on economic reasoning. Furthermore, even if there is a growing movement for Filipinos abroad to exercise their political rights, such as the strong move for the passage of Absentee Voters Act, which will allow the millions of Filipinos overseas to exercise their right to elect public officials, this is still not evidence that there is a cry to have the so-called "protectionist barriers", such as restriction of public offices to Filipinos or natural born Filipinos, to be removed.

The dissenting opinion, on the other hand, espouses a well-supported thesis which finds its foundation in sound fundamental Constitutional construction, as well as analogous jurisprudence. It should be remembered that the controversy in the present case is a novel one. It was only in *Bengson* that the Court was called to resolve this issue definitively. Earlier decisions such as *Frialdo v. COMELEC*<sup>57</sup> touched on the matter, however tangentially. Although the effect of repatriation was in question therein, *Frialdo* concerned itself with the elective post of a governor, not a member of the House of Representatives. Thus, *Bengson* could be an indication of how the court is inclined to resolve future controversies of the same tenor. Whatever the decision signifies, however, the rule of law is to be the abiding principle. It is with this in mind that the following analysis is presented.

In his primer on the 1987 Philippine Constitution, renowned Constitutionalist Fr. Joaquin Bernas, S.J. deals with the same central question as in this present case. He asks: "does a natural-born Filipino citizen who loses his citizenship but subsequently reacquires it remain a natural-born citizen?" To this, his answer is a resounding negative, based on the first sentence of Section 2, Article IV<sup>58</sup> of the Constitution. Fr. Bernas further

56. BERNAS, COMMENTARY, *supra* note 35, at 558-59.

57. 174 SCRA 245 (1989).

58. BERNAS, PRIMER, *supra* note 2, at 202.

submits that, whether under the 1973 or the 1987 provision, such person would not be a natural-born Filipino.<sup>59</sup> It should be noted that an identical answer to the same question was given in the meeting of the 166-Man Special Committee, held on the 16<sup>TH</sup> of November 1972.<sup>60</sup> Clearly, absent any abrogation of this concept, such was and still remains to this day, the underlying intention of the framers of the 1987 Constitution. It is an intention to be respected in meaning and operation. The only other way to change this interpretation would be through an amendment of the constitution, specifically adverting to the interpretation taken by the majority.

In *King v. Hernaez*,<sup>61</sup> the Supreme Court held that under the Constitution and laws of the Philippines, there is no difference between a natural-born citizen and a naturalized citizen, with the possible exception, as provided by the Constitution, that while the former can be President, Vice-President or member of Congress, the latter cannot. But outside of these exceptions, they have the same rights and privileges. Yet, it is precisely due to the distinction between natural-born citizens and naturalized citizens that differentiation is required in these cases. The Constitution has reserved certain constitutional offices for natural-born citizens only.

Under Commonwealth Act No. 63 as amended by Commonwealth Act No. 473<sup>62</sup> and Presidential Decree No. 725,<sup>63</sup> Philippine citizenship may be reacquired by direct act of Congress, by naturalization, or by repatriation. Reacquisition of citizenship is provided for deserters of the Army, Navy or Air Corps and women who have lost their citizenship by reason of marriage to aliens. Section 4 states that: "Repatriation shall be effected by merely taking the necessary oath of allegiance to the Republic of the Philippines and registration in the proper civil registry." Meanwhile, Republic Act No. 2630 is 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. The procedure for repatriation remained the same.

The majority opinion held that 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.<sup>64</sup> Yet, a perusal of law and

59. BERNAS, COMMENTARY, *supra* note 35, at 570.

60. *Id.*

61. 4 SCRA 792 (1962).

62. The Revised Naturalization Law, Commonwealth Act No. 473 (1939).

63. Providing for Repatriation of Filipino Women Who Had Lost Their Philippine Citizenship by Marriage to Aliens and of Natural Born Filipinos, Presidential Decree No. 725 (1975).

64. *Bengson III*, G.R. No. 142840 at 14.

jurisprudence shows that the procedure of repatriation is not as simple as filing an oath of allegiance in the Local Civil Registrar. While the procedure may seem mechanical under the law, specifically Section 4 of Commonwealth Act No. 63 as amended, there is more to the matter. Even if not as cumbersome as naturalization proceedings, repatriation procedures represent a system and mechanism that is mandatory for the reacquisition of citizenship. If it is such, then the former citizen undergoing repatriation can, by no means, be considered a natural-born citizen for the Constitution defines the latter class of citizens as those "who are citizens from birth without having to perform any act to acquire or perfect their Philippine citizenship." The purely mechanical and administrative view of repatriation was criticized by the court in *Frialdo*.<sup>65</sup> In that case the Supreme Court held:

He [Frialdo] contends that by simply filing his certificate of candidacy he had, without more, already effectively recovered Philippine citizenship. But that is hardly the formal declaration the law envisions — surely, Philippine citizenship previously disowned is not that cheaply recovered.

It is true as the petitioner points out that the status of the natural-born citizen is favored by the Constitution and our laws, which is all the more reason why it should be treasured like a pearl of great price. *But once it is surrendered and renounced, the gift is gone and cannot be lightly restored.* This country of ours, for all its difficulties and limitations, is like a jealous and possessive mother. Once rejected, it is not quick to welcome back with eager arms its prodigal if repentant children. The returning renegade must show, by an express and unequivocal act, the renewal of his loyalty and love.<sup>66</sup>

In *People v. Avengoza*,<sup>67</sup> the Supreme Court stated that Section 4 of Commonwealth Act No. 63 provides that a would-be repatriate should show by conclusive evidence that he or she has the qualifications to be so repatriated. Without such conclusive proof, he or she has to file with the proper Court of First Instance a petition for repatriation. In that case, Anselma Avengoza's sole evidence on record to support her repatriation was her oath of allegiance to the Republic of the Philippines filed with the local civil registry. No evidence had been presented to show conclusively that she had the right to be repatriated under the law. Anselma, who became an alien by reason of her lawful marriage to a Chinese citizen should have first proved her Philippine citizenship previous to her marriage and as there was no conclusive proof of this matter on record, this question had to be judicially determined before she could be legally repatriated.

65. *Frialdo*, 174 SCRA at 254.

66. Emphasis supplied.

67. *Avengoza*, 119 SCRA, at 3 (1982).

The court in *Avengoza* also referred to the Rules and Regulations issued by the Department of Justice on July 1, 1937, pursuant to Section 5 of Commonwealth Act No. 63 governing the reacquisition of Philippine citizenship. It provides:

Rule 3. Any person who has lost his or her Philippine citizenship in any of the following ways and/or events:

1. By having been declared, by competent authority, a deserter of the Philippine Army, Navy, or Air corps in time of war, unless subsequently a plenary pardon or amnesty has been granted; and
2. In the case of a woman, upon her marriage to a foreigner if, by virtue of the law in force in her husband's country, she acquires his nationality.

Anyone wishing to reacquire his or her Philippine citizenship by repatriation under the provisions of Commonwealth Act No. 63, shall file an application with any Court of First Instance setting forth his name and surname; his present and former places of residences; his occupation; the place and date of his birth; whether single or married, in the case of deserter of the Army, Navy, or Air Corps, and if married, the name, age; and birth place, and residence of his wife and each of the children. In the case of a woman who lost her Philippine citizenship by reason of her marriage to an alien, the applicant shall state the date and place of her marriage, the nationality of her former husband, and the cause of the dissolution of the marriage. The petition must be supported by the affidavit of at least two persons stating that they are citizens of the Philippine Islands, and that said petitioner, in their opinion, has all the qualifications necessary to be repatriated. If after the hearing the court believes in view of the evidence taken that the petitioner has all the qualifications required by Commonwealth Act No. 63, it shall require the petitioner to take in open court the following oath of allegiance: . . . and shall order the registration of such oath in the proper civil registry through the clerk of court.

*Avengoza* was decided in 1982, after the enactment of Republic Act No. 106 (1947),<sup>68</sup> Republic Act No. 2630 (1960), and the promulgation of Presidential Decree No. 725 (1975). There is reason to believe that such a procedure as prescribed in the rules of the Department of Justice, or an analogous one, must still be followed for a successful repatriation. Under the operation of Presidential Decree No. 725, citizenship may be reacquired through repatriation by *applying* with the Special Committee on Naturalization created by Letter of Instructions No. 270, and, *if their applications are approved*, taking the necessary oath of allegiance to the Republic of the Philippines. This technical nature of repatriation under the

68. An Act to Amend Section One of Commonwealth Act Numbered Sixty-Three, entitled An Act Providing for the Ways In Which Philippine Citizenship May Be Lost or Reacquired, Republic Act No. 106 (1947).

law underscores the difficulty in reconciling the category of repatriates with the category of natural-born citizens.

Ten years later, in *Lobo, Jr. v. Comelec*,<sup>69</sup> the court once again expressed its opinion regarding the technical nature of repatriation, thus:

Petitioner claims that he has reacquired his Filipino citizenship by citing his application for reacquisition of Philippine citizenship filed before the Office of the Solicitor General pursuant to PD 725 and Letter of Instruction No. 270. To date, however, and despite favorable recommendation by the Solicitor General, the Special Committee on Naturalization has [not] yet acted upon said application for repatriation. Indeed, such fact is even admitted by petitioner. In the absence of any official action or approval by the proper authorities, a mere application for repatriation does not, and cannot, amount to an automatic reacquisition of the applicant's Philippine citizenship.

That Bengson had seemingly been chosen by the electorate could not, and should not alter the disposition of the case. The mere fact that Cruz won by a convincingly wide margin of 26,671 votes over petitioner Bengson does not excuse Cruz' lack of the constitutionally mandated qualification for a seat in Congress. Thus, in *Frivaldo*,<sup>70</sup> the Supreme Court held that:

The fact that he [Frivaldo] was elected by the people of Sorsogon does not excuse this patent violation of the salutary rule limiting public office and employment only to the citizens of this country. The qualifications prescribed for elective office cannot be erased by the electorate alone. The will of the people as expressed through the ballot cannot cure the vice of ineligibility, especially if they mistakenly believed, as in this case, that the candidate was qualified. Obviously, this rule requires strict application when the deficiency is lack of citizenship.

## II. JURISDICTION OF HOUSE OF REPRESENTATIVES ELECTORAL TRIBUNAL

### A. Introduction

Article VI, Section 17 of the 1987 Constitution states that "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...."<sup>71</sup> Its original provision is found in Section 7, paragraph 5, of the Act of the United States Congress of July 1, 1902, which provides that "the assembly shall be the judge of the elections, returns, and qualifications of its members." This provision, however, was

also taken from Article 1, Section 5 of the Constitution of the United States, which provides that: "Each House shall be the Judge of the Elections, Returns, and Qualifications of its own Members..." In 1916, the United States Congress modified the Act of 1902 through the Act of the United States Congress of Aug. 29, 1916, Section 18, Paragraph 1, which reads "That the Senate and House of Representatives, respectively, shall be the sole judges of the elections, returns, and qualifications of their elective members..." This modification had the effect of emphasizing the exclusive character of the jurisdiction conferred upon each House.<sup>72</sup>

This exclusive character of the jurisdiction of the Electoral Tribunal is explained in *Angara v. Electoral Commission*.<sup>73</sup> *Angara* states that the separation of powers as mandated in the Constitution is a fundamental principle in the Philippine system of government: "Each department of the government has exclusive cognizance of matters within its jurisdiction, and is supreme within its own sphere." However, the Constitution has provided for a system of checks and balances. In cases of conflict, the judicial department is the department called upon to determine the proper allocation and exercise of powers of each department. With respect to the power of determining the election, returns and qualifications of the members of the Legislature, the transfer of such power exclusively to the Legislature has long been practiced.

As early as 1868, the House of Commons in England solved the problem of insuring the non-partisan settlement of the controverted elections of its members by abdicating its prerogative to two judges of the King's Bench of the High Court of Justice selected from a rota in accordance with rules of court made for the purpose. Having proved successful, the practice has become imbedded in English jurisprudence (Parliamentary Elections Act, 1868 [31 & 32 Vict. c. 125] as amended by Parliamentary Elections and Corrupt Practices Act, 1879 [42 & 43 Vict. c. 75], s. 2; Corrupt and Illegal Practices Prevention Act 1883 [46 & 47 Vict. c. 51], s. 70; Expiring Laws Continuance Act, 1911 [1 & 2 Geo. 5, c. 22]; Laws of England, vol. XII, p. 408, vol. XXI, p. 787). In the Dominion of Canada, election contests which were originally heard by the Committee of the House of Commons, are since 1922 tried in the courts. Likewise, in the Commonwealth of Australia, election contests which were originally determined by each house, are since 1922 tried in the High Court. In Hungary, the organic law provides that all protests against the election of members of the Upper House of Diet are to be resolved by the Supreme Administrative Court (Law 22 of 1916, chap. 2, art. 37, par. 6). The Constitution of Poland of March 17, 1921 (art. 19) and the Constitution of the Free City of Danzig of May 13, 1922 (art. 10) vest the authority to decide contested elections to the Diet or National Assembly in the Supreme Court. For the purpose of

69. 211 SCRA 297 (1992).

70. *Frivaldo*, 174 SCRA at 255 (1989).

71. PHIL. CONST. art. VI, § 17.

72. BERNAS, COMMENTARY, *supra* note 35, at 665-66 (emphasis supplied).

73. 63 Phil 139 (1936).

deciding legislative contests, the Constitution of the German Reich of July 1, 1919 (art. 31), the Constitution of the Czechoslovak Republic of February 29, 1920 (art. 19) and the Constitution of the Grecian Republic of June 2, 1927 (art. 43) all provide for an Electoral Commission.<sup>74</sup>

Furthermore, *Angara* discusses the deliberations of the Constitutional Convention where it is made evident that the purpose of the Constitutional Commission was to transfer in its totality all the powers previously exercised by the Legislature in matters pertaining to contested elections of its members, to an independent and impartial tribunal, specifically the Electoral Tribunal.

It was not so much the knowledge and appreciation of contemporary constitutional precedents, however, as the long-felt need of determining legislative contests devoid of partisan considerations which prompted the people acting through their delegates to the Convention to provide for this body known as the Electoral Commission. With this end in view, a composite body in which both the majority and minority parties are equally represented to off-set partisan influence in its deliberations was created, and further endowed with judicial temper by including in its membership three justices of the Supreme Court.<sup>75</sup>

Thus, *Angara* concludes that:

The Electoral Commission is a constitutional creation, invested with the necessary authority in the performance and execution of the limited and specific function assigned to it by the Constitution. Although it is not a power in our tripartite scheme of government, it is, to all intents and purposes, when acting within the limits of its authority, an independent organ. It is, to be sure, closer to the legislative department than to any other. The location of the provision (sec. 4) creating the Electoral Commission under Article VI entitled "Legislative Department" of our Constitution is very indicative. Its composition is also significant in that it is constituted by a majority of members of the Legislature. But it is a body separate from and independent of the Legislature.

The grant of power to the Electoral Commission to judge all contests relating to the election, returns and qualifications of members of the National Assembly, is intended to be as complete and unimpaired as if it had remained originally in the Legislature. The express lodging of that power in the Electoral Commission is an implied denial of the exercise of that power by the National Assembly. And this is as effective a restriction upon the legislative power as an express prohibition in the constitution.<sup>76</sup>

Moreover, the independence of the HRET as a constitutional body has time and again been upheld by this Court in many cases.<sup>77</sup>

However, the effect of this constitutional provision was not to divest the legislature of all power relative to the election, returns, and qualifications of its members and thus render it powerless to protect its own integrity. What was transferred to the Electoral Commission was merely the power to be the "sole judge of all contests."<sup>78</sup> The case of *Vera v. Avelino*<sup>79</sup> states that:

The Convention did not intend to give it all the functions of the Assembly on the subject of election and qualifications of its members. The distinction is not without a difference. "As used in constitutional provisions," election contest "relates only to statutory contests in which the contestant seeks not only to oust the intruder, but also to have himself inducted into office."

Therefore, according to *Vera*, if a winning candidate is not challenged by a defeated candidate on the ground of the credentials of a member in order not only to remove him from his seat but also to take his seat, the Legislature, in its inherent right to self-preservation may inquire into the credentials of any member and the latter's right to participate in its deliberations. The authority of the Electoral Tribunal, as circumscribed by the Constitutional Convention, is only in relation to election contests and does not extend to all the functions of the Assembly on the subject of election and qualifications of its members. Thus, the House or Senate, for example, retains the authority to defer the oath-taking of any of its members, pending an election contest.

In light of the extent of the power and jurisdiction of the Electoral Tribunal, the Constitution establishes a system of checks and balances, which is lodged in the Judicial Department. This power is found in Article VIII, Section 1 of the 1987 Constitution, which states that:

Judicial power includes the duty of the courts of justice to settle actual controversies involving rights which are legally demandable and enforceable, and to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government.

This means that judicial review of the rulings of the various government departments is limited to "whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government." As such, political questions,

77. *Lerias v. HRET*, 202 SCRA 808 (1991) (citing *Lezatin v. House Electoral Tribunal*, 168 SCRA 391 (1988)); *Robles v. House of Representatives Electoral Tribunal*, 181 SCRA 780 (1990).

78. BERNAS, COMMENTARY, *supra* note 35, at 665-66.

79. 77 Phil. 192, 209 (1946).

74. *Id.* at 162.

75. *Id.*

76. *Id.*

which are matters of "internal discipline within Congress when acts of Congress do not involve impairment of private rights," are beyond judicial review.<sup>80</sup>

Judicial review of decisions or final resolutions of the HRET is possible only in the exercise of this Court's so-called "extra-ordinary jurisdiction" — upon a determination that the tribunal's decision or resolution was rendered without or in excess of its jurisdiction or with grave abuse of discretion or upon a clear showing of such arbitrary and improvident use by the Tribunal of its power as constitutes a denial of due process of law, or upon a demonstration of a very clear unmitigated error, manifestly constituting such a grave abuse of discretion that there has to be a remedy for such abuse. Then only where such grave abuse of discretion is clearly shown that the Court interferes with the HRET's judgment or decision.<sup>81</sup>

Several cases have defined the meaning of the phrase "grave abuse of discretion."<sup>82</sup> One of these cases is *Sinon v. Civil Service Commission*,<sup>83</sup> which stated that:

By grave abuse of discretion is meant such capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction. The abuse of discretion must be patent and gross as to amount to an evasion of positive duty or a virtual refusal to perform a duty enjoined by law, or to act at all in contemplation of law, as where the power is exercised in an arbitrary and despotic manner by reason of passion or hostility.

#### B. Facts

The case stemmed from a petition for certiorari filed by Antonio Bengson III (Bengson) against the House of Representatives Electoral Tribunal (HRET) assailing its declaration of Teodoro C. Cruz (Cruz) as the duly elected representative of the Second District of Pangasinan in the 1998 May elections.

Cruz ran for and was elected as the Representative of the Second District of Pangasinan in the May 11, 1998 elections. Subsequently, Bengson filed a case for *Quo Warranto Ad Cautelam* with the HRET claiming that

80. BERNAS, COMMENTARY, *supra* note 35, at 831-32.

81. *Lenas*, 202 SCRA at 810 (citations omitted).

82. *Hamoy v. Hon. Sec. Of Agriculture*, 106 Phil. 1046 (1960). There is grave abuse of discretion justifying the issuance of the writ of certiorari, when there is a capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction, as where the power is exercised in an arbitrary or despotic manner by reason of passion, prejudice, or personal hostility amounting to an evasion of positive duty or to a virtual refusal to perform the duty enjoined, or to act at all in contemplation of law (footnote omitted).

83. 215 SCRA 410, 416-17 (1992).

Cruz was not qualified to become a member of the House of Representatives, since he was not a natural-born citizen as required by Art. VI, Sec. 6 of the 1987 Constitution.

On March 2, 2000, the HRET rendered its decision dismissing the petition for *quo warranto* and declaring Cruz the duly elected Representative of the Second District of Pangasinan. The HRET also dismissed Bengson's motion for reconsideration of its decision. Hence, the petition for certiorari was filed by Bengson in the Supreme Court.

#### C. The Court's Ruling

The Supreme Court decision, as penned by Justice Kapunan, ruled that the HRET had jurisdiction over the election contest of Bengson. It, further, ruled that the HRET did not commit grave abuse of discretion in the absence of which the Supreme Court had no occasion or right to correct or annul the decision of the HRET.

The decision states that:

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. 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>84</sup>

There being no exact definition of repatriation, the HRET by making its interpretation of the meaning and effect of repatriation in good faith and grounded on reasonable reasons does not commit grave abuse of discretion. As a result, the Supreme Court has no right to review the ruling of the HRET.<sup>85</sup>

#### D. Concurring Opinion

Justice Panganiban in his concurring opinion discusses the jurisdiction of the HRET and holds that the HRET did not abuse its discretion in holding that Cruz is a natural-born Filipino citizen who is qualified to be a member of Congress. Such determination of the HRET on the citizenship of Cruz is within the ambit of its jurisdiction or power, which is "the power to be the sole judge of the qualifications of members of the House of Representatives,

84. *Bengson III*, G.R. No. 142840 at 14 (citing *Garcia v. House of Representatives Electoral Tribunal*, 312 SCRA 353, 364 (1999)). See PHIL. CONST. art. VI, § 17.

85. *Tanada v. Angara*, 272 SCRA 18 (1997).

one of which is citizenship."<sup>86</sup> He, further, explains that in a certiorari proceeding, the Court is limited to determine whether or not HRET committed grave abuse of discretion amounting to lack or excess of jurisdiction in issuing its decision. It cannot substitute its discretion to that of the HRET, an independent constitutional body with its own specific mandate.

In several cases,<sup>87</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 the government. Their judgments are beyond judicial interference, unless rendered without or in excess of their jurisdiction or with grave abuse of discretion.<sup>88</sup>

The case of *Co v. Electoral Tribunal of the House of Representatives*<sup>89</sup> as penned by Justice Hugo E. Gutierrez, Jr. summarizes the issue on the jurisdiction of the Electoral Tribunal and the power of judicial review.

The Constitution explicitly provides that the House of Representatives Electoral Tribunal (HRET) and the Senate Electoral Tribunal (SET) shall be the sole judges of all contests relating to the election, returns, and qualifications of their respective members (See Article VI, Section 17, Constitution). The authority conferred upon the Electoral Tribunal is full, clear and complete. The use of the word sole emphasizes the exclusivity of the jurisdiction of these Tribunals.

The Supreme Court in the case of *Lazatin vs. HRET* (168 SCRA 391 [1988]) stated that under the 1987 Constitution, the jurisdiction of the Electoral Tribunal is original and exclusive. And that, "... so long as the Constitution grants the HRET the power to be the sole judge of all contest relating to election, returns and qualifications of members of the House of Representatives, any final action taken by the HRET on a matter within its jurisdiction shall, as a rule, not be reviewed by this Court . . . the power granted to the Electoral Tribunal is 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."

In the case of *Robles vs. HRET* (181 SCRA 780 [1980]) the Supreme Court stated that the judgments of the Tribunal are beyond judicial interference save only "in the exercise of this Court's so-called

extraordinary jurisdiction, . . . upon a determination that the Tribunal's decision or resolution was rendered without or in excess of its jurisdiction, or with grave abuse of discretion or paraphrasing *Morrero*, upon a clear showing of such arbitrary and improvident use by the Tribunal of its power as constitutes a denial of due process of law, or upon a demonstration of a very clear unmitigated ERROR, manifestly constituting such GRAVE ABUSE OF DISCRETION that there has to be a remedy for such abuse."

In the leading case of *Morrero vs. Bocar* (66 Phil. 429 [1938]) the Court ruled that the power of the Electoral Commission "is beyond judicial interference except, in any event, upon a clear showing of such arbitrary and improvident use of power as will constitute a denial of due process." 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.

x x x

In the absence of a showing that the HRET has committed grave abuse of discretion amounting to lack of jurisdiction, there is no occasion for the Court to exercise its corrective power; it will not decide a matter which by its nature is for the HRET alone to decide (See *Marcos vs. Manglapus*, 177 SCRA 668 [1989]). It has no power to look into what it thinks is apparent error. As constitutional creations invested with necessary power, the Electoral Tribunals, although not powers in the tripartite scheme of the government, are, in the exercise of their functions independent organs — independent of Congress and the Supreme Court. 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 (*Angara vs. Electoral Commission*, 63 Phil. 139 [1936]). In passing upon petitions, the Court with its traditional and careful regard for the balance of powers, must permit this exclusive privilege of the Tribunals to remain where the Sovereign authority has placed it (See *Veloso vs. Boards of Canvassers of Leyte and Samar*, 39 Phil. 886 [1919]).<sup>90</sup>

Thus, the Supreme Court has no power to review decisions of independent branches of the Government except for those areas which require the vindication of rights arising from "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."<sup>91</sup>

In the case of *Bengson*, no such grave abuse of discretion was present. Therefore, the Supreme Court has no judicial power to review the decision of the HRET.

90. *Id* at 700-01.

91. *Id* at 700.

86. *Bengson III*, G.R. No. 142840 (Panganiban, J., concurring).

87. *Lazatin v. HRET*, 168 SCRA 391 (1988); *Co v. Electoral Tribunal of the House of Representatives*, 199 SCRA 692 (1991) (citing *Angara v. Electoral Commission*, 63 Phil 139 (1936)).

88. *Bengson III*, G.R. No. 142840 at 9 (citing *Co v. Electoral Tribunal of the House of Representatives*, 199 SCRA 692 (1991); *Robles v. HRET*, 181 SCRA 780 (1990); *Morrero v. Bocar*, 66 Phil 429 (1938)). See also *Libanan v. HRET*, 283 SCRA 520 (1997).

89. 199 SCRA 692 (1991).

### E. Analysis

The primary issue is: whether or not the ground in which the HRET based its ruling in determining the validity of the election of Cruz, specifically his citizenship, is within the ambit of political questions, thereby placing it outside the judicial power of review of the Supreme Court.

A further examination of the *Co* case shows a dissenting opinion written by Justice Padilla, which illustrates that the determination of citizenship in an election contest may actually be within the judicial power of review of the Supreme Court.

The present controversy, involves more than perceived irregularities in the conduct of a congressional election or a disputed appreciation of ballots, in which cases, it may be contended with great legal force and persuasion that the decision of the electoral tribunal should be final and conclusive, for it is, by constitutional directive, made the sole judge of contests relating to such matters. The present controversy, however, involves no less than a determination of whether the qualifications for membership in the House of Representatives, as prescribed by the Constitution, have been met. Indeed, this Court would be unforgivably remiss in the performance of its duties, as mandated by the Constitution, were it to allow a person, not a natural-born Filipino citizen, to continue to sit as a Member of the House of Representatives, solely because the House Electoral Tribunal has declared him to be so. In such a case, the tribunal would have acted with grave abuse of discretion amounting to lack or excess of jurisdiction as to require the exercise by this Court of its power of judicial review.

Besides, the citizenship and residence qualifications of private respondent for the office of Member of the House of Representatives, are here controverted by petitioners who, at the same time, claim that they are entitled to the office illegally held by private respondent. From this additional direction, where one asserts and earnestly perceived right that in turn is vigorously resisted by another, there is clearly a justiciable controversy proper for this Court to consider and decide.<sup>92</sup>

Thus, the election contest filed by Bengson against Cruz may be within the ambit of judicial review of the Supreme Court since it entails determining the interpretation of the rights of a person arising from his Filipino citizenship, specifically the definition of a natural-born citizen in relation to repatriation as a mode of reacquiring one's citizenship. Such determination requires the interpretation of the Constitution and laws concerning citizenship and its rights, which is within the judicial power of review of the Supreme Court.

92. 199 SCRA 692 at 728-29 (1991).

### III. CONCLUSION

*Bengson III v. House of Representatives Electoral Tribunal and Cruz*<sup>93</sup> is a unique case, in that it presents two novel issues: (a) whether an election contest concerning citizenship is within the ambit of judicial review notwithstanding that it also falls under the jurisdiction of the Electoral Tribunal; and (b) whether a repatriated Filipino citizen reacquires his status as a natural-born citizen.

It is the foremost duty of the Judicial Department as embodied in the Supreme Court to ensure that one's rights are protected and that the duties and powers of various government departments are properly exercised. It is the Judicial Department that maintains the system of checks and balances within the various government departments under the principle of separation of powers. In this light, the Supreme Court should seriously consider when an issue is a political question thereby placing it outside its judicial power of review or when a department has committed grave abuse of discretion thereby placing it within its judicial power of review. In the present case, the determination of the rights of Cruz arising from his citizenship as a natural-born citizen as compared to those arising from his citizenship as a naturalized citizen greatly differ and is at the heart of the contention in the election contest. As such, the Supreme Court should seriously consider the implications of its decision where the interpretation of the Constitutional rights of a person arising from his Filipino citizenship, specifically the definition of a natural-born citizen in relation to repatriation as a mode of reacquiring one's citizenship, is at issue.

An analysis of the decision of the Supreme Court with regard to the effect of repatriation to one's citizenship shows that there are inconsistencies in pertaining to the application of the rules on statutory construction and the trend towards globalization. There have been instances in the past that the Supreme Court was not liberal in interpreting the laws regulating citizenship in favor of the claimant and laws regulating elections in favor of popular will. Furthermore, the trend towards globalization is more of an economic concept rather than a determining factor in one's citizenship. Lastly, the dissenting opinion of Justice Sandoval-Gutierrez further illustrates the discrepancy as to the Supreme Court's treatment of repatriation as a mode of reacquisition of Filipino citizenship. The definition of a natural-born citizen is that citizens of the Philippines from birth without having to perform any act to acquire or perfect their Philippine citizenship are natural-born citizens. However, a perusal of law and jurisprudence shows that the procedure of repatriation is not as simple as filing an oath of allegiance in the local Civil Registrar. It requires additional acts in reacquiring one's citizenship.

93. G.R. No. 142840 (2001).