

CITIZENSHIP

NATURAL-BORN CITIZENS AND PUBLIC OFFICE

Natural-born citizens

1) those who are citizens of the Philippines from birth without having to perform any act to acquire or perfect their Philippine citizenship; and

Through its history, four modes of acquiring citizenship - naturalization, *jus soli*, *res judicata* and *jus sanguinis*- had been in vogue. Only two, i.e., *jus soli* and *jus sanguinis*, could qualify a person to being a “natural-born” citizen of the Philippines. *Jus soli*, per **Roa vs. Collector of Customs** (1912), did not last long. With the adoption of the 1935 Constitution and the reversal of Roa in **Tan Chong vs. Secretary of Labor** (1947), *jus sanguinis* or blood relationship would now become the primary basis of citizenship by birth. (**Tecson v. Comelec, 03 March 2004**)

2) those who born before January 17, 1973 who elect Philippine citizenship upon reaching the age of majority. (**Section 2, Article IV**)

Election of Citizenship: When must be made

Election should be made within a "reasonable time" after attaining the age of majority.

The phrase “reasonable time” has been interpreted to mean that the election should be made within three (3) years from reaching the age of majority. However, we held in Cuenco vs. Secretary of Justice, that the three (3) year period is not an inflexible rule.

In the present case, Ching, having been born on 11 April 1964, was already thirty-five (35) years old when he complied with the requirements of C.A. No. 625 on 15 June 1999, or over fourteen (14) years after he had reached the age of majority. Based on the interpretation of the phrase “upon reaching the age of majority,” Ching's election was clearly beyond, by any reasonable yardstick, the allowable period within which to exercise the privilege. (**Re: Vicente Ching 01 October 1999**)

Public Office

The value of the status of being a natural-born citizen could be appreciated when seen in relation to the constitutionally mandated requirements for certain offices in the government that are reserved for such individuals, such as that of the

1. Presidency and
2. VP,
3. membership in Congress,
4. membership in the SC
5. membership in other lower collegiate court,
6. membership in Consti Comms Ombudsman and his Deputies
7. Governing Board of the Central Monetary Authority
8. Governing Board of the CHR (all of these positions requires a natural-born citizens; see your codal).

Also:

It is also a requirement for a former Filipino who desires to acquire private lands that he was previously a NB citizen Art XII, Sec 8. RA 9225 (Citizenship Retention and Re-Acquisition Act of 2003) vests its beneficial effects on NB citizens.

2) Naturalization and Denaturalization

NATURALIZATION – Read Codal provisions of CA 473 and RA 9139

Naturalization signifies the act of formally adopting a foreigner into the political body of a nation by clothing him or her with the privileges of a citizen. Under current and existing laws, there are three ways by which an alien may become a citizen by naturalization:

- (a) administrative naturalization pursuant to R.A. No. 9139;
- (b) judicial naturalization pursuant to C.A. No. 473, as amended; and
- (c) legislative naturalization in the form of a law enacted by Congress bestowing Philippine citizenship to an alien. (**So v. Republic, GR 170603**)

Judicial Naturalization under CA 473 vs. Administrative Naturalization under RA 9139

C.A. No. 473 and R.A. No. 9139 are separate and distinct laws – the former covers all aliens regardless of class while the latter covers native-born aliens who lived here in the Philippines all their lives, who never saw any other country and all along thought that they were Filipinos; who have

demonstrated love and loyalty to the Philippines and affinity to the customs and traditions.

To reiterate, the intention of the legislature in enacting R.A. No. 9139 was to make the process of acquiring Philippine citizenship less tedious, less technical and more encouraging which is administrative rather than judicial in nature. Thus, although the legislature believes that there is a need to liberalize the naturalization law of the Philippines, there is nothing from which it can be inferred that C.A. No. 473 was intended to be amended or repealed by R.A. No. 9139. What the legislature had in mind was merely to prescribe another mode of acquiring Philippine citizenship which may be availed of by native born aliens. The only implication is that, a native born alien has the choice to apply for judicial or administrative naturalization, subject to the prescribed qualifications and disqualifications. (**So v. Republic, 29 January 2007**)

Judicial naturalization under CA 473 benefits the wife and minor children

Any woman who is now or may hereafter be married to a citizen of the Philippines, and who might herself be lawfully naturalized shall be deemed a citizen of the Philippines. Minor children of persons naturalized under this law who have been born in the Philippines shall be considered citizens thereof.

A foreign-born minor child, if dwelling in the Philippines at the time of the naturalization of the parent, shall automatically become a Philippine citizen, and a foreign-born minor child, who is not in the Philippines at the time the parent is naturalized, shall be deemed a Philippine citizen only during his minority, unless he begins to reside permanently in the Philippines when still a minor, in which case, he will continue to be a Philippine citizen even after becoming of age. (**Section 15, CA 473**)

The wife becomes a naturalized citizen if she does not have any of the disqualifications for naturalization, by filing a petition for cancellation of her alien certificate of registration, wherein she will show that she does not labor under any of the disqualifications for naturalization. After her ACR is cancelled, she may take her oath of allegiance to the Republic of the

Philippines. (*Moy Ya Lim Yao v. Commissioner of Immigration*, 41, SCRA 292)

Administrative naturalization under RA 9139 benefits the wife and minor children

After the approval of the petition for administrative naturalization and cancellation of applicant's alien certificate of registration, applicant's alien lawful wife and minor children may file a petition for cancellation of their alien certificates of registrations with the Special Committee on Naturalization subject to the payment of the filing fee and naturalization fee, then upon cancellation of the ACR, take the oath of allegiance to the Republic of the Philippines. (**Section 11, RA 9139**)

If the applicant is a married woman, the approval of her petition for administrative naturalization will not benefit her alien husband but her minor children may file a petition for cancellation for their alien certificate of registration with the BI subject to the requirements of existing of laws. (**Section 12, RA 9139**)

Take Note: Under judicial or administrative naturalization, the naturalization of a married woman will not benefit the alien husband.

Modes of Naturalization:

A. Direct: Citizenship is acquired by:

- 1) individual, through judicial or administrative proceedings,
- 2) special act of legislature,
- 3) collective change of nationality,
- 4) in some case, by adoption of orphan minors as nationals of the State where they are born

B. Citizenship conferred on ,

- 1) Wife of naturalized husband,
- 2) Minor children of naturalized person,
- 3) alien woman upon marriage to a national (**Nachura p. 238**)

Doctrine of indelible allegiance – An individual may be compelled to retain his original nationality even if he has already renounced or forfeited it under the laws of the second State whose nationality he has acquired (**Nachura p 238**)

DENATURALIZATION

CA 473; grounds for cancellation of the certificate of naturalization

1. If the naturalization certificate was obtained fraudulently or illegally
2. If the person naturalized shall, within 5 years following the issuance of the certificate, return to his native country or to some other foreign country and establish his permanent residence there
3. If the petition was made on an invalid declaration of intention
4. If it is shown that the minor children of the person naturalized failed to graduate from a public or private HS recognized by the government through the fault of their parents.
5. If the naturalized citizen has allowed himself to be used as a dummy in violation of constitutional or legal provisions.

RA 9139; grounds for cancellation of the certificate of naturalization

1. It is found that the naturalized person or his duly authorized representative made any false statement or misrepresentation or committed any violation of law, rules and regulations in connection with the petition for naturalization, or otherwise obtained Philippine citizenship fraudulently or illegally
2. The naturalized person or his wife, or any of his minor children who acquired Filipino citizenship by virtue of his naturalization, within 5 years following the grant of Philippine citizenship, established permanent residence in a foreign country.
3. The naturalized person or his wife or child with acquired citizenship allowed himself or herself to be used as a dummy.
4. The naturalized person or his wife or child with acquired citizenship committed any act inimical to national security.

Insofar as denaturalization proceedings are concerned, the rules of construction become reversed. Unlike, therefore, in naturalization proceedings where the facts and the law may be interpreted and construed strictly against the applicant, in a denaturalization case, the reverse is true.

3) Loss of Citizenship

Under Commonwealth Act No. 63, a Filipino citizen may lose his citizenship:

- (1) By naturalization in a foreign country;
- (2) By express renunciation of citizenship;
- (3) By subscribing to an oath of allegiance to support the constitution or laws of a foreign country upon attaining twenty-one years of age or more;
- (4) By accepting commission in the military, naval or air service of a foreign country;
- (5) By cancellation of the certificate of naturalization;
- (6) By having been declared by competent authority, a deserter of the Philippine armed forces in time of war, unless subsequently, a plenary pardon or amnesty has been granted: and
- (7) In case of a woman, upon her marriage, to a foreigner if, by virtue of the laws in force in her husband's country, she acquires his nationality. Valles v. Comelec, 9 August 2000

Take Note: No. [1] has already been modified by Republic Act 9225, under which Filipino citizens who become naturalized citizens of a foreign country may retain their Filipino citizenship by complying with the provisions of RA 9225.

Take Note: No. [7] has been repealed by the 1987 Constitution. It is no longer a ground for loss of citizenship under the 1987 Constitution, which provides that citizens of the Philippines who marry aliens shall retain their citizenship, unless by their act or omission they are deemed, under the law, to have renounced it. (Section 4, Article IV, 1987 Constitution)

Loss of Citizenship by Express Renunciation

In order that citizenship may be lost by renunciation, such renunciation must be express. An application for an alien certificate of registration and mere holding of a foreign passport are not acts constituting an effective renunciation of citizenship. See Valles vs. Comelec 337 SCRA 543

Take Note: Merely having a foreign passport and an alien certificate of registration is not effective renunciation: renunciation must be express

The mere fact that private respondent Rosalind Ybasco Lopez was a holder of an Australian passport and had an alien certificate of registration are not acts constituting an effective renunciation of citizenship and do not militate against her claim of Filipino citizenship. For renunciation to effectively result in the loss of citizenship, the same must be express. An application for an alien certificate of registration and holding of a foreign passport do not amount to an express renunciation or repudiation of one's citizenship. (**Valles vs. Comelec**, 337 SCRA 543)

4) Repatriation

Read ~~☞~~Codal Provisions of Republic Act 9225, Republic Act 8171, and Commonwealth Act 63

Repatriation is not a matter of right, but it is a privilege granted by the State. This is mandated by the 1987 Constitution under Section 3, Article IV, which provides that citizenship may be lost or reacquired in the manner provided by law. The State has the power to prescribe by law the qualifications, procedure, and requirements for repatriation. It has the power to determine if an applicant for repatriation meets the requirements of the law for it is an inherent power of the State to choose who will be its citizens, and who can reacquire citizenship once it is lost. (**Tabasa v. Court of Appeals**, 29 August 2006)

Effect of repatriation

Repatriation results in the recovery of the original nationality. This means that a naturalized Filipino who lost his citizenship will be restored to his prior status as a naturalized Filipino citizen. On the other hand, if he was originally a natural-born citizen before he lost his Philippine citizenship, he will be restored to his former status as a natural-born Filipino. (**Bengson v. HRET**, 07 May 2001)

Take Note: Repatriation does not result in the recovery of original/former Philippine domicile

Ty's reacquisition of his Philippine citizenship under Republic Act No. 9225 had no automatic impact or effect on his residence/domicile. He could

still retain his domicile in the USA, and he did not necessarily regain his domicile in the Municipality of General Macarthur, Eastern Samar, Philippines. Ty merely had the option to again establish his domicile in the Municipality of General Macarthur, Eastern Samar, Philippines, said place becoming his new domicile of choice. The length of his residence therein shall be determined from the time he made it his domicile of choice, and it shall not retroact to the time of his birth. (**Japzon v. Comelec**, 19 January 2009)

Applicable Repatriation Laws

1) Republic Act 9225, “Citizenship Retention and Reacquisition Act”. Available to natural-born citizens of the Philippines who have lost their Philippine citizenship by reason of their naturalization as citizens of a foreign country

2) Republic Act 8171, “An Act Providing for the Repatriation of Filipino Women Who Have Lost Their Philippine Citizenship by Marriage to Aliens and of Natural-Born Filipinos”. Available to Filipino women who have lost their Philippine citizenship by marriage to aliens and natural-born Filipinos who have lost their Philippine citizenship, including their minor children, on account of political or economic necessity.

3) Commonwealth Act 63. Available to persons declared by competent authority to be a deserter of the Philippine army, navy or air corps in time of war, unless subsequently granted a plenary pardon or amnesty.

Repatriation Laws

Citizenship Retention and Reacquisition under Republic Act 9225

Who may reacquire Philippine citizenship: Natural-born citizens of the Philippines who have lost their Philippine citizenship by reason of their naturalization as citizens of a foreign country (**Section 3, RA 9225**)

How citizenship is reacquired: By taking the oath of allegiance: They are deemed to have reacquired Philippine citizenship upon taking the following oath of allegiance to the Republic:

Who may retain their Philippine citizenship: Natural-born citizens of the Philippines who, after the effectivity of RA 9225, become citizens of a foreign country

How citizenship is retained: Taking of oath of allegiance: They shall retain their Philippine citizenship upon taking the aforesaid oath of allegiance to the Republic.

Derivative citizenship for minor children under RA 9225: The unmarried child, whether legitimate, illegitimate or adopted, below eighteen (18) years of age, of those who reacquire Philippine citizenship upon effectivity of RA 9225 shall be deemed citizens of the Philippines. (Section 4)

Full civil and political rights of those who reacquire citizenship under RA 9225: Those who retain or reacquire Philippine citizenship under this Act shall enjoy full civil and political rights and be subject to all attendant liabilities and responsibilities under existing laws of the Philippines and the following conditions:

(1) Those intending to exercise their right of suffrage must meet the requirements under Section 1, Article V of the Constitution, Republic Act No. 9189, otherwise known as "The Overseas Absentee Voting Act of 2003" and other existing laws;

(2) Those seeking elective public office in the Philippines shall meet the qualifications for holding such public office as required by the Constitution and existing laws and, at the time of the filing of the certificate of candidacy, make a personal and sworn renunciation of any and all foreign citizenship before any public officer authorized to administer an oath;

(3) Those appointed to any public office shall subscribe and swear to an oath of allegiance to the Republic of the Philippines and its duly constituted authorities prior to their assumption of office: Provided, That they renounce their oath of allegiance to the country where they took that oath;(4) Those intending to practice their profession in the Philippines shall apply with the proper authority for a license or permit to engage in such practice. **(Section 5, RA 9225)**

Those who reacquire citizenship under RA 9225 but cannot vote or be elected or appointed to public office: The right to vote or be elected or appointed to any public office in the Philippines cannot be exercised by, or extended to, those who:

(a) are candidates for or are occupying any public office in the country of which they are naturalized citizens; and/or

(b) are in the active service as commissioned or noncommissioned officers in the armed forces of the country which they are naturalized citizens. **(Section 5, RA 9225)**

Additional Requirement to Run for Public Office for Those who Reacquire Citizenship under RA 9225

Breaking down the afore-quoted provision, for a natural born Filipino, who reacquired or retained his Philippine citizenship under Republic Act No. 9225, to run for public office, he must:

(1) meet the qualifications for holding such public office as required by the Constitution and existing laws; and

(2) make a personal and sworn renunciation of any and all foreign citizenships before any public officer authorized to administer an oath. **(Japzon v. Comelec, 19 January 2009)**

A candidate's oath of allegiance to the Republic of the Philippines and his Certificate of Candidacy do not substantially comply with the requirement of a personal and sworn renunciation of foreign citizenship. The law categorically requires persons seeking elective public office, who either retained their Philippine citizenship or those who reacquired it, to make a personal and sworn renunciation of any and all foreign citizenship before a public officer authorized to administer an oath simultaneous with or before the filing of the certificate of candidacy.

Hence, Section 5(2) of Republic Act No. 9225 compels natural-born Filipinos, who have been naturalized as citizens of a foreign country, but who reacquired or retained their Philippine citizenship

(1) to take the oath of allegiance under Section 3 of Republic Act No. 9225, and

(2) for those seeking elective public offices in the Philippines, to additionally execute a personal and sworn renunciation of any and all foreign citizenship before an authorized public officer prior or simultaneous to the filing of their certificates of candidacy, to qualify as candidates in Philippine elections. **(Jacot v. Dal, G.R. No. 179848)**

RA 9225 allows dual citizenship, not dual allegiance

The intent of the legislature in drafting Rep. Act No. 9225 is to do away with the provision in Commonwealth Act No. 63 which takes away Philippine

citizenship from natural-born Filipinos who become naturalized citizens of other countries.

What Rep. Act No. 9225 does is allow dual citizenship to natural-born Filipino citizens who have lost Philippine citizenship by reason of their naturalization as citizens of a foreign country. On its face, it does not recognize dual allegiance. By swearing to the supreme authority of the Republic, the person implicitly renounces his foreign citizenship. Plainly, from Section 3, Rep. Act No. 9225 stayed clear out of the problem of dual allegiance and shifted the burden of confronting the issue of whether or not there is dual allegiance to the concerned foreign country. What happens to the other citizenship was not made a concern of Rep. Act No. 9225. *AASJS v. Datumanong*, 11 May 2007

Dual citizens may vote in Philippine elections without actually residing and physically staying in the Philippines

There is no provision in the dual citizenship law - R.A. 9225 - requiring "duals" to actually establish residence and physically stay in the Philippines first before they can exercise their right to vote. On the contrary, R.A. 9225, in implicit acknowledgment that "duals" are most likely non-residents, grants under its Section 5(1) the same right of suffrage as that granted an absentee voter under R.A. 9189. It cannot be overemphasized that R.A. 9189 aims, in essence, to enfranchise as much as possible all overseas Filipinos who, save for the residency requirements exacted of an ordinary voter under ordinary conditions, are qualified to vote. *Nicolas-Lewis v. Comelec*, 04 August 2006

"Duals" may now exercise the right of suffrage thru the absentee voting scheme and as overseas absentee voters. (***Nicolas-Lewis v. Comelec, 04 August 2006***)

Reacquisition of citizenship under RA 9225 does not automatically mean regaining residence/domicile in the Philippines

Ty's reacquisition of his Philippine citizenship under Republic Act No. 9225 had no automatic impact or effect on his residence/domicile. He could still retain his domicile in the USA, and he did not necessarily regain his domicile in the Municipality of General Macarthur, Eastern Samar,

Philippines. Ty merely had the option to again establish his domicile in the Municipality of General Macarthur, Eastern Samar, Philippines, said place becoming his new domicile of choice. The length of his residence therein shall be determined from the time he made it his domicile of choice, and it shall not retroact to the time of his birth. (**Japzon v. Comelec, 19 January 2009**)

Repatriation under Republic Act 8171

Persons qualified for repatriation under RA 8171:

The only persons entitled to repatriation under RA 8171 are the following:

- a. Filipino women who lost their Philippine citizenship by marriage to aliens; and
- b. Natural-born Filipinos including their minor children who lost their Philippine citizenship on account of political or economic necessity.

The privilege of repatriation under RA 8171 is available *only* to natural-born Filipinos who lost their citizenship on account of political or economic necessity, and to the *minor* children of said natural-born Filipinos.

This means that if a parent who had renounced his Philippine citizenship due to political or economic reasons later decides to repatriate under RA 8171, his repatriation will also benefit his minor children according to the law. This includes a situation where a former Filipino subsequently had children while he was a naturalized citizen of a foreign country.

The repatriation of the former Filipino will allow him to recover his natural-born citizenship and automatically vest Philippine citizenship on his children of *jus sanguinis* or blood relationship the children acquire the citizenship of their parent(s) who are natural-born Filipinos.

To claim the benefit of RA 8171, however, the children must be of minor age at the time the petition for repatriation is filed by the parent. This is so because a child does not have the legal capacity for all acts of civil life much less the capacity to undertake a political act like the election of citizenship. On their own, the minor children cannot apply for repatriation or naturalization separately from their parents. (**Tabasa v. Court of Appeals, 29 August 2006**)

Where to file a petition for repatriation pursuant to RA 8171: The applicant must file his petition for repatriation with the Special Committee on

Naturalization (SCN), which was designated to process petitions for repatriation pursuant to Administrative Order No. 285 (**A.O. No. 285**) dated August 22, 1996. The Special Committee on

Naturalization shall be composed of with the Solicitor General as Chairman, the Undersecretary of Foreign Affairs and the Director-General of the National Intelligence Coordinating Agency, as members. If the applications is approved, he or she shall take the necessary oath of allegiance to the Republic of the Philippines, after which she or she shall be deemed to have reacquired Philippine citizenship. (**Tabasa v. Court of Appeals**)

The principle of *res judicata* generally does not apply in cases hinging on the issue of citizenship. However, as an exception, the doctrine of *res judicata* may be applied in cases of citizenship, when the following requisites are present:

- 1) a person's citizenship be raised as a material issue in a controversy where said person is a party;
- 2) the Solicitor General or his authorized representative took active part in the resolution thereof, and
- 3) the finding on citizenship is affirmed by the Supreme Court. (**Valles v. Comelec**)