



Republic of the Philippines  
House of Representatives Electoral Tribunal  
Electoral Tribunal Building  
Commonwealth Avenue, Quezon City

EDUARDO C. MORALES,  
Petitioner,

- versus -

JOHNNY R. REVILLA,  
Respondent.

HRET Case No. 13-035 (QW)  
OFW Family Club, Inc. Party-List

Promulgated on:

DEC 14 2015

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*Enverga, R.:*

## DECISION

### *The Facts and Antecedent Proceedings*

During the May 13, 2013 elections, OFW Family Club, Inc. (“OFWFCI”), a duly registered and accredited sectoral party under the party list system, secured two (2) congressional seats.

On June 25, 2013, the Commission on Elections (“Comelec”) proclaimed respondent Johnny R. Revilla (“respondent”), being the second nominee of OFWFCI, as entitled to a seat in the Sixteenth Congress.

On July 9, 2013, asserting his right as a registered voter, petitioner Eduardo C. Morales (“petitioner”) filed a Petition for *Quo Warranto* dated July 8, 2013 against respondent.

In his petition, petitioner alleges that respondent is not a natural-born Filipino citizen on the day of the elections. Particularly:

- a. While Respondent was a natural-born Filipino citizen, he lost said status upon his naturalization as an American citizen;
- b. Despite his nomination and proclamation for a congressional post, respondent neither took an oath of allegiance to the Republic of the Philippines nor executed a personal and sworn renunciation of his foreign citizenship; and
- c. Respondent never relinquished his foreign citizenship as shown by his possession of a US Passport with number 302181010.

On July 25, 2013, petitioner filed a Supplement to the Petition for *Quo Warranto* dated July 24, 2013, submitting additional documents in support of the petition.

After summons was served upon respondent, respondent filed an Answer dated August 2, 2013, asserting that:

- a. He acquired US citizenship by naturalization in 2001;
- b. He continued to practice his profession in the Philippines as an acting talent;
- c. He used his US passport only until 2009 and never renewed the same upon its expiration in August 2012;
- d. Sometime in 2011, when Rep. Roy V. Señeres (“Rep. Señeres”) asked him to be one of OFWFCI’s nominee, he informed Rep. Señeres that he was then a dual citizen of the Philippines and the US- to which Rep. Señeres simply said okay;
- e. On January 30, 2012, he, on his own initiative, renounced his US citizenship and took his oath of allegiance to the Philippine Constitution before a duly authorized notary public; and
- f. He was proclaimed as a Member of the House of Representatives on June 5, 2013 by the Comelec.

In his Answer, respondent likewise raises the following affirmative defenses:

- a. The petition for *quo warranto* was filed out of time considering that he was proclaimed on June 5, 2013 and thus petitioner had only until June 20, 2013 within which to file a petition for *quo warranto*; and
- b. He is a natural-born Filipino citizen, and he has dutifully complied with the requirement of executing a personal and sworn renunciation of any and all foreign citizenships before a notary public prior to the filing of his certificate of candidacy.

On September 9, 2013, petitioner filed a Reply (to Respondent’s Answer dated 2 August 2013) of even date, alleging that:

- a. There is no showing that respondent availed of the privileges of Republic Act No. 9225 (“RA 9225”) by becoming a dual citizen, and thereafter made a valid sworn renunciation of his American citizenship. As such, he remains to be an American citizen and is,

therefore, ineligible to hold any elective office in the Philippines, including that of a Member of the House of Representatives; and

- b. Contrary to respondent's allegation that he was proclaimed on June 5, 2013, the proclamation actually took place only on June 25, 2013. Consequently, petitioner was able to timely file his petition for *quo warranto* within the reglementary period provided for under Rule 17 of the 2011 HRET Rules.

On October 8, 2013, respondent filed a Rejoinder dated September 25, 2013, reiterating his affirmative defenses.

On October 24, 2013, the Tribunal issued Resolution No. 13-191, which considered the Petition for *Quo Warranto* dated July 8, 2013 to have been filed on time in accordance with Rule 17 of the 2011 HRET Rules, and directed the Secretary of the Tribunal to calendar the case for preliminary conference.

Consequently, on December 10, 2013, respondent filed a Motion for Reconsideration (to Resolution No. 13-191 dated 24 October 2013) dated December 9, 2013. On December 20, 2013, petitioner filed his Comment/Opposition (to Respondent's Motion for Reconsideration dated December 9, 2013) of even date.

Notwithstanding the pendency of the motion for reconsideration filed by respondent, the parties agreed to proceed with the preliminary conference. After termination of the preliminary conference, the Tribunal issued a Preliminary Conference Order.

On January 30, 2014, the Tribunal denied respondent's Motion for Reconsideration (to Resolution No. 13-191 dated 24 October 2013) dated December 9, 2013 with the issuance of Resolution No. 14-035.

Trial ensued thereafter.

Petitioner presented his witnesses, namely: Atty. John Rex C. Laudiangco, Simeon L. Sanchez, Atty. Maria Alexis Graciela R. Maceda and Rep. Roy V. Señeres.

Atty. John Rex C. Laudiangco, Attorney VI of the Comelec Law Department, testified that, apart from the certificate of candidacy where respondent made a self-declaration that he is a natural-born Filipino citizen, no other document to prove the citizenship of the nominees of OWFFCI was in the possession of the Comelec Law Department.

Simeon L. Sanchez, Acting Chief of Certification & Clearance Section of the Bureau of Immigration, testified that, based on the records in his

office, respondent presented a US passport upon his arrival in the Philippines on December 8, 2009 and that he presented a Philippine passport when he departed the Philippines in December 2013. On the other hand, Atty. Maria Alexis Graciela R. Maceda, Acting Chief of Records Section of the Bureau of Immigration, testified that her office did not have on file respondent's Certificate of Dual Citizenship, Oath of Allegiance, and Affidavit of Renunciation.

Rep. Roy V. Señeres, Chairman of the OFWFCI, testified that while respondent claimed that he is a dual citizen of the Philippines and the United States, he neither submitted nor provided any document showing such claim.

On February 13, 2014, petitioner filed his Formal Offer of the Documentary Evidence (for the Petitioner) of even date, praying for the admission of Exhibits "A" to "I" with submarkings. Respondent then filed his Comments and/or Objections to Petitioner's Formal Offer of Evidence dated February 18, 2014.

On March 4, 2014, the Tribunal issued an Order, admitting petitioner's documentary exhibits, except Exhibit "G"<sup>1</sup> for not having been properly identified by a competent witness during petitioner's presentation of evidence.

On March 13, 2014, petitioner filed a Manifestation with Motion for Partial Reconsideration and/or Clarification dated March 12, 2014, asking that Exhibit "G" should be admitted for the purpose for which it was offered.

On March 25, 2014, the Tribunal issued an Order granting petitioner's motion for partial reconsideration and provisionally admitting Exhibits "G" pending its identification by any of his witness.

Respondent's Motion for Reconsideration (to Order dated 25 March 2014) dated April 1, 2014 was denied by the Tribunal in its Resolution No. 14-108 dated May 29, 2014.

For his evidence, respondent, on the other hand, presented Atty. Gilbert Bautista and himself as witnesses.

Atty. Gilbert Bautista, Notary Public in Cauayan City, Isabela, testified that respondent appeared before him and executed an Affidavit of Renunciation dated January 30, 2012,<sup>2</sup> which he identified for marking in evidence during the trial.

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<sup>1</sup> *Affidavit of Renunciation* dated January 30, 2012.

<sup>2</sup> Exhibit "1" of respondent; Exhibit "G" of petitioner.

Respondent testified that he is a Filipino citizen at the time relevant to the instant case, and that he complied with the requirements of RA 9225 by executing an Affidavit of Renunciation dated January 30, 2012<sup>3</sup>. In support thereto, respondent presented his Affidavit of Renunciation dated January 30, 2012<sup>4</sup>, his Philippine Passport<sup>5</sup> and the US Visa<sup>6</sup> allowing him to visit US as visitor. Respondent likewise identified and presented in evidence the Certificate of Authority for a Notarial Act dated 6 June 2013<sup>7</sup> to show that the Notary Public before whom he swore his Oath of Allegiance and Affidavit of Renunciation is an officer duly authorized to administer oaths; and the Certification dated 16 August 2013<sup>8</sup> to prove that the Affidavit of Renunciation dated 30 January 2012 submitted before this Honorable Tribunal is a true photocopy of the Affidavit of Renunciation on file before the Office of the Clerk of Court of Cauayan City, Isabela.

On July 17, 2014, respondent filed a Formal Offer of Evidence with Motion of even date for the admission of Exhibits "1" to "7", with submarkings.

In the motion incorporated in his formal offer, respondent prayed that he be allowed to amend the sequence of his list of documentary exhibits, and that the Affidavit of Renunciation on file with the Tribunal, marked as Exhibit "1" be replaced by the duplicate original duly identified by respondent on July 7, 2014.

In Resolution No. 14-160 dated August 28, 2014, the Tribunal admitted respondent's documentary exhibits and granted his motion to amend the sequence of his list. In the same resolution, the Tribunal likewise directed the parties to file their respective memoranda within a non-extendible period of ten (10) days from notice, after which period, with or without said memoranda, the case shall be deemed submitted for resolution.

Consequently, petitioner filed on September 18, 2014 a Verified Motion for Reconsideration (of the Resolution No. 14-160 dated August 28, 2014) with Memorandum Ad Cautelam dated September 17, 2014, arguing that:

- a. Respondent, after having been naturalized as an American Citizen in 2001, failed to comply with the requirements of RA 9225 or the Citizenship Retention and Re-acquisition Act of 2003 and the requirements of the Bureau of Immigration Memorandum Circular No. AFF. 05-002;

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<sup>3</sup> Ibid.

<sup>4</sup> Ibid.

<sup>5</sup> Exhibit "5-3" of respondent.

<sup>6</sup> Exhibit "5-2" of respondent.

<sup>7</sup> Exhibit "2" of respondent.

<sup>8</sup> Exhibit "3" of respondent.



- b. Respondent's failure to file a verified Petition for Retention/Re-acquisition of a Philippine Citizenship before the Bureau of Immigration constitutes as Respondent's failure to re-acquire his Philippine Citizenship. Therefore, Respondent should be ineligible to hold elective public office;
- c. Respondent never submitted a copy of his Affidavit of Renunciation dated 30 January 2012 to the Commission on Elections nor to the Bureau of Immigration; and
- d. Respondent uses his American passport.

Respondent, on the other hand, filed by registered mail a Memorandum dated September 18, 2014 on even date, stating that:

- a. He is eligible to run and hold elective public office because he has fully complied with the requirements under Sections 3 and 5(2) of RA 9225 by executing his Affidavit of Renunciation dated 30 January 2012 before a Notary Public in Cauayan, Isabela. More particularly, respondent argues that he has executed both his Oath of Allegiance and his Affidavit of Renunciation of any and all foreign citizenships before a duly commissioned Notary Public as evidenced by his Affidavit of Renunciation dated 30 January 2012;
- b. There is no obligation in RA 9225 to submit a copy of his Affidavit of Renunciation either to the Bureau of Immigration or to the Commission on Election. Respondent likewise claims that there is no requirement for the submission of the Affidavit of Renunciation and/or the Oath of Allegiance during the filing of the Certificate of Candidacy; and
- c. After he took his Oath of Allegiance and executed his Affidavit of Renunciation on 30 January 2012, he never used his American Passport.

In Resolution No. 14-208 dated November 27, 2014, the Tribunal denied petitioner's verified motion for reconsideration and stated that the instant petition is already deemed submitted for resolution.

Meanwhile, on October 2, 2014, petitioner file a Manifestation (Re: Resignation of the Party's Third Nominee) dated October 1, 2014 stating that due to compelling personal reasons, OFWFCI's third nominee, Ms. Jo Christine L. Napoles, filed and submitted an Affidavit dated August 6, 2013 addressed to its Board of Directors containing her resignation and relinquishment of nomination as OFWFCI nominees.

### Issue

The issue raised for the Tribunal's resolution is whether respondent is eligible for the position of a Member of the House of Representatives in accordance with the provisions of the 1987 Philippine Constitution and Republic Act No. 9225.

Petitioner contends that, in order to reacquire his Philippine citizenship, a former natural born Filipino citizen who became naturalized as a citizen of a foreign country must not only execute an Oath of Allegiance before an officer duly authorized to administer oaths but must also comply with the requirements under Memorandum Circular No. AFF. 05-002, such as the filing of a verified Petition for Retention/Re-acquisition before the Bureau of Immigration.

While respondent admits that he did not file any Petition for Retention/Re-acquisition before the Bureau of Immigration, he, however, argues that RA 9225 only requires the execution of an Oath of Allegiance to the Philippine Republic and, to run for public office, an Affidavit of Renunciation of the foreign citizenship, before an officer authorized to administer oaths, which he in fact did. Respondent further contends that the procedural requirements under the Memorandum Circular cited by petitioner do not affect the validity of the Oath of Allegiance or Affidavit of Renunciation he executed in order to avail the benefits under RA 9225.

### Ruling

The instant petition is unmeritorious.

The pertinent provisions of RA 9225, otherwise known as the "Citizenship Retention and Re-acquisition Act of 2003" are clear. In order for a former natural-born Filipino to re-acquire his Filipino citizenship, he must comply with the following, to wit:

**Section 3. Retention of Philippine Citizenship** - Any provision of law to the contrary notwithstanding, natural-born citizenship by reason of their naturalization as citizens of a foreign country are hereby **deemed to have re-acquired Philippine citizenship upon taking the following oath of allegiance to the Republic:**

"I \_\_\_\_\_, solemnly swear (or affirm) that I will support and defend the Constitution of the Republic of the Philippines and obey the laws and legal orders promulgated by the duly constituted authorities of the Philippines; and I hereby declare that I recognize and accept the supreme authority of the Philippines and will maintain true faith and allegiance

thereto; and that I imposed this obligation upon myself voluntarily without mental reservation or purpose of evasion."

To be eligible to run for elective public office, Section 5 (2) of RA 9225 provides an additional requirement, to wit:

**Section 5. *Civil and Political Rights and Liabilities*** - Those who retain or re-acquire 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:

X X X

(2) Those seeking elective public in the Philippines shall meet the qualification 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;**

X X X.

Respondent complied with the above-quoted twin requirements provided for under RA 9225, i.e., [i] Oath of allegiance to Philippine Republic under Section 3 thereof, and [ii] Sworn renunciation of foreign citizenship under Section 5 (2) thereof.

#### **A) Respondent took an Oath of Allegiance to the Philippine Republic.**

RA 9225 provides that respondent is deemed to have re-acquired or retained his Philippine citizenship upon taking the oath of allegiance to the Philippine Republic. He took the oath of allegiance twice.

First, respondent took an oath of allegiance to the Republic of the Philippines as evidenced by the Affidavit of Renunciation dated 30 January 2012<sup>9</sup>, which likewise embodied an oath of allegiance to the Philippine Republic, executed before Atty. Gilbert B. Bautista, a Notary Public for Cauayan City, Isabela, a person authorized to administer oath. The authority of Atty. Bautista is established by the Certificate of Authority for a Notarial Act dated 6 June 2013<sup>10</sup> while the regularity of the execution of the Affidavit of Renunciation is duly proven by the Certification dated 16 August 2013<sup>11</sup>

<sup>9</sup> Exhibit "1" of respondent; Exhibit "G" of petitioner.

<sup>10</sup> Exhibit "2" of respondent.

<sup>11</sup> Exhibit "3" of respondent.



attesting that said Affidavit of Renunciation dated 30 January 2012 was submitted and on file with the Office of the Clerk of Court of Cauayan City, Isabela, where the notaries in said jurisdiction are required to submit reports.

Secondly, respondent likewise took an oath of allegiance to the Republic of the Philippines as evidenced by the respondent's Certificate of Acceptance dated 30 March 2012<sup>12</sup> which included an oath of allegiance to the Philippine Republic, sworn before Notary Public Jose S. Maronilla, a person authorized to administer oath.

**B) Respondent Revilla made a personal/Sworn Renunciation of Foreign Citizenship.**

The fact that respondent had renounced his allegiance to the US government is evidenced by the common exhibits of the parties, respondent's Affidavit of Renunciation dated 30 January 2012<sup>13</sup> executed before Atty. Gilbert B. Bautista, a Notary Public for Cauayan City, Isabela. Undoubtedly, a notary public is an officer authorized to administer an oath.

Anent the requirements provided in the Bureau of Immigration Memorandum Circular No. AFF-04-01, it is worth mentioning that RA 9225 did not require the promulgation of implementing rules to put into effect the provisions of the Act. In fact, RA 9225 is clear that it only requires the execution of an Oath of Allegiance in order that a former natural-born Filipino citizen can reacquire his Philippine citizenship. While the provisions of the Circular need to be followed for record purposes, non-compliance or delayed compliance thereof must not affect the validity of the Oath of Allegiance duly executed in compliance with RA 9225. To rule otherwise is tantamount to modifying or altering the law. It is a well-settled doctrine that Implementing Rules and Regulations (IRR) should not modify, supplant, or alter the law that they seek to implement. The Honorable Supreme Court, in *Lokin vs. COMELEC*,<sup>14</sup> pronounced the following, thus:

The authority to make IRRs in order to carry out an express legislative purpose, or to effect the operation and enforcement of a law is not a power exclusively legislative in character, but is rather administrative in nature. The rules and regulations adopted and promulgated must not, however, subvert or be contrary to existing statutes. The function of promulgating IRRs may be legitimately exercised only for the purpose of carrying out the provisions of a law. The power of administrative agencies is confined to implementing the law or putting it into effect. Corollary to this is that administrative regulation cannot extend the law and amend a legislative

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<sup>12</sup> Exhibit "A-1" of the petitioner.

<sup>13</sup> Exhibit "1" of respondent; Exhibit "G" of petitioner.

<sup>14</sup> G.R. No. 179431-32.

enactment. It is axiomatic that the clear letter of the law is controlling and cannot be amended by a mere administrative rule issued for its implementation. Indeed, administrative or executive acts shall be valid only when they are not contrary to the laws or the Constitution.

Further, RA 9225 and the relevant election laws and COMELEC regulations do not require the submission of the Oath of Allegiance and/or Renunciation before the Bureau of Immigration and/or the COMELEC.

The twin requirements provided for under RA 9225, i.e., [i] Oath of allegiance to Philippine Republic under Section 3 thereof, and [ii] Sworn renunciation of foreign citizenship under Section 5(2) thereof, have been discussed by the Supreme Court in a line of cases. In the case of *Maquiling vs. COMELEC*,<sup>15</sup> the Supreme Court stated that:

Rommel Arnado took all the necessary steps to qualify to run for a public office. He took the Oath of Allegiance and renounced his foreign citizenship. There is no question that after performing these twin requirements required under Section 5(2) of R.A. No. 9225 or the Citizenship Retention and Re-acquisition Act of 2003, he became eligible to run for public office.

Indeed, Arnado took the Oath of Allegiance not just only once but twice: first, on 10 July 2008 when he applied for repatriation before the Consulate General of the Philippines in San Francisco, USA, and again on 03 April 2009 simultaneous with the execution of his Affidavit of Renunciation. **By taking the Oath of Allegiance to the Republic, Arnado re-acquired his Philippine citizenship.** At the time, however, he likewise possessed American citizenship. Arnado had, therefore, become a dual citizen.

**After reacquiring his Philippine citizenship, Arnado renounced his American citizenship by executing an Affidavit of Renunciation, thus completing the requirements for eligibility to run for public office.** By renouncing his foreign citizenship, he was deemed to be solely a Filipino citizen, regardless of the effect of such renunciation under the laws of the foreign country. (Emphasis Supplied)

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<sup>15</sup> G.R. No. 195649, 16 April 2013.



In *Jacot v. Dal and COMELEC*<sup>16</sup>, the Supreme Court ruled:

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.** (Emphasis Supplied)

As can be seen from the above-cited cases, the only requirements to be eligible to run and hold elective public office are the execution of an Oath of Allegiance and the Sworn Renunciation of any and all foreign citizenship before an authorized public officer. As above-discussed, these requirements were sufficiently and faithfully complied with by respondent.

Further, RA 9225 does not require that the Oath of Allegiance and the Sworn Renunciation must be distinct and separate acts. Indeed, as aptly discussed by our esteemed colleague, Rep. Luzviminda Ilagan, in her *Concurring Opinion*, RA 9225 only requires that the Oath of Allegiance and Sworn Renunciation be undertaken at the time of the filing of the certificate of candidacy before any public officer authorized to administer oath and nothing more. Pertinently, respondent took his Oath of Allegiance and his Sworn Renunciation before a duly commissioned notary public, which are both embodied in one (1) document, that is, respondent's Affidavit of Renunciation, and this was executed prior to the filing of his certificate of candidacy.

Finally, respondent's subsequent actions showed his faithful compliance to his aforesaid oath of allegiance to Philippine Republic and sworn renunciation of allegiance to the US. As evidenced by the certifications of the Bureau of Immigration<sup>17</sup>, respondent stopped using his US Passport long before his execution of the oath of allegiance and affidavit of renunciation, and had, in fact, allowed it to lapse in August 2012, long

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<sup>16</sup>G.R. No. 179848, November 27, 2008.

<sup>17</sup> Exhibits "F" and "I" of petitioner.

before his proclamation on 25 June 2013. In fact, he was issued a Philippine Passport<sup>18</sup> and had secured, and was granted, US Visa<sup>19</sup>, in order for him to visit US as visitor.


With respondent's substantial compliance with the twin requirements of RA 9225 and his subsequent actions manifesting his renunciation of his allegiance to the US, respondent has sufficiently complied with the requirements under RA 9225 to regain his status as a natural born Filipino citizen and, therefore, qualified and eligible to sit as Member of the House of Representatives of the Philippines.


WHEREFORE, the *Petition for Quo Warranto* dated July 8, 2013 filed by petitioner Eduardo C. Morales is **DISMISSED** for lack of merit.

No pronouncement as to costs.


As soon as this Decision becomes final and executory, let notice be sent to the Speaker of the House of Representatives, the President of the Philippines and the Chairperson of the Commission on Audit.

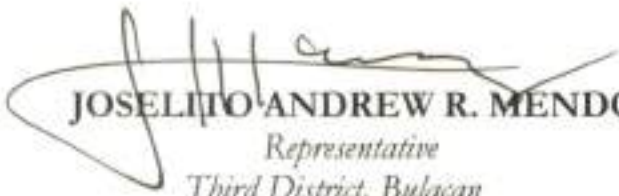
**SO ORDERED.**

  
**PRESBITERO J. VELASCO, JR.**  
*Associate Justice, Supreme Court*  
Chairperson

  
**DIOSDADO M. PERALTA**  
*Associate Justice, Supreme Court*  
Member

  
**LUCAS P. BERSAMIN**  
*Associate Justice, Supreme Court*  
Member

  
**FRANKLIN P. BAUTISTA**  
*Representative*  
*Second District, Davao del Sur*  
Member


  
**JOSELITO ANDREW R. MENDOZA**  
*Representative*  
*Third District, Bulacan*  
Member

<sup>18</sup> Exhibit "6-3" of respondent.

<sup>19</sup> Exhibit "6-2" of respondent.

 *dissenting*  
**MA. THERESA B. BONOAN**  
*Representative*  
*Fourth District, Manila*  
Member

  
**WILFRIDO MARK M. ENVERGA**  
*Representative*  
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*Representative*  
*Lone District, Iloilo City*  
Member

  
**LUZVIMINDA C. ILAGAN**  
*Representative*  
*Gabriela Partylist*  
Member

### CERTIFICATION

Pursuant to Rule 70 of the 2015 Revised Rules of the House of Representatives Electoral Tribunal, it is hereby certified that the conclusions in the above Decision of the Tribunal were arrived at in consultation before the case was assigned to a Member for writing the same.

  
**PRESBITERO J. VELASCO, JR.**  
Chairperson

Copy furnished:

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