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[G.R. No. L-4566. January 24, 1955]

IN THE MATTER OF THE PETITION OF JACOB JOSEPH ASSAD TO BE ADMITTED AS A CITIZEN OF THE PHILIPPINES. REPUBLIC OF THE PHILIPPINES, PETITIONER AND APPELLANT, VS. JACOB JOSEPH ASSAD, RESPONDENT AND APPELLEE.

D E C I S I O N

CONCEPCION, J.:

On April 11,1949, petitioner Jacob Joseph Assad applied for naturalization as citizen of the Philippines. In due course the Court of First Instance of Rizal rendered, on October 12, 1949, a decision granting said application. Soon after this decision had become final, or on December 28, 1949, Assad took his oath of allegiance and the corresponding certificate of naturalization was issued. On May 4, 1950, the Solicitor General moved for the cancellation of said certificate of naturalization upon the ground that it had been secured illegally and fraudulently. In support of the motion, it was alleged that Assad had committed "the following acts of misrepresentation and misconduct," namely:

> "(*a*) That on or about September 17, 1946, when Mrs. Blandina Gamboa Hilado secured a writ of execution from the Court of First Instance of Rizal on September 10, 1946, which was issued pursuant to the order of the Supreme Court
> in G. R. No. L-742, entitled Blandina Gamboa Hilado *vs*. E.W.G. Schwegert' ordering the defendant Schwegert to vacate the premises described as
> No. 37-D Libertad, Pasay, Rizal, Jacob Joseph Assad, in open disregard of her sex and lawful order of our courts, pulled out his gun and threatened to kill Mrs. Blandina Gamboa Hilado and her companions if they should insist to enforce

the writ, stating that 'Supreme Court order or no Supreme Court order this is my property and you get out of here;'

(*b*) That in February, 1948, Jacob Joseph Assad, with his wife and five other men, aiding and conspiring together, wilfully and unlawfully attacked, kicked and employed violence on the person of Lourdes Hilado in the dwelling of the latter, with abuse of superior strength and in disregard of her sex, inflicting several physical injuries on different parts of her body and causing her the loss of some money and important papers;

(*c*) That Jacob Joseph Assad prior to his becoming a citizen of the Philippines has misrepresented himself as Salim Jacob Assad, a naturalized Filipino who left the Philippines in or about February, 1940, and had been absent therefrom since then, and by virtue of such misrepresentation he was able to purchase valuable real properties in the Philippines, among which is the one he bought from the late Justice Serafin Hilado situated in Pasay, Rizal, without which representation he could not have carried out the transactions above mentioned;

(*d*) That the acts of misrepresentation and misconduct pointed out in the preceding paragraphs had been the subject of a deportation case filed against Jacob Joseph Assad with the Deportation Board, Department of Justice, wherein evidence, both oral and documentary, had been presented by the government, but that after the government had rested its case the proceedings were suspended upon petition of Jacob Joseph Assad who claimed that the acts jnvolved in the deportation case which are mentioned in paragraph (*c*) herein were then being litigated in a separate case pending in the Court of First Instance;

(*e*) That the case referred to above is Civil Case No. 70075 if the Court of First Instance of Manila, entitled 'Blandina Gamboa Hilado *vs*. Salim Jacob Assad and Jacob Assad,' which is still pending, in which Jacob Joseph Assad gave a false testimony relative to the income of Salim Jacob Assad;

(*f*) That in the hearing of his petition for naturalization Jacob Joseph Assad falsely testified that all the cases then pending against him have

> already been dismissed when, in truth and in fact, as already above stated, the deportation case as well as the Civil Case No. 70075 were still pending determination." (pp. 53-56, R.A.)

At the hearing of said motion, the Solicitor General introduced his evidence, after which Assad, "without waiving his right to present evidence," filed a motion to dismiss, which was granted by said court, then presided over by Honorable Bienvenido A. Tan, Judge. The case, is now before us on appeal taken by the Solicitor General.

In connection with charge (*a*), the government offered to place Mrs. Blandina Gamboa Hilado, Alfredo Meneses and Mrs. Adelaida Lacson on the witness stand. The lower court, however, did not allow them to take it, upon the ground that their testimony had already been introduced in Civil Case No. 70075 of the Court of First Instance of Manila, entitled "Eftandina Gamboa Hilado *vs*. Salim Jacob Assad, et al."—which, according to the order appealed from, was decided against Mrs. Hilado (although, in fact, said decision is unfavorable to Assad)—and in Civil Case No. 407 of the Court of First Instance of Rizal, entitled, "Salim Jacob Assad vs. Lourdes Hilado Joist, and that, in the decision rendered in the latter case, said testimony was found by Judge Tan (the very same judge who granted the motion to dismiss in the case at bar) to be unworthy of credence. Based upon these predicates, the lower court concluded that "the presentation of the same witnesses for the purpose of proving the same charge is improper and incompetent."

This conclusion cannot be sustained, for petitioner herein, the Republic of the Philippines, was not a party in said cases Nos. 70075 and 407, and is not bound, therefore, by the decisions rendered therein, apart from the fact that the same are not, as yet final, and can not affect either the *competency* of the witnesses in question or the right of petitioner herein to *introduce* their testimony, as part of its evidence in the present case. In this manner the lower court has, in effect, denied said petitioner even the opportunity to establish the allegations of charge (*a*), in violation of the requirements of due process.

With reference to charge (*b*), to the effect that respondent, his

wife and several other persons had maltreated Lourdes Hilado Joist, the lower court held that, in the criminal case (No. 114-2 of the municipal court of Rizal City, Branch II, entitled "People vs. Jacob Assad, Mrs. Jacob Assad, Gorgonia Suarez, Conrado B. Reyes, Guillermo T. Pila, Manuel Balagtas and Benjamin Raflores"), for physical injuiies, instituted against said alleged assailants of Mrs. Joist, the municipal court of Pasay had rendered a decision acquitting the aforementioned respondent and his wife (but convicting their co-defendants), and that this acquittal "precludes the government from relitigating on the same offense." In support of this view, His Honor, the trial Judge quoted from the Corpus Juris Secundum:

> "* * * The issues previously determined in a criminal proceeding may be relitigated in the civil action, at least where the state is not a party to the civil proceeding: but it has been held that where the state is a party to the civil action the issues determined by the *conviction* are concluded in the civil action." (50 Corpus Juris Secudum, pp. 270-271.) (Italics supplied.)

It should be noted, however, that the foregoing statement refers to the effect of a Judgment of *conviction* in *criminal cases*. The rule is otherwise when the accused is *acquitted*. On this point, the Corpus Juris Secundum says:

> "Where the same acts or transactions constitute a crime and also give a right of action for damages or for a penalty, the acquittal of defendant when tried for the criminal offense is *no* bar to the prosecution of the civil action against him, *nor* is it evidence of his innocence in such action. The acquittal ordinarily is *not* a bar to a civil action even by the state. Where a person convicted of a crime is given a suspended sentence, and within the probation period he is arrested for violating his parole but is acquitted of the charge, the acquittal is *not* a bar to a proceeding to revoke the suspended sentence on that ground." (50 C.J.S., pp. 272-273). (Italics supplied.)

The language used in the American Jurisprudence is:

> "The *great weight of authority* supports the rule that a judgment of acquittal is *not effective* under the doctrine of *res judicata in later* civil proceedings, and does *not* constitute a bar to a subsequent civil action involving the same subject matter. *This has even been held true in regard to a civil action brought against the defendant by the state*, although in order to recover, it must prove him to have been guilty of the offense of which he has already been acquitted. In this connection, it has been held that an acquittal in a criminal prosecution does *not* constitute evidence of innocence in a subsequent civil action based upon the alleged criminal act, and is *not* admissible in favor of the accused in a civil action to prove that he was not guilty of the crime with which he was charged." (30 Am. Jur., 1003). (Italics supplied.)

This is backed up by a long line of decisions.

In the very case of Farley *vs*. Patterson, (152 N.Y.S. 69, 166 App. Div. 358), cited by Corpus Juris Secundum in support of the authority quoted in the order appealed from, it was held:

> "An acquittal in a criminal action is not admissible in evidence against the people in a civil suit .against the defendant,' as on a liquor tax bond, because of the different degrees of proof required; * * *" (Ibid., Syllabus.)

The case of Sourino *vs*. U. S. (86 Fed. Rep., 2nd Series, 309-311) is particularly in point. We quote from the decision therein:

> "This appeal is from a decree cancelling appellant's certificate of naturalization, upon findings that it had been fraudulently and illegally procured. * * *"
>
> "To the proceeding to cancel, appellant filed an answer setting out that *an indictment in three counts had been filed against him* in the same

court, charging the making of a false affidavit, the giving of false testimony, and the fraudulent procurement of naturalization; that cancellation of the certificate would have followed conviction on this indictment, but that he had been acquitted, and the matter was, therefore, res adjudicata.

* * * * * * *

"The principal issue for our determination is the sufficiency of the plea of *res adjudicata*, to sustain which it is essential, among other things, either that the cause of action be the same or that the exact point was in issue and decided. Cromwell *vs*. Sac County, 94 U. S. 351, 24 L. Ed. 195; Russel *vs*. Place, 94 U.S. 606, 24 L. Ed. 214; Bissell *vs*. Spring Valley Township, 124 U. S. 225, 8 S. Ct. 495, 31 L. Ed. 411; De Sollar *vs*. Hanscome, 158 U.S. 216, 15 S. Ct. 816, 39 L. Ed. 956; Kelliher *vs*. Stone & Webster (C.C. A. 5) 75 P. (2d) 331.

"*This proceeding to cancel appellant's certificate of naturalization is not the same cause of action as the prosecution by indictment referred to*, but is *an additional remedy* for correcting an error in the *original* proceeding granting naturalization. *It was 'designed to afford cumulative protection* against fraudulent or illegal naturalization.' United States *vs*. Ness, 245 U.S .319, 38 S. Ct. 118, 121, 62 L. Ed. 321; United States vs. Ginsberg, 243 U.S. 472, 37 S. Ct. 422, 61 L. Ed. 853; Johannessen *vs*. United States, 225 U.S. 227, 32 S. Ct. 613, 56 L. Ed. 1066; Tutun *vs*. United States 270 U. S. 668, 46 S. Ct. 425, 70 L. Ed., 738.

"*The fact that naturalisation may be revoked as an incident to conviction of fraudulent or illegal procurement thereof does not give the required identity to the two proceedings* or to the things previously sought to be obtained by them; * * *

"It follows that the facts shown by this record do *not* sustain a plea either of *res adjudicata* or of estoppel by judgment. Stone *vs*. United States, 167 U. S. 178, 17 S. Ct. 778, 42 L. Ed 127, distinguishing Coffey *vs*. United States, 116 U. S. 436, 6 S. Ct. 437, 29 L. Ed. 684. See, also, Sanden *vs*. Morgan (D. C.) 225 F. 266; Privett

> *vs*. United States (C.C.A.) 261 F. 351, decree affirmed 256 U. S. 201, 41. S. Ct. 45S, 65 L. Ed, 889; The Theodore Roosevelt (D.C.) 291 F. 453; Aycock *vs*. O'Brien, (C.C.A.) 28 F. (2d) 817; Donald, Collector *vs*. White Lumber Co. (C.C.A. 5) 68 F, (2d) 411. Accordingly, the decree of the court below is affirmed." (Italics supplied.)

It is worthy of notice that a petition for review of this decision, by certiorari, was denied by the Supreme Court of the United States (57 S. Ct. 491, 81 L. Ed. 869).

In the light of the foregoing, it is clear to us that the lower court has erred in not taking into account the evidence introduced in support of charge (*b*).

To substantiate charge (*c*) the representative of the Solicitor General introduced, as Exhibit 2, a transcript of the testimony given by one Francisco Oira—who, at the time of the hearing of the petition for cancellation of respondent's certificate of naturalization, was abroad— before the Deportation Board, in the proceedings for the deportation of respondent herein. The trial court held, in the order appealed from, that Exhibit 2 "is not admissible in evidence for the purpose of proving the alleged misrepresentation because it is the constitutional right of the respondent to confront the witnesses presented against him." It appears, however, that appellee was respondent in the deportation proceedings—which, upon his request, was suspended pending the determination of the present case—and that his counsel had an opportunity to, and did, cross-examine Mr. Oira in said proceedings. In other words, this witness had been confronted by the herein appellee, and, hence, the former's testimony should be considered in the disposition of the merits of charge (*c*).

In connection therewith, the lower court held, moreover, that, inasmuch as the subject matter thereof is still being litigated in Civil Case No. 70075 of the Court of First Instance of Manila, "any attempt on the part of the Government to present evidence on the ownership of said property which is *sub judice*, is improper and inadmissible." As above stated, however, the pendency of case No. 70075 does not affect, either the admissibility or the

competency of said evidence. Besides, not being a party in said case, the Government can not be bound by the decision therein, which is not controlling in the case at bar.

The allegations made under charge (*d*) should be considered in relation to the allegations under the other charges, particularly charge (*e*).

His Honor, the trial Judge, did not sustain charge (*e*) upon the ground that the issue involved therein is still pending determination in the above mentioned civil case No. 70075, and that Exhibits 1, 6, 7, 8 and 9, introduced by the petitioner in support of said charge, are "inadmissible in evidence being improper and incompetent". It is not clear from the order appealed from whether this conclusion is predicated solely upon the pendency of said civil case No. 70075. If it is, then the position taken by the lower court is untenable, for, as already adverted to, the pendency of said case cannot affect the competency or admissibility of the aforementioned exhibits. Furthermore, it appears that Exhibit 1 is the testimony of Jacob Assad in said civil case; that Exhibits 8 and 9 are the income tax returns of Jacob Assad and Company for the years 1941 and 1942 and that Exhibits 6 and 7 are communications of the Solicitor General, the office of the President and other offices of the Government, relative to said income tax returns. Evidently these documents were offered in evidence to establish the alleged falsity of appellee's testimony, upon which charge (*e*) is based. It is, likewise, apparent that said exhibits are relevant and material to said charge and should have been admitted, therefore, by the lower court.

The latter held that charge (*f*) had not been established, for the reason that, when respondent testified, at the hearing of his petition for naturalization, that all cases against him had already been dismissed, he referred merely to the "accusations" or "criminal cases" instituted against him—these being, according to the lower court, the matters covered by the questions preceding said statement—not to said civil case No. 70075 or to the deportation proceedings above stated. The pertinent part of respondent's testimony reads:

"Q. Have you always followed the regulations concerning business of this country?
A. Yes, sir.
Q. Since, the time you were accused for profiteering, have you been accused again of any violation of our Laws?
A. Yes, sir.
Q. When was that?
A. Two years ago. It was for unjust vexation and the case was also dismissed because the case was filed against me for vengeance.
Q. You mean to say that those who filed these accusations are your enemies?
A. Well, I cannot say exactly that they are enemies, but they filed before the Court a civil case for annulment of property and for that question they were making those troubles.
Q. So since 1946 up to the present time you have always some sort of troubles in your business?
A. Not in my business.
Q. But these persons troubling you, according to you, have bothered you always?
A. Yes, sir, by the same person.
Q. What happened to these accusations?
A. All the cases were dismissed." (t. s. n., pp. 23-24, Session of September 30, 1949.)

It should be noted that respondent had specifically mentioned the "civil case for annulment", referring evidently to said case No. 70075, as one of the "accusations" against him. In addition thereto, he said that the persons responsible for said action had given him "troubles", among which the deportation case already adverted to should, obviously, be included. Consequently, unless explained—and no explanation has yet been given—his statement to the effect that "all the cases were dismissed" must be understood prima fade to include said civil and administrative cases.

Wherefore, the order appealed from is hereby sej aside and the case remanded to the lower court, for further proceedings not inconsistent with this decision, without special pronouncement as to costs. It is so ordered.

Paras, C.J., Pablo, Bengzon, Padilla, Montemayor, Reyes, A., Jugo, Labrador, and *Reyes, J.B.L., JJ.*, concur.

Order set aside and case remanded to the lower court for further proceedings.

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