

96 Phil. 665

[G.R. No. L-6038. March 19, 1955]

**FEDERICO M. CHUA HIONG, PETITIONER, VS. THE DEPORTATION BOARD,
RESPONDENT.**

D E C I S I O N

LABRADOR, J.:

On February 26, 1952 proceedings were instituted before the Deportation Board against the petitioner, Federico M. Chua Hiong, who is alleged to have secured the cancellation of his alien certificate of registration with the Bureau of Immigration on October 31, 1945, through fraud and misrepresentation (in claiming to be an illegitimate child of a Filipino mother named Tita Umandap when as a matter of fact he is the legitimate child of a Chinese woman by the name of Sy Mua) and to have maliciously and illegally exercised privileges and rights belonging to citizens of the Philippines, such as the right of suffrage, the acquisition of real estate and lumber concessions, knowing that he is a Chinese national. Upon the institution of the proceedings, a warrant for his arrest was issued on February 27, 1952. He filed a bond for his release and thereafter petitioned said Deportation Board for the dismissal of the proceedings against him on the following grounds: (1) the jurisdiction to deport aliens exists only with regard to aliens, those who are admittedly so; (2) respondent is a citizen of the Philippines and his claim is supported by evidence that, if believed, is sufficient to entitle him to a declaration of his citizenship; and (3) his Filipino citizenship has already been declared by the Secretary of Labor, in representation of the President of the Philippines, and the same is binding on the other executive branches of the government, the Deportation Board including. The motion to quash was denied by the Deportation Board on July 7, 1952, on the ground that the mere plea of citizenship does not divest the Deportation Board of its power over the deportation proceedings; that the Deportation Board has the judicial power to pass upon the sufficiency of the

evidence that the respondent may submit to support his claim of citizenship; that the passport and other documents submitted by the respondent to prove his claim of citizenship are inconclusive; that the Deportation Board is not barred from determining the claim of respondent's citizenship notwithstanding previous findings of executive officials of the Government; that an analysis of the evidence of the respondent made by the Department of Justice shows ample reasons for justifying the Chief Executive in redetermining respondent's citizenship; and that only may the Board be prohibited from continuing the proceedings if it is convinced that the evidence submitted by the respondent shows that he is a Filipino citizen.

These proceedings were instituted in this Court on September 3, 1952, and it is sought herein that a writ of habeas corpus issue in favor of petitioner against the Deportation Board on the ground that his arrest was made without jurisdiction, as the claim submitted by him of his Filipino citizenship is supported by evidence; that the Board be prohibited from continuing the deportation proceedings against him; and that a writ of preliminary injunction issue to restrain the Deportation Board from hearing the case until after his petition is heard by this Court. On September 15, 1952, the Solicitor General, on behalf of the Deportation Board, filed a return, claiming, among other things, that the Deportation Board has in the first instance jurisdiction to pass on the question of petitioner's claim of Filipino citizenship; that the papers submitted to the Board by petitioner to support his claim of Filipino citizenship are inconclusive; and that it may review a previous determination by the Secretary of Labor on petitioner's Filipino citizenship. The return alleges the same reasons that the Board had set forth in denying petitioner's motion to quash the proceedings. On October 15, 1952, petitioner filed a reply to the return, attaching other documents relative to the petition.

The legal foundation of the petitioner's claim is contained in three propositions, namely, (a) that only an alien is subject to deportation or repatriation, and that when a resident denies that he is an alien and claims to be a citizen of the Philippines, he challenges or puts in issue a jurisdictional fact, alienage; (b) that the evidence which he has submitted to the Deportation Board as to his Filipino citizenship is substantial, for as a matter of fact various officials of the executive department have recognized such citizenship and had made a finding that he is not subject to the provisions of

the Alien Registration Act; and (c) that as his liberty as a citizen is involved, the constitutional guarantee of due process of law demands that his alleged citizenship should first be determined in judicial proceedings. The first proposition above set forth is admitted in the return. It is well settled that proceedings for deportation or repatriation can be instituted only against aliens. (2 Am. Jur. 524.)

The second proposition appears to be justified by the documents attached to the record, especially the letter of the Vice-Minister of Foreign Affairs under the Japanese Military Occupation, dated August 17, 1944 (Annex I), the letter of the Secretary of Labor dated October 31, 1945, finding the petitioner a natural son of a Filipino woman and, therefore, a Filipino citizen, and therefore exempt from the provisions of the Alien Registration Act (Annexes K, J and L), and the decision of the Court of First Instance of Manila in Case No. 565, entitled Federico M. Chua Hiong, petitioner, to the effect that petitioner is the illegitimate son of a Filipino woman by the name of Tita Umandap and is, therefore, a Filipino citizen (Annex 2), although this decision was afterwards set aside in view of the dismissal of the appeal in the Supreme Court. But the above documents are contradicted by the findings of a member of the Board of Special Investigation of the Bureau of Immigration (Annex 4, respondent), who, after an analysis of the evidence, concludes that the testimony of Tita Umandap, alleged mother of petitioner, has certain discrepancies which render it of doubtful veracity. The Secretary of Justice, in his communication of May 17, 1952, addressed to the Commissioner of Immigration, has also found that petitioner's claim to citizenship is not satisfactorily proved, so he ordered that he be required to register in accordance with the provisions of the Alien Registration Act. We might add that the petitioner herein had obtained original entry into the Philippines as the son of a Chinese father and a Chinese mother, which fact entirely contradicts his claim of Filipino parentage on his mother's side, although this fact may perhaps be explained by the desire of his father to hide the illegitimate filiation of his son, a natural tendency of man. We have therefore a case where the evidence is neither decisively conclusive in favor of petitioner's Filipino citizenship, nor decisively conclusive against said claim.

The third proposition contained in petitioner's claim and as set forth above, seems to have been already passed upon by the Supreme Court of the United States

in the case of *Ng Fung Mo. vs. White*, 66 L. ed. 938, wherein it was stated:

*** To deport one who so claims to be a citizen obviously deprives him of liberty as was pointed out in *Chin Yow vs. United States*, 208 U.S. 8, 13, 52 L. ed. 369, 370, 28 Sup. Ct. Rep. 201. It may result also in loss of both property and life; or of all that makes life worth living. Against the danger of such deprivation without the sanction afforded by judicial proceedings, the 5th Amendment affords protection in its guaranty of due process of law. The difference in security of judicial over administrative action has been adverted to by this court. ***.

“It follows that *Gin Gang Get* and *San Mo* are entitled to a judicial determination of their claims that they are citizens of the United States; * * * *.”

The Solicitor General, however, contests said ruling, citing the case of *U.S. vs. Sing Tuck*, 194 U.S. 161, 168-189, 48 L. ed, 917, 920-921, which holds that the regular order of deportation proceedings may not be interrupted summarily as a matter of right.

“In order to act at all the executive officer must decide upon the question of citizenship. If this jurisdiction is subject to being upset, still it is necessary that he should proceed if he decides that it exists.***.

“We perfectly appreciate, while we neither countenance or discountenance that argument drawn from the alleged want of jurisdiction. But while the consequence of that argument, if sound, is that both executive officers and Secretary of Commerce and Labor are acting without authority, it is one of the necessities of the administration of justice that even fundamental questions should be determined in the ordinary way. If the allegations of the petition for habeas corpus setting up want of jurisdiction, whether of an executive officer or of an ordinary court, are true, the petitioner theoretically is entitled to his liberty at once. Yet a summary interruption of the regular order of proceedings, by means of the writ, is not always a matter of right.”

And he adds that only in case it is convinced that a respondent is a Filipino citizen will it refrain from further proceedings in any case.

There is no question that as the power to deport is limited to aliens only, the alienage of the respondent in deportation proceedings is a basic and fundamental fact upon which the jurisdiction of the Deportation Board depends. If the alienage of the respondent is not denied, the Board's jurisdiction and its proceedings are unassailable; if the respondent is admittedly a citizen, or conclusively shown to be such, the Board lacks jurisdiction and its proceedings are null and void *ab initio* and may be summarily enjoined in the courts. Naturally the Board must have the power, in the first instance, to determine the respondent's nationality. And the respondent must present evidence of his claim of citizenship before the Board and may not reserve it before the courts alone in a subsequent action of habeas corpus. (*Carmona vs. Aldanese*, 54 Phil., 896.) It must quash the proceedings if it is satisfied that respondent is a citizen, and continue it if it finds that he is not, even if the respondent claims citizenship and denies alienage. Its jurisdiction is not divested by the mere claim of citizenship. (*Miranda, et al., vs. Deportation Board*, 94, Phil., 531.)

There is also no question that a respondent who claims to be a citizen and not therefore subject to deportation has the right to have his citizenship reviewed by the courts, after the deportation proceedings. When the evidence submitted by a respondent is conclusive of his citizenship, the right to immediate review should also be recognized and the courts should promptly enjoin the deportation proceedings. A citizen is entitled to live in peace, without molestation from any official or authority, and if he is disturbed by a deportation proceeding, he has the unquestionable right to resort to the courts for his protection, either by a writ of habeas corpus or of prohibition, on the legal ground that the Board lacks jurisdiction. If he is a citizen and evidence thereof is satisfactory, there is no sense nor justice in allowing the deportation proceedings to continue, granting him the remedy only after the Board has finished its investigation of his undesirability. The legal basis of the prohibition is the absence of the jurisdictional fact, alienage.

The difficulty arises when the evidence is not conclusive on either side, as

in the case at bar. Should the deportation proceedings be allowed to continue till the end, or should the question of alienage or citizenship of respondent be allowed to be decided first in a judicial proceeding, suspending the administrative proceedings in the meantime that the alienage or citizenship is being finally determined in the courts? The highest judicial authority in the United States has answered the second question in the affirmative. (*Ng Fung Ho vs. White, supra.*) The case of *U. S. vs. Sing Tuck, supra*, must be considered as having been modified by the case of *Ng Fung Ho vs. White*, which is of a later date. It is also more applicable to the case at bar where the petitioner is not seeking admission, but is already in the Philippines and is being expelled. If the citizen's right to his peace is to be protected, it must be protected preferably through the medium of the courts, because these are independent of the other branches of the government and only in their proceedings can we find guarantees of impartiality and correctness, within human limitations, in the ascertainment of the jurisdictional fact in issue, the respondent's claim of citizenship. And if the right is precious and valuable at all, it must be also protected on time, to prevent undue harassment at the hands of ill-meaning or misinformed administrative officials. Of what use is this much boasted right to peace and liberty if it can be availed of only after the Deportation Board has unjustly trampled upon it, besmirching the citizen's name before the bar of public opinion? However, it is neither expedient nor wise that the right to a judicial determination should be allowed in all cases; it should be granted only in cases when the courts themselves believe that there is substantial evidence supporting the claim of citizenship, so substantial that there are reasonable grounds for the belief that the claim is correct. In other words, the remedy should be allowed only in the sound discretion of a competent court in a proper proceeding.

In the case at bar, we find that the evidence of which petitioner and the State may avail is of such substantial nature as to afford belief that only an impartial judicial investigation can evaluate it with fairness to the petitioner and with justice to all concerned. Besides, the Executive department has seen it proper that the issue of petitioner's citizenship be determined in a judicial proceeding, a criminal action for violation of the Alien Registration Act having been filed against the petitioner in the Court of First Instance of Manila, No. 21740, *People of the Philippines vs. Federico M. Chua Hiong*. (See Annex

to Manifestation of counsel for petitioner of March 6, 1953.) Wherefore, let the preliminary injunction issued in this case continue subject to the results of the aforesaid criminal action against the petitioner. Without costs.

Paras, C.J., Pablo, Bengzon, Padilla, Montemayor, Reyes, A., Jugo, Bautista Angelo, Concepcion, and Reyes, J.B.L., JJ., concur.

Preliminary injunction to continue subject to the results of the criminal action.

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