

101 Phil. 521

[ G. R. No. L-9997. May 22, 1957 ]

**RICARDO CUA, PETITIONER AND APPELLANT, VS. THE BOARD OF IMMIGRATION COMMISSIONERS, RESPONDENT AND APPELLEE.**

**REYES, J.B.L., J.:**

Appeal from a decision of the Court of First Instance of Manila in its case No 25370, denying the appellant's petition for a writ of prohibition and mandamus to compel the Board of Immigration Commissioners to desist from continuing deportation proceedings against petitioner's wife, Tjioe Wu Suan, and to issue to her a certificate showing her status to be that of a Filipino citizen.

The facts were stipulated by and between the parties to be as follows:

1. That according to the Identification Certificate No. 265j issued by the Honorable Jose P. Bengzon, as Acting Commissioner of Immigration On June 29, 1960, photostatic copy of which, is hereto attached as Annex "A", petitioner Ricardo Cua is a Filipino citizen;
2. That Tjioe Wu Suan is the holder of a certificate in lieu of Passport No. 17-134 issued by the Republic of Indonesia in Hongkong;
3. That on November 1, 1952, Tjioe Wu Suan arrived in the Philippines aboard a Philippine Air Lines plane from Hongkong; that after the requisite investigation she was admitted as a transient and registered under A. C.-B. No. A—241014 issued in Manila on November 13, 1952; that later on she was granted extension to stay, the last one being up to March. 31, 1954;
4. That on December 4, 1953. the Indonesian Embassy in Manila reported to the Commissioner of Immigration that the passport of Tjoe Wu Suan was allegedly forged;
5. That based on that report, Warrant of Arrest N.o. 229, dated December 10, 1953, was issued by the Bureau of Immigration against Tjioe Wu Suan;

6. That on December 20, 1953, petitioner and Tjioe Wu Suan were married as shown by Annex "1" of the Petition;
7. That by reason of such marriage, the Board of Special Inquiry of the Bureau of Immigration, conducted an investigation, after which, it ruled that "as a citizen she is no longer subject to deportation" and that "she shall instead be issued the appropriate identification certificate showing her correct status as a Filipino citizen" (Annex "2"y Petition) ; that on December 29, 1953, she was issued Identification. Certificate No. 1746 annexed to "Manifestation" dated July 2, 1955;
8. That respondent Board of Immigration Commissioners proceeded with the deportation proceedings and continues to do so against petitioner's Wife, and respondent refuses to refund the sum of one thousand (P 1,000) pesos, which petitioner's wife had posted as cash bond for her temporary stay, as evidenced by Official Receipt No. 5424220, dated December 12, 1953." (Appellee's Brief, pp. 6-8).

The writs prayed for were refused by the court below because it found that the marriage of the female alien Tjioe Wu Suan to petitioner Ricardo Cua, celebrated ten days after the warrant for her arrest and deportation was issued, was resorted to only as an expedient to thwart the course of the pending deportation proceedings against her. In this appeal, it is insisted that the marriage was valid and automatically conferred Philippine citizenship upon the alien woman, rendering her immune to deportation.

The appeal can not be sustained. Granting the validity of marriage, this Court has ruled in the recent case of Ly Giok Ha vs. Galang, supra, p. 459, that the bare fact of a valid marriage to a citizen does not suffice to confer his citizenship upon the wife. Section 15 of the Naturalization law requires that the alien woman who marries a Filipino must show, in addition, that she "might herself be lawfully naturalized" as a Filipino citizen. As construed in the decision cited, this just condition requires proof that the woman who married a Filipino is herself not disqualified under section 4 of the Naturalization law.

No such evidence appearing on record, the claim of assumption of Filipino citizenship by Tjioe Wu Suan, upon her marriage to petitioner, is untenable. The lower court, therefore, committed no error in refusing to interfere with the deportation proceedings, where she can anyway establish the requisites indispensable for her acquisition of Filipino citizenship, as well as the alleged validity of her Indonesian passport.

Wherefore, the decision appealed from is affirmed. Costs against the petitioner in both instances. So ordered.

*Bengzon, Padilla, Montemayor, Reyes, A., Bautista Angelo, Conception, Endencia, and Felix, JJ., concur.*

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