

NORBERTO B. PAA, PETITIONER-APPELLEE, VS. QUINTIN CHAN, RESPONDENT-APPELLANT.*G.R. No. L-25945. October 31, 1967*

Ponente: ZALDIVAR, J.

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In the general elections held on November 12, 1963, respondent Quintin Chan and petitioner Norberto B. Paa were candidates for the office of councilor of San Fernando, La Union. Respondent was elected, placing fourth among the winning candidates, while petitioner lost. Respondent was duly proclaimed elected and he took his oath of office.

Pursuant to the provisions of Section 173 of the Revised Election Code, petitioner filed a petition for quo warranto before the Court of First Instance of La Union questioning the eligibility of respondent to the office of councilor to which he was proclaimed elected on the ground that he is a Chinese citizen. Respondent filed his answer in due time. On March 11, 1965, the parties submitted a stipulation of facts, as follows:

“1. That the respondent Quintin Chan was registered in the Bureau of Immigration as a Chinese citizen, and was issued an Alien Certificate of Registration No. 90215 dated April 30, 1946.

“2. That the respondent Quintin Chan had reported yearly to the Bureau of Immigration through the Municipal Treasurer of San Fernando, La Union, in the years 1947, 1948 and 1949, as evidenced by the Alien's Annual Report Form duly signed by him, marked as Exhibits A, B and C, for the petitioner.

“3. That the respondent Quintin Chan's father, Chan Lun Siu, was likewise registered in the Bureau of Immigration, as a Chinese citizen, and was issued an Alien Certificate of Registration No. 90219 dated April 30, 1946.

“4. That the said father of respondent Quintin Chan, had reported yearly to the Bureau of Immigration through the Municipal Treasurer of San Fernando, La Union, in the years 1948 and 1949, as evidenced by the Alien's Annual Report Form duly signed by him, marked as Exhibits D and F, for the petitioner.

“5. That the respondent Quintin Chan's mother, Tan Hit, was likewise registered in the Bureau of Immigration as a Chinese citizen, and was issued, an Alien Certificate of Registration No. 90217 dated April 30, 1946.

“6. That the said mother of respondent Quintin Chan, had reported yearly to the Bureau of Immigration through the Municipal Treasurer of San Fernando, La Union, in the years 1948 and 1949, as evidenced by the Alien's Annual Report Form duly signed by her, marked as Exhibits F and G for petitioner.

“7. That the respondent Quintin Chan originally filed a war Damage Claim No. 997394 with the U. S. War Damage Commission, which was disallowed for the reason that he was held by the U.S. War Damage Commission to be a Chinese citizen, hence ineligible as a claimant, as evidenced by the letter of the said Commission dated March 2, 1951, marked as Exhibit H for the petitioner.

“8. That the respondent Quintin Chan previously filed in the Court of First Instance of La Union, an

application for naturalization, docketed as Case No. 6, dated April 17, 1948, a certified copy of which is marked as Exhibit 1 for the petitioner.

"9. That the said application for naturalization was later dismissed in an order of the Court of First Instance of La Union, dated October 27, 1949, on motion of the applicant on his allegation that he is already a Filipino citizen, which order of dismissal is marked as Exhibit J for the petitioner.

"10. That the respondent Quintin Chan is a qualified elector having been exercising his right of suffrage.

"11. That in the elections of 1963, he ran for Councilor for the Municipality of San Fernando, La Union, being one of the official candidates of the Liberal Party, and came out fourth (4th) among the winning candidates.

"12. That he has taken his oath of office and has been discharging his duties as such alderman for said municipality.

"13. That in the elections of 1949, (1959) he first ran for councilor of this municipality, but nobody ever questioned his citizenship.

"14. That he is the holder of a Certificate of Public Convenience to operate a truck-hire business, said franchise was granted to respondent after due notice, publication and hearing.

"15. That respondent's brother, Mariano Chan, has been allowed to take the government examination given by the Board of Examiners for Civil Engineering, subsequently passing the same and granted a license to practice his profession; that he undertook the construction of the Justice Hall where this Honorable Court is presently housed, in one of his contracts with the government.

"16. That Estrella Chan, another sister, was allowed to take the Board Examination for Nurses, given by the government, and is now connected with the Chinese General Hospital.

"17. That respondent's uncle, Fernando Chan, brother of Leoncio Chan, is a Doctor of Medicine, having passed that government examinations given by the Board of Examiners for the Medical Profession, and that in his various trips abroad, he carried with him a Philippine Passport.

"18. That on May 14, 1950, the Undersecretary of Foreign Affairs issued the respondent a Philippine Passport, stating among other things, that he is a Filipino citizen.

"19. That respondent has entered into contracts with the national, provincial and municipal governments.

"20. That in a public bidding conducted by the Provincial Government of La Union in 1954, the Provincial Auditor, expressing doubt as to the citizenship of respondent, referred the same to the Department of Justice, thru the Auditor General, and pursuant to such query, the Department of Justice rendered Opinion No. 313, Series of 1954, opining that he is a Filipino citizen, a photostatic copy of said opinion, is marked as Exhibit 1 for the respondent."

Based upon the stipulation of facts and the oral and documentary evidences adduced by the parties, after weighing the same, the court a quo, on February 28, 1966, rendered a decision, the concluding and dispositive portions of which read as follows:

"The Court has weighed with care and diligence the evidence presented by petitioner as well as the proofs and testimony of respondent; and proceeding on the basis of preponderance of evidence the Court declares that such preponderance is in favor of plaintiff. It is significant that the Chinese citizenship of Quintin Chan came from his lips, from his documents, and his behaviour, particularly in filing a petition for naturalization signed by him under oath. All the evidence presented by petitioner in the belief of the Court clearly point to no other conclusion but that Quintin Chan is a Chinese citizen. The evidence of respondent has not sufficiently overthrown the proofs of petitioner.

x x x x

"In view of all the foregoing, the Court declares: Quintin Chan is a Chinese citizen now and at the time he was elected as municipal councilor of San Fernando on November, 12, 1963. He was and he is, therefore, because of citizenship, not eli-gible for the position of municipal councilor of San Fernando.

"The petition filed in this case having been proved in its substantial sense by a clear preponderance of evidence, elected councilor Quintin Chan shall, once this decision shall have become final, vacate the office as municipal councilor of San Fernando. The costs of this suit shall be paid by the respondent."

His motion for reconsideration having been denied, respondent appealed directly to this Court, contending that -

"The lower court committed an error of law in drawing the conclusion from the facts stated in the judgment, in the stipulation of facts, and in the undisputed facts, that respondent-appellant is a Chinese citizen and was such citizen at the time he was elected municipal councilor of San Fernando, La Union on November 12, 1963, and therefore ineligible for the position of municipal councilor of said municipality." [1]

We do not agree with the respondent-appellant. We sustain the finding of the lower court that respondent is not a Filipino citizen. Respondent claims that he is a Filipino citizen because his father, Leoncio Chan @ Chan Lun Siu, was a Filipino - being the illegitimate son of Lucino A. Chan Tanco, a Chinese, and Bartola Maglaya, a Filipina. Respondent stresses that the opinion of the Secretary of Justice declaring him a Filipino citizen is anchored on the circumstance that respondent is the legitimate son of a Filipino father, Leoncio Chan, as stated in the report of the Provin-cial Fiscal of La Union to the Department of Justice. The opinion of the Secretary of Justice, however, does not have a controlling effect upon this Court. The contention of respondent would be correct if there is satisfactory evidence to support it. In the instant case, the evidence adduced to support the alleged Fili-pino citizenship of Leoncio Chan, appellant's father, are:

(1) Leoncio Chan's baptismal certi-ficate (Exhibit 5) which recites that he was born on August 18, 1896, was baptized the following day, and the natural child of Bartola Maglaya, "soltera";

(2) Marriage certificate of Leoncio Chan and Teofila Tan (Exhibit 7) dated October 3, 1921, wherein it is stated that he is a Filipino citizen, born in Caba, La Union, the child of Bartola Maglaya and Lucino A. Chan Tanco;

(3) Leoncio Chan's own affidavit dated August 2, 1954, stating that he is a Fili-pino, born in Caba, La Union, the natural sort of Bartola Maglaya and Lucino A. Chan Tanco (Exhibit 9); and

(4) Sworn statement of Teofila Tan (Tangot), that she is the wife of Leon-cio Chan, Filipino, and that her husband is the natural son of Bartola Maglaya, a Filipino (Exhibit 12).

The above-mentioned affidavits, having been executed by Leoncio Chan and his wife, Teofila Tan (Tangot) are self-serving and obviously biased. The affiants were not presented as witnesses in the court below, and so those affidavits are inadmissible as evidence under the hearsay rule, especially because petitioner's counsel registered a timely objection to their admission[2] As regards the baptismal and marriage certificates of Leoncio Chan, the same are not competent evidence to prove that he was the illegitimate child of Bartola Maglaya by a Chinese father. While these certificates may be considered public documents,[3] they are evidence only to prove the administration of the sacraments on the dates therein specified – which in this case were the baptism and marriage, respectively, of Leoncio Chan – but not the veracity of the statements or declarations made therein with respect to his kinsfolk and/or citizenship.

"A baptismal certificate, like all documents in general, attests the fact that originated its execution, and the date of the same, to wit, the administration of the sacrament on the day specified, but not to the veracity of the

statements made therein respecting the kinsfolk of the person baptized. Though the filiation of legitimate children be proven, as established by article 115 of the Civil Code, by the record of birth entered in the civil registry and which is analogous to the certificates of baptism issued prior to the creation of that civil service, such record is presumptive evidence only, and is susceptible of proof to the contrary, and when, by virtue of that proof, the presumption is overcome, the said article of the Code is not violated.'

x x x x

"The aforementioned canonical certificate is conclusive proof only of the baptism administered, in conformity with the rites of the Catholic Church, by the priest who baptized the child, x x x but it does not prove the veracity of the declarations and statements contained in the said certificate that concern the relationship of the person baptized. Such declarations and statements, in order that their truth may be admitted, must indispensably be shown by some of the kinds of proof recognized by law." [4]

In *Republic of the Philippines v. The Workmen's Compensation Commission, et al.*, G. R. No. L-19945, decided on February 26, 1965, this Tribunal, reiterating the foregoing doctrine, declared:

"In the case at bar, the minors Espiritu have not been voluntarily recognized as his by the deceased Gregorio H. Espiritu. The only evidence adduced below consists of their baptismal certificates; but these are not the records of birth referred to in Article 278 (*Vidaurreazaga v. Court of Appeals*, 91 Phil. 492; *Capistrano v. Gabino*, 8 Phil. 135). Neither do they constitute 'authentic writing.' They are proof only of the act of which the priest may certify by reason of his personal knowledge - an act done by himself or in his presence - particularly the administration of the sacrament of baptism on the stated day; they are not proof of the truth of the declarations therein with respect to the parentage of the baptized children (*Adriano v. De Jesus*, 23 Phil. 350)." [5]

In the case of *Alfonso Dy Cueco v. The Honorable Secretary of Justice, et al.*, G. R. No. L-18069, May 26, 1962, this Court resolved a question more or less similar to the question now before Us. In that case, counsel for petitioner wrote the Commissioner of Immigration requesting the cancellation of Alfonso Dy Cueco's alien certificate of registration upon the ground that he had elected Philippine citizenship being the son of a Filipino mother - stating, among others: that Dy Cueco was born in Dapa, Surigao, on February 16, 1923; that his parents are Benito Dy Cueco, a Chinese, and Julita Duyapat, a Filipina; that he has always considered himself a Filipino; that he married a Filipina; that he is referred to as a Filipino in his marriage contract, in his birth certificate, and in the birth certificates of his children; and that he enlisted in the Philippine guerrilla forces in December, 1942. When the Secretary of Justice, to whom the request was referred, ruled that the election of Philippine citizenship by petitioner was ineffectual because the Philippine citizenship of his mother was not sufficiently established, Dy Cueco instituted an action for mandamus in the Court of First Instance of Manila to compel the Secretary of Justice and the Commissioner of Immigration to recognize as valid his election of Philippine citizenship. His petition was granted by the lower court, but upon appeal to the Supreme Court the decision was reversed. This Court held:

"In the case at bar, the only evidence on the political status of petitioner's mother, Julita Duyapat, consists of a certificate of baptism, stating that Julita Gonzaga was born in General Luna, Surigao, on July 30, 1881, and that her parents were Marcelino Duyapat and Consolacion Gonzaga, and a picture showing that she has the features of a Filipina and is attired in the typical dress of a Filipina. x x x [w]e are not prepared to hold that the Secretary of Justice erred in finding that said proof is insufficient to establish that petitioner's mother was a citizen of the Philippines."

In the case now before Us, it is not disputed that Quintin Chan, like Alfonso Dy Cueco, was registered as an alien with the Bureau of Immigration. Like Dy Cueco who tried to establish the Philippine citizenship of his mother by her baptismal certificate, Quintin Chan tried to establish the Philippine citizenship of his father by the latter's baptismal and marriage certificates. Unlike Dy Cueco's mother, however, Quintin Chan's father had registered

himself as an alien with the Bureau of Immigration on April 30, 1946 and held Alien Certificate of Registration No. 90219. Unlike Dy Cueco who married a Filipina and had enlisted himself with the guerrilla forces during the last war, Quintin Chan married a Chinese (Lolita Chan) and instead of joining the guerrillas he registered himself as an alien. Under the circumstances, it can be said that the case of herein respondent is worse than that of Dy Cueco.

Respondent avers that he is a Filipino because he had been exercising the right to vote since 1935; that he was issued a Philippine passport wherein it is stated that he is a Filipino citizen; that in his residence certificate issued in 1945 it there appears that his citizenship is Filipino; that he had entered into contracts with the national, provincial and municipal governments; that he owns real property situated in the municipalities of Balaoan, Caba, and San Fernando, La Union; that he was granted a certificate of public convenience by the Public Service Commission for a trucking business; that his uncle, Fernando Maglaya Chan, is a doctor of medicine who has been licensed to practice his profession in the Philippines after passing the medical board examinations; that he has a brother who is a duly licensed engineer, and a sister who is a duly registered nurse.

The exercise by a person of the rights and/or privileges that are granted only to Filipino citizens is not conclusive proof that he or she is a Filipino citizen. A person, otherwise disqualified by reason of citizenship, may exercise and enjoy the right or privilege of a Filipino citizen by representing himself to be a Filipino. In the case of the uncle, brother and sister of respondent, referred to in the preceding paragraph, the record does not show that their citizenship was ever questioned in connection with the exercise of their professions. In the case of herein respondent his citizenship was doubted by the Provincial Auditor of La Union when he participated in a public bidding in 1954, so that the opinion of the Secretary of Justice was sought regarding his citizenship. The Secretary of Justice rendered an opinion declaring that herein respondent is a Filipino citizen. But, as we have already adverted to, the opinion of the Secretary of Justice has no controlling effect upon this Court.

It is true that the Public Service Commission had granted respondent a certificate of public convenience to operate trucks in the transportation business. The record does not show, however, that the citizenship of respondent was questioned and that the Public Service Commission had made a ruling on his citizenship. Our impression, therefore, is that the Public Service Commission granted respondent a certificate of public convenience on the assumption that he is a Filipino citizen is alleged in his application. The Public Service Commission, however, has the power to revoke at any time the certificate of public convenience whenever it finds that its issuance was obtained through misrepresentation.[6]

It is incumbent upon the respondent, who claims Philippine citizenship, to prove to the satisfaction of the court that he is really a Filipino. No presumption can be indulged in favor of the claimant of Philippine citizenship, and any doubt regarding citizenship must be resolved in favor of the State.

As against the circumstances relied upon by respondent on his claim of Philippine citizenship, the record shows that in 1941 respondent registered himself as an alien (Exhibit M); and that on April 30, 1946, he and his father, Leoncio Chan, whom respondent claims to be a Filipino, registered themselves as aliens in the Bureau of Immigration, and had reported yearly to said Bureau, thru the Municipal Treasurer of San Fernando, La Union, up to 1949; that in 1948 he filed a sworn petition for naturalization (Case No. 6) before the Court of First Instance of La Union, alleging that he is a Chinese citizen, that he was born in Amoy, China, on March 13, 1915, and that he emigrated to the Philippines in 1917; and that he filed war damage claim No. 997394 with the United States Philippine War Damage Commission, but it was rejected because he is a Chinese.

If it is true that respondent has always considered himself a Filipino citizen, why did he file a petition for naturalization declaring under oath that he is a Chinese citizen? If, as respondent claims, he was born in San

Fernando, La Union on March 24, 1917, why did he declare under oath in his petition for naturalization that he was born in Amoy, China, on March 13, 1915, and that it was in 1917 when he came to Manila. Again, if he really believed that he is a Filipino, why did he register himself in the Bureau of Immigration as an alien in 1941 and again in 1946?[7] Respondent explained that he had to register as a Chinese because "during the Japanese time x x x the Japanese have a feeling of associating with the Chinese in town and they hated Filipinos for the reason that there were guerrillas so to evade my identity in helping the guerrillas I have to register as Chinese." [8] But this explanation is flimsy, considering that in 1941, before the Japanese occupation, his name already appeared in the Chinese registry of aliens in the Philippines, and in 1946 he registered himself again as alien and report-ed yearly with the Bureau of Immigration until 1949. There were no more Japanese in the Philippines in 1946. By his own acts and statements respondent has given rea-son for the conclusion that he claimed and appeared to be Chinese when the sailing is rough for the Filipinos in time of war, and then claim and appear as Filipino when everything is calm in time of peace. And considering further that, as testified to by respondent himself, five out of his eight children are enrolled at the local Chinese High School, respondent can not claim with sincerity, that he is more of a Filipino, as he claims to be, than a Chinese.

Respondent also tried to show that he is a Fili-pino citizen because he is the legitimate son of Leoncio Chan, a Filipino, and Teofila Tangot @ Tan Hit, a Chinese woman. Assuming that Leoncio Chan is a Filipino, the evidence in the record does not establish that respondent is the legitimate son of Leoncio Chan. According to the evidence of respondent, he was born on March 24, 1917 and his parents were legally married four years later, or in 1921. The respondent, therefore, was born out of wedlock. Being born out of wedlock, the subsequent marriage of his parents did not ipso facto legitimize him, because under Article 121 of the old Civil Code, "Children shall be considered legitimized by a subsequent marriage only when they have been acknowledged by the parents before or after the celebration thereof." [9] Here the record is devoid of any evidence to show that respondent was acknowledged by his parents before or after their marriage. And although there is an insinuation contained in the joint affidavit of Pio Ancheta and Leon Lacsamana (Exhibit 13) attesting to the fact that respondent had enjoyed the uninterrupted status of a natural child of his parents (Article 135, old Civil Code, now Article 383, new Civil Code), such statement does not legally establish his status as an acknowledged natural child. This is so not only because the affidavit containing the statement is inadmissible under the hearsay rule, [10] but also because granting that what is stated in the affidavit is true, it is imperative upon respondent to institute an action for compulsory recognition so that upon being recognized his legitimation would take place. This, respondent has failed to do up to the present, hence he cannot claim Filipino citizenship for being the legitimate son of a Filipino father.

WHEREFORE, the decision appealed from is affirmed, with costs against respondent-appellant. Let copies of this decision be furnished the Department of Justice, the Office of the Solicitor General, the Public Service Commission, and the Commission on Elections, for their information and appropriate action.

SO ORDERED.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Sanchez, Castro, Angeles, and Fernando, JJ., concur.

[1] As quoted from the principal error assigned by respondent-appellant.

[2] T.s.n., pp. 53-54, hearing of May 14, 1965.

[3] The marriage certificate was signed by Judge Nicanor Varona who solemnized the marriage, hence, a public document. As regards the baptismal certificate, it can be considered a public document because it is a church

record or canonical certificate issued prior to December 18, 1899. (U.S. v. Orosa, 7 Phil., 247; U.S. v. Arceo, 11 Phil., 530; U.S. v. Evangelista, 29 Phil., 215)

[4] Adriano v. De Jesus, 23 Phil., 350.

[5] See also Aballe et al. v. Santiago, L-16307, April 30, 1963.

[6] Section 16(m), Com. Act 146; Zamboanga Transportation Co., Inc. v. Lim, et al., L-10975, May 27, 1959.

[7] These sworn statements being declarations against interest and made at a time when respondent has no reason to perjure the truth, should be given more weight than the documentary evidence adduced by him.

[8] T.s.n., pp. 35-36, hearing of May 4, 1965.

[9] Now Article 271 of the new Civil Code but adding that children who "have been declared natural children by final judgment" may be considered legitimated by subsequent marriage.

[10] The affiants Ancheta and Lacsamana did not testify in the lower court.

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