

YUNG UAN CHU, PETITIONER-APPELLEE, VS. REPUBLIC OF THE PHILIPPINES, OPPOSITOR-APPELLANT.

G.R. No. L-34973. April 14, 1988

Ponente: PARAS, J.

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PARAS, J.:

This is an appeal by the Government seeking the reversal of the Decision of the then Court of First Instance of South Cotabato, General Santos City* dated December 7, 1971 granting the petition for naturalization of Yung Uan Chu alias Lina Yung alias Yu Hui Tin.

Herein appellee Yung Uan Chu alias Lina Yung alias Yu Hui Tin was born on August 3, 1933 in Iloilo City to spouses Yu Bun Juan and Po Kuan, both Chinese citizens. She studied, upon attaining school age, at the Chinese Commercial High School in Iloilo City where she finished her primary and secondary education.

Records show that on October 1, 1954, she married one Miguel Cupang Jr. admittedly a native-born citizen of the Philippines (Exhibits "U," "U-1, U-2, U-3") which marriage took place in Iloilo City (Exhibit H). Because of said wedlock and at the time of the filing of the petition, the couple had six (6) children, to wit:

(1) Shirley

-

15 years old

(2) Henry

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13 years old

(3) Terry

-

11 years old

(4) Wilson

-

9 years old

(5) Belly

-

7 years old

(6) Cherry

-

6 years old

All aforementioned children were registered as Natural born Filipino citizens (Exhibits "O," "O-1" to "O-5") and are all enrolled in public and private schools recognized by the government and not limited to any race or nationality and where Philippine History, Government and Civics are taught as part of the school curriculum (Exh. "V" and "X"). After their marriage, the couple transferred their residence to Lagao, General Santos City where they engaged in the rice and corn business under the name "General Santos Rice mill." From the said business they derived an average annual income of P20,000.00. They own real properties worth not less than P5,000.00 and have been paying their income tax to the government (Exhibit "K," "K-3," "L," "L-3," "M," "M-6," "N," "N-33," and "Q-4").

Petitioner writes and speaks Ilongo and English; believes in the principles underlying the Constitution of the Philippines, and has conducted herself in a proper and irreproachable manner during the entire period of her residence in the Philippines not only with the duly constituted authorities but also with the community in which she lives. She has mingled socially with the Filipinos and has adopted Filipino customs, traditions and idiosyncracies. She never left the Philippines since her birth (Exhibit "Q," "Q-1," "Q-2," "Q-3," "Q-6," "T," to "T-39"). She claims to be a woman of good character, a Catholic in faith and in practice. She is not opposed to organized government nor is she affiliated with any association or group or persons who uphold and teach doctrines opposing all organized government, or defend or teach the necessity or propriety of violence, personal assault or assassination for the success and predominance of men's ideas. She is not a polygamist nor a believer in the practice of polygamy. She was never indicted nor convicted of any crime involving moral turpitude. Neither is she suffering from any incurable contagious disease (Exhibit "Q-5").

After trial, a decision was rendered on December 7, 1971 finding petitioner Yung Uan Chu baptized as Lina Yung, known in school in her registered name as Lina Uan Chu and now as Mrs. Lina Y. Cupang, as possessed of all the qualifications and none of the disqualifications of a Filipino citizen and therefore authorized to take her oath of allegiance to the Republic of the Philippines and to register the same in the proper civil registrar. (Appellees Brief, pp. 28-34)

On January 5, 1972, the Solicitor General thru his authorized representative, the City Fiscal of General Santos

City, filed a Motion for Reconsideration of the aforementioned decision (Record on Appeal, pp. 34-41) which Motion the court denied in its Order dated January 26, 1972.

On January 27, 1972, the City Fiscal, representing the Solicitor General, filed his Notice of Appeal from the judgment of the Court.

The Solicitor General filed his brief on August 7, 1972 but appellee failed to file her brief within the period which expired on September 30, 1972 and the case was considered submitted for decision without appellee's brief in the resolution of November 10, 1972.

The sole issue raised by appellant is whether or not the lower court erred in concluding that it has jurisdiction to declare petitioner a Filipino citizen based on its conclusion "that if administrative bodies are possessed with such power (to determine the absence of disqualifications on the status of citizenship), there is stronger reason for the court to have jurisdiction over the case." (Appellant's Brief, p. 6)

The Government thru the Solicitor General submitted that in the case of *Moy Yu Lim Yao vs. Commissioner of Immigration* (No. L-21289, October 4, 1971, 41 SCRA 292) this Court thru Justice Antonio P. Barredo, while holding that an alien woman who marries a Filipino citizen ipso facto becomes a Filipino provided she is not disqualified to be a citizen of the Philippines under Section 4, Commonwealth Act No. 473, reiterated the rule that "a judicial declaration that the person is a Filipino citizen cannot be made in a petition for naturalization and that, in this jurisdiction there can be no independent action for the judicial declaration of citizenship of an individual."

Appellant's claim is impressed with merit.

A careful examination of the records shows that the sole and only purpose of the petitioner is to have the petitioner declared a Filipino citizen. This Court has consistently ruled that there is no proceeding established by the law, or the Rules for the judicial declaration of the citizenship of an individual. (*Republic v. de la Cruz*, 118 SCRA 32 [1982], citing: *Danilo Channie Tan v. Republic*, L-14159, April 18, 1960, 10 Phil 632; *Tan Yu Chu v. Republic*, L-15775, April 29, 1961, 1 SCRA 1964; *Dionision Palaran v. Republic*, L-15047, January 30, 1962, 4 SCRA 79; *Lao Yup Hun Diok v. Republic*, L-19007-19109, September 30, 1964, 12 SCRA 107, *In re Mallari* Adm. Case No. 533, April 29, 1968; *Lee v. Commissioner of Immigration*, 42 SCRA 561 [1971], *Wong Sau Mei v. Republic*, 38 SCRA 26 [1971], *Soria v. Commissioner of Immigration*, 37 SCRA 213 [1971]).

Thus, this Court has clearly stated:

"Under our laws, there can be no action or proceeding for the judicial declaration of the citizenship of an individual. Courts of justice exist for settlement of justiciable controversies, which imply a given right, legally demandable and enforceable, an act or omission violative of said right, and a remedy, granted or sanctioned by law, for said breach of right. As an incident only of the adjudication of the rights of the parties to a controversy, the court may pass upon, and make a pronouncement relative to their status. Otherwise, such a pronouncement is beyond judicial power. Thus, for instance, no action or proceeding may be instituted for a declaration to the effect that plaintiff or petitioner is married, or single, or a legitimate child, although a finding thereon may be made as necessary premise to justify a given relief available only to one enjoying said status. At times, the law permits the acquisition of a given status, such as naturalization, by judicial decree. But, there is no similar legislation authorizing the institution of judicial proceeding to declare that a given person is part of our citizenry." (*Tan Yu Chu v. Rep. supra*)

Hence, a "judicial declaration that a person is a Filipino citizen cannot be made in a petition for naturalization because under our laws there can be no action or proceeding for the judicial declaration of the citizenship of an individual. Such a declaration or pronouncement is beyond the court's jurisdiction." (*Lao Yup Hun Diok v.*

Republic, supra)

An alien woman married to a Filipino citizen does not necessarily acquire Philippine citizenship. She must prove in an appropriate proceeding that she does not have any disqualification for Philippine citizenship.

This rule also applies even if her husband is a native born Filipino. (Austria et al., v. Conchu, L-20716, June 22, 1965, 14 SCRA 336; 121 Phil 1148)

In Moy Ya Lim Yao (41 SCRA 292-388) the Court adverted to the administrative procedure which up to the present is followed in the Commission of Immigration and Deportation. The steps to be taken by an alien woman married to a Filipino for the cancellation of her alien certificate of registration are embodied in Opinion No. 38, series of 1958 of then Acting Secretary of Justice Jesus G. Berrera to the effect that "The alien woman must file a petition for the cancellation of her alien certificate of registration alleging, among other things that she is married to a Filipino citizen and that she is not disqualified from acquiring her husband's citizenship pursuant to section 4 of Commonwealth Act No. 473, as amended. Upon the filing of said petition, which should be accompanied or supported by the joint affidavit of the petitioner and her husband to the effect and thus secure recognition of her status as a Filipino citizen. Judicial recourse would be available to the petitioner in a case of adverse action by the Immigration Commissioner.

Although as already stated, administrative proceedings should have been undertaken by the appellee, still, in the instant case, We find no necessity therefor because in this judicial proceeding, it is clear she is already a Filipino citizen.

WHEREFORE, the appealed decision is hereby AFFIRMED and the Commissioner of Immigration and Deportation is hereby ordered to CANCEL applicants alien certificate of registration.

SO ORDERED.

Yap, (Chairman), Melencio-Herrera, Padilla, and Sarmiento, JJ., concur.

[*] Presided over by Hon. Judge Pedro Samson Animas

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