

IN RE: PETITION TO CHANGE CITIZENSHIP STATUS FROM CHINESE TO FILIPINO CITIZEN ON TRANSFER CERTIFICATES OF TITLE ISSUED TO HEIRS OF RICARDO VILLA-ABRILLE LIM; AND/OR, IN THE ALTE...

G.R. No. L-7096. May 31, 1956

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

This is an appeal, taken by the Republic of the Philippines, from an order of the Court of First Instance of Davao, dated December 29, 1951, the dispositive part of which is:

"EN SU VIRTUD, el Juzgado falla esta causa:

"(a) Declara a los recurrentes Lorenzo, Guiña, Rosalia y Adolfo apellidados Villa Abrille Lim Cuidadanos filipinos;

"(b) Ordena al Registrador de Titulos de la1 ciudad de Davao;

"(1) que enmiende los Certificados de Transferencia de Titulos Nos. T-2365, T-2362, T-2367, T-2360, T-2371, T-2363, T-2368, T-2366, T-2374, T-2370, T-2369, T-2372, T-2361, T-2364, haciendo constar en todos y cada uno de los mismos, lo siguiente; "Lorenzo Villa Abrille Lim, filipino";

"(2) que enmiende los Certificados de Transferencia de Titulos Nos. T-2349, T-2347, T-2342, T-2343, T-2348, T-2345, T-2344, T-2346, T-479, haciendo constar en todos y cada uno de los mismos, lo siguiente: 'Guinga Villa Abrille Lim, filipino';

"(3) que enmiende los certificados de Transferencia de Titulos Nos. T-2354, T-2352, T-2353, T-2356, T-2351, T-2356, T-2357, T-23SS, T-2359, haciendo eonstar de todos y cada uno de los mismos, lo siguiente s 'Kosalia Villa Abrille Lim, filipina';

"(4) que enmiende, los Certificados de, Transferencia de Titulos Nos. T-2324, T-2321, T-2323, T-2322, T-2325, T-2331, T-2330, T-2319, T-2327, 2326, T-2320, T-2374, T-2329, T-2328, T-478, haciendo constar en todos y cada uno de los mismos; lo siguiente: 'Adolfo Villa Abrille Lim, filipina'.

"(c) sin especial pronunciamiento en cuanto a las costas.'

This case was commenced by a petition filed on November 10, 1950. The theory of the petitioners is, substantially, as follows: Petitioners Lorenzo, Guinga, Rosalia, Adolfo, Saya and Luisa, all surnamed Villa Abrille, are descendants of Francisco Villa Abrille Lim Juna—here after referred to as Lim Juna—a Chinese subject who arrived in Davao, from China, in 1871 or 187£. On January 4, 1890, Lim Juna married Maria Loreto Tan Sipo or Sepo—hereafter referred to as Tan Sepo—daughter of Tan Joson (a Chinese) and his common law wife, a Mora, whose name appears nowhere. , Prior thereto, however, Lim Juna and Tan Sepo had already had extra marital relations, in consequence of which, Ricardo, Carlos and Luisa, all surnamed Villa Abrille, were born on

February 14, 1883, January 3, 1885 and December 22, 1889, respectively. During wedlock, said spouses had two (2) children, namely, Cesareo and Candelaria, born, respectively, on February 13, 1893 and December 2, 1895. Carlos and Cesareo became naturalized citizens of the Philippines in 1935 and—according to the petition—1916 (before the passage of our first naturalization law, Act No. 2927, approved on March 26, 1920) or—according to the testimony of Carlos—1925, respectively. Ricardo Villa Abrille, already deceased, was survived by his children, petitioners Lorenzo, Guinga, Rosalia, Adolfo and Saya, all surnamed Villa Abrille. Saya, Luisa and Candelaria Villa Abrille are married, respectively, to Chiu Eang Po, Huang Pit Lin and Abelardo Tan Chin Hoc, all Chinese subjects. In the language of the petition, Lim s Juna "considered himself as a Spanish subject during the Spanish Regime and had identified himself with the Filipinos, in all social and civil affairs", as well as "contributed to civil and social organization during the Spanish regime and later during the period of, American occupation". After residing continuously in the Philippines since 1871 or 1872, Lim Juna died therein on March 9, 1943, leaving extensive holdings, among which were over 800 hectares of agricultural lands and more than 30 hectares of urban lands, situated in Davao and registered under the Torrens system. These properties passed by succession to his heirs, petitioners herein, who are referred to in the corresponding transfer certificate of title—a list of which is annexed to the petition—as "Chinese citizens", although they have "considered themselves as Filipino citizens," were "educated in the public schools" and "intermingled and associated with the Filipinos in a proper and irreproachable manner". We quote the prayer of the petition:

"Wherefore, petitioners, Lorenzo, Guinga, Rosalia, and Adolfo, all surnamed Villa-Abrille Lim, pray for judgment declaring: them to be Filipino citizens and issue an order directing the Register of Deeds of Davao to change their citizenship status on the face of the Transfer Certificates of Title herein before mentioned from Chinese to Filipino citizens;

"And/or, in the alternative, petitioners pray for a declaratory judgment determining the citizenship status of all the herein named petitioners, with a view of removing all doubt and uncertainty as to their real status; as to petitioners Luisa Villa-Abrille, Candelaria Villa-Abrille Tan, and Saya Villa-Abrille Lim, their citizenship from the time of their birth up to the time of their marriage; and as to petitioners Lorenzo, Guinea, Rosalia, and Adolfo, all surnamed Villa-Abrille Lim, the citizenship of their father, Ricardo Villa-Abrille Lim, at the time of his birth."

The Republic of the Philippines objected to the petition, upon the ground that petitioners are not citizens of the Philippines; that a declaratory judgment is not proper under the allegations of the petition; and that petitions for "change of entry in a Certificate of Title should be filed in the G.L.R.O. proceedings of the land in question."

After due hearing, the Court of First Instance of Davao found that petitioners are citizens of the Philippines, except Luisa, Candelaria and Saya, who although formerly enjoying such political status have lost it, owing to their marriage to Chinese nationals.. Hence, the court issued the order above referred to, dated December 29, 1951, in favor of petitioners Lorenzo, Guinga, Rosalia and Adolfo, all surnamed Villa Abrille.

Neither the petition nor the order appealed from cites the legal provision under which petitioners apply for an order directing the Register of Deeds of Davao to change their citizenship status on the face of the Transfer Certificates of Title herein before mentioned from Chinese to Filipino citizens," as prayed for in said petition. However, the language thereof and the tenor of said order insofar as it directs the aforementioned officer to amend the certificates of title in question by stating thereon that Lorenzo, Guinga, Rosalia and Adolfo Villa Abrille are Filipinos—suggest, and petitioners admit in their brief, that they rely upon section 112 of Act No. 496, reading:

"No erasure, alteration, or amendment shall be made upon the registration book after the entry of a certificate of title or of a memorandum hereon and the attestation of the same by the clerk or any register of deeds, except by order of the court. Any registered owner or other person in interest may at any time apply by petition to the court, upon the ground that registered interests of any description, whether vested, contingent, expectant, or

inchoate, have terminated and ceased; or that new interests have arisen or been created which do not appear upon the certificate; or that any error, omission, or mistake was made in entering a certificate of any memorandum thereon, or on any duplicate certificate; or that the name of any person on the certificate has been changed; or that the registered owner has been married; or if registered as married, that the marriage has been terminated; or that a corporation which owned registered land and has been dissolved has not conveyed the same within three years after its dissolution; or upon any other reasonable ground; and the court shall have jurisdiction to hear and determine the petition after notice to all parties in interest, and may order the entry of a new certificate, or grant any other relief upon such terms and conditions, requiring security if necessary, as it may deem proper: Provided, however, That this section shall not be construed to give the court authority to open the original decree of registration, and that nothing shall be done or ordered by the court which shall impair the title or other interest of a purchaser holding a certificate for value and in good faith, or his heirs or assigns, without his or their written consent.

"Any petition filed under this section and all petitions and motions filed under the provisions of this Act after original registration shall be filed and entitled in the original case in which the decree of registration was entered." (Italics supplied.)

Petitioner seemingly feels that the portion we have underscored, referring to case³ of "error, omission or mistake," justifies the order appealed from. To our mind, however, it is clear that, in the case at bar, they are not entitled to the benefits of said provision, inasmuch as: (1) the relief therein contemplated may be granted only "in the original case in which the decree of registration was entered"; (2) there is no allegation in the petition, and no evidence to the effect, that the aforementioned reference, to petitioners herein as "Chinese" citizens, was due to any "error, mistake or omission"; and (3) no evidence whatsoever having been introduced on how petitioners happened to be so referred in the certificates of title, the presumption is that the same had—in all respects, including said reference to petitioners' nationality—been issued in conformity with law, and that no "error, mistake or omission had been committed in connection therewith. Indeed, considering that petitioners claim to have acquired their proprietary rights by inheritance, said transfer certificates of title must have been issued in accordance with a deed of partition, either judicial or extra-judicial, stating that they are Chinese. This is, obviously, one of the main reasons why said section 112 of Act No. 496 provides that all motions or petitions under its provisions "shall be entitled and filed in the original case in which the decree of registration was entered." Had petitioners herein adhered to this mandate, the G.L.R.O. records of the lands in question would be before the Court and we would now have a concrete idea of how they came to be described as Chinese in the transfer certificates of title above referred to. Compliance with the requirement that the petition or motion for amendment of the certificates of title shall be filed in the original registration cases is essential, therefore, to the relief provided in said section and may not be dispensed with. Needless to say, petitioners' omission from presenting any proof on the specific conditions under which they happened to be referred to as Chinese in said certificates of title, leads to a conclusion unfavorable to them.

May we grant "a declaratory judgment determining the citizenship status of all the herein named petitioners with a view of removing all doubt and uncertainty as to their real status", as prayed for in their petition? Identical was the issue raised in the case of *Hospicio Obiles vs. Republic of the Philippines* (4 Off. Gaz., 923), which was resolved by this Court, unanimously in the negative. We then said:

"* * * upon closer analysis, especially of the prayer of the petition and the allegation to the effect that he is a Filipino citizen and is ready and willing to submit evidence to sustain this allegation, what the petitioners desires is to be declared a Filipino citizen in spite of Ms registration as a Chinese citizen. As contended by the Solicitor General, petitioner's remedy is clearly not by an action for declaratory relief.

"For the reason, therefore, that petitioner's action for declaratory relief is not the proper remedy, because his desire is to be declared a Filipino citizen, and because the facts alleged in his petition constitute no cause for a

declaratory judgment, the judgment appealed, from should be, as it hereby is, affirmed, with costs against petitioner-appellant" (*Italics supplied.*)

We find absolutely no reason to depart from this view, which is squarely in point. What is more, we have no change, in the matter, for section 1, of Rule 66 of the Rules of Court says:

"Any person interested under a deed, will, contract or other written instrument, or whose rights are affected by a statute or ordinance, may bring an action to determine any question of construction or validity arising under the instrument or statute and for a declaration of his rights or duties thereunder"

Pursuant to this provision, one cannot secure a declaratory relief except in "an action to determine any question of construction of validity arising under" an "instrument or statute or for a determination of his right or duties thereunder". Petitioners do not seek a detention of any such question or of their rights or duties under any instrument or statute. In short, the case at bar is patently beyond the purview of said Rule 66 of the Rules of Court:

Wherefore, the order appealed from must be, as it is hereby reversed, with costs against the petitioners. It is so ordered.

Paras, C. J., Bengzon, Padilla, Reyes, A., Bautista Angelo, Reyes, J. B. L., and Endencia, JJ., concur.

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