

IN RE: FLORENCIO MALLARE

Adm. Case No. 533. July 31, 1969

Ponente: REYES, J.B.L., J.

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

By our original decision of April 29, 1968, we declared that, according to the evidence submitted at his investigation, respondent Florencio Mallare admitted to the practice of law in 1962, was not really a Filipino citizen. As a result, the dispositive portion of our decision was of the following tenor:

"IN VIEW OF ALL THE FOREGOING, the respondent Florencio Mallare is hereby declared excluded from the practice of law; his admission to the Philippine bar is revoked and he is hereby ordered to return immediately to this Court the lawyer's diploma pre-viously issued to him.

"Let a copy of this decision be furnished, when it becomes final, to the Secretary of Justice, for such action as may be deemed warranted; and let an-other copy be sent to the Local Civil Registrar of Macalelon, Quezon, for purposes of record in the corresponding civil registry of births."

After several motions for reconsideration had been denied, respondent Mallare filed a petition for reopening, and new trial, predicated upon the discovery of an entry in the Register of Baptisms of the Parish of the Immaculate Conception of Macalelon, Tayabas (now Quezon), bearing No. 5 at rage 147, attesting to the fact that respondent's late father, Esteban Mallare, was baptized as the natural son of Ana Mallare, "india soltera de este pueblo" and an unknown father.

This document, if authentic, would greatly tend to support, in con-junction with other evidences on record, the claim of respondent that his father was a citizen of the Philippines, which citizenship was acquired by herein respondent upon his birth in the Philippines, his Chinese mother Te Na having followed Esteban Mallare's nationality upon her marriage to the latter.

Respondent further submits the affidavit of one Damiana Cabañgon, who allegedly was the "hilot" who attended Ana Mallare and that the latter had no husband when she gave birth to Esteban Mallare; and that of respon-dent's mother Te Na, that she had erroneously registered her son, Florencio, as an alien in 1960.

The Commissioner of Immigration has opposed the reopening on the ground that the evidence proposed to be introduced by herein respondent is not newly discovered, but forgotten evidence.

Considering that the respondent, as a duly admitted member of the bar, should be given ample opportunity to establish the true facts about his citizenship and that no effort should be spared to ascertain the truth before stripping him of the privilege granted to him by this Court since 1962, and denying him the practice of his chosen profession which he has honorably discharged as far as the records show:

The Court Resolved to set aside the decision of April 29, 1968 and to grant the reopening and new trial prayed for, which shall take place before the Court's Investigating Officer on the days specified by him upon notice to respondent Mallare, the Commissioner of Immigration and the Solicitor General, wherein said parties may adduce

all proper additional evidence that they may desire to present. The proofs taken at the original investigation shall not be retaken, but considered as part of the evidence in the new trial. Thereafter, the Court Investigator shall submit his report to this Tribunal.

SO ORDERED.

Concepcion, C.J., Dizon, Makalintal, Sanchez, Castro, Fernando, Capistrano, Teehankee, and Barredo, JJ., concur.

Zaldivar, J., did not take part.

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