

**REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. HONORABLE  
TEODULO C. TANDAYAG, AS JUDGE OF THE COURT OF FIRST  
INSTANCE OF LANA DEL NORTE, BRANCH IV, STATIONED AT  
ILIGAN CITY, AND ...***G.R. No. L-32999. October 15, 1982*

Ponente: FERNANDO, C.J.

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This appeal from an order of the lower court poses the question of whether or not the repatriation of a mother, Consolatrix Kho Sy, entitles her minor son, Edgardo Sy Tiongsa, to a declaration that he is entitled to Philippine citizenship. In an amended petition for repatriation, the prayer was from an order from the lower court "1 - authorizing petitioner's son, Edgardo Sy Tiongsa, to take his oath of allegiance to the Republic of the Philippines, at such time and place as may be set forth in the judgment; and thereafter 2 - an order issue directing the Commissioner, Bureau of Immigration, Manila or his representative, to revoke, cancel or void the Alien Certificate of Registration and Immigration Certificate of Residence of petitioner, Consolatrix Kho Sy and her minor child, Edgardo Sy Tiongsa, \* \* \*." [1] Such prayer was granted. There was a motion for reconsideration based on alleged procedural deficiencies arising from lack of conformity to the then applicable rules and regulations promulgated by the Department of Justice. In an order denying such motion, the lower court pointed out that there was no sufficient basis for the imputation of such procedural flaws. In addition, relying on *Talaroc v. Uy*, [2] the lower court affirmed its order "declaring Consolatrix Kho Sy and her minor son, Edgardo Sy Tiongsa, citizens of the Republic of the Philippines" by repatriation. [3] In the appeal to this Court, it was even pointed out that repatriation, on the assumption of the mother being a Filipino citizen prior to her marriage, may be obtained "by the simple expedient of taking the required oath of allegiance and its filing with the proper civil registry (Sec. 4, Com. Act No. 63, as amended), without need of resorting to judicial proceedings." [4] Nonetheless, in the five-page brief submitted by the Office of the Solicitor General, it was alleged that the lower court erred in ruling that the mother was repatriated and that the minor son by virtue thereof was entitled to acquire Filipino citizenship. It may be noted that less than two pages were devoted to discussing the two assigned errors. Nor was any effort made to refute the doctrine set forth in *Talaroc v. Uy*, the case relied upon by the lower court Judge in granting the petition for repatriation of the mother and the declaration of citizenship of the minor son. The appeal lacks merit.

In the well-reasoned order denying the motion for reconsideration by respondent Judge Teodulo C. Tandayag, the argument that there was "no satisfactory evidence" presented by the mother to support her claim for citizenship was rejected. Thus: "This contention could not be sustained because Consolatrix Kho Sy has proven in open Court that she was born in Iligan City on September 7, 1921 of a Filipino father who is already dead and a Filipino mother who is still alive so that she is a natural born citizen of the Philip-pines; that she was employed as a public school teacher in Iligan before the war and after the war and her claim for backpay was duly approved and fully redeemed as shown by Exhs. "J", "J-1" and "J-2"; that she was a registered voter of Precinct No. 6, Iligan, in the

1946 elections as shown by the certification, Exhs. "K" and "K-11"; that all her sisters and brothers are Filipino citizens as shown by the fact that her sister, Lourdes E. Kho, is a licensed pharmacist, Exh. "L", and Natividad E. Kho, also a licensed pharmacist, Exh. "M". The petitioner, Consolatrix Kho Sy, has, therefore, satisfactorily proven that she was a Filipino citizen by birth and continued to be such until her marriage to her Chinese husband on November 15, 1947, and that she has not taken any oath of allegiance to any foreign state, country or sovereign."<sup>[5]</sup> In addition, the City Fiscal, during such hearing, verbally urged respondent Judge to deny the repatriation on the ground that he should wait until he became of age. Nor was such submission found acceptable in view of the ruling in the *aforecited Talaroc v. Uy* decision which in the language of the lower court held "that Alejandro D. Uy became a Filipino citizen at least upon his father's death."<sup>[6]</sup> Here the mother reacquired Filipino citizenship upon the death of her husband.

To repeat, the appeal lacks merit.

The reliance on *Talaroc v. Uy*<sup>[7]</sup> by the lower court is more than justified. In this case, the election of respondent Uy to the office of municipal mayor of Manticao, Misamis Oriental, was challenged in a quo warranto petition on the ground of lack of eligibility, he being a Chinese national. The lower court found the petition well-founded but the Supreme Court reversed. Justice Tuason, speaking for the Court, first noted that the facts were undisputed. Respondent Uy was the son of a Chinese national, Uy Piangco, and a Filipino mother. He was born in Iligan, Province of Lanao, in 1912. He had never been to China; had voted in previous elections and had held such offices as inspector of the Bureau of Plant Industry, a public school teacher, a filing clerk, and acting municipal treasurer. Moreover, as noted by Justice Tuason in his opinion: "These facts also appear uncontroverted in evidence: One of the respondent's brothers, Pedro D. Uy, before the war and up to this time has been occupying the position of income tax examiner of the Bureau of Internal Revenue. His other brother, Jose D. Uy, is a practicing certified public accountant, and before the war was the accountant of the National Abaca and Fiber Corporation (NAFCO). His other brother, Dr. Victorio D. Uy, is a practising physician, and, before the war, was charity physician in Initao and later a physician in the provincial hospital. During the war, Dr. Uy was a captain in the Philippine Army. His younger brother was a lieutenant in the 120th Infantry Regiment of the guerrillas."<sup>[8]</sup> It would appear, therefore, that the lower court was more than justified in holding that the mother, Consolatrix Kho Sy, who was born in 1921, thereafter employed as a public school teacher before and after World War II, with her claim for backpay duly approved, was a registered voter and whose brothers and sisters are recognized as Filipino citizens, is entitled to the same ruling. Hence upon the death of her husband, her right to repatriation cannot be doubted. This portion of the opinion of Justice Tuason is likewise relevant: "Certainly, it would neither be fair nor good policy to hold the respondent an alien after he had exercise the privileges of citizenship and the Government had confirmed his Philippine citizenship on the faith of legal principles that had the force of law. On several occasions the Secretary of Justice had declared as Filipino citizens persons similarly circumstanced as the herein respondent."<sup>[9]</sup> Similarly, again as held in *Talaroc v. Uy*, Edgardo Sy Tiongsa, her son, who was a minor having born in 1952 and the father having died in 1957, is entitled to Philippine citizenship.

WHEREFORE, the order appealed from must be affirmed, declaring Consolatrix Kho Sy repatriated and Edgardo Sy Tiongsa, her son, entitled to Philippine citizenship.

Makasiar, Aquino, Concepcion, Jr., Guerrero, Abad Santos, De Castro, and Escolin, JJ., concur.

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[1] Amended Petition, 3-4.

[2] 92 Phil. 52 (1952).

[3] Order, 8.

[4] Brief for the Petitioner, 4.

[5] Order, 5-6.

[6] Ibid, 8.

[7] 92 Phil. 52 (1952).

[8] Ibid, 53-54.

[9] Ibid, 57.

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