

MARIA P. DE AZAJAR, PLAINTIFF AND APPELLANT, VS. FRANCISCO ARDALLES AND THE BUREAU OF LANDS, DEFENDANTS AND APPELLEES.*G.R. No. L-7913. October 31, 1955*

Ponente: PADILLA, J.

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In a complaint filed in the Court of First Instance of Albay plaintiff seeks a declaratory judgment or relief pleading that sometime in December, 1950 she applied for the purchase of a parcel of land containing an area of 240 square meters belonging to the public domain located in the Province of Albay, more particularly described in the second paragraph of the complaint; that an opposition to the application was filed by Francisco Ardales on the ground that the applicant being a Chinese citizen is not entitled to acquire lands of the public domain; that the opposition to her application raises uncertainty or insecurity as to her citizenship which is prejudicial to her interest and unless it be judicially determined the Bureau of Lands would likely deny her sales application; that she is the daughter of a Filipino citizen named Blas Azajar; that she was born in Amoy, China, on 25 August 1922 and came to the Philippines on 9 November 1926; that her father Blas Azajar was born in Manila on 25 June 1896 of a Filipino mother named Francisca Azajar; that in 1918 her father Bias Azajar elected to become Filipino citizen; that at the time of such election Bias Azajar was married to Tan Giok who became also a citizen of the Philippines when in 1918 her husband elected to become Filipino citizen; that when she was born on 25 August 1922 in lawful wedlock, Bias Azajar and Tan Giok were Filipino citizens; and that she and her parents being Filipino citizens and exercising continuously and uninterruptedly their rights and privileges as Filipino citizens have not lost their Filipino citizenship; Upon these allegations she prays that after due hearing judgment be rendered declaring her to be a Filipino citizen and as such entitled to acquire lands of the public domain and that she is possessed of all the rights and privileges accorded to Filipino citizens.

The defendants Francisco Ardales and the Director of Lands filed their answers. On the date set for hearing the following stipulation was submitted:

The parties Plaintiff and Defendants, stipulate on the following facts:

1. That according to Landing Certificate of Residence No. 18363 issued by the Bureau of Customs, Manila, in favor of Bias Azajar on January 10, 1918 states that said Bias Azajar is the son of Francisca Azajar, Filipina, and it further states that he was born on June 25, 1896 in the City of Manila as evidenced by photostatic copy of said landing certificate marked as Exhibit "A";
2. That the Landing Certificate of Residence No. 76921 issued by the Collector of Customs of Manila in the name of Tan Giok dated November 9, 1926 states that said Tan Giok is the wife of Bias Azajar and states further that she was born in Amoy, China, in 1897 and it also states that she is the wife of Bias Azajar, wife of PI citizen, her local residence being Naga, Camarines Sur, as evidenced by photostatic copy of said landing certificate marked as Exhibit "B";

3. That the Landing Certificate of Residence No. 76920 issued in the name of Peck Ti Azajar issued by the Collector of Customs of Manila on November 9, 1926 states that said Peck Ti Azajar is the daughter of Bias Azajar and it also states that she is the daughter of PI citizen who was born in Amoy on August 25, 1922, as evidenced by photostatic copy of said landing certificate marked as Exhibit "C";

4. That on October 11, 1949 she registered in precinct No. 312 as voter in Manila and on October 12, 1951 she also registered as voter in precinct No. 37 of Quezon City as evidenced by her voters affidavit No. 6037171;

5. That Maria Peck Ti Azajar has her Residence Certificate No. A-2977928 issued in Manila on September 29, 1949 in which it certifies she is a Filipina citizen and residing at O'Donnell Street, Manila;

6. That Maria Peck Ti Azajar had four children with Co Bun Tee with whom she is supposedly living as common-law wife since sometime in the year 1943;

Wherefore, without prejudice to the right of both parties of presenting further evidence, respectfully submit to the Honorable Court the above mentioned stipulation of facts.

City of Legaspi, Philippines, October 22, 1951.

(Sgd.) Avelino R. Ronan
Atty. for the Defendant Francisco Ardales

(Sgd.) Z. Gutierrez Lora
Atty. for the plaintiff

(Sgd.) Leonardo P. Flores
Provincial Fiscal
In representation of the Bureau of Lands

After hearing the court rendered judgment holding that plaintiff is a Chinese citizen and as such is not entitled to acquire lands of the public domain, with costs against her. A motion for reconsideration was denied. Hence this appeal.

The appeal was forwarded to the Court of Appeals and while it was pending there, the First Assistant Solicitor General filed a motion praying that the appeal be dismissed on the ground that an action for declaratory relief is not the proper proceedings for the purpose of securing a judicial declaration of Filipino citizenship, invoking the rule laid down in *Obiles vs. Republic*, 49 Off. Gaz. 923; that although the Director of Lands and a private individual, who objected to the plaintiff's application for the purchase of a lot belonging to the public domain, were made party defendants, the nature of the action as intended by the plaintiff is not in anyway altered, because it is not alleged in the complaint that the Director of Lands has ruled adversely on her citizenship and that for that reason disapproved her sales application; that the action brought by the plaintiff not being the proper remedy in the light of the allegations of the complaint, the trial court was without authority or jurisdiction to decide it on the merits except to dismiss it. An objection was filed by the appellant to this motion and the court held in abeyance the resolution on the motion and objection until the case be decided on the merits. In her pleading objecting to the motion to dismiss, the appellant moved that the appeal be forwarded to the Supreme Court involving as it does purely questions of law. To this motion of the appellant the First Assistant Solicitor General objected, on the ground that not only questions of law but also of fact are involved in the case and insisted on his motion that the appeal be dismissed for lack of jurisdiction of the trial court to hear it and render judgment therein. After denying the motion to forward the case to this Court for final determination thereof, on 16 March 1954 the Fourth Division of the Court of Appeals ruled that as the Solicitor General raises the question of jurisdiction of the trial court to decide the case on the merits and there being practically no controversy over the facts on which the appellant's claim is based, it certified the appeal to this Court, pursuant to section 31, in connection with section 17,

paragraph 4, clauses 3 and 6, of Republic Act No. 296, known as the Judiciary Act of 1948.

Section 1, Rule 66, provides:

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.

The appellant is not interested under a deed, will, contract or other written instrument; nor are her rights affected by a statute or ordinance and so her grievance against Francisco Ardales who objected to her sales application for a parcel of land of the public domain has not brought her under and within the scope of section 1 of Rule 66 quoted above. A sales application filed with the Bureau of Lands must go through the different stages as prescribed by law until the Director of Lands, the officer clothed with the authority to alienate lands belonging to the public domain, renders his decision. Whether the appellant is entitled or not to purchase the parcel of land of the public domain applied for by her depends upon her citizenship aside from other requirements prescribed by law. From a decision of the Director of Lands an appeal lies to the Secretary of Agriculture and Natural Resources. For that reason, until after all these administrative remedies shall have been exhausted, no court may compel the Director of Lands or the Secretary of Agriculture and Natural Resources on appeal to decide one way or another any sales application as that is vested exclusively in them. Citizenship cannot, therefore, be determined in a complaint for declaratory judgment or relief. It is not the proper remedy or proceedings.[1] If she is a Filipino citizen as she claims, she should go ahead with the administrative proceedings in the Bureau of Lands and submit the evidence to prove her citizenship. The appellant may resort to the Courts, if the exercise of her rights as citizen be prevented or denied, to compel the officer, who prevented or denied her the exercise of her rights as a Filipino citizen, to allow her to exercise such rights. Such is not the action brought herein. Consequently, the Court below should have dismissed it. Properly and strictly speaking, the question raised by the First Assistant Solicitor General is not of jurisdiction and does not involve the jurisdiction of the Court below, because the latter has jurisdiction to hear and determine all actions and special proceedings because of its general jurisdiction, except those the cognizance of which have been vested by law in other courts. It is not the jurisdiction of the Court below that is involved but the availability of the remedy sought on the basis of the averments in the complaint.

Conformably thereto, the judgment appealed from is set aside and the complaint and appeal are dismissed, with costs against the appellant.

Paras, C. J., Bengzon, Montemayor, Reyes, A., Jugo, Bautista Angelo, Labrador, Concepcion, and Reyes, J. B. L., JJ., concur.

[1] Sen, et al. vs. Republic, G. R. No. L-6868, 30 April 1955.

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