

IN RE PETITION TO DECLARE ZITA NGO TO POSSESS ALL QUALIFICATIONS AND NONE OF THE DISQUALIFICATIONS FOR NATURALIZATION UNDER COMMONWEALTH ACT 473 FOR THE PURPOSE OF CANCELLING HE...

G.R. No. L-24252. June 15, 1973

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ANTONIO, J.:

Petitioner seeks reconsideration of the decision in this case which reversed that of the Court of First Instance of Leyte declaring her a citizen of the Philippines, the said court having found her to be married to a Filipino citizen and to possess all the qualifications and none of the disqualifications to become Filipino citizen enumerated in the Naturalization Law. Her motion to such effect was filed on February 20, 1967, and on March 2, 1967, the Court required the Solicitor General to comment on the same. On October 4, 1971, however, before petitioner's motion could be resolved, this Court rendered the decision in the case of *Moy Ya Lim Yao, etc., et al. vs. The Commissioner of Immigration*, G.R. No. L-21289, which, in effect, passed on all the issues raised in said motion favorably to petitioner's position. Accordingly, and there being a sufficient number of members of the Court in favor of maintaining the ruling in the *Moy Ya Lim Yao* case, the decision in this case should be modified.

On April 24, 1964, petitioner filed with the Court of First Instance of Leyte a petition alleging that she is married to a Filipino citizen and possesses all the qualifications and none of the disqualifications for naturalization under Commonwealth Act 473 and praying that a declaration to such effect be made by the Court for the purpose of laying the basis for the cancellation by the Bureau of Immigration of her alien certificate of registration. On April 17, 1964, the court set the petition for hearing on November 20, 1964 and ordered notice thereof to be given to the Solicitor General. In the same order, it was required that said notice of hearing be published in the *Official Gazette* once a month for three consecutive months and once a week for three consecutive weeks in the *Morning Times*, a newspaper edited in the City of Ormoc, where petitioner resides, and posted in a public and conspicuous place in the Office of the Clerk of Court. On November 13, 1964, the Solicitor General filed an "Opposition and Motion to Dismiss" on the following grounds:

"(1) As an application for Philippine Citizenship, the petition is fatally defective for failure to contain or mention the essential allegations required under Section 7 of the Revised Naturalization Law, as amended, such as petitioner's former places of residence, and that she has all the qualifications required under Section 2 and none of the disqualifications specified under Section 4 of the Revised Naturalization Law. Specifically, as can be gathered in the Notice of Hearing, there is no allegation that she is of good moral character and believes in the principles underlying the Philippine Constitution, and has conducted herself in a proper and irreproachable manner during the entire period of her residence in the Philippines; or that she has some known lucrative trade, profession, or lawful occupation. Likewise, there is no showing that the petition is supported by the affidavits of at least two credible persons stating that they are citizens of the Philippines and personally know the petitioner to be a resident of the Philippines for the period of time required by this Act, and a person of good repute and morally irreproachable, and that said petitioner has, in their opinion, all the qualifications necessary to become a citizen of the Philippines, and is not in any way disqualified under the provision of the

Act. Similarly, there is no showing that she has filed a declaration of intention or is exempt from such requirement. Even in the Notice of Hearing, there is failure to mention the names of witnesses whom she proposes to introduce in support of the petition, as required under Section 9 of Commonwealth Act No. 473, as amended.

"(2) As a separate proceedings to declare the petitioner a citizen being allegedly the wife of a Filipino citizen, and to direct the cancellation of her Alien Registry, it is well settled in this jurisdiction that there is no proceeding established by law, or the rules for the judicial declaration of the citizenship of an individual (Palaran vs. Republic, G.R. No. L-15047, January 30, 1962; Channie Tan vs. Republic, G.R. No. L-14159, April 18, 1960; Tan Yu Chin vs. Republic, G.R. No. L-15775, April 29, 1961; Delumen vs. Republic, G.R. No. L-552. January 28, 1954; in re Hospicion Obiles, 49 Off. Gaz. 923), and that citizenship is not the proper subject for declaratory judgment (Feliseta Tan vs. Republic, G.R. No. L-16108, October 31, 1960; Santiago vs. Commissioner of Immigration, G.R. No. L-14653, January 31, 1963; Board of Commissioners, et al. vs. Hon. Felix R. Domingo, etc., et al., G.R. No. L-21274, July 31, 1963)."

Thereafter, the court proceeded to hear the case and rendered its decision, in which it found inter alia the following:

"After the necessary publications of the notice of hearing in the Official Gazette for July 6, July 13 and 20, 1964, (Exhibit A) and the Morning Times for April 26, May 3, 10, 1964 (Exhibits B, B-1, B-2 and B-3) this case was called for trial with the Honorable Solicitor General opposing the petition as aforesaid.

"It appears from the evidence presented that petitioner is a native born Nationalist Chinese Citizen who was born at Gigaquit, Surigao on March 30, 1933 (Exhibit D). In 1946, she transferred to Surigao, Surigao until her marriage to Florencio Burca, a native born Filipino Citizen on May 14, 1961 (Exhibit C) when she transferred to Ormoc City to live with her husband. Petitioner studied at Surigao, Surigao from first grade to fourth year where she graduated. Thereafter she took home economics special course at the University of San Carlos, Cebu City.

"Petitioner knows how to read and write the Cebuano-Visayan dialect, and the English language (Exhibits G and H).

"She has not left the Philippines since birth up to the present time.

"She is a holder of ACR No. A-14805 (Exh. E) and Native Born Certificate of Residence No. 46333 (Exh. F).

"Petitioner has no criminal record and that she has no pending case, civil or criminal or administrative, and that she has never been convicted of any crime (Exhibits J, K, L).

"She is engaged in farming and in business and had a net income with her husband in the sum of P16,034.34 for which they paid an Income Tax of P1,556.00 per O.R. C-050357 dated at Ormoc City on April 14, 1964 (Exhibits 1 and 1-1).

"She is a person of good moral character and believes in the principles underlying the Philippine Constitution, and has conducted herself in a proper and irreproachable manner during the entire period of her residence in the Philippines in her relation with the constituted government as well as with the community in which she is living.

"She is supporting a two-year old legitimate child.

"She is not opposed to organized government or affiliated with any association or group of persons who uphold and teach doctrines opposing all organized governments.

"She is not defending or teaching the necessity or propriety of violence, personal assault, or assassination for the success and predominance of their ideas.

"She is not a polygamist or a believer in the practice of polygamy.

"She has mingled socially with the Filipinos, and has evinced a sincere desire to learn and embrace the customs, traditions and ideals of the Filipinos. She is a Catholic and was joined in wedlock by a Catholic priest (Exh. C).

"No evidence was presented by the oppositor and City Fiscal Ramon de Veyra, representing the Solicitor General limited himself to the cross examination of the petitioner."

and held:

"WHEREFORE, decision is hereby rendered dismissing the opposition, and declaring that ZITA NGO BURCA, petitioner, has all the qualifications and none of the disqualifications to become a Filipino Citizen and that she being married to a Filipino Citizen, is hereby declared a citizen of the Philippines, after taking the necessary oath of allegiance, as soon as this decision becomes final and executory."

The Solicitor General appealed in due time and made the following assignment of errors:

"I

THE TRIAL COURT ERRED IN ASSUMING JURISDICTION OVER THE PROCEEDINGS FOR THE DECLARATION OF PETITIONER AS A FILIPINO CITIZEN BY REASON OF HER MARRIAGE TO A FILIPINO.

II

THE TRIAL COURT ERRED IN DECLARING THAT PETITIONER HAS ALL THE QUALIFICATIONS AND NONE OF THE DISQUALIFICATIONS TO BECOME A FILIPINO CITIZEN.

III

THE TRIAL COURT ERRED IN DECLARING PETITIONER A CITIZEN OF THE PHILIPPINES SHE BEING MARRIED TO A FILIPINO CITIZEN.

IV

THE TRIAL COURT ERRED IN DISMISSING THE OPPOSITION OF THE GOVERNMENT."

I

In the decision of this Court in this case rendered on January 30, 1967, the position of the Solicitor General was upheld and the above judgment of the trial court was reversed, the Court holding (1) that the only means by which the alien wife of a Filipino citizen may have herself declared as having become a Filipino citizen by reason of her marriage is through full compliance with the procedure for naturalization contained in the Naturalization Law, Commonwealth Act 473, and (2) that in said proceeding aside from the showing that she is not laboring under any of the disqualifications enumerated in Section 4, thereof, she must prove that she possesses all the qualifications under Section 2 of the same statute. More specifically the alien wife of a Filipino citizen, in order to acquire the citizenship of her husband is required to file the corresponding petition for naturalization in court, allege and prove all the requisite requirements such as continuous residence for a period of at least ten years, lucrative income and the like. In other words, she was required to follow the procedure for the judicial naturalization of aliens, thus rendering for naught the first paragraph of Section 15 of the Revised Naturalization Law. Under such doctrine the alien wife of a Filipino was placed in some cases in a more disadvantageous position than an ordinary alien.

To accord substance to the obvious legislative purpose this Court in the *Moy Ya Lim Yao* case, held thru Mr. Justice Barredo:

"With all these considerations in mind, We are persuaded that it is in the best interest of all concerned that Section 15 of the Naturalization Law be given effect in the same way as it was understood and construed when the phrase 'who may be lawfully naturalized,' found in the American statute from which it was borrowed and copied verbatim, was applied by the American courts and administrative authorities. There is merit, of course, in the view that Philippine statutes should be construed in the light of Philippine circumstances, and with particular reference to our naturalization laws, We should realize the disparity in the circumstances between the United States, as the so-called 'melting pot' of peoples from all over the world, and the Philippines as a developing country whose Constitution is nationalistic almost in the extreme. Certainly, the writer of this opinion cannot be the last in rather passionately insisting that our jurisprudence should speak our own concepts and resort to American authorities, to be sure, entitled to admiration and respect, should not be regarded as source of pride and indisputable authority. Still, We cannot close our eyes to the undeniable fact that the provision of law now under scrutiny has no local origin and orientation; it is purely American, factually taken bodily from American law when the Philippines was under the dominating influence of statutes of the United States Congress. It is indeed a sad commentary on the work of our own legislature of the late 1920's and 1930's that given the opportunity to break away from the old American pattern, it took no step in that direction. Indeed, even after America made it patently clear in the Act of Congress of September 22, 1922 that alien women marrying Americans cannot be citizens of the United States without undergoing naturalization proceedings, our legislators still chose to adopt the previous American law of August 10, 1855 as embodied later in Section 1994 of the Revised Statutes of 1874, which, it is worth reiterating, was consistently and uniformly understood as conferring American citizenship to alien women marrying Americans ipso facto, without having to submit to any naturalization proceeding and without having to prove that they possess the special qualifications of residence, moral character, adherence to American ideals and American constitution, provided they could show they did not suffer from any of the disqualifications enumerated in the American Naturalization Law. Accordingly, We now hold, all previous decisions of this Court indicating otherwise notwithstanding, that under Section 15 of Commonwealth Act 473, an alien woman marrying a Filipino, native-born or naturalized, becomes ipso facto a Filipina provided she is not disqualified to be a citizen of the Philippines under Section 4 of the same law. Likewise, an alien woman married to an alien who is subsequently naturalized here follows the Philippine citizenship of her husband the moment he takes his oath as Filipino citizen, provided that she does not suffer from any of the disqualifications under said Section 4." (41 SCRA 292, 350-351.)

Withal, the Court also held that it is not necessary for the alien wife of a Filipino citizen to resort to the procedure in naturalization cases before she can be declared a citizen by reason of her marriage. We further added:

"The question that keeps bouncing back as a consequence of the foregoing views is, what substitute is there for naturalization proceedings to enable the alien wife of a Philippine citizen to have the matter of her own citizenship settled and established so that she may not have to be called upon to prove it everytime she has to perform an act or enter into a transaction or business or exercise a right reserved only to Filipinos? The ready answer to such question is that as the laws of our country, both substantive and procedural, stand today, there is no such procedure, but such paucity is no proof that the citizenship under discussion is not vested as of the date of marriage or the husband's acquisition of citizenship, as the case may be, for the truth is that the same situation obtains even as to native born Filipinos. Everytime the citizenship of a person is material or indispensable in a judicial or administrative case, whatever the corresponding court or administrative authority decides therein as to such citizenship is generally not considered as *res adjudicata*, hence it has to be threshed out again and again as the occasion may demand. This, as We view it, is the sense in which Justice Dizon referred to 'appropriate proceeding' in *Brito vs. Commissioner*, *supra*. Indeed, only the good sense and judgment of those subsequently inquiring into the matter may make the effort easier or simpler for the persons concerned by relying somehow on the antecedent official findings, even if these are not really binding.

"It may not be amiss to suggest, however, that in order to have a good starting point and so that the most immediate relevant public records may be kept in order, the following observations in Opinion No. 38, series of 1958, of then Acting Secretary of Justice Jesus G. Barrera, may be considered as the most appropriate initial step by the interested parties:

'Regarding the steps that should be taken by an alien woman married to a Filipino citizen in order to acquire Philippine citizenship, the procedure followed in the Bureau of Immigration is as follows: 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 Filipino husband to the effect that the petitioner does not belong to any of the groups disqualified by the cited section from becoming naturalized Filipino citizen (please see attached CEB Form 1), the Bureau of Immigration conducts an investigation and thereafter promulgates its order or decision granting or denying the petition.'

Once the Commissioner of Immigration cancels the subject's registration as an alien, there will probably be less difficulty in establishing her Filipino citizenship in any other proceeding, depending naturally on the substance and vigor of the opposition."

As already stated, it is the view of the majority of the Court that insofar as the decision in the case at bar conflicts with the above rulings laid down in *Moy Ya Lim Yao*, it should be reconsidered and modified. Truth to tell, We can hardly do otherwise. As may be gathered from the opinion written for the Court by Justice Barredo in that case, the Court not only made reference to but actually sustained many of the arguments advanced in the motion for reconsideration of herein appellee as well as in the memorandum submitted by the amici curiae in this case.

The foregoing discussion notwithstanding, We cannot grant petitioner-appellee's prayer for the affirmance of the trial court's judgment declaring her a Filipino citizen. It must be noted that the sole and only purpose of the petition is to have petitioner declared a Filipino citizen. Under our laws there can be no judicial action or proceeding for the declaration of the citizenship of an individual. It is as an incident only of the adjudication of the rights of the parties to a controversy, that the courts may pass upon, and make a pronouncement relative to, their status. In *Moy Ya Lim Yao*, We adverted to the administrative procedure heretofore followed in the Bureau of Immigration regarding the steps to be taken by an alien woman married to a Filipino for the cancellation of her alien certificate of registration, and thus secure recognition of her status as a Filipino citizen. Such a procedure could be availed of by Petitioner. Judicial recourse would be available to Petitioner in case of an adverse action by the Immigration Commissioner.

II

At the same time, it may not be amiss to clarify a matter related to the point involved in this case, which has given rise to a certain degree of confusion and unnecessary difficulties on the part of all concerned. We deem it wise to deal with it here in order to preclude unnecessary litigations, not to speak of the legal complications that may ensue as a consequence of the lack of finality of judicial or administrative determinations on a person's citizenship in certain cases.

Heretofore up to *Moy Ya Lim Yao*, it has been the constant doctrine of this Court, that a final and executory decision on the question of citizenship, by a court other than in a naturalization proceedings, or by an administrative body, is generally not considered binding in other cases and for any other purpose than that specifically involved in the case where such decision is rendered. Thus for instance, in a case involving the determination of the citizenship of a party as a prerequisite to the exercise of a license, franchise or privilege, such as the operation of a public utility, and where the administrative agency concerned shall have found as an

established fact that the applicant is a Filipino citizen, even if such finding, may have been affirmed by this Court on appeal, the same will not be considered as conclusive on the question of such citizenship. Hence if such party should apply for a license to engage in the retail trade or for the lease or purchase of any disposable lands of the public domain, the question of his citizenship may be litigated again.

Understandably such a result is unfair to the party concerned. Instead of according finality and stability to judicial or administrative decisions, it engenders confusion and multiplicity of suits.

Certainly if the decision of the administrative agency on the matter of citizenship, as an important issue involved in the case, is affirmed by this Court, We find no cogent reason why such decision on the matter can not be given preclusive effect. We have conceded the authority of certain administrative agencies to ascertain the citizenship of the parties involved in the cases therein, as a matter inherent in or essential to the efficient exercise of their powers. Recognizing the basic premise, that there must be an end to litigations, some authorities recognize that administrative rulings or decisions should have res judicata or preclusive effect. In discussing this point, Professor Allan D. Vestal, of the University of Iowa, holds the view that: "Preclusive effect may or may not be given to an administrative ruling depending on a number of factors. If the decision is a factual matter and if it has been rendered by an agency with fact-finding procedures which approximate those of a court, then preclusion should obtain." (Vestal, Preclusion/Res Judicata Variables: Adjudicating Bodies, 54 Georgetown Law Journal, 857, 874.) Obviously, if the decision of an administrative agency on the question of citizenship, is affirmed by this Court on the ground that the same is supported by substantial evidence on the whole record, there appears to be no valid reason why such finding should have no conclusive effect in other cases, where the same issue is involved. The same observation holds true with respect to a decision of a court on the matter of citizenship as a material matter in issue in the case before it, which is affirmed by this Court. For the "effective operation of courts in the social and economic scheme requires that their decision have the respect of and be observed by the parties, the general public and the courts themselves. According insufficient weight to prior decisions encourages disrespect and disregard of courts and their decisions and invites litigation" (Cleary, Res Judicata Reexamined, 57 Yale Law Journal, 345).

It must be stressed however that in the public interest, in such cases, the Solicitor General or his authorized representative should be allowed to intervene on behalf of the Republic of the Philippines, and to take appropriate steps in the premises. For only in that manner can there be assurance that the claim to Filipino citizenship was thoroughly threshed out before the corresponding court or administrative agency.

Accordingly, in response to the vigorous and able plea of amici curiae, We declare it to be a sound rule, that where the citizenship of a party in a case is definitely resolved by a court or by an administrative agency, as a material issue in the controversy, after a full-blown hearing, with the active participation of the Solicitor General or his authorized representative, and this finding on the citizenship of the party is affirmed by this Court, the decision on the matter shall constitute conclusive proof of such person's citizenship, in any other case or proceeding. But it is made clear that in no instance will a decision on the question of citizenship in such cases be considered conclusive or binding in any other case or proceeding, unless obtained in accordance with the procedure herein stated.

In resume, therefore, since Our opinion in the decision of January 30, 1967, requiring an alien woman married to a Filipino who desires to be a citizen of this Country, to submit to a judicial proceeding in all respects similar to a naturalization case, wherein in addition, she has to prove not only that she is not laboring under any of the disqualifications under Section 4, but also possesses all the qualifications set forth in Section 2 of the Revised Naturalization Law, conflicts with Our ruling in *Moy Ya Lim Yao*, the decision has to that extent be considered modified.[1] We cannot, however, affirm petitioner's claim to Filipino citizenship in these proceedings. That is a

matter which in accordance with Our suggestion in *Moy Ya Lim Yao*, the appropriate governmental agency, such as the Commissioner on Immigration, shall have to pass upon.

IN VIEW WHEREOF, and consistently with the foregoing opinion, the decision herein of January 30, 1967 is hereby modified; the reversal of the decision of the court a quo and the dismissal of the petition, are however affirmed, without prejudice to petitioner's availing of the procedure indicated above. NO COSTS.

Makalintal, Acting C.J., Ruiz Castro, Teehankee, and Esguerra, JJ., concur.

Zaldivar, J., concurs in line with the view he expressed in *Yap vs. Republic*, L-27430.

Fernando and Barredo, JJ., took no part.

Makasias, J., concurs in the result, but dissents and votes to maintain the decision sought to be reconsidered for the reason therein stated.

[1] The doctrine in *Moy Ya Lim Yao*, was reiterated by this Court thru Justice Zaldivar in *Yap vs. Republic*, L-27430, May 17, 1972 and again in *Tiu vs. Vivo*, L-21425, September 15, 1972.

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