

**PABLO GONZAGA, ANGEL GONZAGA, AMADOR GONZAGA AND
ANDRES GONZAGA, PETITIONERS-APPELLEES, VS. HON.
MARTINIANO P. VIVO IN HIS CAPACITY AS COMMISSIONER OF THE
BUREAU OF IMMIGRATION,...**

G.R. No. L-27030. March 06, 1968

Ponente: BENGZON, J.P., J.

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BENGZON, J.P., J.:

Pablo, Angel, Amador and Andres, surnamed Gonzaga, arrived on December 12, 1961 from abroad at the Port of Manila, on board a Cathay Pacific Airways plane. They sought admission to the Philippines, alleging that they were Filipino citizens and the children of one Roman Gonzaga. The Board of Special Inquiry, on December 18, 1961, admitted them as Filipino citizens.

On March 8, 1962, the Board of Commissioners, on re-view of the decision of the Board of Special Inquiry, held that the aforesaid persons had not satisfactorily established their claim to Filipino citizenship and, therefore, resolved to exclude them from the country. A warrant of arrest and exclusion was thereupon issued against them by the Commissioner of Immigration.

Pablo Gonzaga and his three companions filed, on July 8, 1965, a petition in the Court of First Instance of Rizal, Pasig branch, for prohibition with preliminary injunction, to restrain the Commissioner of Immigration from arresting and deporting them. Said court, on October 23, 1965, after hearing, issued a writ of preliminary injunction.

Respondent filed his answer. The parties then sub-mitted the case for decision upon a stipulation of facts and documentary evidence.

On July 30, 1966, the Court of First Instance found that petitioners had sufficiently established their Filipino citizenship. It therefore granted the prohibition writ applied for and made the preliminary injunction permanent. Appeal was taken to Us from said decision, by the respondent.

The present action is in reality a review of the decision of the Board of Commissioners, promulgated on March 8, 1962, even if designated as prohibition (*Roman Santos v. Secretary Moreno*, G.R. No. L-15829, December 4, 1967). As such, the court's function is only to ascertain whether the findings of the board are in accord with law, free from fraud or imposition, and whether they find any reasonable support in the evidence. (*Ibid.*)

In the proceedings before the Board of Commissioners, petitioner sought to prove that they are Filipino citizens by showing, first, that Roman Gonzaga is a Filipino citizen; and second, that they are the children of Roman Gonzaga. In support of the first proposition, they presented (1) a baptismal certificate stating that Roman Gonzaga was baptized on August 19, 1908, at the age of 21 days thus indicating that he was born on July 30, 1908, and further stating that he is the son of Juliana Gonzaga, a Filipino, of an unknown father; (2) a birth certificate showing that Roman Gonzaga was born on August 9, 1908 to Juliana Gonzaga, and an unknown father;

and (3) a landing certificate of residence, issued to Roman Gonzaga, which shows that he was born on July 15, 1908 and was permitted to land as a native born Filipino citizen, the son of Juliana Gonzaga.

Stating that the dates of birth indicated therein being different, doubt arises as to whether they refer to one person or three different persons, the Board of Commissioners found that the point was not adequately established.

As to the second proposition, it said: "Applicants claim to be the children of Roman Gonzaga out of this aforesaid marriage in 1931 with Tan. Ho. Again this, claim suffers from lack of competent evidence to establish the paternity and filiation of the claimant children. Other than the self-serving testimonies of applicants and their alleged father, nothing was submitted to prove that applicants are the children of Roman Gonzaga, a Philippine citizen."

In contrast, the Court of First Instance ruled, on the first point, that the discrepancies as to the date of birth of Roman Gonzaga are immaterial, what controlled is that in said documents he is stated to be the son of Juliana Gonzaga, a Filipino, and an unknown father, which proves him to be a Filipino citizen. And as to the second point, the Court said: Filipino is undisputed that the petitioners are really children of a Filipino citizen x x x." Apparently, the court had in mind the stipulation of facts which stated, in par. 1, that: "On December 12, 1961, petitioners herein arrived at the port of Manila on board Cathay Pacific Airways plane and sought admission into the Philippines as Filipino citizens, being the children of Roman Gonzaga."*

In so doing, the court exceeded its powers as a re-viewer of the findings of an administrative body; for it resolved a factual issue on the basis of something not presented before said administrative body and reversed the latter's findings. Furthermore, petitioners, alleged Filipino citizenship could not properly be stipulated upon, after petitioners were ordered to be excluded from the country by the Board of Commissioners on the ground of failure to establish their alleged Philippine citizenship, the allegation of which was the reason why they were admitted here in the first place. Since, unquestionably, petitioners failed to prove and establish, by sufficient and competent evidence, Philippine citizenship, the court a quo erred in granting the petition in question and restraining the Commissioner of Immigration from arresting and deporting them.

WHEREFORE, the judgment appealed from is hereby reversed and set aside, the petition for prohibition is dismissed, and the preliminary injunction issued by the lower court which was made permanent, is hereby dissolved, with costs against appellees.

SO ORDERED.

Reyes, Acting Chief Justice, Dizon, Makalintal, Zaldivar, Sanchez, Castro, Angeles, and Fernando, JJ., concur.
Concepcion, C.J., on leave.

* Underscoring supplied.

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