

IN THE MATTER OF THE PETITION FOR CANCELLATION OF ALIEN CERTIFICATE OF REGISTRATION. RICARDO SANTIAGO, PETITIONER AND APPELLEE, VS. COMMISSIONER OF IMMIGRATION, RESPONDENT AND A...

G. R. No. L-14653. January 31, 1963

Ponente: MAKALINTAL, J.

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MAKALINTAL, J.:

On June 15, 1957 Ricardo Santiago filed in the Court of First Instance of Negros Occidental a petition praying that he be declared a Philippine citizen and that an order be issued cancelling his alien certificate of registration, alleged by him to have been erroneously entered in the Bureau of Immigration. The petition was subsequently amended to make the Commissioner of Immigration a respondent.

During the hearing petitioner presented evidence to prove the following: On September 28, 1904 , in La Carlota, Negros Occidental, he was born out of wedlock to Apolonia Andrade, Filipina, and Tomas Santiago, Chinese, who could not marry each other because the latter had a lawfully wedded wife in China . When he was four, his father sent him on a vacation to China . Upon return to the Philippines in 1915 he was issued Landing Certificate of Residence No. 13939 (Exhibit G) wherein it appears that he is a Filipino. In 1924 he went back to China and there married a Chinese woman, Ty Sek Nio, whom he brought to the Philippines in 1925 and who was granted Landing Certificate of Residence No. 69033 (Exhibit H), wherein it appears that she is the wife of a Filipino citizen. Petitioner and his family lived in Himamaylan, where he operated a sari-sari store. During the Japanese occupation, he and his family evacuated to the swamps. After liberation they stayed for a short time in Andangan, Quezon, where they engaged in the copra business. In 1956 he and his family returned to Bacolod . In August 1957 they transferred to Sipalay, Negros Occidental, where they had been living up to the time of the hearing. Aside from the son born to him and his wife in China , they have five other children born in the Philippines . In spite of petitioner's alleged Filipino citizenship, his father, before the latter's death in 1928, erroneously registered him as an alien. The registration was periodically renewed thereafter, the last being in 1950, when Alien Certificate of Registration No. 97013, Exhibit M, the one now sought to be cancelled, was issued to him.

Based on the above evidence, the lower court, on March 19, 1958 , issued an order, the dispositive part of which follows:

"Wherefore, the Court finds that' the petitioner has established the allegations contained in his amended petition and following the ruling in U.S. vs. Ong Tian Se, 29 Phil. 352; Santos Ko vs. P.P.I. 52 Phil. 562, * and in the case of Luis Serra, G.R. No. L-4223, May 12, 1952, it is hereby declared that the petitioner Ricardo Santiago is a Filipino citizen, and it is hereby ordered that the Commissioner of Immigration cancel the Alien Certificate of Registration of Residence No. 197013 of the petitioner Ricardo Santiago in the files of the Immigration Office, without pronouncement as to costs."

The provincial fiscal, in representation of the Solicitor-General, moved for reconsideration on the ground that an

action for declaratory relief is not the proper remedy for removing doubts as to citizenship. Finding this motion to be well-founded, the court, on June 14, 1958, set aside its order of March 19. Petitioner moved for reconsideration of this second order and for reinstatement of the first, amending it, however, by having the declaration of his Filipino citizenship eliminated.

On August 14, 1958, the court issued a third order, thus:

"Wherefore, in view of the foregoing, the order of this Court dated June 14, 1958, is hereby revoked and declared of no effect, and the order of March 19, 1958, is hereby reinstated and declared to be in full force and effect, with the slight modification in its dispositive portion which should run as follows:

'Wherefore, the Court finds that the petitioner has established the allegations contained in his amended petition and following the ruling in *U.S. vs. Ong Tian Se*, 29 Phil., 352; *Santos Co vs. P.P.I.*, 52 Phil., 562, * and in the case of *Luis Serra*, Off. Gaz., No. L- 4223, May 12, 1952; It is hereby ordered that the Commissioner of Immigration cancel the Alien Certificate of Registration of Residence No. 197013 of the petitioner Ricardo Santiago in the files of the Immigration Office, without pronouncement as to costs."

The Commissioner of Immigration appealed to this Court, ascribing error to the lower court in taking cognizance of the petition and in declaring appellee a Filipino citizen based on the allegedly meager evidence of record.

Appellant contends that appellee's petition is one for declaratory relief, a remedy not available in seeking a declaration of one's status or citizenship. On the other hand, appellee argues that his suit is merely for the cancellation of his alien certificate of registration.

In his original petition appellee prayed, *inter alia*, that the court "declare him as a Filipino citizen." This portion of the prayer was, however, omitted from his amended petition, leaving only that asking for cancellation of his alien certificate of registration. The original petition appears to be in the nature of a proceeding for declaratory relief, although it is not captioned as such. And while the amended petition does not ask for declaration of Filipino citizenship, the plea is implicit in the prayer for cancellation of the appellee's alien certificate of registration, for the cancellation cannot be based on any other ground other than that appellee is a Filipino citizen.

The lower court itself, in its original order, made such a declaration of appellee's citizenship, although when it reinstated the order after having first set it aside, the declaration was eliminated, thereby leaving without support its order for cancellation of appellee's alien certificate of registration.

In any event, whether or not appellee's suit is interpreted as one for declaratory relief, what seems clear is that, directly or indirectly, he seeks a declaration of his supposed Philippine citizenship. There is no proceeding, by declaratory relief [1] or otherwise [2] available for the express purpose of obtaining a judicial declaration to that effect. This was the ruling of this Court in *Eleuteria Feliseta Tan vs. Republic* (G. R. No. L-16108, October 31, 1961):

"Declaratory relief in this jurisdiction is a special civil action which may lie only when 'any person interested under a deed, will, contract or other written instrument, or whose rights are affected by statute or ordinance,' demands construction thereof for a declaration of his rights thereunder. None of the above, circumstances exists in the case under consideration. And this Court has already held that there is no proceeding established by law or the rules by which any person claiming to be a citizen may get a declaration in a court of justice to that effect or in regard to his citizenship.

'Under our laws, there can be no action or proceeding for the judicial declaration of the citizenship of an individual. Courts of justice exist for the settlement of justifiable controversies, which imply a given right, legally demandable and enforceable, an act or omission violative of said right, and a remedy, granted or sanctioned by law, for said breach of right. As an accident only of the adjudication of the rights of the parties

to a controversy, the court may pass upon, and make a pronouncement relative to, their status. Otherwise, such a pronouncement is beyond judicial power. Thus, for instance, no action or proceeding may be instituted for a declaration to the effect that plaintiff or petitioner is married, or single, or a legitimate child, although a finding thereon may be made as a necessary premise to justify a given relief available only to one enjoying said status. At times, the law permits the acquisition of a given status, such as naturalization, by judicial decree. But, there is no similar legislation authorizing the institution of a judicial proceeding to declare that a given person is part of our citizenry.' (Tan vs. Republic, G.R. No. L-14159, April 18, 1960 , reiterated on G.R. No. L-15775 April 29, 1961)."

The lower court based the appealed order on the cases of U.S. vs. Ong Tian Se, 29 Jur. Pil. 352; Santos Co vs. P.P.I., 52 Jur. Fil. 562; Luis Serra contra Republica de Filipinas, G.R. No. L-4223, May 12, 1952 , which appellee now invokes. The cited cases are inapplicable herein. The Ong Tian Se case was for the deportation of one who, however, successfully alleged that he was a Filipino citizen. The Santos Co and Serra cases were both for naturalization of person whose evidence showed they were born Filipinos and therefore need not be naturalized. The nature of action or proceeding in each of said cases -is entirely different from the present one.

Having concluded that the remedy sought by appellee is not proper, it is unnecessary to determine whether or not the evidence proves that he is a Filipino.

The order appealed from is hereby reversed and the petition is dismissed, with costs.

Bengzon, C. J., Padilla, Bautista Angelo, Labrador , Concepcion , Reyes, J.B.L., Barrera, Paredes, Dizon and Regala, JJ., concur.

[*] Ed.;s note: Correct citation is Santos Co. vs. P.P.I., 52 Phil., 543.

[1] Obiles vs. Republic, 49 Off. Gaz., No. 3, 923; Delumen vs. Republic, G.R. No. L-5552, Jan. 28, 1954 ; Sen vs. Republic, G.R. No. L-6868, April 30, 1955; Tiu Navarror v s. Commissioner of Immigration, G.R. No. L-15100, Dec. 29, 1960 .

[2]The only-way by which a declaration of Filipino citizenship may be had is the rather circuitous one mentioned in Sen vs. Republic, supra:

"But petitioners are not devoid of any remedy if they really desire to have a judicial declaration of their alleged Philippine citizenship for they could file as they have done, a petition for naturalization with an alternative prayer for declaration of their status as Filipino citizens. There, is nothing that prevents them from doing so, or from alleging that alternative claim in a petition for naturalization, for if they succeed in proving, their Philippine citizenship, the court can make a declaration to that effect if the evidence so warrants. This procedure has been followed in a number of cases by .persons whose status as citizens is clouded with doubt and petitioners had been declared Filipino citizens in the same proceeding. Thus, in Sy Quinsuan vs. Republic of the Philippines , 49 Off. Gaz., (No., 2) 492, this Court said: 'When the evidence in applicant's possession proved in- his opinion that he has already the status of a Filipino citizen as would make it unnecessary to press further his petition for naturalization, he may. be declared Filipino citizen in the same proceedings. There is nothing in the law which would prohibit this alternative procedure. This course has been followed in a number of cases.

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