

VICENTE L. LIM, COMPLAINANT, VS. ATTY. FRANCISCO G. ANTONIO, RESPONDENT.

Adm. Case No. 848. September 30, 1971

Ponente: DIZON, J.

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DIZON, J.:

In a verified letter dated October 20, 1968 addressed to this Court complainant Vicente L. Lim prayed for the disbarment of the respondent, Francisco G. Antonio, on the ground that he is a Chinese citizen and therefore disqualified to be a member of the Bar.

In his answer to the complaint respondent denied the material averments thereof and alleged specifically that he and his parents were Filipino citizens, and that the complaint filed by complainant was motivated by personal revenge, he (the respondent) having been instrumental in the filing against said complainant of a number of criminal and civil actions at that time still pending in court.

Issues having been joined, the case was referred to the Office of the Solicitor General and thereafter Assistant Solicitor General Antonio G. Ibarra was commissioned to conduct the investigation. In the course of the hearings held, both parties presented their respective evidence, and on the basis thereof the Office of the Solicitor General filed, under date of August 12, 1971, the corresponding report recommending "that the herein complaint of Vicente L. Lim to disqualify the respondent, Atty. Francisco G. Antonio, from the practice of law be dismissed."

Discussing the evidences submitted by the parties, the pertinent portion of the report of the Solicitor General says the following:

"One of the qualifications of an applicant for admission to the Philippine Bar is that he must be a citizen the Philippines (Section 2, Rule 138, Revised Rules of Court).

Of the above evidence introduced by the complainant to support his theory that respondent is not a Filipino citizen hut a Chinese national, the following may be considered:

- (a) The statements in the marriage certificate (Exhibit "A") that respondent's father (Jose Antonio), his (respondent's) paternal grandfather (Efren Antonio), his paternal grandmother (Ong Pun) and his maternal grandfather (Santiago Tan Garcia) are Chinese;
- (b) The testimony of Lorenzo Reyes that according to Efren Antonio or Lim Samson, the latter has three brothers named Hesing Lim, Hoc Kim Lim, and Cicero Lim and that said brothers came from China and that Lim Samson had a wife who bore him children one of whom is Jose Lim Antonio, the father of respondent;
- (c) The testimony of Celerina Ramirez that Samson Lim is a Chinese;
- (d) Certification of the Municipal Treasurer of Mobo, Masbate (Exhibit "A-Deposition") that according to the record of his office, Lim Sing Kim (alias Cicero) is a duly registered alien (Chinese) per ACR No. A-127777 dated January 13, 1951 and ACR No. C-024963 dated March 1, 1963.

Regarding Exhibit "A", the marriage certificate, as distinguished from a marriage contract, it is not of itself the primary evidence of the celebration of the marriage but the marriage contract from which the entries contained in the marriage certificate are taken. The civil marriage contract executed on May 7, 1933 in Masbate, Masbate, which was supposed to be the origin of Exhibit "A", is not available in the Office of the Civil Registrar of that town due to its destruction during the Japanese occupation (Exhibit "A-3"); neither does any information about such marriage contract existent in the Bureau of Records Management (Exhibit "A-4").

On the other hand, the church marriage contract which was subsequently performed on May 9, 1936, also between the parents of the respondent (Exhibit "5"), states that the nationality of said parents, as well as that of his paternal grandfather, is Filipino. Likewise, his birth certificate shows that his parents are citizens of the Philippines (Exhibits "1", "1-A-1" and "1-A-2"). The testimonies of the respondent himself and of former Civil Registrar of Masbate, Masbate Andres Teodoro, affirm that the parents of the respondent are Filipinos (Exhibit "1-B"). There is no evidence of record that the respondent, his parents, his paternal grandfather, and his brother and sisters are or have been registered as aliens. All these and the circumstances taken together that the respondent and his parents are voters without their citizenship being questioned; that respondent is a Certified Public Accountant to which profession only Filipinos are qualified and his Filipino citizenship has never been objected to by the authorities; that his father was admitted into the Philippines in April, 1923 as "Son of P.I. cit."; that his brother and two sisters are professionals, are supportive of respondent's claim to Philippine citizenship, despite the rules in this jurisdiction that:

"While baptismal and marriage certificates may be considered documents, they are evidence only to prove the administration of the sacraments on the dates therein specified -- which in this case were the baptism and marriage, respectively, of Leoncio Chan -- but not the veracity of the statements or declarations made therein with respect to his kinsfolk and/or citizenship." (Paa vs. Chan, L-25949, Oct. 31, 1967)

and that:

"The exercise by a person of the rights and/or privileges that are granted only to Filipino citizens is not conclusive proof that he or she is a Filipino citizen." (Id.)

It may be mentioned that the evidence for the respondent already enumerated does not depend solely upon the entries in the church marriage contract or in the birth certificate.

With respect to the testimony of Lorenzo Reyes that Efren Antonio or Lim Samson, as well as the latter's alleged three brothers (Hesing Lim, Hoc King Lim and Cicero Lim) is hearsay, the same having been supposedly mentioned to him only by Lim Samson who should have been but was not placed on the stand to testify.

Regarding the testimony of Celerina Ramirez to the effect that Lim Samson is a Chinese, it is a mere conclusion. No authentic basis has been established therefor.

With reference to Exhibit "A-Deposition", the mere fact that Lim Sing Kim alias Cicero has registered himself as a Chinese national is not competent evidence, much less a conclusive one, of the citizenship of Efren Antonio, supposing that the two are brothers, for Cicero, through ignorance or error, might have caused his registration as an alien, while Efren Antonio might have correctly abstained from registering as a Chinese. The act or declaration of a person does not bind another. Besides, there is the testimony of the respondent himself that Cicero is not related to him, meaning that the imputed relationship of brothers between Cicero and Efren Antonio (respondent's paternal grandfather) is not true, which relationship should have been established in the first place by more weighty evidence."

"x x x.

"The assertion that Exhibit "5" is not reliable it being contradicted by the certificate of marriage (Annex "A" of

complainant's memorandum) is unsound. In the first place, it cannot legally be considered for the complainant because it has not been properly offered during the trial (Sec. 35, Rule 132, Revised Rules of Court; De Castro vs. Court of Appeals, et al., 75 Phil. 824). Secondly, the statement of complainant that Exhibit "5" is contradicted by Annex "A" is inaccurate. Annex "A" reads in part:

"CERTIFICATE OF MARRIAGE

This is to certify that:

JOSE ANTONIO LIM and ANGELITA TAN CLEMENTE

Age (not stated) (not stated)

Native of Mobo, Masbate Mobo, Masbate

Father Efren Antonio Lim Santiago Tan Clemente

Mother Ong Tuan Margarita Garcia

were united in

HOLY MATRIMONY

according to the Rites of the Holy Roman Catholic Church and the laws of the country on the 9th day of May, 1936 by the Rev. Fr. Felix Ragos being the sponsors of the ceremony: Jose Caragan and Engracia de Caragan as appears in the Register of Marriages of this Parish Book No. 2 (old) Page 150 Line 2."

This certificate which was made by filling out a printed form does not contain an item for the citizenship of the contracting parties and their parents. Hence, it does not and cannot contradict Exhibit "5". The church marriage contract itself should have been presented since the form for a marriage contract contains the required statement of citizenship. Thirdly, if anything, Annex "A" only confirms and corroborates the celebration of the church marriage between the parents of respondent.

Lastly, complainant invokes two opinions of the Secretary of Justice, namely, the 2nd Indorsement dated September 10, 1956, and the 2nd Indorsement dated December 29, 1956, wherein it was held that a landing certificate of residence is not competent proof of citizenship. It is respectfully submitted that those opinions are not applicable or controlling in this case for the reasons that: First, the persons involved in the cases cited were registered as aliens at the time the opinions were sought. In the instant case, the respondent is not and was never a registered alien. Second, in the two cases mentioned, the claim for Philippine citizenship was based chiefly on their landing certificates of residence, wherein each is described as "son of P.I. citizen" or "son of Doroteo Roselba, P.I. citizen," as the case may be. In the present case, respondent does not rely only on his landing certificate because he has none, being native born, although his father's entry into the Philippines is evidenced by a landing certificate dated April, 1923 (Exhibit "6") as "son of P.I. citizen". Respondent avers that he is a natural born Filipino saying that his father and mother as well as his paternal grandfather are Filipinos. Like him, the latter three persons have not been proved by the complainant to have been registered as aliens at any time before and now. It is logical to assume, therefore, that Efren Antonio, respondent's paternal grandfather, although he might be of Chinese descent, might have been a citizen of the Philippines at the time of the adoption of its Constitution on May 14, 1935. There is no evidence against this. If this be so, then his son, Jose Antonio, was born a Filipino, and the latter's son, the respondent, also a natural born Filipino."

On the basis of the above, the Office of the Solicitor General drew the conclusion that the complainant had failed to prove clearly and convincingly that the respondent is not a Filipino citizen and therefore made the corresponding recommendation mentioned heretofore.

In the light of the evidence of record, We are constrained to agree with the finding and recommendation just mentioned. Considering the serious consequences of the disbarment or suspension of a member of the Bar, We have consistently held that clearly preponderant evidence is necessary to justify the imposition of either penalty (*De Guzman vs. Tadeo*, 68 Phil. 554). More so in the instant case where it has been clearly established that complainant's motives are not beyond suspicion. The evidence of record shows that the respondent was instrumental in the filing of Criminal Cases Nos. 3681 and 91293, the first for perjury filed in the Municipal Court of Masbate, Masbate, and the second for falsification of a public and/or official document filed in the Court of First Instance of Manila, against said complainant.

WHEREFORE, the complaint filed against respondent is hereby dismissed, without prejudice to any action that the State may deem justified to take in connection with the questioned citizenship of said respondent.

Concepcion, C.J., Reyes, J.B.L., Makalintal, Zaldivar, Castro, Fernando, Teehankee, Barredo, Villamor, and Makasiar, JJ., concur.

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