

IN THE MATTER OF THE PETITION OF VICENTE ROSAL PARDO TO BE ADMITTED A CITIZEN OF THE PHILIPPINES.

G. R. No. L-2248. January 23, 1950

Ponente: TUASON, J.

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TUASON, J.:

Vicente Rosal Pardo, a Spanish citizen born in Spain in 1895 and residing in the Philippines since 1905, where he married a Filipino woman and where he is at present employed, in Manila, with an annual salary of P4,800, has been adjudged by the Court of First Instance of Manila entitled to become a Filipino citizen. That the appellee is unable to speak and write any of the principal Filipino languages is the first ground of appeal by the Government.

The applicant testified that he knows enough Tagalog to be understood in that language. Lino Gutierrez, a respectable citizen who has intimately known the applicant for 27 years, having had business relations with him, confirmed the applicant's testimony. And the trial judge, who has heard the applicant translate into Tagalog, "He venido residiendo en Filipinas por ellperiodo de 36 años," appears to have been satisfied with the correctness of the translation (which was not transcribed.) The fact that the applicant arrived in the Philippines when "he was only 10 years old and has lived here for 44 years continuously except for a few months' visit in Spain, mingling and dealing by reason of his work with people who use Tagalog in their daily intercourse, lends credence to his testimony that he has acquired a good working knowledge of that language. At one time, according to the evidence he owned or managed two stores successively on the Escolta, and lately he has been a foreman and warehouseman at Soriano & Co.

The portion of the applicant's testimony which is copied in appellant's brief should not be taken isolatedly and at face value. This testimony is obviously an extravagant understatement of the reality, typifying an extreme modesty which is thought by some to be a virtue. We do not believe that this statement represents appellant's sincere conviction of its literal meaning.

The other assignment of error goes to the sufficiency of the evidence on whether the laws of Spain grant Filipinos the right to become naturalized citizens of that country. The applicant introduced a certificate signed by the Consul general of Spain in the Philippines, stating that in accordance with articles 17 and 25 of the Spanish Civil Code, among other Spanish legislation, Filipinos are eligible to Spanish citizenship in Spain. Article 17 provides that foreigners who have obtained a certificate of naturalization and those who have not obtained such certificate but have acquired domicile in any town of the Monarchy are Spaniards. No discrimination being made in these provisions, they apply to persons of any nationality.

As the Spanish Civil Code has been and still is "the basic code in force in the Philippines," articles 17 et seq. thereof may be regarded as matters known to judges of the Philippines by reason of their judicial functions and may be judicially recognized by them without the introduction of proof. (Section 5, Rule 123.) Moreover, in a number of decisions mere authentication of the Chinese Naturalization Law by the Chinese Consulate General of Manila has been held to be competent proof of that law. (*Yap vs. Solicitor General*, L-1602, 46 Off. Gaz. [Supp.

to No. 1], p. 250;[1] Leelin vs. Republic of the Philippines, L-1 761;[2] Yee Bo Mann vs.. Republic of the Philippines, L-1606, 46 Off. Gaz. [Supp. to No. 11], 201;[3] Jose Go alias Joseph Gotianuy vs. Anti-Chinese League of the Philippines and Felipe Fernandez, L-1563.)[4]

The judgment of the lower court is affirmed without costs.

Moran, C.J., Ozaeta, Paras, Pablo, Bengzon, Padilla, Montemayor, Reyes, and Torres, JJ., concur.

Judgment affirmed.

[1]81 Phil., 468.

[2] 47 Of. Gaz., 694.

[3] 83 Phil., 743.

[4] 47 O. G. 716.

RESOLUTION ON MOTION FOR RECONSIDERATION

April 28, 1950

TUASON, J.:

This case is again before the court, this time on a motion for reconsideration.

In our decision we say: "As the Spanish Civil Code has been and still is 'the basic code in force in the Philippines,' articles 17 et seq. thereof may be regarded as matters known to judges of the Philippines by reason of their judicial functions and may be judicially recognized by them without the introduction of proof." (Section 5, Rule 123.)

The court is supposed to know that the Civil Code is the Code of Spain, and this judicial knowledge embraces all its provisions, including those which have ceased to be in operation in the Philippines. This court has said that it is not, by reason of an opinion expressed by an expert witness, precluded from advising itself as to the common law of England. (Bryan vs. Eastern and Western Asso. Co., 28 Phil, 310.) If the court may take cognizance of the common law of England, there is perhaps at least as much reason that it may do so of the Spanish citizenship law, which was our own citizenship law until Spain relinquished its sovereignty over the Philippines and which is a part of the code that is still the major branch of law of our country although the said part is no longer applicable here.

In the matter of the application of Rafael Roa Yrostoza for naturalization, L-1394 (46 Off. Gaz. [Supp. to No. 11], 179),[1] we said that "There was no proof that Spain had a law which grants Filipinos the right to become naturalized citizens of that country," and returned the case to the court of origin with instruction to reopen the hearing and give the parties new opportunity to establish or disprove the existence of such law. We have to confess that the remand for further proceeding was unnecessary. Oversight is the explanation, made possible by the failure of either party to direct our attention to the articles of the Civil Code of which we have been, in the present case, apprised by the applicant.

In the decision sought to be reconsidered we also say that in a number of decisions, which we cite, mere authentication of the Chinese naturalization law by the Chinese Consulate General in Manila has been taken as competent proof of that law. The Solicitor General takes exception to this passage, in the following observation:

"With regard to the second question under consideration as to "whether the certification of the supposed naturalization laws of Spain made by the Spanish Consul General constitutes competent proof of that law, this court cites in support of its opinion the cases of: Jose Leelin vs. Republic of the Philippines,[1] G. R. No. L-1761; Bienvenido Yap vs. The Solicitor General[2] G. R. No. L-1602; Yee Boo Mann vs. Republic of the Philippines,[3] G. R. No. L-1606; and Jose Go alias Joseph Gotianuy vs. Anti-Chinese League of the Philippines and Felipe Fernandez,[4] G. R. No. L-1563. We have carefully gone over these cases and we beg leave to point out that in each of them this court did not rule that the mere authentication of the Chinese Naturalization Law by the Chinese Consulate General of Manila constitute competent proof of that law, but that the question as to whether or not the copy of the Chinese Nationality Law presented in said cases were properly authenticated and admissible in evidence to prove reciprocity, as required in section 4 (h) of the Revised Naturalization Law, has become academic because of the admission made by counsel for the oppositor (Republic of the Philippines) to the effect that in another case, there has been presented a copy of the naturalization laws of China duly authenticated in accordance with the Rules of Court."

The decisions referred to seem to have been misread. In Yap vs. Solicitor General, L-1602 (46 Off. Gaz. [Supp. to No. 1], p. 250),[2] the document admitted, Exhibit E, purported to be "a copy of the Chinese law of citizenship, where it appears that Filipinos can acquire Chinese citizenship by naturalization." There was nothing in that decision which would show that the certificate or authentication was made by a Philippine diplomatic or consular representative in China. In Jose Leelin vs. Republic of the Philippines, G. R. No. L-1761,[1] we said that "in previous cases, a translation of the Chinese Naturalization Law, made and certified to be correct by the Chinese Consulate General in Manila, was admitted and considered sufficient evidence to establish that the laws of China permit Filipinos to become citizens of that country." In Yee Boo Mann vs. Republic of the Philippines, L-1606 (46 Off. Gaz. [Supp. to No. 11], 201),[3] the petitioner introduced in evidence a translation of the Chinese Naturalization Law, certified to be correct by the Chinese Consul General in Manila. The court held in that case that the objection to the evidence "is of no moment, since this court has already accepted it as fact in previous naturalization cases that the laws of China permit Filipinos to naturalize in that country." And the court disposed of Lock Ben Ping vs. Republic of the Philippines, L-1675 (47 Off. Gaz., 176),[1] on the strength of the pronouncement, just quoted, in the Yee Boo Mann decision.

If it be true, as the Solicitor General notes, that in the Yap case the ratio decidendi was that "there has been presented a copy of the Naturalization Laws of China duly authenticated in accordance with the Rules of Court," then the decision recognized as a fact the existence of a law of China under which Filipinos may be naturalized. Of this fact the court properly assumed judicial knowledge in the cases that came up before it soon after.[2]

We realize that a copy of a foreign law certified only by the local consul of the applicant's country does not conform to the requirement concerning the certification and authentication of such law (sec. 41, Rule 123). But the case at bar and the cases cited therein as precedents are not governed by the Rules of Court. Rule 132, entitled "Applicability of the Rules," provides that "These rules shall not apply to land registration, cadastral and election cases, naturalization and insolvency proceedings, and other cases not herein provided for, except by analogy or in a suppletory character and whenever practicable and convenient." By reason of this provision, literal adherence to the Rules of Court, which include rules of evidence, is not obligatory in a proceeding like that under consideration. While naturalization proceeding under the Philippine law is judicial in character, and strict compliance with the process prescribed by statute, if there were one, would be essential, yet when, as here, no specific procedure is indicated in the premises, it is only necessary that the merits of the petition be passed on and a decision reached on a fair consideration of the evidence on satisfactory proof. Accordingly, evidence of the law of a foreign country on reciprocity regarding the acquisition of citizenship, although not meeting the prescribed rule of practice by section 41 of Rule 123, may be allowed and used as basis for a favorable action if, in the light of all the circumstances, the court is satisfied of the authenticity of the written proof offered. The motion for

reconsideration is therefore denied.

Moran, C.J., Ozaeta, Pablo, Bengzon, Montemayor, and Reyes, JJ., concur.

Motion for reconsideration denied.

[1] 83 Phil., 721.

[1] 47 O. G., 694.

[2] 81 Phil., 468.

[3] 83 Phil., 743.

[4] 47 O. G., 716.

[1] 84 Phil. Reports, 217.

[2] A judge, where the fact has been ascertained in previous cases, will take judicial notice of: (1) A foreign statute, *U. S. vs. Teschmaker*, 22 How. (U.S.), 392; 16 L. ed., 353; *Graham vs. Williams*, 21 La. Ann., 594. (2) A colonization contract. *Hatch vs. Dunn*, 11 Tex., 708. (3) The procedure in taking up unoccupied lands. *U. S. vs. Teschmaker*, supra. (4) The mendacity of Chinese witnesses. *Peo. vs. Lon Yeck*, 123 Cal. 246, 55 p., 984. (5) Where court has once been properly informed of the terms of a private act and recognized it in a written opinion, the same court in subsequent cases will take judicial cognizance of the act. *Mower vs. Kemp*, 42 La. Ann., 1007; 8 S., 830." (23 C. J. 61, note 39.)

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