

OLEGARIO BRITO AND TAN SOO ALIAS SO WA, PETITIONERS AND APPELLEES, VS. THE COMMISSIONER OF IMMIGRATION, RESPONDENT AND APPELLANT.

G.R. No. L-16829. June 30, 1965

Ponente: DIZON, J.

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DIZON, J.:

This is an appeal taken by the Commissioner of Immigration from the judgment of the Court of First Instance of Manila in Civil Case No. 31615 of the following tenor:

"In view of all the foregoing considerations, the court hereby renders judgment in favor of petitioners and against respondent, declaring Tan Soo alias So Wa as the lawful wife of Olegario Brito, a Filipino citizen, and commanding the Commission of Immigration to recognize and respect her as such and to desist absolutely from arresting or molesting the said petitioner Tan Soo alias So Wa.

"The writ of preliminary injunction hereto issued in this case is hereby made permanent and the bond therefor filed by the petitioners is ordered cancelled."

Stripped of details not necessary for the purposes of this decision, the facts involved in this case are as follows:

On December 8, 1954, Olegario Brito, a Filipino citizen, married Tan Soo alias So Wa, a Chinese national, in Hongkong. When the latter arrived in Manila on February 9, 1955, she applied for admission as a citizen of the Philippines, being the lawful wife of Brito. On February 18, 1955, after the corresponding investigation, the Board of Special Inquiry of the Bureau of Immigration rendered a decision declaring Tan Soo to be the lawful wife of Brito and admitting her as a Filipino citizen. This decision was affirmed by the Board of Commissioners on March 8, 1955.

Upon discovering the existence of a marriage contract between Olegario Brito and one Narcisa Magat solemnized in Manila on July 17, 1943 before Municipal Judge Mariano Nable, the Commissioner of Immigration, on January 16, 1957, ordered the arrest of Tan Soo on the ground that she was not lawfully admissible as a citizen of the Philippines at the time of her entry, and required her to show cause why she should not be deported, pursuant to the provisions of Section 37(a) (2) of the Philippine Immigration Act of 1940, as amended.

On January 22 of the same year, Tan Soo, assisted by Olegario Brito, filed a petition for prohibition, mandamus and injunction, with a prayer for the issuance of a writ of preliminary injunction against the Commissioner of Immigration with the Court of First Instance of Manila (Civil Case No. 31615). The following day said court issued a writ of preliminary injunction restraining the Commissioner from arresting Tan Soo.

After due hearing, the court, on March 27, 1957, rendered judgment "ordering the respondent, the Honorable Commissioner of Immigration, to refrain from arresting or deporting the petitioner, Tan Soo, alias So Wa, until a final decision has been rendered by a competent court in relation to the issues raised in this case." From this judgment, the Commissioner interposed an appeal to Us.

Meanwhile, on July 25, 1957, upon recommendation of the Commissioner of Immigration, the City Fiscal's Office of Manila filed with the Court of First Instance of said city a criminal information for perjury against Olegario Brito (Criminal Case No. 407700, alleging:

"That on or about the 14th day of February, 1955, in the City of Manila, Philippines, the said accused, while giving his testimony as a witness under oath as required by law during¹ the hearing of the application for admission into the Philippines of one Tan Soo alias So Wa as the legal wife of the accused before the Board of Special Inquiry, Bureau of Immigration, duly constituted to hear, investigate and decide the said application docketed as Immigration Case No. 14469-C, the members of which were all duly appointed, qualified and acting as such, and duly authorized by law to administer oath, did then and there wilfully, unlawfully and feloniously declare and testify under oath before said Board of Special Inquiry that he was not previously legally married to one Narcisa Magat and he could not, therefore, present any certificate of valid marriage contract between him and said Narcisa Magat, when in truth and in fact, as he very well knew, he was legally married to said Narcisa Magat before Honorable Mariano Nable, Judge, Municipal Court, Manila, on July 17, 1943, and said marriage of his was still in full force and effect, the same not having been Previously dissolved, which fact, as falsely testified and sworn to by him, was a material matter in the subject under inquiry which was the civil status of applicant, Tan Soo alias So Wa, and that he gave said fabe testimony to support the claim of said Tan Soo alias So Wa that she was the legal wife of the accused, a Filipino citizen, and, therefore, entitled as such to admission into the Philippines, and as a result of his false testimony, the said Board of Special Inquiry admitted said Tan Soo alias So Wa to the Philippines as his legal wife."

On June 13, 1959, the court rendered judgment acquitting Brito, upon a finding that his marriage with Tan Soo was valid, while that with Narcisa Magat was void, as the latter marriage was entered into during the lifetime of Brito's first wife, Gaudencia Molina, while his marriage with Tan Soo was entered into after the death of the latter.

On October 31, 1959, We rendered judgment dismissing Tan Soo's petition for prohibition etc., holding that "these considerations going into the validity of the marriage of petitioners are not obstacle to the preliminary proceeding to be conducted in this particular case by the appellant Commissioner of Immigration pursuant to Section 37(a) of the Philippine Immigration Act, as amended, to determine whether or not a prima facie case exists against appellee Tan Soo alias So Wa to warrant her deportation." Tan Soo, however, filed a motion for reconsideration based on Brito's acquittal of the charge of perjury in Criminal Case No. 40770 of the Court of First Instance of Manila and the said court's findings with respect to the validity of the marriages between them, on one hand, and between Brito and Magat, on the other. On December 21, 1959, We issued the following resolution:

"In G.R. No. L-12325 (Olegario Brito, et al., vs. The Commissioner of Immigration), in view of new relevant evidence presented which has reference to acts and proceedings had in another branch of the Court of First Instance of Manila after the instant case has been appealed, the decision is hereby set aside and the case remanded to the court a quo for new trial and further proceedings.

After the new trial was had in accordance with the above resolution, the trial court rendered the appealed judgment.

Upon the facts heretofore stated, We are of the opinion that, as contended by appellant in his last assignment of error, the lower court erred in granting appellee's petition for prohibition, mandamus and injunction.

Assuming, exclusively for purposes of argument, that the marriage contracted between appellees Olegario Brito and Tan Soo aiders So Wa in Hongkong on December 8, 1954 is valid, that did not automatically make the latter a Philippine citizen. This question has been settled in this jurisdiction in several cases where We ruled that the alien wife of a citizen of the Philippines must first prove that she has all the qualifications required by Section 2 and

none of the disqualifications enumerated in Section 4 of the Naturalization Act before she may be deemed a Philippine citizen (Lee Chay vs. Galang, G.R. No. L-19977, October 30, 1961; San Tuan vs. Galang, G.R. No. L-18775, November 30, 1963; Sun Pek Young vs. Commissioner of Immigration, G.R. No. L-20784, December 27, 1963; Tong Siok Sy vs. Vivo, G.R. No. L-21136, December 27, 1963; and Choy King Tee vs. Galang, G.R. No. L-18351, March 26, 1965). In plain words the ruling means that the marriage of an alien woman to a Philippine citizen does not automatically make her a Philippine citizen entitled to enjoy all the rights and privileges of citizenship. She must, as a pre-requisite, establish satisfactorily in appropriate proceedings, that she has all the qualifications and none of the disqualifications required by law. The privilege of citizenship is granted only to those found worthy of it and not indiscriminately to anybody at all solely on the ground of marriage to a man who is or has already become a citizen of the Philippines, irrespective of moral character, ideological beliefs and identification with Filipino ideals, customs and traditions.

In the present case the record does not disclose that appellee Tan Soo alias So Wa has made any serious attempt to prove that she has all the qualifications required by Section 2 and none of the disqualifications enumerated in Section 4 of the Naturalization Act. Upon this ground alone it is clear that the decision appealed from can not stand.

WHEREFORE, without deciding the purely incidental questions raised in the other assignment of errors submitted by appellant in his brief, judgment is hereby rendered reversing the decision appealed from, but without prejudice to the right of appellee Tan Soo alias So Wa to establish in an appropriate proceeding that she is entitled to Philippine citizenship in accordance with our decisions mentioned above. Without costs.

Bengzon, C.J., Bautista Angelo, Concepción, Reyes, J.B.L., Paredes, Regala, Malcalintal, Bengzon, J.P., and Zaldivar, JJ., concur.

Decision reversed.

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