

LEE NEE UY KIAO ENG, AND THE MINORS LEE PUE KEE, LEE PUE YEK, LEE PUE CHIN, AND LEE PUE LIONG REPRESENTED BY THEIR MOTHER, SAID LEE NEE UY KIAO ENG, PETITIONERS, VS. HON. ACTING...

G.R. No. L-25085. August 31, 1977

Ponente: SANTOS, J.

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SANTOS, J.:

This is an appeal filed August 23, 1965, from the decision of the CFI of Manila, Branch XIX, presided by Hon. Agustin P. Montesa, declaring petitioners as Filipino citizens and restrain-ing respondent Commissioner from arresting or causing the arrest of petitioners and/or their deportation from the Philippines.

The facts of the case, based on a series of stipulations of facts submitted by the parties, are as follows:

Petitioner Lee Nee Uy Kiao Eng and her four minor children -- co-petitioners Lee Pue Kee, Lee Pue Yek, Lee Pue Chin, and Lee Pue Liong -- were admitted into the Philippines on February 25, 1961, as temporary visitors for a period of three months for the purpose of visiting Lee Chiong Gak, husband of Lee Nee Uy Kiao Eng and father of her four children. They posted a cash bond in the total sum of P32,000.00 for their temporary stay here. They have sought and were granted by the Bureau of Immigration several extensions of their temporary stay here until July 30, 1962.

During the couple's--Lee Chiong Gak and Lee Nee Uy Kiao Eng--cohabitation in the Philippines, three more children were born to them--namely, Nixon, Lana and Andy, all surnamed Lee.

In the meantime, or on April 18, 1961, the Court of First Instance of Manila granted the petition for naturalization of Lee Chiong Gak.[1] On May 26, 1961, Lee Chiong Gak petitioned the Secretary of Foreign Affairs, Hon. Felixberto M. Serrano and the Secretary of Justice, Hon. Alejo Mabanag, for a two-year extension of petitioners' stay. The same was granted and petitioners' stay in the country was extended up to April 18, 1963.[2]

On August 29, 1962, respondent Acting Commissioner of Immigration issued Immigration Circular No. V-101 providing for the termination of the periods previously authorized for the stay of all bonded alien temporary visitors who arrived in the Philippines in 1961 and prior years and ordering their immediate departure, otherwise their bond would be confiscated and warrants for their arrest would be issued and executed.[3]

On September 8, 1962, petitioners filed a Petition for Prohibition with Prayer for Preliminary Injunction with the Court of First Instance of Manila (Branch XIX) to stop respondent Acting Commissioner of Immigration from arresting and deporting them. Upon petitioners' filing of a P500.00 bond, the lower Court, on September 13, 1962, issued a Writ of Preliminary Injunction restraining respondent Acting Commissioner of Immigration from arresting and deporting petitioners and from cancelling and confiscating their respective bonds during the pendency of the action.

During the pendency of the case, or on September 10, 1964, Lee Chiong Gak took his oath of allegiance as a Philippine citizen.[4]

The lower Court rendered judgment on August 9, 1965, the dispositive portion of which reads:

"FOR ALL THE FOREGOING CONSIDERATIONS, judgment is hereby rendered (a) declaring the plaintiffs who are minor children as Filipino citizens from the time of the naturalization of the father; (b) directing the respondent Commissioner of Immigration to cancel their alien certificates of registration and in lieu thereof to record them as Filipino citizens; (c) declaring the plaintiff wife as entitled to reside permanently in the Philippines as the wife of a Filipino citizen; (d) restraining the respondent Commissioner from arresting or causing the arrest of the petitioners and/or their deportation from the Philippines, and cancelling and confiscating their bonds filed with the Immigration Commission for their stay in the Philippines; and, lastly, (e) declaring the Immigration Circular V-101 null and void with respect to the plaintiffs herein.

SO ORDERED."

From the above decision, respondent, Acting Commissioner of Immigration, appealed to this Court on the following Assignment of Errors:

"I

THE TRIAL COURT ERRED IN HOLDING THAT THE ORDER OF THE RESPONDENT COMMISSIONER OF IMMIGRATION DIRECTING THE PETITIONERS TO DEPART FROM THE COUNTRY IS NULL AND VOID.

"II

THE TRIAL COURT ERRED IN HOLDING THAT THE EXTENSIONS OF TEMPORARY STAY GRANTED TO THE PETITIONERS BY THE SECRETARIES OF JUSTICE AND FOREIGN AFFAIRS ARE VALID.

"III

THE TRIAL COURT ERRED IN HOLDING THAT THE PETITIONER WIFE IS 'A PRIMA FACIE FILIPINO CITIZEN AND IT IS ONLY FOR HER TO PROVE HER QUALIFICATIONS FOR THAT PURPOSE'.

"IV

THE TRIAL COURT ERRED IN HOLDING THAT THE RIGHTS OF THE MINOR CHILDREN TO STAY IN THIS COUNTRY CANNOT BE DENIED.

"V

THE TRIAL COURT ERRED IN HOLDING THAT THE BOND (EXHIBIT 2, pp. 123, 124 rec.) FOR THE PETITIONERS' TEMPORARY STAY MAY NOT BE CANCELLED AND CONFISCATED.

"VI

THE TRIAL COURT ERRED IN GRANTING RELIEF TO THE PETITIONERS DESPITE A PLAIN, SPEEDY and ADEQUATE REMEDY IN THE ORDINARY COURSE OF LAW AVAILABLE TO THEM."

The foregoing assigned errors--appellant admits and appellees agree--may, in the context of the decisional

dispositions appealed from, be synthesized as a single determinative issue in this appeal, to wit: "May the petitioners, who are the wife and minor children of one formerly an alien but a naturalized Filipino citizen, and whose authorized periods of temporary stay have already expired, continue to remain in the country?"[5]

Appellant--in support of his stand that petitioners, now appellees, have no further right to remain in this country and should, therefore, be deported--argues that their authorized stay expired on April 18, 1963, and, therefore, they are duty-bound to depart from the country; and, that they cannot derive any legal right to stay simply because their husband and father has already become a Filipino citizen. Petitioners-Appellees, on the other hand, contend that they are now Filipino citizens pursuant to Section 15 of the Revised Naturalization Law in view of Lee Chiong Gak's naturalization as of September 10, 1964, and are, therefore, entitled to stay as citizens in this country. It is thus obvious that the issue may be resolved by (1) a determination of the conflicting claims as to the effect of Lee Chiong Gak's naturalization on the citizenship of the petitioners, and (2) the effect of the expiry, prior to Lee Chiong Gak's naturalization, of the periods of petitioners authorized stay in this country.

There is no merit in this appeal.

1. It is now a settled rule that the wife and minor children of a Chinese resident, who was naturalized as a Filipino citizen, acquired Philippine citizenship under the conditions laid down in Section 15 of the Revised Naturalization Law, and consequently, they cannot be deported.[6] This rule applies notwithstanding the expiry of the periods of their temporary stay in the country prior to their acquisition of Filipino citizenship. For petitioners' acquisition of Filipino citizenship, in the language of Mr. Justice Barredo, "... naturally bestows upon them the right to stay in the Philippines...and if they elect to reside here, the Immigration authorities may neither deport them nor confiscate their bonds."[7]

Section 15 of the Revised Naturalization Law reads as follows:

"SEC. 15. Effect of the naturalization on wife and children. - Any woman who is now or may hereafter be married to a naturalized citizen of the Philippines, and who might herself be lawfully naturalized shall be deemed a citizen of the Philippines.

Minor children of persons naturalized under this law and who have been born in the Philippines shall be considered citizens thereof.

A foreign-born minor child, if dwelling in the Philippines at the time of the naturalization of the parent, shall automatically become a Philippine citizen, and a foreign-born minor child, who is not in the Philippines at the time the parent is naturalized, shall be deemed a Philippine citizen only during his minority, unless he begins to reside permanently in the Philippines when still a minor, in which case, he will continue to be a Philippine citizen even after becoming of age.

xxx xxx xxx."

The prevailing rule is that under Section 15, an alien woman marrying a Philippine citizen, whether native-born or naturalized, becomes ipso facto a Philippine citizen provided that she is not disqualified under Section 4 of the same law. Likewise, an alien woman married to a foreigner, who subsequently becomes a naturalized Filipino citizen, acquires Philippine citizenship the moment her husband takes his oath as Philippine citizen provided that she does not have any of the disqualifications under said Section 4.[8]

Consequently, Lee Nee Uy Kiao Eng became a Filipino citizen when her husband, Lee Chiong Gak took his oath of allegiance on September 10, 1964, if she did not have any of the disqualifications which would bar her from becoming a Philippine citizen. Likewise, her children, who were in the Philippines and of minor age at the time their father was naturalized also automatically became Philippine citizens by virtue of the same Section. As Filipino citizens, petitioners cannot, therefore, be deported.

As indicated in Opinion No. 38, Series of 1958, of the Acting Secretary of Justice,[9] the married alien woman must file a petition for cancellation of her alien certificate of registration with the Bureau of Immigration alleging, among other things, that she is married to a Filipino citizen and that she is not disqualified from acquiring her husband's citizenship under Section 4 of the Revised Naturalization Law. Upon filing of said petition, which should be supported by the joint affidavit of the petitioner and her Filipino husband to the effect that she does not belong to any of the groups disqualified under Section 4, the Bureau of Immigration will conduct an investigation and thereafter promulgate its decision granting or denying the petition.

With respect to the other petitioners, children of Lee Chiong Gak, it should be noted that on September 14, 1965, the Associate Commissioner of Immigration, Virgilio N. Gaston, granted their petition for cancellation of their alien certificates of registration.[10] Thus, on January 26, 1966, the Commissioner of Immigration issued Identification Certificates to the foreign-born children of Lee Chiong Gak recognizing them as Filipino citizens.[11] However, in an Order dated March 16, 1966, the Commissioner of Immigration revoked the Order dated September 14, 1965, recognizing the children of Lee Chiong Gak as Filipino citizens, cancelled the Identification Certificates issued to them, and returned their alien certificates of registration duly revalidated.[12]

Since petitioners Lee Pue Kee, Lee Pue Yek, Lee Pue Chin, and Lee Pue Liong became Filipino citizens on September 10, 1964, as a necessary concomitant of their father's acquisition of Philippine citizenship, they are entitled to the cancellation of their alien certificates of registration. Consequently, the Order of the Commissioner of Immigration dated March 16, 1966, revoking the Order dated September 14, 1965 is null and void.

2. Now as to appellant's other point, i.e., that the periods of petitioners' authorized stay in the country expired on April 18, 1963 before Lee Chiong Gak's naturalization on September 10, 1964 and, therefore, petitioners are subject to deportation.

Petitioners Lee Nee Uy Kiao Eng and her four minor children were admitted into the Philippines on February 25, 1961, as temporary visitors for a period of three (3) months for the purpose of visiting Lee Chiong Gak. They sought and were granted several extensions of their temporary stay here until July 30, 1962 by the Bureau of Immigration. During the couple's cohabitation in the Philippines, three more children were born to them. In the meantime, on April 18, 1961, the Court of First Instance of Manila granted the petition for naturalization of Lee Chiong Gak. On May 26, 1961, he petitioned the Secretaries of Foreign Affairs and Justice for a two year extension of petitioners' stay, which was granted and extended until April 18, 1963. In view of respondent's Circular of August 29, 1962, petitioners, on September 8, 1962, filed with the Court of First Instance of Manila a Petition for Prohibition with Prayer for Preliminary Injunction. As a result of the Writ of Preliminary Injunction issued by the lower Court on September 13, 1962, petitioners continued to stay in the country to the present. On September 10, 1964, Lee Chiong Gak took his oath of allegiance as a Filipino citizen.

It thus appears that petitioners could have been deported from the country after April 18, 1963, the expiry date of their authorized period of temporary stay here, and before Lee Chiong Gak became a Filipino citizen on September 10, 1964. However, petitioners were able to secure a Writ of Preliminary Injunction from the lower Court restraining respondent Acting Commissioner of Immigration from arresting and deporting them and from cancelling and confiscating their bonds during the pendency of the action. With the subsequent naturalization of Lee Chiong Gak on September 10, 1964, petitioners having acquired Filipino citizenship may no longer be deported.

WHEREFORE, the decision of the lower Court is hereby AFFIRMED. No costs.

SO ORDERED.

Fernando, (Chairman), Barredo, Antonio, Aquino, and Concepcion, Jr., JJ., concur.

- [1] Exhibit "A"; Rec., p. 171.
- [2] Exhibits 6-2, 6-3; Rec., p. 191.
- [3] Exhibit "H-1"; Rec., p. 195-196.
- [4] Exhibit "K"; Rec., p. 259.
- [5] Brief, Appellant, p. 6, Rollo, p. 17; Brief, Appellees, p. 4, Rollo, p. 61.
- [6] Ang Ngo Chiong, et al. vs. Galang, G.R. No. L-21426, Oct. 22, 1975, 67 SCRA 338.
- [7] Moy Ya Lim vs. The Commissioner of Immigration, G.R. No. L-21289, Oct. 4, 1971, 41 SCRA 292, 300.
- [8] Ibid; Po Siok Pin vs. Vivo, G.R. No. L-24792, Feb. 14, 1975, 62 SCRA 363.
- [9] Quoted in Moy Ya Lim Yao vs. Commissioner of Immigration, G.R. No. L-21289, October 4, 1971, 41 SCRA 292, 367.
- [10] Annex "A" Petitioners Motion to Admit Evidence and to Suspend Period, Rollo, p. 25.
- [11] Annexes "B" to "E", Id., pp. 26-29.
- [12] Annex "2-A", Comment by Solicitor General on Motion to Admit Evidence, Id., pp. 43-44.

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