

IN THE MATTER OF THE PETITION FOR DECLARATORY RELIEF REGARDING CIVIL STATUS, ELEUTERIA FELISETA TAN, PETITIONER AND APPELLEE, VS. REPUBLIC OF THE PHILIPPINES, OPPOSITOR AND APPE...

G.R. No. L-16108. October 31, 1961

Ponente: LABRADOR, J.

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LABRADOR, J.:

Appeal from a decision of the Court of First Instance of Misamis Occidental, Hon. Patricio C. Ceniza, presiding, the dispositive part of which reads as follows:

"Wherefore, premises considered, the court hereby renders judgment declaring said Eleuteria Feliseta Tan a Filipino citizen; that her registration as an alien has been a clear mistake on her part and on the part of the City Treasurer of Ozamiz City and therefore, the Commissioner of Immigration is hereby ordered to cancel the Alien Certificate of Registration the herein petitioner as well as those of her children born out her relationship as husband and wife without benefit of marriage with Tan King Pock, namely; Loreta Tan, Nenita Tan, Lourdes Tan, Leonila Tan, Tan King Pock, Jr., and William Tan." (ROA, pp: 29-30).

The case originated with the presentation of a petition to the Court of First Instance of Misamis Occidental, alleging that petitioner Eleuteria Feliseta Tan is the common-law wife of Tan King Pock a Chinaman, and that nine minor children were born to them out of wedlock; that she and her children are registered as aliens; that she had asked the Commissioner of Immigration to cancel her registration and that of her children as aliens, but that the Commissioner refused to grant her petition. Therefore, she prayed that the cancellation of the alien certificate of registration of herself and her children be ordered.

The petition is dated September 8, 1958, and on September 17, 1958, the court issued an order suggesting that the petitioner amend her petition into one for declaratory relief. The order reads thus:

"After considering carefully the merits of the petition, the Court finds and so holds that the same cannot be granted in view of the decision rendered by the Supreme Court on February 5, 1954, in 94 Phil. 321; 50 Off. Gaz. (3) 1077, entitled Ty Kong Tin vs. Republic of the Philippines.

"It is suggested, therefore, that the herein petitioner amends her petition into that of declaratory relief within a period of fifteen (15) days from receipt a copy of this order, otherwise this case will be dismissed." (ROA, p. 5).

Pursuant to the suggestion, petitioner through counsel, amended her original petition converting it into one for declaratory judgment, alleging that petitioner is a Filipino citizen being the illegitimate child of a Chinaman by the name of Sy Siwa and Benita Feliseta, a Filipina, without benefit of marriage; that the children mentioned in the petition are children of herself and Tan King Pock and their registration as aliens has been a mistake; that she had asked the Commissioner of Immigration for the cancellation of their alien certificate of registration but the Commissioner had denied her petition, so she prayed that her alien certificate of registration be cancelled.

The Solicitor General presented an answer asking for the denial of the petition because the petition is not based upon any of the grounds required by the rules as a ground for declaratory judgment; that there is no need for the, present action for the cancellation of their alien certificate of registration; and that the petition is evidently one which seeks a judicial pronouncement as to petitioner's claim for citizenship, which matter should be threshed out in a proper action. The provincial fiscal also prayed that the petition be denied, alleging that the petition is not in order; that the children are not represented by a guardian, and that the end sought in the petition should be threshed out in a proper action. After hearing the petition and the arguments, the court below entered the order already quoted above.

The judgment or order appealed from must be set aside. 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 justiciable 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 incident 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, 107 Phil., 632; 57 Off. Gaz. (90) 5401 reiterated in 58 Off. Gaz. (47) 7683).

If the petition be considered as one for declaratory judgment, the facts do not warrant the filing of the said special civil action. If the petition seeks to compel the Commissioner of Immigration to cancel her and her children's alien certificate of registration, this petition would not lie because such a remedy of cancellation of alien certificate of registration can only be had by virtue of a judgment of a competent court, in an action where the citizenship of parties is a material matter in issue, declaring the Filipino citizenship of the petitioner and her children, and such declaration cannot be obtained directly because there is no proceeding at present provided by law or the rules for such purpose.

Wherefore, the judgment appealed from should be, as it is hereby, set aside, and the petition dismissed. With costs against petitioner-appellee.

Bengzon, C. J., Padilla, Bautista Angelo, Concepcion, Reyes, J. B. L., Paredes, Dizon, and De Leon, JJ., concur.

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