

CHOY KING TEE ALIAS CHUAA KING TEE, PETITIONER AND APPELLEE, VS. EMILIO L. GALANG, AS COMMISSIONER OF IMMIGRATION, RESPONDENT AND APPELLANT.

G. R. No. L-18351. March 26, 1965

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

Appeal by the Commissioner of Immigration from the decision of the Court of First Instance of Manila granting the petition for prohibition and mandamus filed by Choy King Tee alias Chua King Tee.

The record shows that appellee's husband, Tan Ban Seng, a native of China, was granted Philippine citizenship by naturalization on January 13, 1959 and took his oath of allegiance on January 21, 1961. Appellee, also Chinese and a resident of Hongkong, first came to the Philippines in 1955. Since then she had gone to and returned from Hongkong several times, the last time she returned being in January 1960, when she was admitted here as a temporary visitor. Her authorized stay expired on February 14, 1961.

On January 27, 1961 Tan Ban Leng, in his own behalf and in behalf of his wife, appellee herein, and of his son, Jacinto Chua Tan, filed a petition with the Commissioner of Immigration asking him to recognize petitioners as citizens of the Philippines, to cancel their alien certificates of registration and to issue in their favor respective identification certificates as Philippine citizens. The petition was granted insofar as Tan Ban Seng and his son were concerned, but was denied as to appellee. On February 8, 1961 appellee filed in the lower court a petition for prohibition and mandamus with preliminary injunction, praying that she be declared a citizen of the Philippines and that the Commissioner of Immigration be ordered to cancel her alien certificate of registration.

The trial court ruled that appellee automatically acquired Philippine citizenship upon her husband's naturalization and ordered the Commissioner to cancel her alien certificate of registration and to issue in lieu thereof an identification certificate as Philippine citizen.

In this appeal the Commissioner claims that the lower court erred (1) in holding that appellee automatically became a Philippine citizen upon her husband's naturalization and (2) in granting the petition for prohibition and mandamus.

Appellant and appellee are in disagreement as to the meaning of Section 15 of the Naturalization Law, which provides that "any woman who is now or may hereafter be married to a citizen of the Philippines, and who might herself be lawfully naturalized shall be deemed a citizen of the Philippines." Appellant contends that for an alien woman to avail of his provision she must first prove that she has all the qualifications and none of the disqualifications for naturalization. On the other hand' appellee maintains that all she has to show is that she has none of the disqualifications, as she claims to have done in this case.

The question has been settled by the uniform ruling of this Court in a number of cases. The alien wife of a Filipino citizen 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 Law before she may be deemed a Philippine citizen (*Lao Chay vs. Calang*, L-19977, Oct. 30, 1964, citing *Lo San Tuan vs. Calang*, L-18775, Nov. 30, 1963; *Sun Peck Young vs. Commissioner of Immigration*, L-20784, Dec. 27, 1963; *Siok Sy vs. Vivo*, L-21136, December 27, 1963). The writer of this opinion has submitted the question anew the court for a possible re-examination of the said ruling the light of the interpretation of a similar law in the States after which Section 15 of our Naturalization law was patterned. That law was section 2 of the Act of February 10, 1855 (Section 1994 of the Revised of the U.S.) The local law, Act No. 3448, was passed on November 30, 1928 as an amendment to the former Philippine Naturalization Law, Act No. 2927, which was approved on March 26, 1920. Under this Naturalization Law, acquisition of Philippine citizenship was limited to three classes of persons: (a) natives of the Philippines who were not citizens thereof; (b) natives of the other insular possessions of the United States; and (c) citizens of the United States or foreigners who, under the laws of the United States, may become citizens of the latter country if residing therein. The reference in subdivision (c) to foreigners who may become American citizens is restrictive in character, for only persons of certain specified races were qualified thereunder. In other words, in so far as racial restrictions were concerned there was at the time a similarity between the naturalization laws of the two countries, and hence there was reason to accord here persuasive force to the interpretation given in the United States to the statutory provision concerning the citizenship of alien women marrying American citizens.

This Court, however, believes that such reason has ceased to exist since the enactment of the Revised Naturalization Law (Commonwealth Act No. 473) on June 17, 1939. The racial restrictions have been eliminated in this Act, but the provision found in Act No. 3448 has been maintained. It is logical to presume that when Congress chose to retain the said provision—that to be deemed a Philippine citizen upon marriage the alien wife must be one "who might herself be lawfully naturalized,"—the reference is no longer to the class or race to which the woman belongs, for class or race has become immaterial, but to qualifications and disqualifications for naturalization as enumerated in Sections 2 and 4 of the statute. Otherwise the requirement that the woman "might herself be lawfully naturalized" would be meaningless surplusage, contrary to settled norms of statutory construction.

The rule laid down by this Court in this and in cases heretofore decided is believed to be in line with national policy of selective admission to Philippine citizenship, which after all is a privilege granted only to those who are found worthy thereof, and not indiscriminately to anybody at all on the basis alone of marriage to a man who is a citizen of the Philippines, irrespective of moral character, ideological beliefs, and identification with Filipino ideals, customs and traditions.

Appellee here having failed to prove that she has all the qualifications for naturalization, even, indeed, that she has none of the disqualifications, she is not entitled to recognition as a Philippine citizen.

The judgment appealed from is reversed, and the petition denied, with costs against appellee.

Bengzon, C.J., Bautista Angelo, Concepcion, Reyes, J.B.L., Barrera, Paredes, Dizon, Regala, Bengzon J.P. and Zaldivar, concur.

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