

## IN THE MATTER OF THE PETITION TO BE ADMITTED CITIZENS OF THE PHILIPPINES. LAO YAP HAN DIOK, LAO YAP HAN PICK AND ANTONIO LAO ROLIDA, FRANCISCO LAO ROLIDA AND LAO HAN KHING, PETI...

*G.R. No. L-19107-9. September 30, 1964*

Ponente: PAREDES, J.

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### **PAREDES, J.:**

This is an appeal interposed by the Republic of the Philippines against three (3) separate decisions of the CFI of Maasin, Leyte, dismissing the petition for naturalization of the appellees and declaring them Filipino citizens, upon evidence presented to the effect that they were born of Filipino parents.

Appellees filed their respective petitions for naturalization on April 24, 1954, July 19, 1957 and June 21, 1958, with the CFI of Maasin, Leyte. The petitions were of the prescribed form and contained the requirements of a petition as called for by the naturalization laws. Except for the petition of Lao Yap Han Diok, (case No. 18, now L-19107 of this Court), no written oppositions were presented by the Government to said petitions. The opposition in L-19107 was based on three (3) grounds, namely, the petition was not signed by petitioner himself, but by counsel; that petitioner was presenting witnesses other than those who signed the affidavits submitted in support of the petition; and the accompanying affidavits are defective in that they did not contain the allegations that they (affiants) personally know the petitioner and that, in their opinion, he had all the qualifications and none of the disqualifications for Philippine citizenship. Due to the above opposition, the trial court on September 21, 1957, dismissed the petition of Lao Yap Han Diok, without prejudice to the filing of a new one. This case was, however, reopened on June 13, 1959, upon motion of petitioner who asked that he be declared a Filipino citizen.

In the meantime, the petition of Antonio Lao Rolida (L-19108) was heard, where said petitioner submitted proof, documentary and testimonial, to substantiate the allegations in the petition. After due hearing, on June 30, 1958, the trial court rendered judgment in said case, finding that Antonio Lao Rolida was qualified for Philippine citizenship and ordered his admission to become a citizen, subject to the requirements of Republic Act No. 530.

Under date of June 13, 1959, counsel for petitioners Lao Yap Han Diok (L-19107) and Antonio Lao Rolida (L-19108), presented a motion to dismiss the petitions for naturalization, but asked that the court make a declaration that said petitioners are Filipino citizens. In support of this motion, there were presented a certificate of baptism (annex A of said motion) showing that Pedro Rolida, father of said petitioners was of Filipino vintage, being the son of Venancia Rolida, Filipino, with an unknown father. The said certificate of baptism appeared in Book No. 15, page 107 of the Parish of Tubigon, Bohol, which further showed that Pedro Rolida was born on November 8, 1894 in Tubigon, Bohol. A record of birth of said Pedro Rolida was also submitted, which revealed the same data as those appearing in the certificate of baptism. In asking for a declaration of Philippine citizenship, upon the basis of the documents presented, counsel cited a number of decided cases wherein this Court had held that a declaration of Philippine citizenship could be made in naturalization proceedings.

The motions were heard and Pedro Rolida was presented as witness. He identified the baptismal certificate and record of the birth and declared that petitioners in the three cases are his sons. He confirmed the facts stated in said certificates, and also explained that his original papers, which showed that he was a Filipino citizen, were lost during the war, and the papers which are in his possession at the time of the hearing (Exhs. C, C-1 to C-5) were those issued after the liberation. The presentation of the proof of Filipino citizenship of Pedro Rolida, were made, without the attendance of a representative of the Solicitor General. After the hearings on the motions, the lower court rendered another decision in each case, wherein it stated:

"WHEREFORE, the Court finds that the petitioner Lao Yap Han Diok is a Filipino citizen. His petition for Filipino citizenship having been dismissed without prejudice is hereby reconsidered after declaring the petitioner a Filipino citizen, said petition is finally dismissed for being unnecessary." (L-19107)

"WHEREFORE, the Court finds that the herein petitioner, Antonio Lao Rolida, alias Lao Yap Han Diok, was already a Filipino citizen when he was born, having a father in the person of Pedro Rolida, a Filipino by birth. The petition for Philippine citizenship is hereby dismissed for being unnecessary." (L-19108)."

In the case of Francisco Lao Rolida (L-19109), petitioner, asked, when the case was about to be tried, that his petition for naturalization be dismissed, alleging he had discovered that his father was a Filipino citizen. With this motion, he attached the baptismal certificate and record of birth of his father Pedro Rolida. Pedro Rolida was also presented to identify the documents and to vouchsafe that petitioner Francisco Lao Rolida was one of his children. On June 23, 1959, the lower court rendered the following judgment:

"Wherefore, the Court finds that the petitioner Francisco Lao Rolida, alias Lao Yap Han Khing, is a Filipino citizen, being born of a Filipino, Pedro Rolida who was born in Tubigon, Bohol, on November 3, 1894 whose mother was Venancia Rolida, a Filipino citizen and was not married to the petitioner's father when he was conceived and born. Consequently, the petition is hereby dismissed as prayed, it being unnecessary."

In the consolidated brief of the Solicitor General, are assigned four collective errors committed by the lower court, in its three (3) separate decisions, to wit:

- (1) (Re petition of Lao Yap Han Diok) The trial court erred in entertaining the petition for revival of the dismissed petition for naturalization, it having been filed out of time and not having complied with the provisions of the naturalization law.
- (2) (Re petition of Lao Yap Han Diok) The lower court erred in not declaring that petitioner Lao Yap Ham, Diok did not have a lucrative income.
- (3) The trial court erred in admitting evidence to prove the citizenship of petitioners-appellees, the state not having been properly represented in the said hearing.
- (4) The trial court erred in declaring the petitioner-appellees Filipino citizens, since it had no power and authority to do so.

We shall not delve into the merits of the first three assigned errors, because We believe that a resolution of the fourth error, will suffice for purposes of these proceedings.

In the case of Paralan vs. Republic, L-15047, Jan. 30, 1962, We made the following pronouncements—

"We have already ruled in the recent case of Danilo Channie Tan vs. Republic, G. R. No. L-14159, April 18, 1960, that a judicial declaration that a person is a Filipino citizen cannot be made in a petition for naturalization wherein it is prayed that petitioner be admitted a citizen of the Philippines, for the following reasons:

'1. 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 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 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.

Under the aegis of the above ruling, which We have categorically stated as over-ruling the doctrine in the case of Pablo y Sen, et al., vs. Republic, G.R. No. L-6868, April 30, 1955 and other previous cases, it becomes manifest that the decisions of the lower court declaring the petitioners-appellees Filipino citizens, in the cases subject of the instant proceedings, cannot be upheld, as such pronouncement was unnecessary and beyond its judicial power.

IN VIEW OF THE FOREGOING, each of the decisions subject of the appeal is hereby affirmed in so far as it dismissed petition for naturalization, but reversed, as far as it declared petitioner therein a Filipino citizen, in the naturalization proceeding. No. costs.

Bengzon, C.J., Bautista Angelo, Concepcion, Reyes, J.B.L., Dizon, Regala, Makalintal, and Zaldivar, JJ., concur.

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