

RAMON SIA REYES, PETITIONER, VS. DEPORTATION BOARD, HON. FELIX Q. ANTONIO, HON. FELIX V. MAKASIAR, HON. MANUEL V. REYES, AND THE COURT OF FIRST INSTANCE OF MANILA, BRANCH XXIV, ...

G.R. No. L-31763. May 30, 1983

Ponente: ESCOLIN, J.

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ESCOLIN, J.:

The respondent Deportation Board, in a proceeding where petitioner was charged with having misrepresented himself as a Filipino citizen, rendered a resolution declaring petitioner a "resident Chinese national, subject to the jurisdiction of the Board and to deportation under Section 69 of the Revised Administrative Code, should it be finally determined in further proceedings before the Board that just and sufficient cause exists for his expulsion as an undesirable alien."

His motion for reconsideration of the said resolution having been denied, petitioner instituted in the Court of First Instance of Manila a petition for certiorari and prohibition against the respondent Board seeking to set aside said resolution. Upon dismissal of said petition, petitioner filed the instant petition for review before this Court, alleging that respondent court erred:

- [1] "in not holding that there is substantial evidence of petitioner's Filipino citizenship;
- [2] "in holding that the judicial declarations of petitioner's Filipino citizenship do not constitute res judicata;
- [3] "in holding that the resolution of respondent Deportation Board, through special prosecutor Rodriguez, does not constitute res judicata;
- [4] "in not applying the principle of jus soli to petitioner; and
- [5] "in not declaring petitioner a Filipino citizen."

The petition is devoid of merit. As found by respondent court, petitioner's parents were both Chinese subjects at the time of his birth. While it appears that his father, Jao Lay, was subsequently naturalized as a Filipino citizen and that petitioner himself elected Filipino citizenship upon reaching the age of majority, such election was nevertheless inefficacious since he was no longer a minor when his father was naturalized [Section 15, Commonwealth Act No. 473, as amended]. Neither could petitioner validly elect Filipino citizenship under Section 1, paragraph 4, Article IV of the Philippine Constitution of 1935, because his mother, Go Nang, was not a citizen of the Philippines (1) at the time of her marriage to petitioner's Chinese husband; (2) at the time of petitioner's birth, and (3) at the time petitioner reached the age of majority.

Equally untenable is petitioner's reliance on the principle of jus soli. In *Tan Chong vs. Secretary of Labor* [79 Phil. 240] We held that the doctrine of jus soli as embodied in the 14th amendment of the United States Constitution was never extended to the Philippines.

Neither can petitioner seek refuge in *Roa vs. Collector of Customs* [23 Phil. 313] for the ruling therein was predicated not solely upon the fact of birth in the Philippines, but also upon the further circumstance that the claimant of the status was born of an alien father and a Filipina mother.

Finally, petitioner bases his claim to Filipino citizenship on two final decisions of the Court of First Instance of Quezon and a resolution of the Deportation Board, to wit:

[1] The decision of the Court of First Instance of Quezon, dated June 19, 1964, granting his petition for change of name on the ground that 'he had established his claim to be a Filipino citizen by birth and by election';

[2] His acquittal on October 7, 1965 by the Court of First Instance of Quezon in a criminal case for violation of the Revised Election Code on the basis of his 'pronounced Filipino citizenship'; and

[3] A resolution issued by the Deportation Board, through Special Prosecutor Geronimo Rodriguez, dated May 4, 1965, which dismissed a complaint filed against him for misrepresentation as a Filipino.

It is argued that these decisions constitute *res judicata* on the issue of his citizenship. The respondent court correctly disposed of this contention in this wise:

"... Courts may make pronouncements relative to the fact of the status of Filipino citizenship as an incident of the adjudication of the rights of the parties to a controversy [*Palaran vs. Republic*, 4, SCRA 79].

"Be that as it may, this court believes that the principles of *res judicata* have been of late viewed by our Supreme Court in a new light when applied to the question of citizenship. A judicial declaration of Filipino citizenship as a mere incident in the determination of rights as finally adjudicated in the dispositive portion of a judgment cannot have greater standing than a proceeding wherein the declaration of citizenship is the principal basis of the cause of action. If it be conceded that a judgment in a naturalization proceeding is not afforded the character of impregnability under the principle of *res judicata*, a declaration of Filipino citizenship made as an incident in a judgment cannot be given greater force and stability. . . ."

"Our Supreme Court has defined its unequivocal stand in regards to the following inquiry:

'May the petitioner's certificate of naturalization be cancelled?

"The appellee's main argument, advanced with some vehemence, is that the matter of his citizenship is *res judicata* and that the Government is estopped to question his status as a citizen upon any issue which could have been raised prior to the issuance to him of a certificate of naturalization. This argument has before been ventilated in the highest judicial forum of the land, and has been rejected without hesitation. For indeed the doctrine of estoppel or of laches does not apply when the Government sues as Sovereign or asserts governmental rights. Nor can estoppel validate an act that contravenes law or public policy. Moreover, a naturalization proceeding is not a judicial adversary proceeding; the decision rendered therein is not *res judicata* as to any matter that would support a judgment cancelling a certificate of naturalization on the ground of illegal or fraudulent procurement thereof.' [*Cosme Go Tian An vs. Republic*, No. L-19833, August 31, 1966, 17 SCRA 1053]

To reiterate - if favorable judgment in a naturalization proceeding is not *res judicata*, much less may the pronouncement or declaration of Filipino citizenship as a mere incident in the adjudication of rights be *res judicata*."

ACCORDINGLY, the petition is hereby dismissed, with costs against petitioner.

SO ORDERED.

Aquino, Concepcion Jr., Guerrero, Abad Santos and De Castro, JJ., concur.
Makaslar (Chairman), J., no part.

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