

LEE SUAN AY, ALBERTO TAN AND LEE CHIAO, PLAINTIFFS AND APPELLANTS, VS. EMILIO GAIANG, ETC., ET AL., DEFENDANTS AND APPELLEES.*G. R. No. 11855. December 23, 1959*

Ponente: PADILLA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-11855/>**PADILLA, J.:**

On 21 August 1954 Lee Suan Ay, a Chinese citizen, arrived in the Philippines and was admitted and authorized to stay as a temporary visitor for a period of three months, which was extended to 25 March 1955. Before her arrival or on 20 July 1954, Lee Chiao, her father, posted a cash bond in the sum of P10,000 (Annex A) to guarantee the compliance by the temporary visitor and the bondsman with the terms and conditions of her stay in the Philippines, set for in the bondsman's written undertaking (Annex B). On 18 March 1955, Alberto Tan (a Filipino citizen) and Lee Suan Ay requested the Justice of the Peace of Las Piñas, Rizal, to join them in marriage but the Justice of the Peace refused to do so, because as she was over 18 but under 23 years of age, she had to obtain parental advice. On 28 March 1955, the bondsman wrote a letter informing the Commissioner of Immigration that his daughter was ill and confined at the Chinese General Hospital since 21 March 1955 and that as she might collapse during the return trip to Hongkong, she deferred her departure set for 23 March, and requesting that she be granted ten days extension of her authorized period of temporary stay in the Philippines to enable her to rest and recuperate (Annex C). On 1 April 1955, Lee Suan Ay and Alberto Tan were joined in marriage by the Justice of the Peace of Las Piñas, Rizal (Annex D). After their marriage, they received a letter from the Commissioner of Immigration dated 1 April 1955 denying their petition for extension of her temporary stay in the Philippines and declaring the cash bond of P10,000 posted by Lee Chiao forfeited in favor of the Government (Annex E). On 11 April 1955, Lee Chiao asked for reconsideration of the order of forfeiture of the cash bond on the ground that having married a Filipino citizen, Lee Suan Ay follows the citizenship of her husband and ceased to be an alien temporary visitor, and that for that reason the cash bond filed should be returned to him; and that her failure to present herself to the Commissioner of Immigration within 24 hours from receipt of notice was due to illness and loss of weight (Annex F). The petition for reconsideration was denied (Annex G). Notwithstanding repeated demands the defendants, the Commissioner of Immigration, the Accounting Officer of the Bureau of Immigration, the Auditor General and the Treasurer of the Philippines, refused and still refuse to return to the plaintiff Lee Chiao the sum forfeited. Upon the foregoing allegations in their complaint filed in the Court of First Instance of Manila on 27 June 1956, the plaintiffs pray that the defendants be ordered to refund to Lee Chiao the sum of P10,000 forfeited to the Government, or to reduce the forfeiture to P1,000; and that they be granted other just and equitable relief (Civil No. 30056).

On 11 July 1956, the defendants moved for the dismissal of the complaint on the ground that it states no cause of action. In support of their motion they aver that the forfeiture of the cash bond was valid and legal because of the failure of the bondsman to cause or effect the departure of Lee Suan Ay upon termination of her temporary stay (25 March 1955) and to present her to the Bureau of Immigration within 24 hours from receipt of notice, in

violation of the terms and conditions of the undertaking on the bond (Annex B).

On 14 July 1952 the plaintiffs filed an opposition to the defendants' motion to dismiss; on 19 July the defendants a rejoinder to the plaintiffs' opposition. On 11 November 1956, the Court dismissed the plaintiffs' complaint, but left the reduction of the bond to the sound discretion of the Commissioner of Immigration.

The plaintiffs have appealed.

The pertinent terms and conditions of the bond (Annex B), provide:

NOW, THEREFORE, the undersigned has made a cash bond of P10,000.00, Philippine currency with the Bureau of Immigration (O.R. No. 6729734, dated July 20, 1954), which cash bond is subject to the following conditions:

* * * * *

(b) That the undersigned undertakes to make Lee Suan Ay at all times available to and to present her within 24 hours after receipt of notice to produce before the immigration authorities for the investigation of his or her right to further stay in the Philippines.

(c) That in case Lee Suan Ay, after such inquiry is found to have violated any limitation or condition under which he or she was admitted as non-immigrant and is subject to deportation, the undersigned undertakes to produce him or her for deportation within 24 hours after receipt of demand to do so.

(h) * * *

That the undersigned was duly informed and fully understands (1) that no temporary visitor or transient can during the period of her temporary stay request for a change of her status into a permanent one; (2) that no application for extension of temporary stay of said temporary visitor or transient shall be entertained unless the same is filed with the Office in charge at the port of arrival not less than seven (7) days nor more than fourteen (14) days prior to the expiration of the time fixed for her departure from the Philippines; (3) that, except in cases provided by law, no extension or temporary stay will be granted to a temporary visitor or transient if she has stayed in the Philippines for one year from the date of entry; and that (4) no application for extension shall also be granted unless the temporary visitor's or transient's passport is valid for a period of thirty days after the expiration of the requested extension.

(i) * * *

That breach of any of the conditions above-mentioned shall entitle the Commissioner of Immigration to declare this cash bond or part thereof forfeited, but shall not release the undersigned from the obligation to produce said Lee Suan Ay for such, action as may be taken against her. No modification of this agreement shall be valid and effective unless made in writing and signed by the Commissioner of Immigration or his duly authorized representatives. (Pp. 10-14, Rec. on App.)

In his letter to the appellant Lee Chiao, dated 1 April 1955, the appellee Commissioner of Immigration recites the following facts and circumstances leading to the forfeiture of the cash bond:

* * * I would like to call your attention to the fact that your daughter Lee Suan Ay, arrived in the Philippines on August 21, 1954, as a temporary visitor for a three month stay. On November 5, 1954, you petitioned for an extension and the same was favorably considered by the Honorable, the Secretary of Foreign Affairs, granting your daughter an extension up to January 21, 1955, under the conditions that her reentry permit to Hongkong and her cash bond continue to be valid. On January 28, 1955, you again requested for an extension of five more days from the expiration of her stay on January 31, 1955 and the same was again granted by the Honorable, the Secretary of Foreign Affairs "provided further that she present a confirmed booking or airline ticket on an airplane which takes her to Hongkong on February 6, 1955."

In spite of the terms of the above last extension granted your daughter, on February 1, 1955, you again petitioned for a three months extension, counted from February 5, 1955, manifesting that the cash bond of P10,000.00 to guarantee her departure will be kept valid and promising that ten days before her scheduled departure to Hongkong, you will present a confirmed booking or air line ticket duly paid for her trip to Hongkong. On February 7, 1955, you were properly notified that they stay up to March 25, 1955 was granted by the Department of Foreign Affairs, and as a matter of fact, you presented from the Philippine Airlines (a confirmed booking) dated February 7, 1955, showing that Lee Suan Ay was booked on Flight No. 304 leaving Manila for Hongkong on March 23, 1955.

Rather (than) comply with the terms and conditions of the last extension above referred to, on March 1, 1955, you again requested for another extension of three months, which, however, was denied by the Honorable, the Secretary of Foreign Affairs, in their indorsement of March 22, 1955.

It will thus clearly appear that Lee Suan Ay is now illegally in this country for staying beyond her authorized stay.

In a letter dated March 26, 1955 this Bureau instructed you to present the person of Lee Suan Ay within twenty-four hours after receipt hereof, with the admonition that upon your failure to do so, the cash bond in the amount of P10,000.00 covered by your undertaking for her temporary release will be confiscated. Rather than comply with this instruction, you wrote us on March 28, 1955, informing us that your daughter "has been confined at the Chinese General Hospital since March 21, 1955 and I am afraid she might collapse during her trip to Hongkong so I deferred her leaving scheduled on the 23rd," and requested this Office for a ten-day period within which to prepare for departure. A verification made on your allegation showed, however, that contrary to said allegation that she has been confined at the Chinese General Hospital since March 21, 1955, she was admitted thereat only for one day and that was on March 22, 1955, for some abdominal ailment. The Medical Officer further reported "that Lee Suan Ay is fairly strong and can walk without complaint. Her heart is normal and so is her pulse and that there is no tenderness at the abdomen. There is no evidence of jaundice or anemia. She is fairly strong and fit to travel." (Annex E, pp. 19-22, Rec. on App.)

The foregoing reasons advanced by the Commissioner of Immigration justify the order of forfeiture of the cash bond posted by Lee Chiao.

The appellants claim that "the breach of any condition does not ipso facto forfeit the cash bond. Or better still, the violation is not the operative act of confiscation." Furthermore, he claims "that a declaration of confiscation is necessary to confiscate the cash bond." Upon expiration of the appellant Lee Suan Ay's authorized period of temporary stay in the Philippines (25 March 1955), on 26 March 1955 the Commissioner of Immigration asked the bondsman to present her to the Bureau of Immigration within 24 hours from receipt of notice, otherwise the bond would be confiscated (Annex 1). For failure of the bondsman to comply with the foregoing order, on 1 April 1955 the Commissioner of Immigration ordered the cash bond confiscated (Annex E). Therefore, there was an order issued by the Commissioner of Immigration confiscating or forfeiting the cash bond. Unlike in forfeiture of bail bonds in criminal proceedings, where the Court must enter an order forfeiting the bail bond and the bondsman must be given an opportunity to present his principal or give a satisfactory reason for his inability to do so, before final judgment may be entered against the bondsman^[1] in forfeiture of bonds posted for the temporary stay of an alien in the Philippines, no court proceeding is necessary. Once a breach of the terms and conditions of the undertaking in the bond is committed, the Commissioner of Immigration may, under the terms and conditions thereat declare it forfeited in favor of the Government.

The fact that Lee Suan Ay was married to a Filipino citizen does not relieve the bondsman from his liability on the bond. The marriage took place on 1 April 1955, and the violations of the terms and conditions of the undertaking in the bond—failure to depart from the Philippines upon expiration of her authorized period of

temporary stay in the Philippines (25 March 1955) and failure to report to the Commissioner of Immigration within 24 hours from receipt of notice—were committed before the marriage. Moreover, the marriage of a Filipino citizen to an alien does not automatically confer Philippine citizenship upon the latter. She must possess the qualifications required by law to become a Filipino citizen by naturalization.[1] There is no showing that the appellant Lee Suan Ay possesses all the qualifications and none of the disqualifications provided for by law to become a Filipino citizen by naturalization.

The order appealed from is affirmed, with costs against the appellants.

Paras, C. J., Bengzon, Montemayor, Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., Endencia, Barrera, and Gutierrez David, JJ., concur.

[1] Section 15, Commonwealth Act No. 473; Ly Giok Ha alias Wy Giok Ha vs. Galang, 54 Off. Gaz., 356.

[1] Section 15, Rule 110; U.S. vs. Bonoan, 22 Phil., 1.

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