

ROSARIO PO, PETITIONER AND APPELLEE, VS. THE COMMISSIONER OF IMMIGRATION, RESPONDENT AND APPELLANT.

G.R. No. 14681. May 30, 1960

Ponente: LABRADOR, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-14681/>

LABRADOR, J.:

Appeal from a decision of the Court of First Instance of Manila, Hon. Gregorio S. Narvasa, presiding, declaring that an order of deportation of petitioner Rosario Po to Hongkong on the first available transportation is null and void and enjoining the Deportation Board from enforcing it. The decision of the Court of First Instance was rendered on a stipulation of facts, which, in part, reads as follows:

"1. That petitioner Rosario Po departed from Manila in 1940 for Shanghai for the purpose of pursuing her studies thereat, carrying with her Special Returning Certificate No. 45152 dated May 27, 1940;

"2. That when she came back to the Philippines on October 8, 1947, She was documented and admitted to stay as a 'temporary visitor', which stay was extended several times by the respondent, the last of which expired on April 18, 1949;

"3. That upon her failure to leave the country on said date, warrant of arrest No. 225 was issued against the petitioner for violation of her stay in this country, and deportation proceedings was instituted against her;

"4. That after due hearing, the Board of Commissioners promulgated its decision on July 21, 1949, ordering the deportation of the petitioner to Hongkong. A certified true copy of said decision is attached to the Answer as Annex 'B', and is made an integral part hereof;

"5. That on July 27, 1949, petitioner filed a motion to reopen the deportation proceedings to enable her to adduce evidence in support of her petition for change of status, from temporary visitor to returning resident;

"6. That the Board of Commissioners in its resolution dated July 30, 1949, denied the petitioner's motion and pursuant thereto a warrant of deportation was issued on April 17, 1950. A certified true copy each of the Board's resolution is attached to the Answer as Annex 'C' and made an integral part hereof."

The stipulation further contains the following facts: On September 11, 1954, First Deputy Commissioner Francisco de la Rosa ordered the correction of the status of Rosario Po alias Po Siu Eng from temporary visitor to that of returning resident; that after giving Rosario Po an opportunity to be heard, the Commissioner of Immigration finally issued the following resolution:

"After a careful consideration of the motion to reopen the above-entitled case to present further evidence in support thereof for a change of status from temporary visitor to returning Resident, this Board has arrived at the conclusion that the same should be, as it is hereby, denied, on the ground that under the present procedure in the issuance of immigration visas, applicants must present themselves at the appropriate Consulates abroad "for investigation and issuance of visas applied for."

Upon the above facts the court below declared that as Rosario Po was provided with a special return certificate

issued by the immigration authorities when she returned on October 8, 1947, her admission as temporary visitor when she came back on that said date was erroneous, and that she should have been admitted as a returning resident, as her failure to return back in 1946 on account of illness did not amount to a relinquishment on her part of her intention to return. Wherefore, the court declared the order of deportation null and void and prohibited the Commissioner of Immigration from carrying it out.

Against the above decision, the Commissioner of Immigration has appealed, assigning the following errors:

I

THE LOWER COURT ERRED IN FINDING THAT THE ADMISSION OF PETITIONER-APPELLEE AS TEMPORARY VISITOR WAS ERRONEOUS.

II

THE LOWER COURT ERRED IN DECLARING NULL AND VOID THE ACTION OF THE RESPONDENT SETTING ASIDE THE ORDER OF THE FIRST DEPUTY COMMISSIONER FRANCISCO DE LA ROSA OF SEPTEMBER 11, 1954 CHANGING THE STATUS OF THE PETITIONER HEREIN FROM TEMPORARY VISITOR TO PERMANENT RESIDENT.

III

THE LOWER COURT ERRED IN GRANTING AND MAKING PERMANENT THE PRELIMINARY INJUNCTION AS PRAYED FOR BY THE HEREIN PETITIONER.

There is an express provision of law governing the case of petitioner-appellee who is admittedly a resident but who entered into the Philippines, after a departure therefrom for a length of time, as a temporary visitor. This is Section 9(g) of Commonwealth Act No. 613, as amended by Section 3 of Republic Act No. 503, which provides:

"Sec. 9. * * *.

"(g) * * *.

"An alien who is admitted as a nonimmigrant cannot remain in the Philippines permanently. To obtain permanent admission, a nonimmigrant alien must depart voluntarily to some foreign country and procure from the appropriate Philippine consul the proper visa and thereafter undergo examination by the officers of the Bureau of Immigration at a Philippine port of entry for determination of his admissibility in accordance with the requirements of this Act."

When petitioner-appellee came back to the Philippines on October 8, 1947, after seven years' stay in Shanghai, she was documented and admitted as a temporary visitor only. Her temporary permit was extended several times by the Commissioner on Immigration, the last extension having expired on April 18, 1949. From that time on she was an overstaying temporary visitor. Admitting that she had formerly been a permanent resident, when she returned back to the Philippines in 1947, she should have procured from the Philippine Consulate in Hongkong or any other foreign port where a Philippine Consul held office, for the proper visa and, thereafter, she should have undergone an examination by the Bureau of Immigration at a Philippine port of entry, these proceedings being in accordance with the Immigration Bulletin No. 1, which subsequently was sanctioned by and reiterated in practically the same terms in Section 3 of Republic Act No. 503, which is quoted above.

The proceedings for admission of a temporary visitor are summary and no proper documentation and examination to determine the visitor's qualification to enter the Philippines are required. Evidently petitioner-appellee wanted to avoid this rigorous examination and documentation required of returning residents. The entry of petitioner-appellee may be said to have been through the back door, for it was without the proper documentation

and examination required by the rules, and said summary entry cannot be legalized by judicial action in violation of the express provisions of the law. Returning residents may not be considered above the law and courts of justice which are supposed to be guardians of the law should not permit an alien's circumvention of these requirements and convert their illegal entry into a legal and valid one.

It will be noted that this is not the first case that has come to this Court. The same ruling has been laid down by us in a number of decisions, the more recent of which are the cases of *Ong Se Lun, et al. vs. Board of Immigration*, 95 Phil., 785; *Chiong Tiao Bing, et al. vs. Commissioner of Immigration*, 99 Phil., 1020; 52 Off. Gaz. (15) 6651; *Sy Hong, et al. vs. Commissioner of Immigration*, G. R. No. L-10224, May 11, 1957.

It is to be noted that no circumstances were shown in the case at bar that would justify petitioner-appellee's return into the islands as a temporary visitor in 1947, and following the ordinary procedure established by the rules she should first be documented in a Philippine Consulate abroad and later subjected to examination by the Immigration authorities in accordance with the above decisions and the provisions of the law above cited.

Finding that the decision of the court below is contrary to the provisions of the Immigration Act and the decisions of this Court, we are constrained to reverse and set aside said decision, and hereby declare that the order of the Deportation Board for the deportation of petitioner-appellee Rosario Po should be, as it hereby is, affirmed, with costs against petitioner-appellee.

Paras, C. J., Bengzon, Montemayor, Bautista Angelo, Concepcion, Barrera, and Gutierrez David, JJ., concur.
Reyes, J.B.L., and Endencia, JJ., took no part.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.