

LORENZO LIM AND JUANA ALVAREZ LIM, PETITIONERS AND APPELLEES, VS. FRANCISCO DE LA ROSA, AS ASST. COMMISSIONER OF IMMIGRATION AND JOVITO PALATTAO, AS ALIEN CONTROL OFFICER, ZAMBO...

G.R. No. 17790. March 31, 1964

Ponente: PADILLA, J.

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PADILLA, J.:

Claiming to be citizens of the Philippines, the spouses Lorenzo Lim and Juana Alvarez filed a petition in the Court of First Instance, of Manila to enjoin Francisco de la Rosa, Assistant Commissioner of Immigration, and Jovito Palattao, Alien Control Officer stationed at Zamboanga City, from requiring or compelling them (the spouses) to register as aliens. A writ of preliminary injunction prayed for was issued upon the filing of a bond.

The answer of the respondents is that the petitioner Lorenzo Lim alias Lam Shun Hock is not a citizen of the Philippines, as ruled by the Department of Justice in its opinions No. 378, Series of 1955, and No. 77, Series of 1956.

The reply of the petitioners mentions the application in 1957 by the petitioner Lorenzo Lim for a Filipino passport which was issued to him (Passport No. 3590) upon a memorandum by the Citizenship Committee of the Department for Foreign Affairs; an order or decree for a change of name prayed for by the petitioner Lorenzo Lira entered by the Court of First Instance of Zamboanga City Where it was stated that the therein petitioner is a Filipino citizen; and the opinion No. 31, Series of 1956; rendered by the Department; of Justice denying the reconsideration of opinion No. 77, Series of 1956, prayed for by the petitioner Lorenzo Lim.

On 2 March 1960, the parties submitted the following "Agreed Statement of Facts":

I

That respondent Francisco de la Rosa, is at present the Associate Commissioner of Immigration, while respondent Jovito Palattao, is the Alien Control Officer of Zamboanga City;

II

That on March 12, 1952, petitioner Lam Shun Hock alias Lorenzo Lim was investigated by the Office of the Immigration Inspector in Zamboanga regarding his claim that he is a citizen of the Philippines;

III

That subsequent thereto the matter was referred by the Bureau of Immigration to the Secretary of Justice for opinion, regarding the citizenship of the herein, petitioner, Lorenzo Lim. (Copy of the indorsement is attached as Annex "1" of the answer and made an integral part thereof.);

IV

That after all the papers pertaining to the claim of Philippine citizenship of petitioner were submitted to the Department of Justice, the latter office rendered Opinion No. 378 series of 1955 denying the claim of Philippine citizenship of the petitioner therein; (copy of said Opinion is attached hereto as Annex "AA")

V

That the petitioner, through his attorney, filed a petition for reconsideration of the said opinion of the Department of Justice on December 16, 1955 which petition was denied by the said department in an opinion No. 77 series of 1956 which was indorsed to the Commissioner of Immigration. (Copy of said opinion is attached as Annex "2" of the answer and made an integral part thereof.);

VI

That sometime in the year 1967, petitioner Lorenzo Lim alias Lam Shun Hock filed in the Department of Foreign Affairs an "application for the issuance of a Filipino Passport, as a consequence of which, he was issued Filipino Passport, No. 3590, based on a Memorandum of this Citizenship Committee of said Department dated May 24, 1957, copy of which self-explanatory Memorandum is attached and marked as Annex "A" of the Reply;

VII

That sometime in January, 1957, herein petitioner Lorenzo Lim alias Lam Shun Hock filed a Petition for Change of Name in the Court of First Instance of Zamboanga City, which petition, after due hearing was favorably acted upon by the said court, as evidenced by the Order dated July 19, 1957, of Hon. Judge Leov. B. Mijares of the said Court, copy of which Order is attached as Annex "B" of the Reply;

VIII

The petitioner Lorenzo Lim alias Lam Shun Hock, on or about August 25, 1957, filed a Motion for Reconsideration of Opinion No. 77, s. 1956, attaching therewith various public and private documents, a copy of said Motion is attached and marked as Annex "C" of the Reply;

IX

That the various public and private documents attached to the aforesaid Motion for Reconsideration of Opinion No. 77, s. 1956, consist of the following:

- As Annex "A"—Certificate of Municipal Treasurer and Local Civil Registrar of Jolo, Sulu re loss and destruction of all pre-war records of civil registry pertaining to deaths, births, and marriages, hence his inability to issue public records of death, of Lam Hing and Mora Alsia;
- As Annex "A-1"—Certificate of Municipal Treasurer and Local Civil Registrar of Jolo, Sulu, re loss and destruction of pre-war records of civil registry,, hence his Inability to issue a certified true copy of the record of birth of Lam Shun Hock alias Lorenzo Lim;
- As Annex "B"—Affidavit of S. Omar Bogis dated April 22. 1957, a close friend of the parents of Lam Shun Hock alias Lorenzo Lim re Filipino parentage and citizenship of Mora Alsia;
- As Annex "B—1"—Affidavit of Mohamed Badalun dated April 16, 1957, another close friend of the family, re Filipino parentage and citizenship of Mora Alsia:

- As Annex "B-2"—Affidavit of Vicente Magno dated April 22, 1957, a former neighbor and close friend of the family, re Filipino parentage and citizenship of Mora Alsia;
- As Annex "C"—Election Papers of Lam Shun Hock dated 1941;
- As Annex "D"— Birth Certificate of his son Felipe Lim dated March 26, 1929, wherein he is described as. a Filipino
- As Annex "D-1"—Birth Certificate of his daughter Marcela Lim dated March 36, 1929, wherein she is described as a Filipino;
- As Annex "D-2"—Birth Certificate of his daughter Asuncion Lim dated August 16, 1957, wherein she is described as a Filipino;
- As Annex "D-3"—Birth Certificate of his son Santos A. Lim dated August 16, 1957, wherein he is described as a Filipino;
- As Annex "D-4"—Birth Certificate of his daughter Rufina A. Lim dated August 16, 1967, wherein she is described as a Filipino;
- As Annex "D-5"—Birth Certificate of his daughter Rosalinda Lim dated August 16, 1957, where she is described as a Filipino;
- As Annex "E"—Memorandum for Acting Secretary, Dept. of Foreign Affairs dated May 24, 1957, re citizenship of Lorenzo Lim alias Lam Shun Hock, by virtue of which he was issued a Filipino Passport;
- As Annex "F"—Marriage Certificate of his son Felipe Lim;
- As Annex "F-1"—Marriage Certificate of his daughter Marcela Lim;
- As Annex "G"—Baptismal Certificate of his son Felipe
- As Annex "G-1"—Baptismal Certificate of his daughter Felisa Lim;
- As Annex "G-2"—Baptismal Certificate of his daughter Marcela Lim;
- As Annex "G-3"—Baptismal Certificate of his daughter Asuncion Lim;
- As Annex "G-4"—Baptismal Certificate of his son Santos Lim;
- As Annex "G-5"—Baptismal Certificate of his daughter, Rufina Lim;
- As Annex "G-6"—Baptismal Certificate of his daughter, Rosalinda Lim;
- As Annex "H"—Affidavit of Virginia Pioquinto, re baptism and marriage of Lam Shun Hock alias Lorenzo Lim ;
- As Annex "H-1"—Affidavit of Hilario Alejandro, re baptism and marriage of Lam Shun Hock alias Lorenzo Lim;
- As Annex "I"—Certificate of City Treasurer of Zamboanga City, re Lam Shun Hock, who voted in 1955 elections;
- As Annex "I-1"—Affidavit of Mariano Almonte re Lam Shun Hock being a registered voter in 1928 elections;
- As Annex "I-2"—Affidavit of Antonio Toribio, re Lam Shun Hock being a registered voter in 1928 elections;
- As Annex "I-3"—Affidavit of Guillermo Guevarra, re Lam Shun Hock alias Lorenzo Lim, being a registered voter;

- As Annex "J"—Certificate of Immigration Officer Jovito Palattao, of Port of Zamboanga stating that Lorenzo Lim (Lam Shun Hock), is not registered as an alien in his office; and
- As Annex "K"—Certificate of Registration of Business Name of Lam Shun Hock in the Bureau of Commerce, wherein it is shown that he is a Filipino citizen.

X

That again, the Honorable, the Acting Secretary of Justice Jesus G. Barrera, rendered Opinion No. 31, Series of 1958, denying petitioner's Motion for reconsideration, copy of which is attached and marked as Annex "D" of the Reply;

XI

That as a result of the denial of the claim of petitioner Lorenzo Lim as a citizen of the Philippines, respondent Associate Commissioner de la Rosa ordered the respondent Palattao, Alien Control Officer of Zamboanga City to require the petitioner herein to register as an alien. (Copy of the letter of the Associate Commissioner is attached as Annex "A" of the petition);

XII

That following the instruction of the respondent de la Rosa, respondent Palattao advised the petitioner herein to register as an alien within a period of ten (10) days upon receipt of the letter. The said letter has been attached as Annex "E" of the petition;

XIII

That under the Alien Reg. Act 1900 it is the duty of all aliens residing in the Philippines to register with the Bureau of Immigration and likewise its devolves upon the Commissioner of Immigration the duty to enforce said laws; and

XIV

That petitioner Lorenzo Lim has never been registered as a Chinese in the Bureau of Immigration, as is also the case of the other petitioner Juana Alvarez since the marriage of herein petitioners sometimes in January, 1952." (pp. 91-95, record)

After hearing, the Court rendered judgment holding "that the spouses Lorenzo Lim and Juana Alvarez Lim are Filipino citizens either by reason of Lorenzo Lira's illegitimacy, or, granting that the parents of Lorenzo him were legally married, by Lorenzo Lim's mother reversion to Philippine citizenship when his father died," and enjoying permanently the respondents from requiring the petitioners' registration as aliens.

From the judgment thus rendered the respondents have appealed to this Court; and the trial Court ordered that the record of the case be certified and transmitted to this Court.

The appellants claim that the trial Court committed the following errors:

- The lower Court erred in finding that the petitioner-appellee is the illegitimate son of Lam Hing and Mora Alsia and consequently, he follows the citizenship of his mother.
- The lower Court erred in finding that under this present petition filed by the petitioner-appellee the citizenship of the latter could be determined.

- The lower Court erred in granting the petition of the petitioners-appellees permanently enjoining the respondents appellants from requiring them to register as aliens.

What would be the remedy of a citizen or an inhabitant of the country claiming to be a citizen thereof, who is being required or compelled to register as alien by administrative officers of the Government, who relying upon ruling or opinions of superior administrative officers, are in turn complying with their duty? If the person claiming "to be a citizen of the country who is being required or compelled to register as alien, can show, establish, or prove that he is such citizen, the remedy of injunction to prevent the officers from requiring or compelling him to register as alien is certainly the proper and adequate remedy to protect his right.

The trial Court states that—

x x x, the petitioner presented documentary evidence to which the Solicitor made no objection. The evidence presented shows, that Lorenzo Lim was born on January 26, 1905, in Tulay, Jolo, Sulu, being the illegitimate son of Lam Hing. The parents of petitioner, Lorenzo Lim are Lam Hing, Chinese citizen and Mora Alsia a Filipino citizen whose parents were Abdul Hussin and Mora Tamsila both Filipinos. Lam Hing died in 1907 while Mora Alsia died in 1908. The parents of Lam Hing during their life time were never married. Petitioner Lorenzo Lim was Sever registered with the Bureau of Immigration as an alien and in all his transactions with the government, he has been known to be a Filipino citizen. Furthermore the evidence shows that Lorenzo Lim and Juana Alvarez Lim were legally married. With the evidence presented, the Court believes that the spouses Lorenao Lim and Juana Alvarez Lim are Filipino citizens either; by reason of Lorenzo Lim's illegitimacy, or granting that the parents of Lorenzo Lim were legally married by Lorenzo Lim's mother reversion to Philippine citizenship when his father died.

Inasmuch as there was no marriage between the parents of petitioner, Lorenzo Lim, he is a Filipino citizen since he follows the citizenship of his mother Mora Alsia from birth.

These findings are supported by the documents and answers of witnesses to interrogatories presented as evidence without objection.

As stipulated by the parties, on 18 July 1941 after the passage of Com. Act No. 625 on 7 June 1941, petitioner Lorenzo Lim elected Filipino citizenship (Annex C); in 1928, 1931f 1934 and 1955 elections, petitioner Lorenzo Lim was a registered voter; in 1957 petitioner Lorenzo Lim alias Lam Shun Hock applied for a passport and. based on a memorandum by the Citizenship Committee of the Department for Foreign Affairs he was issued Filipino Passport No. 3590; in the same year the Court of First Instance of Zamboanga City granting a petition for a change of name stated that petitioner Lorenzo Lim is a Filipino citizen; the petitioner as well as his wife Juana Alvarez Lim have never been registered as aliens; and the certificate of registration of business name of the petitioner Lorenzo Lim recites that he is a Filipino citizen. All these go to strengthen the finding of the trial court that the petitioner Lorenzo Lim is such a citizen.

The opinions of the Department of Justice referred to do not have a conclusive character or effect as they are based on findings that the evidence then submitted was incompetent and the petitioner's statement was unsupported and hence insufficient to warrant a conclusion that the petitioner is a Filipino citizen.

The judgment appealed from is affirmed, without special pronouncement as to costs.

Bengzon, C.J., Bautista Angelo, Paredes, Dizon, Regala, and Makalintal, JJ., concur.
Labrador, Concepcion, Reyes J. B. L., and Barrera, JJ., took no part.

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