

LO SAN TUANG, PETITIONER AND APPELLANT, VS. EMILIO L. GALANG, AS COMMISSIONER OF IMMIGRATION, RESPONDENT AND APPELLEE.

G.R. No. 18775. November 30, 1963

Ponente: REGALA, J.

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REGALA, J.:

Petitioner is a citizen of Nationalist China. She came to the Philippines as a temporary visitor on July 1, 1960. She was authorized to stay in this country until June 30, 1961 only, but instead of departing on that day, she asked the Commissioner of Immigration for the cancellation of her alien certificate of registration on the ground that her husband, Ngo Seng alias Fong Seng Shwan, had been admitted to Philippine citizenship on January 7, 1961 and that therefore she followed the citizenship of her husband.

The Commissioner denied her request, whereupon, she filed this petition for prohibition and mandamus in the Court of First Instance of Manila, submitting, among other things, an affidavit jointly sworn by her and her husband, in which she stated that she is not disqualified under the law from becoming a citizen of the Philippines.

The trial court held that under Section 15 of the Revised Naturalization Law (Com. Act No. 473), an alien woman, claiming Filipino citizenship by virtue of marriage to a citizen, must prove that she has all the qualifications and none of the disqualifications for naturalization. In dismissing her petition, the trial court held that petitioner had not even proven that she was not suffering from any disqualification. Petitioner appealed to this Court.

Section 15 provides in part as follows:

"Effect of the naturalization on wife and children.—Any woman who is now or may hereafter be married to a citizen of the Philippines, and who might herself be lawfully naturalized, shall be deemed a citizen of the Philippines."

The issue here is whether the phrase "who might herself be lawfully naturalized" requires the alien woman to prove both that she has the qualifications [1] of an applicant for naturalization and that she is not laboring under any of the disqualifications [2] provided by law, or whether it merely requires her to prove that she is not disqualified.

In the case of *Ly Giok Ha, etc. vs. Galang*, 101 Phil., 459; 54 Off. Gaz., 356, this Court, speaking through Justice Concepción, held:

"Pursuant thereto (Sec. 15), marriage to a male Filipino does not vest Philippine citizenship to his foreign wife, unless she 'herself may be lawfully naturalized.' As correctly held in an opinion of the Secretary of Justice (Op. No. 52, series of 1950), this limitation of section 15 excludes, from the benefits of naturalization by marriage, those disqualified from being naturalized as citizens of the Philippines under section 4 of said Commonwealth Act No. 473, namely: * * *"

Then, in *Cua vs. Board of Immigration Commissioners*, 101 Phil, 521; 53 Off. Gaz., 8567, this Court, through Justice J. B. L. Reyes, stated:

"The appeal cannot be sustained. Granting the validity of marriage, this Court has ruled in the recent case of *Ly Giok Ha vs. Galang*, L-10760, May 17, 1957, that the bare fact of a valid marriage to a citizen does not suffice to confer his citizenship upon the wife. Sec. 15 of the Naturalization Law requires that the alien woman who marries a Filipino must show in addition, that she 'might herself be lawfully naturalized' as a Filipino citizen. As construed in the decision cited, this last condition requires proof that the woman who married a Filipino is herself not disqualified under Section 4 of the Naturalization Law."

Much later, in *Lee Suan Ay, et al. vs. Galang, et al.*, 106 Phil., 706; this Court, this time through Justice Padilla, stated:

" * * * 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. (Section 15, Commonwealth Act No. 473; *Ly Giok Ha alias Wy Giok Ha vs. Galang*, 54 Off. Gaz., 346). There is no showing that the appellant Lee Suan Ay possesses all the qualifications and none of the disqualification provided by law to become a Filipino citizen by naturalization."

It is to be noted that the petitioner has anchored her claim for citizenship on the basis of the decision laid down in the case of *Leonard vs. Grant*, 5 Swy. 603, 5 F 11, where the Circuit Court of Oregon held that it was only necessary that the woman "should be a person of the class or race permitted to be naturalized by existing laws, and that in respect of the qualifications arising out of her conduct or opinions, being the wife of a citizen, she is to be regarded as qualified for citizenship, and therefore considered a citizen." [3]

In other words, all that she was required to prove was that she was a free white woman or a woman of African descent or nativity, in order to be deemed an American citizen, because, with respect to the rest of the qualifications on residence, moral character, etc., she was presumed to be qualified.

Like the law in the United States, our former Naturalization Law (Act No. 2927, as amended by Act No. 3448) specified the classes of persons who alone might become citizens of the Philippines, even as it provided who were disqualified. Thus, the pertinent provisions of that law provided:

"SECTION 1. Who may become Philippine citizens.—Philippine citizenship may be acquired by (a) natives of the Philippines who are not citizens thereof under the Jones Law; (b) natives of the Insular possessions of the United States; (c) citizens of the United States, or foreigners who under the laws of the United States may become citizens of said country if residing therein.

"SEC. 2. Who are disqualified.—The following cannot be naturalized as Philippine citizens: (a) Persons opposed to organized government or affiliated with any association or group of persons who uphold and teach doctrines opposing all organized government; (b) persons defending or teaching the necessity or propriety of violence, personal assault or assassination for the success and predominance of their ideas; (c) polygamists or believers in the practice of polygamy; (d) persons convicted of crimes involving moral turpitude; (e) persons suffering from mental alienation or incurable contagious diseases; (f) citizens or subjects of nations with whom the United States and the Philippines are at war, during the period of such war.

"SEC. 3. Qualifications.—The persons comprised in subsection (a) of section one of this Act, in order to be able to acquire Philippine citizenship, must be not less than twenty-one years of age on the day of the hearing of their petition.

"The persons comprised in subsections (b) and (c) of said section one shall, in addition to being not less than twenty-one years of age on the day of the hearing of the petition, have all and each of the following qualifications:

"First. Residence in the Philippine Islands for a continuous period of not less than five years, except as provided in the next following section;

"Second. To have conducted themselves in a proper and irreproachable manner during the entire period of their residence in the Philippine Islands, in their relations with the constituted government as well as with the community in which they are living;

"Third. To hold in the Philippine Islands real estate worth not less than one thousand pesos, Philippine currency, or have some known trade or profession; and

"Fourth. To speak and write English, Spanish or some native tongue.

"In case the petitioner is a foreigner subject, he shall, besides, declare in writing and under oath his intention of renouncing absolutely and perpetually all faith and allegiance to the foreign authority, state or sovereignty of which he was a native, citizen or subject."

Applying the interpretation given by *Leonard vs. Grant*, supra, to our law as it then stood, alien woman married to citizens of the Philippines must, in order to be deemed citizens of the Philippines, be either (1) natives of the Philippines who were not citizens thereof under the Jones Law, or (2) natives of other Insular possessions of the United States, or (3) citizens of the United States or foreigners who under the laws of the United States might become citizens of that country if residing therein. With respect to the qualifications set forth in Section 3 of the former law, they were deemed to have the same for all intents and purposes.

But, with the approval of the Revised Naturalization Law (Commonwealth Act No. 473) on June 17, 1939, Congress has since discarded class or racial considerations from the qualifications of applicants for naturalization, [4] even as it retained in Section 15 the phrase in question. The result is that the phrase "who might herself be lawfully naturalized" must be understood in the context in which it is now found, in a setting so different from that in which it was found by the Court in *Leonard vs. Grant*.

The only logical deduction from the elimination of class or racial consideration is that, as the Solicitor General points out, the phrase "who might herself be lawfully naturalized" must now be understood as referring to those who under Section 2 of the law are qualified to become citizens of the Philippines.

There is simply no support for the view that the phrase "who might herself be lawfully naturalized" must now be understood as requiring merely that the alien woman must not belong to the class of disqualified persons under Section 4 of the Revised Naturalization Law. Such a proposition misreads the ruling laid down in *Leonard vs. Grant*. A person who is not disqualified is not necessarily qualified to become a citizen of the Philippines, because the law treats "qualifications" and "disqualifications" in separate sections. And then it must not be lost sight of that even under the interpretation given to the former law, it was to be understood that the alien woman was not disqualified under Section 2 of that law. *Leonardo vs. Grant* did not rule that it was enough if the alien woman does not belong to the class of disqualified persons in order that she may be deemed to follow the citizenship of her husband. What that case held was that the phrase "who might herself be lawfully naturalized" merely means that she belongs by naturalization—the assumption being always that she is not otherwise disqualified.

We therefore hold that under the first paragraph of Section 15 of the Naturalization Law, an alien woman, who is married to a citizen of the Philippines, acquires the citizenship of her husband only if she has all the qualifications and none of the disqualifications provided by law. Since there is no proof in this case that petitioner has all the qualifications and is not in any way disqualified, her marriage to a Filipino citizen does not automatically make her a Filipino citizen. Her affidavit to the effect that she is not in any way disqualified to become a citizen of this country was correctly disregarded by the trial court, the same being self-serving.

More recently, in *Kua Suy etc. et al. vs. The Commissioner of Immigration*, G. R. No. L-13790, October 31, 1963, this Court ruled through Justice Reyes that—

" * * * Under section 15 of the Naturalization Act, the wife is deemed a citizen of the Philippines only if she 'might herself be lawfully naturalized', so that the fact of marriage to a citizen, by itself alone, does not suffice to confer citizenship as this Court has previously ruled in *Ly Giok Ha vs. Galang*, 54 Off. Gaz. 356, and in *Cua vs. Board of Immigration Commissioners*, 53 Off. Gaz., 8567; and there is here no evidence of record as to qualifications or absence of disqualifications of appellee *Liu Giok In*. * * *." (Italic ours)

Wherefore, the order dated August 8, 1961 of the Court of First Instance of Manila is hereby affirmed, without pronouncement as to costs.

Bengzon, C.J., Padilla, Bautista Angelo, Labrador, Concepcion, Barrera, Paredes, Dizon, and Makalintal, JJ., concur.

[1] SEC. 2. Qualifications.—Subject to section four of this Act, any person having the following qualifications may become a citizen of the Philippines by naturalization:

First. He must be not less than twenty-one years of age on the day of the hearing of the petition;

Second. He must have resided in the Philippines for a continuous period of not less than ten years;

Third. He must be of good moral character and believes in the principles underlying the Philippine Constitution, and must have conducted himself in a proper and irreproachable manner during the entire period of his residence in the Philippines in his relation with the constituted government as well as with the community in which he is living;

Fourth. He must own real estate in the Philippines worth not less than five thousand pesos, Philippine currency, or must have some known lucrative trade, profession, or lawful occupation;

Fifth. He must be able to speak and write English or Spanish and any one of the principal Philippine languages; and

Sixth. He must have enrolled his minor children of school age, in any of the public schools or private schools recognized by the Office of Private Education of the Philippines, where Philippine history, government, and civics are taught or prescribed as part of the school curriculum, during the entire period of the residence in the Philippines required of him prior to the hearing of his petition for naturalization as Philippine citizen.

[2] SEC. 4. Who are disqualified.—The following can not be naturalized as Philippine citizens:

a) Persons opposed to organized government or affiliated with any association or group of persons who uphold and teach doctrines opposing all organized governments;

(b) Persons defending or teaching the necessity or propriety of violence, personal assault, or assassination for the success and predominance of their ideas;

(c) Polygamist or believers in the practice of polygamy;

(d) Persons convicted of crime involving moral turpitude;

(e) Persons suffering from mental alienation or incurable contagious diseases;

(f) Persons who, during the period of their residence in the Philippines, have not mingled socially with the

Filipinos or who have not evinced a sincere desire to learn and embrace the customs, traditions, and ideals of the Filipinos;

(g) Citizens or subjects of nations with whom the United States and the Philippines are at war, during the period of such war;

(g) Citizens or subjects of a foreign country other than the United States, whose laws do not grant Filipinos the right to become naturalized citizens or subjects thereof.

[3] In explanation of its conclusion, the Court said: "If, whenever during the life of the woman or afterwards, the question of her citizenship arises in a legal proceeding, the party asserting her citizenship by reason of her marriage with a citizen must not only prove such marriage, but also that the woman then possessed all the further qualifications necessary to her becoming naturalized untied existing laws, the statute will be practically nugatory, if not a delusion and a snare. The proof of the facts may have existed at the time of the marriage, but years after, when a controversy arises upon the subject, it may be lost or difficult to find."

[4] According to its proponents, the purpose in eliminating this consideration was, first, to remove the features of the existing naturalization act which discriminated in favor of Caucasians and against Asiatics who are our neighbors and are related to us by racial affinity and, second, to foster amity with all nations. (Sinco, Philippine Political Law 502 [11th ed.])

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