

LY GIOK HA ALIAS WY GIOK HA, ET AL., PETITIONERS-APPELLEES, VS. EMILIO L. GALANG, ET AL., RESPONDENTS-APPELLANTS.

G.R. No. 21332. March 18, 1966

Ponente: REYES, J.B.L., J.

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REYES, J.B.L., J.:

Appeal by the respondent, Immigration Commissioner, from a decision of the Court of First Instance of the City of Manila (Hon. Juan O. Reyes, presiding), rendered in Civil Case No. 29318 thereof, holding that petitioner, a woman citizen of the Republic of the China, is entitled to admission as a naturalized Filipino citizen after her marriage to one Restituto Lucasta, a citizen of this Republic.

The present case is, in fact, a sequel to a previous appeal to this Court (G. R. No. L-10760), decided on May 17, 1960, wherein it was decided to remand the case to the court of origin, for the reason that—

"neither in the administrative proceedings nor in the lower court, had the parties seemingly felt that there was an issue whether Ly Giok Ha may 'be lawfully naturalized'[1] and * * * in the interest of equity and justice, the parties herein should be given an opportunity to introduce evidence, if they have any, on said issue." (Decision, L-10760, p. 7).

The following statement of facts in the appellant Commissioner's brief is accepted by the appellee as substantially correct:

"From the evidence submitted by the petitioners at the rehearing of this case on October 15, 1962, it appears that Ly Giok Ha arrived in the Philippines as a temporary visitor on May 14, 1955 (pp. 11, 27, t.s.n., Octo. 15, 1962); that on March 8, 1956, she married Restituto Lacasta, a Filipino Citizen with whom she begot three minor children (p. 4, t.s.n., id.; Annex "C", p. 9, rec.); that she is not opposed to organized government and is not affiliated with any association or group of persons who uphold and teach doctrines opposing organized government (p. 8, t.s.n., id.); that she does not defend or teach the necessity or propriety of violence, personal assault or assassination for the success and predominance of man's ideas (p. 8, t.s.n., id.); that she is not a polygamist or a believer in the practice of polygamy (p. 8, id.); that she has never been convicted of any crime involving moral turpitude (id); that she is not suffering from any incurable contagious disease or mental illness (id); and that she mingles socially with the Filipinos and embraces their customs, traditions and ideas (p. 10, t.s.n., id.).

On cross-examination, she failed to establish that: (1) she has been residing in the Philippines for a continuous period of at least ten (10) years (p. 27, t.s.n., id); (2) she has a lucrative trade, profession, or lawful occupation (p. 13, t.s.n. id.); and (3) she can speak and write English, or any of the principal Philippine languages (pp. 12, 13, t.s.n., id).

After the rehearing, the lower court rendered a decision on December 6, 1962, holding that petitioner Ly Giok Ha alias Wy Giok Ha, is not entitled to become a Filipino citizen by reason of marriage to Restituto Lacasta, a Filipino, because she does not possess all the qualifications required by law of an applicant for naturalization (p. 181, rec.).

On January 15, 1963, petitioner Ly Giok Ha filed a motion for reconsideration of the decision rendered by the lower court on December 6, 1962 (p. 185, rec.), which motion was favorably acted upon and accordingly, the lower court modified its decision of December 6, 1962, and declared that the herein petitioner Ly Giok Ha, has acquired Philippine citizenship by reason of her marriage to a Filipino (pp. 195, 201, record). From this decision the Government has appealed to this Honorable Court (notice of appeal, p. 203)."

The case before the Court involves the interpretation of section 15 of Commonwealth Act No. 473, providing that:

"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."

While the appellant Immigration Commissioner contends that the words emphasized indicate that the present Naturalization law requires that an alien woman who marries a Filipino husband must possess the qualifications prescribed by section 2 in addition to not being disqualified under any of the eight ("a" to "h") subheadings of section 4 of Commonwealth Act No. 473, in order to claim our citizenship by marriage, both the appellee and the court below (in its second decision) sustain the view that all that the law demands is that the woman be not disqualified under section 4.

At the time the present case was remanded to the court of origin (1960) the question at issue could be regarded as not conclusively settled, there being only the concise pronouncement in *Lee Suan Ay, et al. vs. Galang*, G. R. No. L-11855, December 23, 1959, to the effect that:

"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."

Since that time, however, a long line of decisions of this Court has firmly established the rule that the requirement of section 15 of Commonwealth Act 473 (the Naturalization Act), that an alien woman married to a citizen should be one who "might herself be lawfully naturalized", means not only a woman free from the disqualifications enumerated in section 4 of the Act but also one who possesses the qualifications prescribed by section 2 of C. A. 473 (*San Tuan vs. Galang*, L-18775, Nov. 30, 1963; *Sun Pek Young vs. Commissioner of Immigration*, L-20784, Dec. 27, 1963; *Tong Siok Sy vs. Vivo*, L-21136, Dec. 27, 1963; *Austria vs. Conchu*, L-20716, June 22, 1965; *Choy King Tee vs. Galang*, L-18351, March 26, 1965; *Brito vs. Commissioner of Immigration*, L-16829, June 30, 1965).

Reflection will reveal why this must be so. The qualifications prescribed under section 2 of the Naturalization Act, and the disqualifications enumerated in its section 4, are not mutually exclusive; and if all that were to be required is that the wife of a Filipino be not disqualified under section 4, the result might well be that citizenship would be conferred upon persons in violation of the policy of the statute. For example, section 4 disqualifies only—

"(c) Polygamists or believers in the practice of polygamy; and

(d) Persons convicted of crimes involving moral turpitude",

so that a blackmailer, or a maintainer of gambling or bawdy houses, not previously convicted by a competent court, would not be thereby disqualified; still, it is certain that the law did not intend such a person to be admitted as a citizen in view of the requirement of section 2 that an applicant for citizenship "must be of good moral character".

Similarly, the citizen's wife might be a convinced believer in racial supremacy, in government by certain selected classes, in the right to vote exclusively by certain "herrenvolk", and thus disbelieve in the principles underlying the Philippine Constitution; yet she would not be disqualified under section 4, as long as she is not "opposed to

organized government", nor affiliated to groups "upholding or teaching doctrines opposing all organized governments", nor "defending or teaching the necessity or propriety of violence, personal assault or assassination for the success or predominance of their ideas". Et sic de caeteris.

The foregoing instances should suffice to illustrate the danger of relying exclusively on the absence of disqualifications, without taking into account the other affirmative requirements of the law, which, in the case at bar, the appellee Ly Giok Ha admittedly does not possess.

As to the argument that the phrase "might herself be lawfully naturalized" was derived from the U. S. Revised Statutes (section 1994) and should be given the same territorial and racial significance given to it by American courts, this Court has rejected the same in *Lo San Tuang vs. Galang*, L-18775, November 30, 1963; and in *Choy King Tee vs. Galang*, L-18351, March 26, 1965. In the latter case, this Court ruled:

"This Court, however, believes that such reason has ceased to exist since the enactment of the Revised Naturalization Law (Commonwealth Act No. 473) on June 17, 1939. The racial restrictions have been eliminated in this Act, but the provision found in Act No. 3448 has been maintained. It is logical to presume that when Congress chose to retain the said provision—that to be deemed a Philippine citizen upon marriage the alien wife must be one "who might herself be lawfully naturalized,"—the reference is no longer to the class or race to which the Woman belongs, for class or race has become immaterial, but to the qualifications and disqualifications for naturalization as enumerated in Sections 2 and 4 of the statute. Otherwise the requirement that the woman "might herself be lawfully naturalized" would be meaningless surplusage, contrary to settled norms of statutory construction.

The rule laid down by this Court in this and in other cases heretofore decided is believed to be in line with the national policy of selective admission to Philippine citizenship, which after all is a privilege granted only to those who are found worthy thereof, and not indiscriminately to anybody at all on the basis alone of marriage to a man who is a citizen of the Philippines, irrespective of moral character, ideological beliefs, and identification with Filipino ideals, customs and traditions."

The judgment appealed from is reversed, and the petitioner-appellee Ly Giok Ha declared not entitled to claim Filipino citizenship by her marriage to a Filipino citizen. Costs against appellees.

Bengzon, C.J., Bautista Angelo, Concepcion, Barrera, Regala, Makalintal, Bengzon, J. P., Zaldivar, and Sanchez, JJ., concur.

[1] As required by Section 15 of Commonwealth Act No. 473.

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