

IN RE PETITION OF GLORIA BALDELLO FOR NATURALIZATION AS A PHILIPPINE CITIZEN. THE COMMONWEALTH OF THE PHILIPPINES, APPELLEE, VS. GLORIA BALDELLO, PETITIONER AND APPELLANT.

G.R. No. 45375. April 12, 1939

Ponente: MORAN, J.

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MORAN, J.:

Gloria Baldello, a Filipino citizen, married, on November 12, 1921, one Gabino Ordorica, a native of Mexico, then serving in the United States Army in the Philippines, with whom she had been living continually until August 24, 1924, when she was abandoned by him. On December 31, 1935, she sued out and obtained an order from the Court of First Instance of Manila, declaring Ordorica presumptively dead for purposes of law, his whereabouts being then unknown for more than eleven years. On June 29, 1936, she filed a petition in the court below wherein she sought a return to the Filipino citizenship. The petition was denied and she appealed.

Under paragraph 2, article 37, of the Constitution of Mexico (Nationality Laws, Flournoy and Hudson [1929], pp. 426, 427), Ordorica had forfeited his Mexican citizenship by his service in the United States Army. On the other hand, he failed to comply with the requirements of the Act of Congress of the United States of May 9, 1918 (40 U. S. Statutes at Large, p. 542), by which he might become a naturalized citizen of the United States. Thus, at the time of his marriage with Gloria Baldello, he was neither a Mexican nor an American citizen—a stateless individual in the contemplation of the Law of Nations. The question now is: Did the wife, by that marriage, follow this anomalous condition of her husband?

We believe, and so hold, that there being no new citizenship imposed upon her by marriage, nothing could have divested her of her original citizenship; and, therefore, her Philippine citizenship remained unchanged. The general rule that a married woman follows the nationality of her husband presupposes a nationality in the husband. Where no such nationality exists, the rule does not apply.

Our opinion finds corroboration in the rule indicated in *Roa vs. Collector of Customs* (23 Phil., 315, 324, 325), which is now a legal provision embodied in paragraph 7, article 1, of Commonwealth Act No. 63, to the effect that a Filipino woman does not lose her citizenship by marrying a foreigner belonging to a nation the laws of which do not allow her to acquire the husband's nationality. Were it not for this rule, if a Filipino woman loses her nationality simply by marrying a foreigner, even without acquiring the foreigner's citizenship, then she would become destitute of nationality. And evidently the purpose of the said rule is to prevent such condition of statelessness in a Filipino woman married to an alien, a policy that is perfectly applicable in the present case.

We hold, therefore, that appellant Gloria Baldello is a Filipino citizen, and accordingly her petition for Philippine citizenship is unnecessary.

Judgment is affirmed, without costs.

Avanceña, C.J., Villa-Real, Imperial, Diaz, Laurel, and Concepcion, JJ., concur.

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