

APPLICATION FOR PHILIPPINE CITIZENSHIP. RAFAEL JALANDONI GURBUXANI, APPLICANT AND APPELLANT, VS. GOVERNMENT OF THE PHILIPPINES, OPPOSITOR AND APPELLEE.

G.R. No. 46265. December 14, 1939

Ponente: IMPERIAL, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-46265/>

IMPERIAL, J.:

On February 5, 1923 Rafael Jalandoni Gurbuxani filed an application in the Court of First Instance of Misamis asking that he be admitted as a citizen of the Philippines. In the sworn application presented he alleged: that he was born in Hyderabad Sind, India, on January 10, 1899; that he was married to Carmelina Fernan, born in Bugo, Cebu, with whom he had a child named Parpati Gurbuxani, born on April 29, 1922; that he emigrated to the Philippines from Bombay, India, on November 13, 1916, reaching the Port of Manila on board the ship Tamming; that he had all the qualifications required by Act No. 2927; that he was not disqualified under the said law to become a Filipino citizen; and that he renounced his English citizenship and that he was willing to take the oath of allegiance to the Philippine Government and to that of the United States. The application was opposed by the Government, represented by the Provincial Fiscal, on the ground that the applicant, being a native of India of the continent of Asia, was not entitled to be naturalized as a Filipino. After trial the court rendered a judgment on November 22, 1923, decreeing the naturalization of the applicant and ordering that, after thirty days from notice of the decision to the parties, the clerk of court issue a certificate of naturalization in favor of the applicant in accordance with section 10 of Act No. 2927. The decision became final because it was not appealed and on October 21, 1924, the applicant took the oath of allegiance and on the same date the clerk of court issued to him the naturalization certificate. On July 8, 1933, about ten years after the applicant received the naturalization certificate, the Solicitor-General, on behalf of the Government, moved in the same case for the setting aside of the decision rendered therein decreeing the naturalization of the applicant and for the cancellation of the naturalization certificate issued in his favor. At the trial of the motion the applicant objected thereto and alleged as grounds: that the nullity of the decree of naturalization cannot be entertained in the same case but through a separate action; that his political status as a Filipino citizen is *res judicata*; and that any defect of his citizenship was cured by the Constitution of the Philippines which considers him as a citizen of this country.

After trial, the court entered its order of December 15, 1937 wherein it held null and without effect the decision or decree of naturalization of November 22, 1923, and ordered the applicant within ten days to return to the clerk of court the naturalization certificate which he received. From this order the applicant appealed.

In his first assignment of error the applicant insists on his contention" that the decree of naturalization cannot be annulled upon the petition filed by the Solicitor-General, but through a separate and independent action. If the case were really a petition to annul the decree of naturalization rendered in favor of the applicant, there is no doubt that the error assigned was committed, because the annulment of the said decree should be obtained by the commencement of an ordinary and separate civil action. However, the petition filed by the Solicitor-General, was, at bottom, for the cancellation of the naturalization certificate issued by the court in favor of the applicant and this

procedure is authorized by section 14 of Act No. 2927 in the same case where the decree was entered and the naturalization certificate issued. The error assigned, is, therefore, without merit.

The applicant contends in (his second assignment of error that the court erred in holding that the decision or decree of November 22, 1923 is null and void because it was issued without jurisdiction. The court in fact held that the decision decreeing the naturalization of the applicant is null and void because it was rendered by the court without having acquired jurisdiction over the subject matter. We believe, however, that the real question raised is not whether the decision or decree is valid, but whether the naturalization certificate may be cancelled through the procedure prescribed by law. Under section 14 of Act No. 2927, the naturalization certificate may be set aside if shown to have been obtained fraudulently. The inquiry, therefore, is whether the Government has shown that the applicant obtained his naturalization certificate fraudulently. It is a fact that at the trial of the petition for cancellation the parties did not adduce any evidence; but it is contended that the place of birth of the applicant clearly shows that he had no right to be naturalized and that he deliberately concealed this disqualification from the court, thereby fraudulently obtaining his naturalization certificate.

The applicant bases his right to obtain Philippine citizenship upon subsection (c) of section 1 of Act No. 2927 providing that an alien who may become a citizen of the United States if residing therein, may acquire Philippine citizenship. In his sworn application the applicant stated that he was born in Hyderabad, India, and impliedly alleged that if he had resided in the United States he would have been entitled to become a citizen thereof under the existing laws. The Act of Congress of the United States of February 5, 1917, which was extended to the Philippines by express provision thereof, names the aliens who may enter and reside in territories under its jurisdiction. Section 3 of said Act provides that there shall be excluded from admission into the United States, among others, "natives of any country, province, or dependency situate on the Continent of Asia west of the one hundred and tenth meridian of longitude east from Greenwich and east of the fiftieth meridian of longitude east from Greenwich and south of the fiftieth parallel of latitude north, except that portion of said territory situate between the fiftieth and the sixty-fourth meridians of longitude east from Greenwich and the twenty-fourth and thirty-eighth parallels of latitude north, * * *."

We have looked up the Encyclopedia Britannica where the map of Asia is found, Vol. II, between pages 736 and 737, 1910 edition, and we have found that the city of Hyderabad is not found within the continent of Asia situate between the fiftieth and the sixty-fourth meridians of longitude east from Greenwich and the twenty-fourth and thirty-eighth parallels of latitude north, the natives of which are exempted by section 3 from exclusion. In the Encyclopedia Universal Ilustrada Europeo Americana de Espasa-Calpe, S. A., Vol. 28, pages 785 and 786, Hyderabad is described as a city of India, capital of an Indian state of the same name, situated on the bank of the Musi River, at 17° 22' of lat. N. and 78° 32' of long. E. of the Meridian from Greenwich. These two works coincide in that Hyderabad is situated within the Asiatic continent not excepted by section 3 of the Act of Congress.

The applicant has not established that because he was born in Hyderabad, he was entitled to become a citizen of the United States if he were residing therein. On the other hand, it has been proven that the natives of said city fall within the exclusion established by section 3 of the Act of Congress of February 5, 1917. If the applicant had no right to enter and reside in the United States, it follows that he had likewise no right to become a Filipino citizen. In affirming under oath that he had all the qualifications to obtain a naturalization certificate and that he was not disqualified to acquire Philippine citizenship, it being a fact that he did not have all the qualifications and he was disqualified, he led the Court to commit an error of law and he obtained his naturalization certificate fraudulently (*Bell vs. Attorney General*, 56 Phil., 667).

It is finally alleged that the Philippine citizenship of the applicant cannot now be questioned because section 1,

subsection (1), of Article IV of the Constitution provides that citizens of the Philippines are, among others, those who are so at the time of its adoption. We find no merit in the contention. The Constitution has not repealed section 14 of Act No. 2927 which recognizes the right of the Government to ask for the cancellation of a naturalization certificate which has been fraudulently obtained, as in the case of the applicant, and the cancellation of naturalization certificate does not go against or trench upon the cited constitutional provision. The right to cancel a naturalization certificate obtained fraudulently still subsists notwithstanding the promulgation of the Constitution, and it is reaffirmed by section 1, subsection (5) of Commonwealth Act No. 63 in. providing that Philippine citizenship is lost, among other ways, by the cancellation of the naturalization certificate.

The appealed order is affirmed insofar as it cancels the naturalization certificate which the applicant has obtained on October 21, 1924, and orders the return thereof to the Clerk of Court within ten days, with the costs of this instance to the applicant-appellant. So ordered.

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

Laurel, J., concurs in the result.

Diaz, J., concurs with Justice Laurel.

Moran, J., see dissenting opinion.

CONCURRING OPINION

LAUREL, J:

When in his application for naturalization, the petitioner-appellant stated that he had "the qualifications required by Act No. 2927 to become a citizen of the Philippine Islands" (par. 6, petition for naturalization, p. 3, bill of exceptions) and that he was "not disqualified for naturalization under Act No. 2927" (par. 9, *ibid.*), the statement, whether one of fact or considered as a conclusion of law, is false. I see no difference between falsehood in fact and mendacity in law in this case. The naked fact is that the naturalization was illegal because it is admittedly in violation of Act No. 2927, and what is illegal in a proceeding of this character should not be permitted to be legalized on the plea that, the error committed by the lower court is beyond recall. In matters of this kind, I am not for tying up the hands of the Government by barring all remedies unless the law categorically so provides. Citizenship is not mere political attachment, but involves far-reaching implications. On the other hand, it should be observed that under the new Naturalization Law (Commonwealth Act No. 473) one of the grounds for the cancellation of a naturalization certificate is that it "was obtained fraudulently or illegally (Sec. 18). In my opinion, we cannot consistently invoke the new Naturalization Law as indicating for us a new political orientation only in so far as that law is favorable to the petitioner and overlook the same law in so far as it is unfavorable to him. This would be wholly a one-sided orientation.

I also express the opinion that we should refrain from any affirmative statement that the petitioner is now qualified to become a naturalized citizen of the Philippines under the new Naturalization Law (Commonwealth Act No. 473), first, because this question is not presented or involved; secondly, because this would prejudice a question not here raised; and thirdly, this question, if presented, might as a preliminary question call for the application of paragraph (h) of section 4 of Commonwealth Act No. 473 aforementioned.

DISSENTING OPINION

MORAN, J.:

The applicant cannot be guilty of fraud, because in his application he stated the place of his birth. But the majority makes the fraud to consist in the fact that the applicant alleged under oath that, by reason of the place of his birth, he was not disqualified to become an American citizen and, consequently, to become a Filipino citizen. But this allegation was a mere conclusion of law which depended entirely upon the place where the applicant was born, a place which he did not conceal from the court. The majority itself states "that the place of birth of the applicant clearly shows that he had no right to be naturalized", wherefore, any allegation to the contrary made by the applicant was immaterial and could in no wise influence the court.

Moreover, whether or not Hyderabad Sind, India, was outside the zone excepted by the American exclusion law, is a fact of which the court may take judicial notice, as the majority now does. The applicant could not, therefore, conceal a fact of which the court can take judicial notice. The British and Spanish encyclopedias were then as accessible to the trial court as they are now to this court. If the trial court did not go into the trouble of reading said encyclopedias, this does not constitute fraud on the part of the applicant. The truth is that the data found in the said encyclopedias are not well known, and the applicant might have overlooked them as the trial court did. And there can be no fraud if the applicant, at the time he alleged that he was not disqualified from becoming a Filipino citizen, did not know that the place where he was born was outside the zone excepted by the American exclusion law.

Moreover, such allegation of the applicant has been disputed by the Government in its opposition to the application. The trial court, after hearing the parties, rendered a decision which was not appealed and which became final. I believe that the case is governed by the general rule that a judgment cannot be annulled on the ground of fraud when the facts in which the fraud is made to consist are alleged and controverted at the trial of the principal case and were decided in the judgment sought to be annulled. Otherwise, there would be multiplicity of suits so obnoxious to our law of procedure. '

The annulment of the judgment can not be asked on the ground of lack of jurisdiction, because the trial court had jurisdiction not only over the subject matter but also over the parties; and any error committed by the trial court in the determination of whether the place of birth was within or outside the zone excepted by the American exclusion law, would be one of judgment only and would not affect the validity of the decision.

Aside from all the foregoing, it should be borne in mind that the applicant, after obtaining his naturalization certificate, was twice elected by the people to a public office in the Philippines, and that, subsequently, the National Assembly enacted the Revised Naturalization Law (Commonwealth Act No. 473), which makes the applicant eligible for Philippine citizenship. It may be argued, of course, that this law does not govern the case, inasmuch as the application was filed long before the law took effect; but as the case has been reopened and the qualifications of the applicants have been reconsidered, and under the present circumstances, I am of the opinion that, at least, we may consider the provisions of the revised law as new orientations of national policy to which this court, as much as possible, should adjust its pronouncements.

To cancel the naturalization certificate issued in favor of the applicant, now that he has all the qualifications to become a Filipino citizen, under the provisions of the new law, is certainly to decide against the national spirit of these times. It is true that, by a new application, the applicant may acquire a new naturalization certificate; but this does not remedy the juridical anomaly at the bottom of the majority decision which, in effect, unmakes what existing laws consider well done. In my opinion, we can realistically decide the case to the end that substantial justice be done, by denying the petition for cancellation, not under the provisions of the new law, but upon

considerations of public interest underlying the said provisions and which cannot be ignored in the light of the peculiar circumstances of the case at bar. A decision to this effect will avoid the laying down of an inflexible doctrine, applicable to all cases, and will not prejudice vested rights and much less the Government whose representative, the Solicitor-General, significantly stated in open court that he asked for the cancellation of the certificate with regret, because the applicant was a fine man worthy to continue as a citizen of the country.

I, therefore, dissent from the majority decision, and vote to reverse the appealed decision for the foregoing reasons.

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.