

PAZ CHUA, PETITIONER AND APPELLANT, VS. THE SECRETARY OF LABOR, RESPONDENT AND APPELLEE.*G.R. No. 46451. September 30, 1939*

Ponente: IMPERIAL, J.

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Chua Uang was born in Aparri, Province of Cagayan, Philippines, on October 6, 1914, her parents being citizens of the Chinese Republic. At the age of 13 years, she left this country for China and at the age of 17 years she was married, in said republic, to a Chinese named Yao Tian. The latter died during the Sino-Japanese war. On March 4, 1938, Chua Uang returned to Manila on the boat Angking with her two minor children named Yao Hua and Yao Ching had with her husband. Upon her arrival, the board of special inquiry of the Immigration Division of the Department of Labor subjected them to the necessary investigation to determine whether or not they were entitled to land and reside in this country. After the hearing, the board denied entry to the three on the ground that Chua Uang is a citizen of the Chinese Republic having preserved the nationality of her husband which she had acquired by her marriage to him and having failed to acquire Philippine citizenship by means of the formalities prescribed by law. As to her minor children, the board held that both were Chinese because they follow the nationality of their mother. Chua Uang and her children appealed from the decision of the board to the Secretary of Labor but this official upheld the decision of the former. Paz Chua, in behalf of the three immigrants, then filed an application for a writ of habeas corpus in the Court of First Instance of the City of Manila and said court, after due hearing, affirmed the decision of the Secretary of Labor, denied the application and held that the applicants are not entitled to enter into nor reside in the country. From this decision of the court, the applicants appealed to this court.

In their two assignments of error, the appellants contend that they are entitled to enter into and remain in the country, Chua Uang for being a Filipina, and her two children for being minors.

As Chua Uang is of Chinese parentage and has the same nationality as her parents on the ground that she was then a minor, there is no doubt that when she went to China at the age of 13 years, which must have been in 1927, she continued to be a Chinese citizen (art. 2, par. 2, Chap. II, of the Revised Nationality Laws of China, edited by Flournoy-Hudson and published by Carnegie Endowment of International Peace, cited on page 9 of the brief of the Solicitor-General). When four years later she married Yao Tian, another citizen of the Chinese Republic, she, granting that she had a different nationality, followed that of her husband, in accordance with paragraph 1 of said Compilation of Laws of China. Chua Uang cannot invoke Filipino nationality merely because of the fact that she was born in this country, inasmuch as she does not come within the provisions of section 2 of the Jones Law, Act of Congress of the United States of August 29, 1916, not having been a Spanish subject on April 11, 1899.

The appealed decision is hereby affirmed, with the costs of this instance to the appellants. So ordered.

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

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