

RAMON TORRES, IN HIS CAPACITY AS SECRETARY OF LABOR, AND JOSE GALLOFIN, AS ACTING COLLECTOR OF CUSTOMS OF CEBU, PETITIONERS, VS. TAN CHIM, RESPONDENT.

G.R. No. 46593. February 03, 1940

Ponente: LAUREL, J.

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LAUREL, J.:

Tan Chim, the petitioner here, arrived at the port of Cebu on January 18, 1937, and sought admission as a minor son of Alejandro Tan Bangco. After hearing, the Board of Special Inquiry decided to deny him entry on the ground that the status of his father had not been passed upon by the Secretary of Labor. A petition for habeas corpus was filed with the Court of First Instance of Cebu (civil case No. 308), which ruled that Alejandro Tan Bangco was a Filipino citizen *jussoli*, having been born in Manila on February 27, 1893. On appeal, the Court of Appeals, by decision of February 23, 1939, upheld the conclusion of the lower court and declined to overrule the doctrine in *Roa vs. Collector of Customs*, 23 Phil., 315, in the following commendable language:

"But the appellant impugns the soundness of the doctrine laid down in the foregoing decisions and urges us to overrule them. We do not think it necessary to enter upon a discussion of the alleged misapplication of the law or erroneous conclusions reached in the cases referred to. It is our understanding that the decisions criticized are conclusive and binding upon this Court and all other courts inferior to the Supreme Court as expressing the law on the subject treated therein. The rule of *stare decisis* and 'a becoming modesty' which demands of inferior courts 'conscious realization of the position that they occupy in the interrelation and operation of the integrated judicial system of the nation,' compels us to respect and follow these decisions, while unreversed, regardless of the divergencies of opinion that are said to exist about their correctness (*The People of the Philippine Islands and the Hongkong & Shanghai Banking Corporation, petitioners, vs. Jose O. Vera*, Judge ad interim of the Court of First Instance of Manila, and Mariano Cu Unjieng, respondents, G.R. No. 45685, November 16, 1937). This should be our norm of conduct at least where the decisions sought to be disregarded are not manifestly wrong, unjust or contrary to law, and where a departure therefrom might only result in 'going from one doubtful rule to another' "

A comparison between this case and that of *Roa v. Collector of Customs*, *supra*, will show the following similarities and dissimilarities: Similar (1) in that *Roa* was born in the Philippines in 1889, whereas Alejandro Tan Bangco (father of the petitioner) was born here in 1893, both before the advent of American sovereignty; (2) the fathers of both *Roa* and Tan Bangco were of Chinese nationality and their mothers, Filipino; (3) at the time of the ratification of the treaty of peace between the United States and Spain, both were minor residents of the Philippines; and (4) both, in their boyhood, went to China for the purpose of studying there, returning thereafter to the Philippines. The dissimilarities are: (1) *Roa* returned to the Islands after attaining the age of maturity, whereas Tan Bangco returned to this country when still a minor; and (2) the father of *Roa* was domiciled in the Philippines until the year 1895 when he went to China and never returned, dying therein 1900, whereas, in the present case the record is silent on this point. The similarities are very close and the dissimilarities are in favor of Alejandro Tan Bangco. The Solicitor-General does not dispute the analogy and evidently yields to the proposition that if the doctrine in the *Roa* case, which has been followed in many subsequent cases, principally in *Vano vs. Collector of*

Customs (23 Phil., 480); United States vs. Ong Tiansa (29 Phil., 332); United States vs. Ansr (36 Phil., 858); United States vs. Urn Bin (36 Phil., 927); Go Julian vs. Government of the Philippines Islands (45 Phil., 290); Haw. vs. Collector of Customs, (59 Phil., 612), is to be adhered to, then Alejandro Tan Bangco is a Filipino citizen, and consequently, the petitioner, who is his minor child, is also a Filipino.

It is urged upon us by the Solicitor-General that we reexamine and reverse the doctrine laid down in *Roa vs. Collector of Customs*, supra, because the law, we are now informed, had been misconstrued and misapplied by this court in that case. A suggestion of this kind should be sympathetically received but for the fact that the principle of territoriality or *jussoli* adopted in *Roa vs. Collector of Customs*, supra, does not have to be set aside by this Court for the reason that that principle is no longer predominating in this jurisdiction after the taking effect of the Constitution of the Philippines, which has mainly adopted the contrary principle of *jussanguinis*. If, however, what is suggested is that the case at bar should be decided on an entirely different principle because of the embodiment of a new policy on citizenship in the Constitution, we are of the opinion that this cannot be done unless we give retroactive effect to the Constitution. We hold that the present case is still governed by, and should be decided on the authority of *Roa vs. Collector of Customs*, supra, for the following reasons:

- As already observed, the present case is similar to *Roa vs. Collector of Customs*, supra, in that the facts determinative of citizenship in both relate to events which had taken place before the advent of American sovereignty. We cannot reverse the doctrine in *Roa vs. Collector of Customs*, supra, if to convert Roa into an alien, after our final pronouncement in 1912 that he was a Filipino. If we depart from the rule there established notwithstanding the almost-exact analogy between the two cases, nothing short of legal anachronism would follow, and we should avoid this result.

- While we profess no "idolrous reverence for precedents", (*Philippine Trust Co. vs. Mitchell*, 59 Phil., 30), we should not overlook the fact that the rule laid down in the *Roa* case had been adhered to and accepted for more than 20 years before the adoption of our Constitution; not only this Court but also inferior courts had consistently and invariably followed it; the executive and administrative agencies of the Government had theretofore abided by it; and the general public had acquiesced in it. Withal, our decisions should not be, as to a given period of time, upon the same or similar facts and under the same or similar circumstances, as fluctuating as to engender the phenomenon described by Mr. Justice Thompson, of the Supreme Court of Virginia as *ignis fatuus*. (*Perkins v. Clements et al.* 1 Pat. & H. (Va.) 153.)

- When in *Roa vs. Collector of Customs* we declared the applicant therein to be a citizen of the Philippines, VOLUME 69.523 that declaration was a statement of a general principle, applicable not only to Tranquilino Roa individually but to all those who were in the same situation, that is to say, to all persons born in the Philippines before the ratification of the treaty of peace between the United States and Spain, of Chinese father and Filipino mother; residents of the Philippines at the time mentioned in the treaty of peace, although in their minority; thereafter, going to China for the purpose of studying, and returning to the Philippines to live here. This was the rule at the time of the adoption of our Constitution. With it, the bench and the bar were familiar. The members of the Constitutional Convention were also aware of this rule, and in abrogating the doctrine laid down in the *Roa* case, by making the *jus sanguinis* the predominating principle in the determination of Philippine citizenship, they did not intend to exclude those who, in the situation of Tranquilino Roa, were citizens of the Philippines by judicial declaration at the time of the adoption of the Constitution. This is apparent from the following excerpt of the proceedings of the Constitutional Convention when Article IV of the Constitution was discussed:

"Delegate Aruego.—Mr. President, may I just have one question? May I ask Mr. Roxas if, under this proposition that you have, all children born in the Philippines before the adoption of the Constitution was included?

"Delegate Roxas.—No, sir: that is to say, if they are citizens in accordance with the present law, they will be citizens.

"Delegate Aruego.—But as I said they are citizens by judicial decisions.

"Delegate Roxas.—They are citizens now by judicial decisions, they will be citizens.

"Delegate Aruego.—I should like to make it clear that we are voting on the proposition so that it will include all those born in the Philippines, regardless of their parentage, because I have heard some objections here to the incorporation into of the doctrine of jus soli. There are many who do not want to include, as citizens, children of Chinese parents, but they are included in the proposition we are voting upon * * *

"I should like to find out from the gentleman from Capiz if that proposition would make Filipino citizens of children of Chinese parents born last year or this year.

"Delegate Roxas.—No, because by the laws of the Philippine Islands, they are not Filipino citizens now."
(Record of the Proceedings of the Constitutional Convention, Session of November 26, 1934.)

- In the case of Commonwealth of the Philippines vs. Gloria Baldello, G. R. No. 45375, promulgated April 12, 1939, we held that a Filipino woman, abandoned by her husband who was a native of Mexico but who was neither a Mexican nor American citizen, retained her Filipino citizenship, and in arriving at this conclusion, we said that, "our opinion finds corroboration in the rule indicated in Roa vs. Collector of Customs (23 Phil., 315, 324-32-5), which is now a legal provision embodied in paragraph 7, Article I, 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." It should be noted that in this Baldello case we relied however indirectly on Roa vs. Collector of Customs, supra, and cited Commonwealth Act No. 63, which Act is but a partial expression of the modern tendency in the United States to accord distinct personality to married woman by providing that the marriage of an American woman to a foreigner does not operate loss of American citizenship. (Vide Act of Congress of September 22, 1922, 42 U. S. Stat. at L. p. 1022, ch. 411, sec. 3, 8 U. S. C. A. sec. 9; Act of Congress of March, 1931, 46 U. S. Stat. at L. p. 1511, ch. 442, sec. 4.)

In Yu Ching Po vs. Gallofin, R. G. No. 46795, promulgated on October 6, 1939, we held that a person born in the Philippines of a Filipino-mestizo father and a mestiza Chinese mother, notwithstanding vagueness in point of paternity and maternity, because according to our decision, "no dicen si es hijo de padre filipino y de madre china, 6 si la es de padre chino y de madre filipina", is a Filipino citizen, for the reason that under Article 17, paragraph 1 of the Civil Code, which was in force in that year, he was a Spanish subject, which nationality he conserved.

Our attention has been called to the case of Paz Chua vs. Secretary of Labor, R. G. No. 46451, promulgated September 30, 1939, where we affirmed the decision of the Court of First Instance of Manila denying the writ of habeas corpus and holding that the applicants therein were not entitled to enter and reside in the Philippines on the basis of Philippine citizenship. Perusal of our decision in that case will show that the factual and legal environment there was wholly different from that in the case at bar, as may be seen from the concluding paragraph of our decision in that case:

"Siendo Chua Uang de padres chinos y teniendo la misma nacionalidad que estos por ser entonces menor de edad, es indudable que cuando fue a China a la edad de 13 años, que debió haber sido en 1927, ella continuaba siendo ciudadana China (Artículo 2, párrafo 2, Capítulo II, de las Revised Nationality Laws of China, editada por Flournoy Hudson, publicada por Carnegie Endowment for International Peace, citada en la página 9 del alegato del Procurador General). Cuando contrajo matrimonio cuatro años después con Yao Tian, otro ciudadano de la República de China, ella, en el supuesto de que tenía nacionalidad distinta, siguió la de su esposo, a tenor del párrafo 1 de la citada compilación de leyes de China. Chua Uang no puede invocar la nacionalidad filipina por solo hecho de haber nacido en el país porque no le alcanzan las disposiciones del artículo 2 de la Ley Jones, Ley del Congreso de los Estados Unidos del 29 de agosto de 1916, porque no era subdita española el 11 de abril de 1899."

We have not failed to reflect on the far-reaching consequences of our decision in this case, but considering the fact that the mother of Alejandro Tan Bangco, who is the father of the herein applicant, is a Filipina, and, under our

Constitution, Alejandro Tan Bangco would have the option, upon reaching majority, to adopt Filipino citizenship (par. 4, sec. 1, Art. IV, Constitution) ;considering the benign policy of giving greater political recognition to women, to the extent that in the United States marriage of an American woman to a foreigner does not operate loss of her citizenship; and in view of Commonwealth Act No. 63, which is indicative of this political recognition, however partial, accorded to Filipino women; considering, further, the limited number of people who would be benefited by the application of the doctrine as qualified in *Roa vs. Collector of Customs*; and the reason at the bottom of *Commonwealth vs. Gloria Baldello*, and *Yu Ching Po vs. Jose Gallofin*, supra, we are of the opinion and so hold that the applicant, being a minor child of Alejandro Tan Bangco who was a Filipino citizen at the time of the adoption of the Constitution, is a Filipino citizen.

The judgment of the Court of Appeals is affirmed, without pronouncement regarding costs. So ordered.

Avanceña, C.J., Diaz, and Concepcion, JJ., concur.

CONCURRENT EN EL RESULTADO:

VILLA-REAL, M.,

Al cesar la guerra que hubo entre los Estados Unidos de America y Espana, estas dos naciones celebraron en 10 de diciembre de 1898 un tratado de paz, que se llamo "Tratado de Paris," en cuyo articulo IX, parrafo 2.º, se provee que "Los derechos civiles y la condition politica de los habitantes naturales de los territorios aqui cedidos a los Estados Unidos se determinaran por el Congreso." De acuerdo con dicho convenio, el Congreso de los Estados Unidos, por Ley de 1.º de julio de 1902, denominada "Ley de Filipinas?" dispuso en su articulo 4º que "Todos los habitantes de las Islas Filipinas que residan en ellas y que el once de abril de mil ochocientos noventa y nueve eran subditos espanoles residentes en dichas Islas, y sus hijos nacidos con posterioridad a aquella fecha, seran considerados y tenidos como ciudadanos de las Islas Filipinas y como tales con derecho a la protection de los Estados Unidos exceptuandose aquellos que hayan elegido conservar su lealtad a la Corona de Espana, de acuerdo con las disposiciones del Tratado de Paz entre los Estados Unidos y Espana firmado en Paris el diez de diciembre de mil ochocientos noventa y ocho.

Surge ahora la cuestion de si Alejandro Tan Bangco, padre del aqui recurrido, Tan Chim, era subdito espanol el 11 de abril de 1899. En 27 de febrero de 1893, en que nacio en Manila, Islas Filipinas, el referido Alejandro Tan Bangco, imperaban en ellas la soberania espanola y sus leyes. En dicho ano 1893 ya estaba en vigor el Codigo Civil, habiendose extendido su vigencia a estas Islas por real decreto de 1.º de julio de 1889. El articulo 17, parrafo 1.º, del citado Codigo dispone que son espanoles "las personas nacidas en territorio espanol;" pero en el parrafo 2.º de su articulo 18 impone la condicion de que "Para que los nacidos de padres extranjeros en territorio espanol puedan gozar del beneficio que les otorga el numero 1.º del articulo 17, sera requisito indispensable que los padres manifiesten, en la manera y ante los funcionarios expresados en el articulo 19, que optan, a nombre de sus hijos, por la nacionalidad espanola, renunciando a toda otra." El referido articulo 19 del mismo Codigo estatuye en su parrafo 2.º que "Los que se hallen en el Reino haran esta manifestacion ante el encargado del Registro civil del pueblo en que residieren; los que residan en el extranjero, ante uno de los Agentes consulares o diplomaticos del Gobierno espanol, y los que se encuentren en un pais en que el Gobierno no tenga ningun Agente, dirigiendose al Ministro de Estado en Espana." No habiendose establecido en Filipinas el Registro civil, el padre de Alejandro Tan Bangco no podia cumplir con el requisito exigido en el parrafo 2.º del articulo 18 arriba mencionado para que su hijo, nacido en territorio espanol, adquiriese la ciudadanía espanola. Tampoco pudo haberlo hecho el mismo Alejandro Tan Bangco, de acuerdo con el parrafo 1.º del citado articulo 19, que dispone que "Los hijos de un extranjero nacidos en los dominios espanoles, deberan manifestar dentro del ano siguiente su mayor edad o

emancipación, si quieren gozar de la calidad de españoles que les concede el art. 17"; puesto que, en primer lugar, no existía, como ya hemos dicho, el Registro civil, y, en segundo lugar, antes de que entrara en vigor la Ley de 1.º de julio de 1902, que determina la condición política de los habitantes naturales de estas Islas, derogando implícitamente las disposiciones del Código Civil sobre la materia, el citado padre del recurrente era menor de edad y no podía cumplir los mencionados requisitos. La manifestación ante el encargado del Registro civil, exigida en el citado párrafo 2.º del artículo 18, en relación con el artículo 19 del Código Civil, siendo indispensable, y no habiéndose establecido aquí el referido Registro civil, el inciso 1.º del artículo 17 del propio Código no tuvo efectividad en cuanto a extranjeros nacidos en estas Islas durante el régimen español.

La disposición transitoria del Código Civil dispone que "Se regirán por la legislación anterior al Código los derechos nacidos, según ella, de hechos realizados bajo su régimen, aunque el Código los regule de otro modo o no los reconozca. Pero si el derecho apareciere declarado por primera vez en el Código, tendrá efecto desde luego, aunque el hecho que lo origine se verificara bajo la legislación anterior, siempre que no perjudique a otro derecho adquirido, de igual origen." El nacimiento de Alejandro Tan Bangco en 1893, habiendo ocurrido bajo el régimen del Código Civil, no puede aplicarse a la legislación anterior, pues esta, según dicha disposición transitoria, solo regía los derechos nacidos de hechos realizados bajo su régimen; por consiguiente, ni bajo la legislación anterior pudo el tantas veces mencionado Alejandro Tan Bangco adquirir la nacionalidad española.

No habiendo Alejandro Tan Bangco adquirido la nacionalidad española por su mero nacimiento en territorio español, no era subdito español el 11 de abril de 1899, y, por consiguiente, su hijo, el aquí recurrente, Tan Chim, no se hizo subdito filipino al entrar en vigor el artículo 4.º de la Ley del Congreso del 1.º de julio de 1902 antes citado, y no lo era cuando llegó al puerto de Cebu el 18 de enero de 1937.

Esta Corte, sin embargo, en una larga serie de decisiones, siendo la más importante de las cuales la recaída en el asunto de Roa contra Administrador Insular de Aduanas (23 Jur. Fil., 321), citada con aprobación en otra decisión posterior, recaída en el asunto de Haw contra Administrador de Aduanas (59 Jur. Fil., 646), aplicando la teoría de "jus soli" ha sentado invariablemente la doctrina de que el mero nacimiento de un extranjero en las Islas Filipinas antes del establecimiento del Commonwealth le hacía ciudadano filipino. Esta doctrina ha sido por largo tiempo la regla por la cual se han guiado los extranjeros, sobre todo los chinos, al establecerse en estas Islas y dedicarse al comercio, a la industria y a la agricultura, contribuyendo con ello, en no poco, al desarrollo de las tres fuentes principales de la riqueza nacional. Teniendo en cuenta estos beneficios, y el espíritu liberal que informa la reciente legislación sobre naturalización, haciendo más fácil y expedita la adquisición de la nacionalidad filipina por extranjeros que pueden contribuir al desarrollo cultural y material del país, y no existiendo ninguna razón de orden social, político o moral que aconseje y justifique la alteración de la doctrina, no creemos necesario hacerlo ahora. Creemos con el sabio jurista americano Cardozo que "Stare decisis is at least the every day working rule of our law", y que "when a rule after it has been duly tested by experience, has been found to be inconsistent with the sense of justice or with the social welfare, there should be less hesitation in frank avowal and full abandonment." (Cardozo, The Nature of the Judicial Process.) En el presente caso no hay nada que sea incompatible con la justicia ni con el bienestar social. Imperial, M., disidente:

Concurro con la opinión del Magistrado Sr. Villa-Real de que "No habiendo Alejandro Tan Bangco adquirido la nacionalidad española por su mero nacimiento en territorio español, no era subdito español el 11 de abril de 1899, y, por consiguiente, su hijo, el aquí recurrente, Tan Chim, no se hizo subdito filipino al entrar en vigor el artículo 4.º de la Ley del Congreso de 1.º de julio de 1902 antes citado, y no lo era cuando llegó al Puerto de Cebu el 18 de enero de 1937."

Disiento de la conclusión a que llega la mayoría al efecto de que el recurrente, como hijo menor de edad de Alejandro Tan Bangco, tiene derecho a entrar y residir en el país porque su padre nació en Manila, Filipinas,

aplicando así el principio del *jus soli* y siguiendo la doctrina enunciada en los asuntos de *Roa contra El Administrador de Aduanas* (23 Jur. Fil., 321), y *Haw contra El Administrador de Aduanas*, (59 Jur. Fil., 646). En el primero de dichos asuntos este Tribunal declaró que *Roa* era ciudadano filipino por razón de su nacimiento fundándose en la doctrina que sentó el Tribunal Supremo de los Estados Unidos en el asunto de *United States v. Wong Kim Ark* (169 U. S., 649) de que son ciudadanos americanos los nacidos en territorio de los Estados Unidos de conformidad con la Enmienda XIV de la Constitución de los Estados Unidos. La doctrina así enunciada se aplicó por este Tribunal no sólo en el asunto de *Haw contra El Administrador de Aduanas* sino también en los de *Estados Unidos contra Ang* (36 Jur. Fil., 915), y *Estados Unidos contra Lim Bin* (36 Jur. Fil., 985). A mi juicio tal doctrina no halla apoyo en las leyes vigentes porque el artículo 1 de la XIV Enmienda de la Constitución de los Estados Unidos, que provee que las personas nacidas o naturalizadas en los Estados Unidos, y sujetas a la jurisdicción de los mismos, son ciudadanos de los Estados Unidos y del Estado donde residen, no rige en este país (U. S. contra *Dorr*, 2 Jur. Fil., 282, 195 U. S., 138, 49 Law. ed. 128, 24 Sup. Ct. Rep., 808, 11 Jur. Fil., 728; U. S. contra *Bull*, 15 Jur. Fil., 7). El hijo de padres chinos que no era súbdito español el 11 de abril de 1899 no puede invocar la nacionalidad filipina por el solo hecho de haber nacido en el país, porque no le alcanzan las disposiciones del artículo 2 de la Ley Jones, Ley del Congreso de los Estados Unidos del 29 de agosto de 1916. (*Paz Chua contra El Secretario del Trabajo*, R. G. No. 46451.)

Las razones que expone la decisión de la mayoría para liberalizar la aplicación de la Ley de Exclusión de ciudadanos de la República de China son consideraciones que atañen al poder legislativo. La facultad de los tribunales se limita a aplicar la ley. Si los chinos nacidos en Filipinas o los hijos menores de padres chinos nacidos en el país deben ser considerados como ciudadanos filipinos con derecho a entrar y residir en él, es cosa que debe decidirlo la Asamblea Nacional mediante la promulgación de una ley adecuada.

DISSENTING:

MORAN, J.:

With the recent unanimous decision of this Court in *Paz Chua vs. Secretary of Labor*, G. R. No. 46451, I thought the doctrine in the *Roa* case has been impliedly reversed, for there is between that case and the present one, no fundamental difference in facts that may warrant the application of a different principle. But the majority decision in the present case abandons, in effect, the doctrine laid down in the *Chua* case and revives the *Roa* ruling. This, I fear, may be the ignis fatuus which the majority precisely sought to avoid.

There can be no question that the *Roa* ruling is erroneous. The second paragraph of Article IX of the Treaty of Paris provides:

"The civil rights and political status of the native inhabitants of the territories hereby ceded to the United States shall be determined by the Congress"

Pursuant to this provision, Congress enacted the so-called Philippine Bill (Act of July 1, 1902), section 4 of which provides:

"That all inhabitants of the Philippine Islands continuing to reside therein who were Spanish subjects on the 11th day of April, 1899, and then resided in said Islands, and their children born subsequent thereto, shall be deemed and held to be citizens of the Philippine Islands and as such entitled to the protection of the United States, except such as shall have elected to preserve their allegiance to the crown of Spain in accordance with the provisions of the treaty of peace between the United States and Spain, signed at Paris, December 10, 1898.

The same section of the Act of July 1, 1902, as amended by Act of March 23, 1912, was substantially

incorporated in section 2 of the Jones Law (Act of August 29, 1916), which provides:

"That all inhabitants of the Philippine Islands who were Spanish subjects on the eleventh day of April, eighteen hundred and ninety-nine, and then resided in said Islands, and their children born subsequent thereto, shall be deemed and held to be citizens of the Philippine Islands, except such as shall have elected to preserve their allegiance to the Crown of Spain in accordance with the provisions of the treaty of peace between the United States and Spain, signed at Paris, December tenth, eighteen hundred and ninety-eight, and except such others as have since become citizens of some other country: Provided, That the Philippine Legislature, herein provided for, is hereby authorized to provide by law for the acquisition of Philippine citizenship by those natives of the Philippine Islands who do not come within the foregoing provisions, the natives of the insular possessions of the United States, and such other persons residing in the Philippine Islands who are citizens of the United States, or who could become citizens of the United States under the laws of the United States if residing therein."

From the foregoing provisions of the Acts of Congress, the only persons who were considered citizens of the Philippines were all the inhabitants thereof who were Spanish subjects on April 11, 1899, and then resided in the Philippines, and their children born subsequently thereto, except those who shall have elected to preserve their allegiance to the Crown of Spain. Under the laws of this country, prior to the ratification of the Treaty of Paris, children born in the Philippines follow the nationality of their parents while they remain under parental authority. (Sec. 18 Civ. Code.) Roa, being a minor, followed the nationality of his father, who was a Chinese subject, and, therefore, could not be considered as a Filipino citizen under the Jones Law. The holding, then, that Roa was a Filipino citizen by the mere fact of birth in this country, was evidently without support in the then existing laws of the Philippines. And such is our ruling in Paz Chua case.

The basis of the Roa doctrine was the pronouncement of the United States Supreme Court in *U. S. v. Wong Kim Ark*, 169 U. S., 649, to the effect that persons born in the United States were citizens thereof under the 14th Amendment to the Constitution. Section 5, however, of the Jones Law provides:

"That the statutory laws of the United States hereafter enacted shall not apply to the Philippine Islands, except when they specifically so provided, or it is so provided in this Act."

I know of no federal statute which either expressly or impliedly extends to the Philippines the principle of *jus soli*, as recognized in the 14th Amendment to the United States Constitution. It is, therefore, a clear error to give this principle force and effect in this jurisdiction.

The majority says nothing in support of the correctness of the Roa ruling, and seeks simply to justify its continued observance upon the fact that it "had been adhered to and accepted for more than 20 years before the adoption of the Constitution," and that "not only this Court but also inferior courts had consistently and invariably followed it; the executive and administrative agencies of the Government had theretofore abided by it; and the general public had acquiesced in it." I do not yield to this judicial policy. If we have induced the Government and the public to follow and accept an error for some time, it does not seem to be a good policy to continue inducing them to follow and accept the same error once discovered. The rule of *stare decisis* does not apply to the extent of perpetuating an error (15 C. J., p. 918). It is the duty of every court to examine its own decisions without fear and to revise them without reluctance (*Baker v. Lorillard*, 4 N. Y., 257). As was well said in a case, "I hold it to be the duty of this court freely to examine its own decisions, and, when satisfied that it has fallen into a mistake, to correct the error by overruling its own decision. An acknowledged error must be more venerable and more inveterate than it can be made by any series of concessions or extra-judicial resolutions, or even by any single decision before it can claim impunity upon the principle of *stare decisis*."* (*Leavitt v. Blatchford*, 17 N. Y., 521, 523.) "Precedents are to be regarded as the great storehouse of experience; not always to be followed, but to be looked to as beacon lights in the progress of judicial investigation." (Per Bartley, C. J., in *Leavitt v. Morrow*, 6 Ohio St., 71, 78.) Their

"authority must often yield to the force of reason, and to the paramount demands of justice as well as to the decencies of civilized society, and the law ought to speak with a voice responsive to these demands." (Norton v. Randolph, 176 Ala., 381, 383, 58 S. 283.)

Indeed, I can find no serious obstacle to the propriety of correcting the erroneous ruling laid down in the Roa case. The doctrine of stare decisis is not the equivalent of res adjudicata (15 C. J., p. 919; Walpole v. Cholmondeley, 7 T. R. 138, 148, 101 Repr. 987). The first relates to legal principles; the latter, to specific facts. Accordingly, such persons who, like Roa, have secured judicial declaration of their status, are protected by the rule of res adjudicata; and those who, similarly situated, have not obtained such judicial declaration, but have acquired tangible rights in the exercise of their bona-fide citizenship, may, if such rights are still existing, be saved from the effects of the reversal. If we agree that the Roa ruling is erroneous, the most logical course to follow is to reverse it but saving, as a matter of equity, the vested rights above mentioned.

It is regrettable to note that, while the majority decision upholds the Roa doctrine, it, at the same time, tears into pieces the principle upon which the ruling is founded, leaving thus such ruling without foundation whatsoever either in law or in logic. This is, certainly, worse than reversing it. The majority says: "When in Roa v. Collector of Customs we declared the applicant therein to be a citizen of the Philippines, that declaration was a statement of a general principle, applicable not only to Tranquilino Roa individually, but to all those who were in the same situation, that is to say, to all persons born in the Philippines before the ratification of the treaty of peace between the United States and Spain, of Chinese father and Filipino mother; residents of the Philippines at the time mentioned in the treaty of peace, although in their minority; thereafter going to China for the purpose of studying, and returning to the Philippines to live here" (Underscoring mine.) The Roa doctrine applies the principle of jus soli embodied in the 14th Amendment to the United States Constitution, and such principle, by its very nature, was never limited in its application to aliens born in the Philippines before the advent of the American sovereignty. For instance, in Haw v. Collector of Customs, 59 Phil., 612, to which said principle was applied, the petitioner therein was born on February 13, 1916, and was held to be a Filipino citizen by the mere fact of birth in this country. It is, therefore, obvious that the principle underlying the Roa ruling, as originally announced by this Court and construed in subsequent cases, applies not only to aliens born in the Philippines prior to the ratification of the treaty of peace, but also to those born thereafter. The place, not the time, of birth was the decisive consideration in the determination of citizenship thereunder. The restatement, therefore, of the Roa doctrine by the majority, confining its application to aliens born before the ratification of the treaty of peace, and excluding therefrom those born thereafter, is a new principle which finds absolutely no support either in law or in reason.

With due respect to my brethren in the majority, I would say that when this Court continues to uphold a ruling known to be erroneous, with no plausible excuse therefor but public acquiescence therein, it may soon find itself compelled to make more mistakes in an effort to justify the previous ones. We may thus be building one error upon another until, by their accumulation, we shall come to a point when going further would be perilous and turning backward impossible.

I therefore vote to reverse the Roa doctrine and the decision of the Court of Appeals based thereon.

Judgment affirmed.

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