

LAM SWEE SANG, PETITIONER-APPELLEE, VS. COMMONWEALTH OF THE PHILIPPINES, OPPOSITOR-APPELLANT.

G.R. No. 47623. October 15, 1941

Ponente: LAUREL, J.

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LAUREL, J.:

This is an appeal taken by the Solicitor-General from the decision of the Court of First Instance of Zamboanga dated July 24, 1939, granting the petition for naturalization filed by Lam Swee Sang on November 16, 1938.

It appears that the petitioner herein, Lam Swee Sang, was born on May 8, 1900, at Jolo, Sulu, of a Chinese father and a Filipino (Moro) mother, and that he has been continuously residing in the Philippines ever since. He has married a Filipino woman by whom he has three children all of whom are residing in the Philippines. The Solicitor-General opposed the petition on the ground that the petitioner's father being a Chinese citizen, petitioner is also a Chinese citizen and hence ineligible to Philippine citizenship by naturalization under paragraph (e) of section 1 of the Naturalization Law (Act No. 2927).

The trial court after declaring Lam Swee Sang to be a citizen of the Philippines, on the authority of the cases relied upon, ordered the issuance in his favor of the corresponding certificate of naturalization. It should be observed that if the petitioner is already a Filipino citizen, the present proceedings would be superfluous, and "it would be absurd to issue in his favor a certificate of naturalization as a Filipino citizen. (Basilio Santos Co vs. The Government of the Philippine Islands, 52 Phil., 543.) The trial court correctly held that the petitioner is a Filipino citizen. (Roa vs. Collector of Customs, 23 Phil., 315; Torres vs. Tan Chim, G. R. No. 46593, promulgated February 3, 1940; Gallofin vs. Ordonez, G. R. No. 46782, promulgated June 27, 1940; Tan Chong vs. Secretary of Labor, G. R. No. 47616, promulgated October 15, 1941.) In view of this conclusion, the instant proceedings are dismissed without pronouncement regarding costs. So ordered.

Avancena, C.J., Abad Santos, and Diaz, JJ., concur.

Moran and Horrilleno, JJ., dissented on the grounds expressed in Torres vs. Tan Chim.

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