

EMILIO SY, PETITIONER, VS. HON. JUAN C. TUVERA, IN HIS CAPACITY AS PRESIDENTIAL EXECUTIVE ASSISTANT OF THE OFFICE OF THE PRESIDENT; THE HON. MINISTER OF NATURAL RESOURCES; THE H...*G.R. No. 76639. July 16, 1987*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-76639/>**FERNAN, J.:**

This petition for review on certiorari seeks to set aside: [a] the decision dated July 30, 1986 of the then Intermediate Appellate Court, now Court of Appeals, in AC-G.R. SP. No. 04450 entitled "Emilio Sy, Petitioner versus Hon. Juan C. Tuvera, etc., et al., Respondents"; and [b] the resolution of November 12, 1986 issued in the same case, denying petitioner's motion for reconsideration.

The antecedents are as follows:

On June 2, 1950, petitioner Emilio Sy filed a petition for naturalization with the Court of First Instance of Misamis Occidental, docketed as Naturalization Case No. 14. On May 2, 1951 the court rendered a decision, ordering the issuance of a certificate of naturalization in petitioner's favor and the registration thereof in the proper civil registry. Petitioner was required to take the oath of allegiance as provided by law.

On June 15, 1953, petitioner filed a petition to take his oath, with notice to the Provincial Fiscal of Misamis Occidental. Petitioner's compliance with the requirements of Republic Act No. 530 having been established during the hearing, the court issued an order on June 25, 1953 directing that petitioner be allowed to take his oath of allegiance to the Republic of the Philippines and that thereafter, the proper certificate of naturalization be issued. Petitioner took his oath of allegiance on the same day and was accordingly issued his certificate of naturalization.

On March 31, 1960, petitioner participated in the public auction sale conducted by the Bureau of Lands of Lot No. 345, Cadastral No. 85, located in Dipolog, Zamboanga del Norte with an area of 928 square meters, more or less. With his bid of P142,000.00, petitioner was declared the winning bidder over private respondent Josefa Vda. de Ramos, whose bid was only P141,000.00.

Thereafter, a long-drawn controversy arose when for some undisclosed reasons, petitioner was able to secure from the Director of Lands a reduction of the price of the land in question from P142,000.00 to P35,000.00. The question relating to the correct price of the land was laid to rest on November 21, 1974 in CA-G.R. No. 49884-R with the Court of Appeals affirming the award to petitioner at the original price of P142,000.00.

Meanwhile, on October 5, 1965, Judge Alfredo Catolico of the Court of First Instance of Misamis Occidental, the same judge who granted petitioner's naturalization petition, *motu proprio* sought the declaration of nullity of the naturalization proceedings of some thirty-seven persons, including petitioner. These thirty-seven individuals brought before this Court a petition for prohibition to enjoin Judge Catolico from taking further action in the proceedings initiated by him.[1]

However, before the petition for prohibition could be resolved by the Court, petitioner Emilio Sy, joining 34 other petitioners, withdrew his petition, alleging that he would file the proper petition with the Court of First Instance to remove whatever cloud there might be in his status as naturalized Filipino citizens.

As manifested, petitioner filed with the Court of First Instance of Misamis Occidental a pleading dated December 15, 1966 and entitled "Motion for Reconsideration and Petition to Remove Clouds on His Citizenship," praying for the validation of the oath of allegiance he took on June 25, 1953 which suffered from a defect of lack of notice to the Solicitor General. To said pleading, then Solicitor General Antonio Barredo affixed his signature with the corresponding notation on page 3 thereof as follows:

"No objection, provided petitioner takes new oath in the manner provided by law."[2]

Subsequently, a Certificate of Naturalization 8-A dated February 27, 1967 was issued to petitioner containing, among others, the following entry:

". . . having petitioned to be re-admitted a citizen of the Philippines, pursuant to law, and the Court having found that the petitioner possesses all the qualifications necessary to become a citizen of the Philippines, and that . . . he was entitled to be re-admitted, it was thereupon ordered by the said court that . . . he be re-admitted as a citizen of the Philippines."[3]

On March 17, 1967, petitioner filed an urgent motion to correct certain words in the Certificate of Naturalization, praying that the phrase "petitioned to be re-admitted" be replaced by "petitioned to validate the oath as" and the words "he was entitled to be so re-admitted" with the phrase "he was so entitled to be so admitted." The court granted the motion in an Order dated March 31, 1967, as follows:

"Before this court is a petition dated March 17, 1967 by counsel for herein petitioners in all the above 5 cases for the correction of certain portions of the Certificate of Naturalization issued in these cases all dated February 27, 1967 consisting of the use of the word [sic] 'having petitioned to be re-admitted a citizen of the Philippines' appearing in the paragraph which begins with the words 'BE IT REMEMBERED,' and the use twice of the word re-admitted' in the last two lines of the same paragraph, all of which would imply that the herein petitioners who already have taken before their oath of allegiance to the Republic of the Philippines had ceased to be Filipino citizens where it is not so in their respective case for indeed the order of this Court of November 12, 1965 was not made applicable to them because the herein petitioners were included among the 37 who sought a writ of prohibition from the Supreme Court and where the Supreme Court issued a preliminary writ of prohibition against this Court for the purpose, and that when they were removed from among those petitioners, they sought the revalidation of their respective oath taking such as to cure the defect had in connection therewith consisting of a lack of notification to the Solicitor General of the petition for their oath taking previously had which was actually duly corrected in the last proceedings to take the second stage of these naturalization cases, conform with the express provisions of Republic Act No. 350 so that in these cases indeed there was no gap where they ceased for a moment to be Filipino citizens, only that they sought to remove the cloud over the oath of allegiance they previously took and in connection therewith the corresponding issuance of the certificate of naturalization.

"The Court considers the petition to be meritorious in that by the addition of the word 'petitioner' and the prefix 're' to the word admitted 3 times in the same paragraph implies the fact that there was an interval of time that they somehow ceased to be Filipino citizens which is not true in these cases.

"WHEREFORE, considering the said petition to be meritorious, an order is hereby issued ordering the Clerk of Court: [1] to issue a new Certificate of Naturalization dated after today removing the added words sought to be corrected and placing in their stead the following in place of 'Petition to be re-admitted' the words 'Petition to Validate the Oath as Filipino Citizens' and to remove the word 're' in the other two prefixes added to the word 'admitted' in the last 2 lines of the said paragraph; x x x."[4]

On February 24, 1975, private respondent Josefa Vda. de Ramos filed before the Office of the President a Petition to Reopen Case to Disqualify Emilio Sy as the Awardee of Lot 345, Cadastral 35, Dipolog City for being an alien at the time he made the bid for and was awarded the land in question. She prayed that the award be given to her instead.

On May 27, 1975, the Office of the President through its 1st Indorsement to the Secretary of Agriculture and Natural Resources gave due course to the petition, directed the formal investigation of the alleged misrepresentation of Emilio Sy as to his citizenship, suspended the award of the disputed area to Emilio Sy during the pendency of the formal investigation and directed the final award of the disputed area in accordance with law and regulations after the formal investigation.

On June 10, 1975, the Secretary of Agriculture and Natural Resources endorsed the matter to the Bureau of Lands, which on September 26, 1975 advised the Office of the President that it could not make a definite and binding resolution on the matter in view of the legal question involving petitioner's citizenship. Thus, the matter was referred to the Solicitor General for an opinion on petitioner's citizenship at the time of the award.

On November 17, 1975, the Solicitor General rendered an opinion that on March 1, 1960, the date of the public auction sale, petitioner was still a Chinese citizen and that it was only on February 27, 1967 that he became a Filipino citizen. On the basis of this opinion, then Secretary of Agriculture and Natural Resources, Jose J. Leida issued an Order dated September 11, 1976 declaring as null and void the award of the disputed lot to petitioner and awarding the same to private respondent Josefa Vda. de Ramos.

On August 27, 1979, petitioner appealed the order of the Secretary of Agriculture and Natural Resources to the Office of the President. Presidential Executive Assistant Jacobo Clave reversed said order on a finding that petitioner acted in good faith in declaring himself to be a Filipino citizen at the time of the public auction sale. However, on a motion for reconsideration filed by private respondent, Presidential Executive Assistant Juan C. Tuvera through a resolution dated February 19, 1981 reversed the decision of Presidential Executive Assistant Clave and directed the award of the disputed land in favor of private respondent. Petitioner moved for a reconsideration of the resolution but was denied the relief sought.

Thereafter, on January 21, 1982, petitioner elevated the matter to this Court on a special civil action for certiorari, prohibition and mandamus with preliminary injunction, docketed as G.R. No. 59451 entitled "Emilio Sy v. Hon. Juan Tuvera, et al." After the respondents named therein had filed their respective comments on the petition, the Court in a resolution dated May 18, 1983 dismissed the petition for lack of merit. The motion for reconsideration filed by petitioner was denied with finality in the resolution dated August 8, 1983 which likewise ordered the entry of final judgment in said case.

Subsequently on October 5, 1983, petitioner filed before the Regional Trial Court of Dipolog, Zamboanga del Norte a petition for certiorari, prohibition and mandamus with damages and preliminary injunction to set aside the February 19, 1981 resolution of Presidential Executive Assistant Tuvera [Civil Case No. 3561]. The action was subsequently amended to an action for "judicial review of administrative decision," and later amended anew to include the allegation that private respondent Josefa Vda. de Ramos was herself disqualified from acquiring the land under consideration being the owner of 191 hectares of land.

Both public and private respondents moved to dismiss the case on ground of res judicata. Finding the ground cited to be meritorious, the trial court issued an order on January 31, 1984, dismissing the case. When petitioner's motion for reconsideration was denied on July 10, 1984, he appealed to the then Intermediate Appellate Court which issued the judgment affirming the decision of the lower court in toto and the resolution being assailed in

this petition.

Petitioner contends that the Court of Appeals erred in applying the doctrine of res judicata in favor of private respondent as well as in relying on the Tuvera decision which is allegedly flawed with utter lack of jurisdiction.

Petitioner theorizes that if the principle of res judicata were to be applied, the same should be applied in his favor and not of private respondent. He points to the decision of this Court in Queto alias Tan Queto, et al. v. Hon. Alfredo Catolico,[5] as an affirmation of the May 2, 1951 decision of the CPI of Misamis Occidental under which he allegedly acquired Philippine citizenship and the decision of the Court of Appeals in CA-G.R. No. 49884-R which affirmed the award of the land in question to him at the purchase price of P142,000.00.

The interpretation given by petitioner to the Queto case is much too expanded and self-serving. As sharply delineated in the case, from which, as earlier mentioned, petitioner withdrew, the sole and only issue resolved therein was "whether or not respondent Judge, motu proprio had jurisdiction to reopen and review, or putting it more accurately xx x, to declare null and void the grant of citizenship to the petitioners pursuant to final judgments of competent courts and after the oaths of allegiance had been taken and the corresponding certificates of naturalization issued." [6] Nowhere in the body of the decision can be found any statement relating to the citizenship of petitioners therein. In fact, rather than confirm the grant of Philippine citizenship on therein petitioners, the dispositive portion of the decision stated that "[T]he Solicitor General is, of course, not precluded from taking such steps as may be warranted in connection with the naturalization cases of the petitioners." [7]

The requisites of res judicata are: [1] the presence of a final former judgment; [2] the former judgment was rendered by a court having jurisdiction over the subject matter and the parties; [3] the former judgment is a judgment on the merits; and [4] there is, between the first and the second actions, identity of parties, of subject matter and of cause of action. [8]

Apparently, as between the Queto case and AC-G.R. SP. No. 04450, there is no identity of parties, subject matter nor cause of action, thus precluding the application of the doctrine of res judicata.

In the same manner, We find the decision in CA-G.R. No. 49884-R not a bar to AC-G.R. SP. No. 04450 for lack of identity of cause of action. The root of CA-G.R. No. 49884-R is the petition for declaratory relief, certiorari and prohibition with preliminary injunction filed by petitioner in the defunct CFI of Manila for the purpose of assailing the decision dated July 3, 1967 of the Office of the President fixing the purchase price of the land in question at P142,000.00. AC-G.R. SP No. 04450, on the other hand, sprang from the petition for certiorari, prohibition and mandamus with damages and preliminary injunction filed by petitioner with the Regional Trial Court of Dipolog, Zamboanga del Norte for the purpose of setting aside the February 19, 1981 resolution of herein public respondent Tuvera which nullified the award of the lot in question to petitioner on the ground of his disqualification as an alien.

The principle of res judicata was correctly applied between G.R. No. 59451 and Civil Case No. 3561. G.R. No. 59451 is the petition for certiorari, prohibition, mandamus with preliminary injunction instituted before this Court by petitioner to set aside the February 19, 1981 resolution of public respondent Tuvera, the very same resolution being assailed in Civil Case No. 3561. G.R. No. 59451 was dismissed with finality by this Court on August 8, 1983 and entry of final judgment made after the dismissal became final and executory on August 17, 1983. While contained in a minute resolution, the dismissal of the petition in G.R. No. 59451 was an adjudication on the merits of the case and constituted a bar to a relitigation of the issues raised therein under the rules of res judicata. [9]

The other issue raised by petitioner goes into the merits of the February 17, 1981 resolution of public respondent Tuvera. The validity, legality, propriety and correctness of this resolution had been passed upon with finality by

this Court in G.R. No. 59451. Another review thereof would run counter to the rule of res judicata.

In assailing the effect of the resolutions dated May 18 and August 8, 1983 of this Court in G.R. No. 59451 on Civil Case No. 3561, petitioner stated:

"The Supreme Court, especially of the past regime, is not infallible. It was not above the law. In this case, it is our position that the minute resolutions issued did not touch nor face squarely the legal questions involved.

"To hold that in issuing the minute resolutions, the Supreme Court passed upon and affirmed the decision of Tuvera is to say that the Supreme Court took cognizance of a case that by law has been allocated to the jurisdiction of the Court of First Instance. It would be to say that the Supreme Court usurped the jurisdiction of a lower court. Then, the minute resolutions are void for want of jurisdiction, and cannot constitute res judicata to the present case.

"In issuing the minute resolutions, the Supreme Court must be deemed to have declined the jurisdiction that belonged to a lower court. For the Supreme Court desires that the appropriate steps to be taken from the determinations of administrative agencies should be observed; that a party cannot 'thrust upon this tribunal' a case which belongs to lower forums." [10] "It is a sacrilege to hold that the minute resolutions of the Supreme Court had the effect of affirming the decision of Tuvera x x x." [11]

The stance taken by petitioner is patently despicable, a trifling with the administration of justice. A party cannot invoke the jurisdiction of a court of justice and upon obtaining an adverse ruling, deny the same, and worse, attempt to set aside its final judgment before an inferior court. Petitioner has presumed a lot in this case, all for the sole purpose of serving his own interest. He has abused the right of access to the courts and in so doing, wasted the time and effort of the courts as well as of the parties, added to the congestion of court dockets and unnecessarily prolonged the resolution of the controversy at bar.

WHEREFORE, the instant petition is hereby DENIED for lack of merit. This decision is immediately executory. Treble costs against petitioner.

SO ORDERED.

Gutierrez, Jr., Bidin, and Cortes, JJ., concur.

Feliciano, J., concurs in the result.

[1] G.R. Nos. L-25183-25219.

[2] p. 94, Rollo.

[3] pp. 94-95, Rollo.

[4] pp. 95-96, Rollo.

[5] 31 SCRA 52.

[6] at page 57.

[7] at page 59.

[8] Pantranco North Express, Inc. vs. NLRC, 126 SCRA 526; Gatus vs. CA, 95 SCRA 530.

[9] Commercial Union Assurance Company, Limited vs. Lepanto Consolidated Mining Company, 86 SCRA 80.

[10] *Imbong vs. Oil Industry Commission*, 55 SCRA 95.

[11] pp. 19-20, *Rollo*.

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