

SALANI UNA, PETITIONER, VS. FELISA C. NOCHE, ET AL., RESPONDENTS.

G. R. Nos. 13393-95. November 29, 1958

Ponente: BAUTISTA ANGELO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-nos-13393-95/>

BAUTISTA ANGELO, J.:

On February 26, 1946, petitioner filed an application with the Public Service Commission for the operation of two trucks on certain lines in the Basilan Island, and because of the urgency of the service, he was granted a provisional permit (Case No. 8807). The application was opposed by Antonio Pardo on the ground, among others, that petitioner is not a Filipino citizen.

After hearing, the Commission found that the applicant has failed to establish that he is a Filipino citizen and so it denied his application without prejudice on his part to take steps to acquire Philippine citizenship. Petitioner filed a motion for reconsideration, and it appearing that petitioner was naturalized but that his certificate of naturalization was cancelled and the case was appealed to the Court of Appeals where the record was destroyed as a result of the last war, the Commission set aside its former decision dismissing the application to give petitioner time to reconstitute the record of the appealed case. In the meantime, the application was given due course.

On April 12, 1948, petitioner filed a new application wherein he prayed that, in addition to the trucks he was already operating under a provisional permit, he be allowed 4 to operate additional trucks on the same lines for the reason that the operators who used to operate on the same lines before the war have already cease their operation (Case No. 86366). This application was again opposed by the heirs of Antonio Pardo, who died in the meantime, on the ground that they are old operators and the service they are rendering is sufficient to satisfy the public need. In addition, the oppositors advanced the argument that petitioner is not a Filipino citizen. The application was set for hearing and evidence was presented and thereafter the Commission rendered decision granting the application. The Commission said; "There being no definite and final judgment cancelling applicant's certificate of naturalization as a Filipino citizen, the Commission believes that he continues to be a Filipino citizen and this fact is confirmed by the photostatic copies of Transfer Certificates of Title Nos. T-1078 and T-1079 issued by the Register of Deeds of the province of Zamboanga on November 23, 1951, wherein it appears that Salina Una, the registered owner, is a Filipino."

On November 17, 1953 petitioner filed another petition praying that his lines be re-routed to enable his trucks to pass the compound of Marta Lumber Co. located within the barrio of Buliñgan (Case No. 75658). This petition was granted for being in accord with public interest.

On January 2, 1957, one Felisa C. Noche filed a motion for intervention in the three cases above-mentioned praying that she be allowed to intervene because she is a TPU operator in the City of Basilan and as such she is adversely affected by the operation of the TPU service granted to petitioner. At the same time, she prayed that the authority granted to petitioner in said cases be cancelled on the ground that he is not a Filipino citizen.

To this motion, petitioner, filed an answer praying that the same be denied on the ground that the decisions in the

cases already mentioned have already become final and cannot be disturbed. The motion was set for hearing and thereafter the parties submitted memoranda. And on January 3, 1958, the Commission rendered decision cancelling the provisional permit granted in Case No. 8807, the certificate of public convenience granted in Case No. 36366, and the authorization for re-routing granted in Case No. 75658 on the ground that petitioner has failed to establish that he is a Filipino citizen. His motion for reconsideration having been denied, petitioner interposed the present petition for review.

In the order entered by the Public Service Commission on January 21, 1958 denying petitioner's motion for reconsideration and sustaining its previous order dated January 3, 1958, the Commission made the following pronouncement:

"The records show that in 1936 Salani Una, a Chinese national, was issued a certificate of naturalization as a Filipino citizen by the Court of First Instance of Zamboanga. About four years later, the Attorney General, thru the Provincial Fiscal of Zamboanga, filed a petition for the cancellation of the certificate of naturalization of Salani Una and the Court of First Instance of Zamboanga, after a reinvestigation, cancelled Una's certificate of naturalization. Una appealed the decision to the Court of Appeals but proceedings on the appeal were suspended during the occupation. As a result of the war all the records of the case in the Court of First Instance of Zamboanga and in the Court of Appeals were destroyed and neither Salani Una nor the Solicitor General took steps to reconstitute the appealed case after the war was over.

"The question is whether Salani Una continues to be a Filipino citizen by virtue of the fact that the decision cancelling his citizenship and which had been appealed by Una to the Court of Appeals was not reconstituted either by Una or by the Solicitor General. Applicant claims that in the case of *Ambat vs. Director of Lands* the Supreme Court held that 'If a party in whose favor judgment is rendered fails to ask for the reconstitution of the records of the case wherein the judgment is rendered, he impliedly waives, by his voluntary omission to ask for reconstitution, his right to the favorable judgment; and if the period for the reconstitution has already expired', section 29 of Act 3110 is applicable, the parties being understood as having waived the right to reconstitution and having the right to file their respective actions anew.' By virtue of this ruling, applicant contends that since the judgment cancelling Una's citizenship was favorable to the Attorney General it was his duty to reconstitute the appealed case and having failed to do so within the period allowed for reconstitution, the only remedy available to the Solicitor General is to file a new petition for the cancellation of Una's citizenship, and that meanwhile Una should be considered as retaining his Filipino citizenship. Intervenor Noche contends that the duty to reconstitute the appealed case laid upon both parties and since Una failed to reconstitute and there is no judgment of the Court of Appeals vacating the lower court decision which cancels his Filipino citizenship Una should be considered having been deprived of such citizenship.

"We have gone over the decisions of the Supreme Court in the cases of *Mayol vs. Piccio*, *Ambat vs. Director of Lands* and *Claridad vs. Novella* and we cannot agree with the contentions of applicant Una. Una's appeal to the Court of Appeals did not result in vacating or setting aside the decision of the lower court cancelling his citizenship. It was not the duty of the Solicitor General to reconstitute the appealed case because as far as he was concerned the subsisting judgment was the one which cancelled Una's Philippine citizenship, and the non-reconstitution of the case could not result in reviving Una's Philippine citizenship because the appeal did not have the effect of vacating the judgment of the lower court. On the other hand, we do not see how Una could benefit from his failure to reconstitute the case, that is, that by taking no steps to reconstitute the appealed case the unfavorable judgment rendered against him would become worthless and he would be restored to his Filipino citizenship. We consider that it was Una's duty to reconstitute the appealed case so as to have the Appellate Court reverse the ultimate judgment by which he was deprived of his Filipino citizenship and having failed to do so his present status is that of an alien who had been granted a certificate of naturalization but which certificate was subsequently cancelled in the manner authorized by law and continues cancelled up to now."

It would appear that petitioner was issued a certificate of naturalization as a Filipino citizen by the Court of First Instance of Zamboanga sometime in 1936, and that four years later, the Attorney General, thru the provincial fiscal filed a petition for cancellation of said certificate and the court, after hearing, granted the petition and cancelled the certificate as prayed for. It also appears that petitioner appealed to the Court of Appeals but the proceedings were suspended during the occupation. And as a result of the war the records of the case both of the court of first instance as well as of the Court of Appeals were destroyed and neither the petitioner nor the Government took steps to reconstitute the records of the appealed case. Considering the foregoing facts, we are of the opinion that this case falls squarely within the ruling laid down in the case of *Ambat vs. Director of Lands*, 49 Off. Gaz., 129, promulgated on June 30, 1953, wherein this Court made the following pronouncement:

"The question squarely presented is: May the judgment rendered before the War, in a case pending appeal before the Court of Appeals, be considered final for failure of the losing party to ask for the reconstitution of the records in the appellate court within the time prescribed by the law for reconstitution of judicial records? The Court of First Instance of Davao held that such failure renders the judgment entered in the court of origin final, while the Solicitor General contends that as the duty to reconstitute does not rest on the appellant alone but on the appellee as well (citing the case of *Drillon, Gunabe and Gunche vs. Director of Prisons*, G. R. No. L-1231, January 30, 1947, 44 Off. Gaz. [No. 4], 1244), the judgment never became final. In the case cited, this court held that the duty to reconstitute lies upon both parties to the action. In the recent case of *Claridad vs. Novella*, G. R. No. L-4207, promulgated October 24, 1952, we held further and declared that if a defendant in whose favor a judgment is rendered fails to ask for the reconstitution of the records of the case wherein the judgment is rendered, he impliedly waives, by his voluntary omission to ask for reconstitution, his right to the favorable judgment; and that if the period for the reconstitution has already expired, section 29 of Act 3110 is applicable, the parties being understood as having waived the right to reconstitution and having the right to file their respective actions anew."

In the light of the foregoing ruling, we hold that the decision of the Court of First Instance of Zamboanga cancelling the certificate of naturalization issued in favor of petitioner which was appealed to the Court of Appeals never become final, for the reason that the Government for whose benefit the same was rendered failed to ask for the reconstitution of the records of the appealed case and as such it shall be deemed to have waived the benefit of such decision, the only recourse left to it being to file, if it so desires, a new petition for cancellation. As the case now stands, petitioner should be deemed to be a naturalized Filipino citizen until his status is definitely settled by the courts.

Wherefore, the orders of the Commission dated January 3 and 21, 1958 are hereby set aside, thereby reviving the provisional permit granted in Case No. 8807, the certificate of public convenience issued in Case No. 36366, and the authorization for re-routing granted in Case No. 75658, with costs against respondent Felisa C. Noche.

Paras, C. J., Padilla, Labrador, Reyes, J. B. L. and Endencia, JJ., concur.

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.