DENATURALIZATION THROUGH THE CANCELLATION OF CERTIFICATE OF NATURALIZATION

The value of Philippine citizenship cannot be overemphasized, considering the highly nationalistic character of the Constitution and our laws.[1] Citizenship has been upheld as a valid criterion for classification, on the ground that aliens are under no special constitutional protection which forbids a classification along the lines of nationality. It is a justifiable excuse for discrimination between aliens and Filipinos, whereby benefits are conferred upon citizens and inhibitions imposed on aliens. Such classifications is a valid exercise of police power.[2]

Scattered throughout the Constitution are provisions vesting special privileges on citizens, not afforded to aliens. Thus, suffrage is one of the functions that only citizens can exercise although, not all citizens are entitled to become candidates for office.[3] The right to acquire, exploit and utilize the natural resources of the country, as well as the operation of public utilities is granted to citizens alone or to entities, sixty-percent of the capital of which, is owned by such citizens.[4] Even private agricultural land can be transferred or assigned only to persons qualified to hold lands of the public domain.[5]

Subsequent legislative enactments have followed a very nationalistic trend. Thus, the Retail Trade Law of 1954, allows only the Filipinos, or entities wholly owned by Filipinos, to engage in the retail business.[6] Under Republic Act No. 3018, of 1961, aliens were barred from the rice and corn business.[7] It is also provided that at least two-thirds of the members of the board of directors of banking institutions must be Filipino citizens, and in cases of rural banks, all directors must be Filipinos.[8] The Supreme Court also ruled that:

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[1] See Peck, "Nationalistic Influences On The Philippine Law of Citizenship", 14 Am. J. Comp. L. (1965) 459.

[2] Lao Ichong v. Hernandez, G.R. No. 7995, May 31, 1957.

[3] Const. Art. V, sec. 1; Art. VI, secs. 4, 7; Art. VII, sec. 3, Art. VIII, sec. 6. Pritchard v. Republic, 81 Phil 244 (1958).

[4] Const. Art. XIII, sec. 1; Art. XIV, sec. 8. Until July 3, 1974 citizens and corporations of the United States of America, however, enjoy these rights by virtue of an ordinance appended to the Constitution.

[5] Const. Art. XIII, sec. 5.

[6] 9 Laws and Res. 381.

[7] 15 Laws and Res. 787.

[8] Rep. Act No. 337, (General Banking Act), sec. 13, 3 Laws and Res. 633. Rep. Act No. 720 as amended, (Rural Banks' Act), sec. 4, 7 Laws and Res. 99.

> "The establishment, maintenance and operation of public markets, as much as public works, are part of the functions of government. The privilege of participating in said functions, such as that of occupying market stalls, is not along the fundamental rights or even among the general civil rights protected by the guarantees of the Bill of Rights. The exercise or enjoyment of public functions are reserved to a class of persons possessing specific qualifications required by law. Such is the case of the privilege to vote, to occupy a government position or to participate in public works are reserved exclusively to citizens. Public functions are powers of national sovereignty and it is elementary that such sovereignty be exercised exclusively by nationals."[9]

Thus it is clear that the question of citizenship permeates both governmental as well as private aspects of endeavor. It is for these political, social and economic advantages that Philippine citizenship is eagerly sought by aliens, particularly the Chinese residents of the country, whose business activities can only be protected from these discriminatory legislations, through the acquisition of citizenship.

Citizenship Through Naturalization

The Constitution sets forth the different categories of citizens.[10] The last category of citizenship by naturalization, involves a particular procedure for the acquisition of Philippine citizenship, now embodied in Commonwealth Act No. 473.[11] The case-law that has developed under these statutory provisions has become a thicket of technicalities and the trend of Philippine courts is to exact strict compliance with the requirements of the law. Thus, residence must be continuous during the entire period required and under the amendment of Republic Act No. 530,[12] the applicant should actually and physically reside in the Philippines during the period of two years after the promulgation of the decision, in order that the certificate of citizenship may be finally granted to him.[13] The law also exacts a higher standard of morality. It requires "'morally irreproachable character" which is, as observed by the Supreme Court

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[9] Co Chiong v. Cuaderno, 83 Phil. 242 (1949).

[10] Const. Art. IV, sec. 1. The following are considered citizens of the Philippines:
(a) Those who are citizens of the Philippine Islands at the time of the adoption of the Constitution.
(b) Those born in the Philippine Islands of foreign parents who, before the adoption of this Constitution, had been elected to public office in the Philippine Islands.
(c) Those whose fathers are citizens of the Philippines.
(d) Those whose mothers are citizens of the Philippines and upon reaching the age of majority elect Philippine citizenship.
(e) Those who are naturalized in accordance with law.

[11] Revised Naturalization Law, Com. Act No. 473.

[12] 5 Laws and Res. 430 (1950).

[13] Victor Te Teck v. Republic, G.R. No. 7412, Sept. 27, 1955; Uy v. Republic, G.R. No. 7054, April 29, 1955.

a much higher standard than the "good moral character" required by the American law.[14] What constitutes "proper and irreproachable conduct" within the meaning of the law is to be determined by the standards of morality prevalent in this country and these in turn by the religious beliefs and social concepts existing therein.[15] And this irreproachable conduct must be for the entire period of residence in the Philippines.[16] In applying these principles, several acts have been considered as indicative of lack of proper and irreproachable conduct, such as, the failure to file correct income tax returns,[17] failure to register as an alien in the immigration bureau, adultery and bigamy, the violation of election laws, the unauthorized use of aliases and other acts contrary to law and public policy.[18] These have been in many instances considered sufficient cause for the rejection of naturalization applications. More technical matters have caused denial of petitions for naturalization, such as the failure to state all the places of former residence, or the lack of the proper publication of the petition in the Official Gazette, or the change of character witnesses, without the proper notice to the court.[19] The amount of income sufficiently lucrative is still very relative and no definite limits have been laid down by the court.[20] The requirement that the alien applicant must have enrolled his minor children of school age in Philippine schools has also been strictly construed, and objections on this point may be raised and considered at any stage of the proceedings where it appears on the face of the record.[21] In the naturalization proceeding, it is the burden of the applicant to show that he has all the qualifications and none of the disqualifications and any doubts thereto

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[14] Chua Pun v. Republic, G.R. No. 16825, Dec. 22, 1961; No Yuen Tsi v. Republic, G.R. No. 17137, June 29, 1962.

[15] Yu Singco v. Republic, G.R. No. 6162, Dec. 29, 1953.

[16] Chua Pun v. Republic, G.R. No. 16825, Dec. 22, 1961; Wang Fu v. Republic, G.R. No. 15819, Sept. 29, 1962.

[17] Co. v. Republic, G.R. No. 12150, May 26, 1960; Tan v. Republic, G.R. No. 14860, May 30, 1961.

[18] Yu Kong Eng v. Republic, G.R. No. 8780, Oct. 19, 1956; Tan Song Sing v. Republic, G.R. No. 9080, May 18, 1957, So Kay See v. Republic, G.R. No. 17318. Dec. 29, 1962; Yo Lo v. Republic, G.R. No. 4725, Oct. 1952; Sy Tian Lai v. Republic, G.R. No. 5867, April 29, 1954; Kock Tee Yap v. Republic, G.R. No. 20992, May 14, 1966.

[19] Dy v. Republic, G.R. No. 20152, Feb. 28, 1966; Keng Giok v. Republic, G.R. No. 13347, Aug. 31, 1961; Go Bon The v. Republic, G.R. No. 16813, Dec. 27, 1963; Tan v. Republic, G.R. No. 19694, March 30, 1965; Delgado v. Republic, G.R. No. 3546, Jan. 28, 1950.

[20] Benjamin Yap v. Republic, G.R. No. 20372, May 14, 1966; Senecio Dy Ong v. Republic, G.R. No. 21017, Nov. 29, 1965; Yap v. Republic, G.R. No. 19649, April 30, 1965.

[21] Lim Lian Hong v. Republic, G.R. No. 3575, Dec. 26, 1950; Hao Lian Chu v. Republic, G.R. No. 3265, March 27, 1961; Sy See v. Republic, G.R. No. 17025, May 30, 1962; Si Ne v. Republic, G.R. No. 16828, May 30, 1962.

will be resolved against the admission of those who fail to measure up to the required standard.[22]

The difficulty in obtaining citizenship through naturalization lies not only in the preliminaries prior to the issuance of the certificate but also subsequent thereto. Any certificate is subject to the right of the state to seek its cancellation thus effecting the denaturalization of a naturalized citizen. The right of the state to denaturalize is based on the ground that citizenship is a matter of privilege afforded to aliens by the Republic. It is not a matter of right.[23]

Cancellation of Certificate of Naturalization

Under Commonwealth Act No. 63, section 1 (5), citizenship may be lost by the cancellation of certificate of naturalization. Cancellation proceedings is specifically provided for in section 18, of the Revised Naturalization Law.[24] Only the state which is directly prejudiced by the issuance of the certificate of citizenship can prosecute such an action for denaturalization. In this jurisdiction however, there are relatively few cases of denaturalization. The cancellation have been mainly on the ground that they have been procured through fraud and misrepresentation. At present however, there seems to be a growing trend of resorting to cancellation proceedings as a means of doing away with undesirable na-

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[22] U.S. v. Schwimmer, 279 U.S. 644, 73 L. Ed. 889.

[23] U.S. v. Ginberg, 61 L. Ed. 853; 243 U.S. 472; Bell v. Attorney General, 56 Phil 667.

[24] Com. Act No. 473, sec. 18: Upon motion made in the proper proceedings by the Solicitor General or his representative, or by the proper provincial fiscal, the competent judge may cancel the naturalization certificate issued and its registration in the Civil Registry:

(a) If it is shown that the naturalization certificate was obtained fraudulently or illegally.

(b) If the person naturalized within the five years next following the issuance of said naturalization certificate returned to his native country or to some foreign country and established his permanent residence there; Provided, that the fact of the person naturalized residing for more than one year in his native country or the country of his former nationality, or stays in any other country shall be considered prima facie evidence of his intention of taking up his permanent residence in the same;

(c) If the petition was made on an invalid declaration of intention;

(d) If it is shown that the minor children of the naturalized person failed to graduate from a public or private high school recognized by the Office of Private Education of the Philippines, where Philippine history, government and civics are taught as part of the school curriculum, through the fault of the parents whether by neglecting to support them or by transferring them to another school or schools. A certified copy of the decree cancelling the naturalization certificate shall be forwarded by the clerk of court to the Department of Interior and the Bureau of Justice;

(e) If it is shown that the naturalized citizen has allowed himself to be used as a dummy in violation of the Constitution and legal provisions requiring Philippine citizenship as a requirement for the exercise, use or enjoyment of a right, franchise or privilege.

turalized citizens. Thus in 1966, two outstanding cases of denaturalization, involving wealthy Chinese businessmen had been decided by the Supreme Court, namely: the case of *Republic v. Francisco Co Keng*, and that of *Ernesto Ting v. Republic*.[25] These cases were decided on similar grounds: that certificates of naturalization were fraudulently and illegally obtained; and their failure to conduct themselves in a proper and irreproachable manner. More specifically, the fraud committed by Co Keng, was his failure to state in his petition all his places of residence, and the untruthful allegation therein — that he possessed all qualifications and none of the disqualifications for acquisition of Philippine citizenship, when as a matter of fact, he had, prior to his application, been guilty of evading tax liabilities by false income tax statements, and has continued to do so, even after the issuance of his certificate of naturalization. These acts, had they been brought to the attention of the court in the naturalization proceedings would have warranted its denial. It was further alleged that he had been engaging in questionable activities inimical to the economic interests of the country. In the case of Ernesto Ting, the grounds specified by the Solicitor which warranted the cancellation were: that the notice of the petition for naturalization was published only once and that after such publication, one of the attesting witnesses was changed without the publication of such fact; that his behavior was far from irreproachable, for having been involved in the illegal importation of gold, contracting a bigamous marriage, for violating the Revised Election Code, section 56, engaging in the traffic of women and drugs, maintaining a gambling house and abetting or facilitating the illegal entry of aliens. His fraudulent acts, consisted of misrepresenting himself as born in the Philippines, when in fact, he was born in Amoy, China. This misrepresentation was accomplished through the falsification of his records of birth. In both these cases, the Supreme Court held, that the certificates of naturalization were *void ab initio*.

Upon the careful perusal of these decisions, it is apparent that the denaturalization was ordered on account of causes occuring prior to the issuance of the certificate as constitutive of fraud and misrepresentation, and those happening subsequent to the issuance thereof, which are acts illegal in themselves, and punishable under the penal laws and the tax laws. It is observed, that the Court so far has applied a broad interpretation to section 18 (a) of the Revised Naturalization Law on acts which amount to fraud. Thus the Court, has considered the omission to state a particular place of former residence as fraudulent. Such an omission could have

[25] G.R. No. 19829, July 30, 1966; G.R. No. 13891, Aug. 10, 1966.

affected jurisdiction of the court in the naturalization case, or might have misled such court to grant the certificate of naturalization. The attitude of Philippine courts, towards fraud in obtaining certificates is substantially similar, if not even stricter, than that of the United States courts. Fraud justifying cancellation of certificates must be clearly proved, but since the matter is of grave importance, the statutory requirements should not lightly be set aside under the claim of mistake induced by carelessness. The declaration required of the applicant for citizenship has to be truthful and if false, citizenship may be considered as obtained "illegally".[26] The same rule was followed in the case of *Bell v. Attorney General*, where it was held that an alien who has given wrong information as to the length of his residence in the Philippines and who has taken the oath of a witness and misrepresented the facts relative to the length of his residence, has obtained the naturalization certificate fraudulently, and the same may properly be cancelled.[27] So also in this case of Francisco Co Keng, the cancellation was decreed, not only because of the omission to state all places of residence, but also due to false statements to the effect that he possessed all the qualifications and none of the disqualifications, when in fact, he did not possess that proper and irreproachable conduct required by law, by consistent evasion of tax liabilities, prior to his application and even thereafter. The concealment of such fact amounted to fraud as to warrant a cancellation of the certificate of naturalization, as obtained by an alien, who was not qualified to be naturalized. On this particular point, it is observed, that the Supreme Court's tendency is to allow the revival of prior issues and apply the grounds for denial of petitions for naturalization to cases of cancellation, where those causes fall under the broad terms of section 18 (a) "fraud and illegality" in obtaining the certificate of citizenship. In other words, there is no *res judicata* of issues in the naturalization case. The same questions could be properly brought to the attention of the court in the cancellation proceedings, where such facts, could be considered as constitutive of fraud. The concealment of certain vital facts is fraudulent because, had the court in the naturalization case been aware of them, the petition at the outset would have been denied. This is in consonance with the rule generally followed in the United States, that the duty to see that an applicant for citizenship makes no false statement with reference to applications rests upon the applicant himself, and not upon the government.[28] And the fact that the state had the opportunity to contest the naturalization

[26] Schwin v. U.S. 311 U.S. 616; Schneiderman v. U.S. 119 F 2d. 500.
[27] 56 Phil. 667. (1932)
[28] U.S. Zgrebec, 38 F Supp. 127.

proceedings is not a bar to the institution of cancellation proceedings, where it appears later that citizenship should not have been granted to the alien applicant.[29]

The ground of fraud was in fact the strongest point on which the Supreme Court based its decree of denaturalization. The other causes alleged by the Solicitor General were acts, punishable under other laws, such as bigamy, illegal traffic of contraband articles, evasions of tax liabilities, etc. The Supreme Court did not specifically rule on these points, but satisfied itself, with ordering the cancellation on the basis of fraud alone, which was sufficient enough to warrant cancellation. It is to be noted however, that assuming that these were the only grounds alleged in the petition for cancellation, *sans* the fraudulent acts, it is doubted whether, the Court would even order the cancellation. The criminal acts allegedly committed by these undesirable naturalized aliens, though reprehensible they may be, could not be the basis for cancellation. These are punishable under the Penal Code or the tax laws. These acts could be committed by anybody, citizens and aliens alike. To order cancellation, in the absence of specific provisions allowing such cancellation, would subject naturalized citizens to a penalty which is much more severe than those imposed on persons, other than naturalized citizens. Moreover, the grounds, for cancellation of certificates are specifically provided for. Considering that cancellation of certificates amounts to a forfeiture of certain important rights and interests that flows from citizenship, the provisions of section 18, of the Revised Naturalization Law should be strictly construed. The enumeration should exclude all others not specifically provided for.

Citizenship is vital to an individual. It should not be forfeited, except for just and valid cause as laid down by law. In these particular cases, the acts complained of, are admittedly reprehensible, but are not within the context of the causes for cancellation. The remedy lies not in the denaturalization of the citizen but in making these erring naturalized citizens suffer the penalties provided by laws violated. To allow cancellation on these grounds would be violative of the equal protection of the laws clause of the Constitution which equally protects all citizens without distinction, whether naturalized or otherwise. In the cases of Francisco Co Keng and Ernesto Ting, cancellation would be unwarranted if their criminal acts, were the only grounds. It was proved, however, that fraud had in fact been committed in the naturalization proceedings. Such cancellation could have been feasible only on the grounds of fraud and illegality.

[29] 2 Am. Jur. 861.

Effects of Denaturalization

Naturalization vests citizenship upon the person naturalized, and puts him on the same footing as a native-born citizen except that he is not eligible for certain offices.[80] Before the decree of denaturalization he is publicly regarded as a citizen and he conducts and presents himself as a duly qualified citizen, capable of exercising such special rights and privileges afforded to citizens alone, both under the Constitution and the laws. Upon the decree of cancellation of certificate, however, the problem arises whether such rights could have been validly exercised at all, considering that the certificate was declared as void *ab initio* for having been fraudulently and illegally obtained. In the case of Co Keng and Ernesto Ting, they enjoyed their citizenship rights for more than a decade and acquired property rights which would be affected by the cancellation. There is no question that acts and transactions, made subsequent to the denaturalization falling under the constitutional and legal inhibitions against aliens, would be tainted with illegality as conveyances to aliens. The problem refers to the status of the acts and transactions, done prior to the decree of denaturalization. Pursuing the Court's ruling logically, since the certificates were *void ab initio* no valid or legal right could have passed by virtue of such citizenship. The question of effectivity of such an order, is similar to that arising from a declaration by judicial authority that a statute is unconstitutional, hence it is void. This has given rise to conflicting opinions. One view holds, that such a law, being *void ab initio,* could not have any effect. No rights or obligations could have been derived therefrom. The effect of such a declaration would be retroactive. The other view, acknowledges the effectivity of such a statute prior to the declaration. Acts done prior to the declaration would be valid and left unimpaired. Vested rights acquired would have to be respected.[81] The latter view is more reasonable and practical. The same principle could be applied to the effectivity of a denaturalization decree. To hold otherwise would certainly unsettle many previous transactions. Prior acts should be given some validity and rights acquired and vested should not be impaired.

On Property Rights

The questions therefore arise, as to whether the ruling should be deemed to retroact, making all transactions covered by the Constitutional and legal inhibitions against aliens, as illegal conveyances to aliens, and the applicability of previous Supreme Court rulings regarding conveyances to aliens. The decree of denaturalization does not in any way give a clue to these questions. However, cer-

[80] Pritchard v. Republic, 81 Phil. 244 (1958).

tain assumptions could be made as to the applicability of already pronounced principles affecting alien property rights over those covered by the constitution and other laws inhibiting alien participation. The present case-law holds that sale to an alien of agricultural land is null and void, since total nationalization of land ownership is provided by the Constitution.[32] Agricultural lands by judicial construction includes residential, commercial and industrial lands. Consequently, aliens can in no way acquire lands, save by hereditary succession or by way of lease.[33] By statute, Congress has allowed aliens to become mortgagees of private real property subject to the condition that the alien creditor may not acquire such real property nor take part in its sale in case of foreclosure. Should such an alien acquire the lands, the statute obliges him to convey the same within a period of five years to persons who are qualified to own lands, otherwise the property would revert to the government.[34]

Under the present state of the law, a Filipino citizen who sells a piece of urban land to an alien in violation of the Constitution is not entitled to recover the property sold; and he may not also be compelled to return to the alien the amount paid him for the land. The sale however, is null and void. In this situation, the Supreme Court held, that the state alone is entitled to get the land by escheat but in the absence of escheat proceedings, the same should remain in the situation in which it is found, that is, it should remain in the possession of the buyer. The reason is that parties are in *pari delicto*.[35]

The applicability of the above principles would have to be altered in the case of denaturalization. It is not a situation which could have been envisioned in the principle of *pari delicto*. It is apparent that when a Filipino conveys real property to the denaturalized alien, believing him to be a bona fide naturalized citizen, he is said to be acting in good faith and the alien who believed himself legally naturalized also presented himself and acted as a qualified citizen, capable of acquiring such property, must also be acting in good faith. The question therefore arises: should the transaction be designated as *void ab initio*? It should be noted that the certificate of naturalization was declared *void ab initio*, therefore, no rights could have sprung from it and subsequent transactions with the grant of citizenship as the source of legality would also

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[31] Sinco, Philippine Political Law (11th ed. 1962) 531.
[32] Const. Art. XIII, secs. 1, 5.
[33] Krivenko v. Register of Deeds of Manila, 79 Phil. 461 (1947).
[34] Rep. Act No. 133, 2 Laws and Res. 61.
[35] Cabauatan v. Uy Hoo, 88 Phil 103, (1951); Caoile v. Yu Chiao Peng, 93 Phil 861 (1953); Rellosa v. Gao Chee Hun, G.R. No. 1411, Sept. 29, 1953, 49 O.G. 4345; Bautista v. Isabelo, 93 Phil 843 (1953).

be tainted with illegality. However, the rule in *pari delicto* in this instance should not apply. There was no fraud or bad faith by both parties. Consent was given voluntarily by the parties. To apply the *pari delicto* rule, it must be shown that the contract is vitiated by fraud, misrepresentation or duress. These are not present. The defect in the transaction lies in the fact that the land could not be the object of a contract of sale prohibited by the Constitution. Neither party was aware that the other was actually an alien, that his naturalization was defective. This being the case, both seller and purchaser could be placed in a position occupied before the transaction took place applying the provisions of the Civil Code on void contracts.[36] This requires the seller to return the money and the buyer to return the land. However, vested rights should be protected. Where the denaturalized citizen had already reconveyed the land to a qualified innocent third party before the denaturalization, it should be deemed as a valid transaction and the third party would have a vested right. Under American jurisprudence, a deed of land by an alien may convey an indefeasible title notwithstanding the bad faith in acquiring the land in evasion of the constitutional prohibition, if the state has not undertaken to have the conveyance set aside as adjudged invalid.[37] With more reason should title be conveyed to the third person innocent of any taint of illegality.

It is clear that the alien has no right to hold such land after his denaturalization. However, if the transferor of such property fails to recover it from him, he thereby retains ownership of the property. Under the common law, it has been held that until escheat proceedings have been undertaken, an alien may dispose of his interest in realty by conveyance and his grantee or transferee thereby acquires title notwithstanding the alienage of the grantor.[38] And it seems that although the state may have the right to declare an escheat of lands conveyed to an alien while he hold the title to the property, his conveyance to a citizen capable of taking title, for a good and valuable consideration will defeat the right of the state to declare an escheat. The tendency is to recognize an alien's equitable estate in land, created by deed or will and does not escheat to the state until there has been an adjudication of escheat. In the absence of a judicial proceeding, title to land does not pass to the state where there has been no adjudication of escheat.[39] Until the land is so taken by escheat, title to the land or an interest therein, the alien has complete dominion over it. The right of the state to

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[36] Civil Code, art. 1409-1422.
[37] 23 ALR 1248.
[38] 2 Am. Jur 476; 494.
[39] *Ibid.*

the land is not perfected until judgment is rendered in a judicial proceeding in which the right of the state and the party alien, are contested. Under the Philippine law, escheat is now provided for under Rule 91, section 6, of the Rules of Court. This escheat is possible where rescission of the contract is not availed of or rescission of the contract is no longer available, in which case to prevent the property from staying in the hands of the alien, the property may now be escheated under this section of the Rules of Court. This proceeding partakes of the nature of common law escheats, hence, similar principles on common law escheat could properly apply.[40]

On Status

The significance of denaturalization lies not only in its effects on property rights, but on the status of persons deriving their citizenship from the grant of the naturalization certificate. The rule is that, naturalization of an alien also confers citizenship upon his minor children.[41] The wife also acquires the citizenship of the husband if she is qualified to become a citizen, possessing all the qualifications of citizenship and none of the disqualifications.[42] In the normal course of things, this procedure is quite simple, and such minor children continue to hold the citizenship of their naturalized parent even when they reached the age of majority. However, a difficult situation arises in the case of denaturalization. The question therefore is, will the minor children also lose their citizenship by the cancellation of their father's certificate? Suppose such minor children reach the age of majority prior to such denaturalization, should they be affected by the denaturalization of their father?

If we adhere to the general principle that the minor children follow the citizenship of the father, then subsequent denaturalization should also have the same effect on the children. This process is similar to the situation where the wife of an alien is repatriated by virtue of the husband's death. On this point the Supreme Court has already ruled on the status of the minor children:[43]

> "... a Filipino woman married to a Chinese reacquired her Filipino citizenship upon her husband's demise, and that thereafter, her minor children's nationality automatically followed that of the mother's."

The Court so far, seems to favor automatic shifts in citizenship, and that children should follow the citizenship of their parent. It is feasible to hold that the denaturalization of the father would also be effective as a denaturalization of the minor children, who

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[40] JACINTO, SPECIAL PROCEEDINGS, 270 (1965).
[41] Com. Act. No. 473, sec. 15, par. 2.
[42] Com. Act. No. 473, sec. 15, par. 1.
[43] Talaroc v. Dy, G.R. No. 5397, Sept. 26, 1952; Escoto v. Arcilla, G.R. No. 2819, May 30, 1951.

acquires citizenship only through the naturalization of the father. Even the children who have meanwhile reached the age of majority before the decree of denaturalization should also lose their Filipino citizenship, because, where the very basis of their citizenship is *void ab initio*. there is no longer any existing ground upon which citizenship will subsist. The very foundation of their Filipino citizenship is a nullity. Such a situation will indeed prejudice the rights of persons who have alleged citizenship on the faith of the validity of their parent's naturalization. But this fact alone should not affect the logical operation of the rule, that children follow the citizenship of their father. Any way, those affected by the denaturalization of their father have still a remedy at law, by seeking their own naturalization when they have all the qualifications and none of the disqualifications. The causes which warranted the denaturalization of their parent, would of course, not prejudice their right to apply for naturalization.

Conclusion

Our present naturalization laws are still defective, particularly in the field of cancellation of certificates of naturalization. While it provides for denaturalization through cancellation of certificates, it has failed to state its effects on substantive rights on citizens affected by the cancellation. There is also a dearth of jurisprudence in our jurisdiction on denaturalization. Most cases involve such problems affecting the application for naturalization, but the Court so far, has done so little to explore the many-faceted aspects connected with denaturalization. Cancellation of certificates have mainly been confined to causes arising from fraud and illegality, but there has not yet been any ruling on the varied effects of cancellation on certain rights and interests connected with the privileges of citizenship, lost through denaturalization. The conclusions thus presented here are mere speculations on the probable courses of action, taken, in case the proper issue on the effect of denaturalization should arise in the near future.

But the difficulty connected with the doubts and uncertainties surrounding denaturalization, would be clarified and made more definite, if Congress would legislate specifically on the matter of denaturalization, defining the position of those subjected to denaturalization, clarifying the causes for cancellation and indicating the effects on the rights and obligations of such denaturalized citizens. It would certainly be unfair to let parties who contracted with the denaturalized citizens prior to the cancellation, to suffer loss, where such party acted on the faith of the validity of the certificate. It would also be too impractical to declare all such contracts as illegal and void, and no rights therein could be acquired.

Through legislation, it may be provided, that parties may agree to rescind the contract on the ground of mistake, and rescission will entitle the parties to return and receive what he has taken and parted with. On the other hand, the law may allow the denaturalized citizen to retain such property though acquired contrary to the provisions of law, and allow him a certain period of time within which to dispose of such properties, to persons qualified to hold such properties. This is similar to the right given to alien mortgagees who acquired the mortgaged property in the foreclosure of the mortgage. The situations of course, will not prejudice the right of the state to institute escheat or reversion proceedings, which such alien denaturalized, may still continue to hold.

SOLEDAD M. CAGAMPANG

COMMENT ON STONEHILL v. DIOKNO

I

Liberty is fundamental not only to the theory of democracy but also to its practice. This is the reason for the enumeration in the Constitution of a citizen's basic rights[1] without which democracy cannot exist and without which liberty merely becomes another hypocritical cant. These rights therefore are to be regarded as of the very essence of constitutional liberty — to be safeguarded in a manner compatible and consistent with democracy itself.

Under the Constitution, the duty of safeguarding and protecting the citizen's rights lies with the Supreme Court. Its solicitude for the citizen has never been questioned, for as a rule, the Supreme Court has always been chary about the gradual encroachment of the government on every aspect of the life and activities of its citizens. Especially during these times when government intervention has become the rule rather than the exception, and official lawlessness, a necessary concommittant of big government has been excused as expediency, a state of affairs which has been further aggravated by public apathy, it is the courts alone, as the watchdogs of democracy, who can maintain that state of "ordered liberty" implicit in the bill of rights.

It is perhaps sobering to note that in a very delicate area of law, i.e., in the area of law enforcement in relation to the law on search and seizures, the Supreme Court has at last interposed a bar to police and other forms of official lawlessness to maintain at least a semblance of sanity in the enforcement of the law and to maintain legal standards in the procurement of evidence. The Supreme Court has perhaps come to realize that in this modern age where sophistication is the by-word even among criminal elements it has become more and more difficult to enforce strict compliance with the letter of the law. Police enforcement methods must of necessity move with the rapid technological changes and the alarming incidence of illegal search and seizures is but a reflection of the inability of enforcement officers to cope with this progress. They are faced with a very difficult choice on how to keep in step with progress and still at the same time be within the reasonable bounds of the law. So more often than not, these officers, sworn to support the

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[1] Constitution, Art. III.