

FIRST DIVISION

[G.R. No. 188829, June 13, 2016]

REPUBLIC OF THE PHILIPPINES, HON. RAUL S. GONZALEZ, IN HIS CAPACITY AS SECRETARY OF THE DEPARTMENT OF JUSTICE, HON. ALIPIO F. FERNANDEZ, JR., IN HIS CAPACITY AS COMMISSIONER OF THE BUREAU OF IMMIGRATION, HON. ARTHHEL B. CAROÑONGAN, HON. TEODORO B. DELARMENTE, HON. JOSE D. CABOCHAN, AND HON. FRANKLIN Z. LITTAUA, IN THEIR CAPACITY AS MEMBERS OF THE BOARD OF COMMISSIONERS OF THE BUREAU OF IMMIGRATION, PETITIONERS, VS. DAVONN MAURICE C. HARP, RESPONDENT.

DECISION

SERENO, C.J.:

Before this Court is a Petition for Review^[1] under Rule 45 of the Rules of Court assailing the Decision^[2] of the Court of Appeals (CA) dated 16 July 2009 in C A-G.R. SP No. 87272. The CA nullified the Summary Deportation Order^[3] issued by the Board of Commissioners of the Bureau of Immigration (BI) against respondent Davonn Maurice Harp.

Petitioners Republic of the Philippines, Hon. Raul S. Gonzalez, in his capacity as Secretary of the Department of Justice (DOJ); Hon. Alipio F. Fernandez, in his capacity as Commissioner of the BI; and Hon. Arthel B. Caroñongan; Hon. Teodoro B. Delarmente, Hon. Jose D. L. Cabochan, and Hon. Franklin Z. Littaua, in their capacities as members of the Board of Commissioners of the BI (petitioners) seek the reinstatement of (a) the DOJ Resolution^[4] dated 18 October 2004 revoking the Order of Recognition and Identity Certificate issued to respondent;^[5] and (b) the BI Summary Deportation Order dated 26 October 2004^[6] issued after the revocation. Petitioners emphasize that there is substantial evidence to support the finding that respondent is not a Philippine citizen^[7] and, therefore, his summary deportation was warranted.^[8]

FACTUAL ANTECEDENTS

Respondent Davonn Maurice Harp was born and raised in the United States of America to Toiya Harp and Manuel Arce Gonzalez (Manuel) on 21 January 1977.^[9] While on a visit to the Philippines,^[10] he was discovered by basketball talent scouts. He was invited to play in the Philippine Basketball League^[11] and was eventually drafted to play in the Philippine Basketball Association (PBA).^[12]

Sometime in 2002, respondent was among those invited to participate in a Senate investigation jointly conducted by the Committee on Games, Amusement, and

Sports; and the Committee on Constitutional Amendments, Revision of Codes and Laws. The Senate inquiry sought to review the processes and requirements involved in the acquisition and determination of Philippine citizenship in connection with the "influx of bogus Filipino-American (Fil-Am) or Filipino-foreign (Fil-foreign) basketball players into the PBA and other basketball associations in the Philippines."^[13]

In the course of the inquiry, it was established that respondent had previously obtained recognition as a citizen of the Philippines from the BI^[14] and the DOJ^[15] upon submission of the following documents:

- a) Respondent's birth certificate;
- b) A certified true copy of the birth certificate of respondent's father, Manuel;
- c) A Certification from the Consulate General of the Philippines stating that Manuel became a citizen of the United States of America only on 10 November 1981;
- d) An affidavit affirming Manuel's Filipino citizenship at the time of respondent's birth;
- e) Respondent's passport;
- f) The passports of respondent's parents; and
- g) The marriage contract of respondent's parents.

The Senate committees, however, found reason to doubt the Philippine citizenship of respondent. After a scrutiny of the documents he had submitted and its own field investigation of his purported background, they concluded that he had used spurious documents in support of his Petition for Recognition. In Committee Report No. 256 dated 7 August 2003, the Senate committees explained:

COMMITTEES' FINDINGS

The Committees have the honor to submit the following findings of said inquiry to the Senate after conducting seven (7) public hearings and thorough field investigations.^[16]

x x x x

D. Devonn Harp presented before the BI and the committees a certified true copy of the Certificate of Live Birth of his father, Manuel Arce Gonzales, to prove his claim for Philippine citizenship.

It appears, however, that the above certificate of birth is simulated, if not, highly suspicious.

First, the certified true copy of Manuel Arce Gonzales, in photocopy form, appears to have alterations on its face since the entries therein look to be superimposed. Some of the entries as printed in the Certificate of Live Birth appear light while the others dark, not to mention the traces of erasures thereon.

Second, Devonn Harp in his affidavit of Philippine citizenship executed in January 2000 deposed that his father is a certain Manuel S. Gonzales. The discrepancy is in the middle/initial name as the record of birth of his

father indicates Manuel Arce Gonzales.

Third, upon field investigations, the marriage of Manual Arce Gonzales' parents, Devonn's alleged grandparents, namely Ernesto Prudencio Gonzalez and Natividad de la Cruz cannot be established. Certifications by offices concerned in this regard were issued and obtained by the field investigators.

Lastly, Ms. Liza T. Melgarejo, barangay secretary of Barangay Alicia, Bago Bantay, Quezon City, certified that 'as per record existing in this office (voters list 2002) there is no person registered/existing under the name of Manual Arce Gonzalez.

She further stated that Block 24, Bago Bantay, Quezon City exists. However, despite efforts exerted by the field investigators, they were not able to find lot 14, the alleged address of Devonn's relatives.^[17]

In the report, the Senate committees also directed the BI and the DOJ to examine thoroughly the authenticity of the documents submitted by certain PBA players, including respondent, and to determine if they were indeed citizens of the Philippines.^[18]

Pursuant to this directive, the DOJ issued Department Order No. 412 creating a special committee to investigate the citizenship of the PBA players identified in the report.^[19] As part of the investigation, respondent and the other players were required to submit their position papers to the special committee for consideration. Respondent filed his Position Paper^[20] on 14 October 2004.

The DOJ special committee submitted its findings and recommendations in a Memorandum to the Secretary of Justice dated 15 October 2004.^[21] With regard to respondent, the committee concluded that there was "substantial evidence to conduct summary deportation proceeding x x x for 'misrepresentation as a Filipino citizen' in applying for recognition before the Bureau of Immigration and the Department of Justice."^[22] The Committee relied, in particular, on the findings of the Senate committees and the National Bureau of Investigation (NBI) on the apparent alterations made in the Certificate of Live Birth of respondent's father:

x x x While we recognize the evidentiary rule that entries in public records like Certificate of Live Birth are prima facie evidence of the facts stated therein, it is worthy to mention that the pieces of information adduced during the Senate Committee investigation have produced clear, strong and convincing evidence to overcome the positive value of the said document.

This Committee further considers the probability that the document itself may have been fraudulently tampered. We concur with the observations of the Senate Committee on the patent alterations appearing on the face of the Certificate of Live Birth of Manuel Arce Gonzales.

Incidentally, the National Bureau of Investigation thru the Questioned Documents Examination Section came up with its own findings that some

of the entries in the "Certificate of Live Birth of Manuel Arce Gonzales" have been substantially altered. The summary of the NBI findings are as follows:

Laboratory analysis of the specimen submitted under magnification using stereoscopic microscope, magnifying lens, varied lighting process and with the aid of photographic enlargements, reveal evidence of alteration by mechanical erasures (scraping off), obliteration and superimposition on the following areas of the questioned Certificate of Live Birth, as shown by fiber disturbance, differences in type design of typewriter used, typewriter ribbon, tint/shade of writing instrument, and traces of outlines of the original entries could be deciphered as:

- On item no. 3 - in the now appearing typewritten name "Manuel" in Name of Child: Manuel Arce Gonzalez. Traces of the original entry could be deciphered as "N-erto".
- On item no. 6 - in the now appearing typewritten entry "Aug. 11" in Date of Birth: Aug. 11, 1957. The original entry could possibly be "Aug. 13, 1957".
- On item no. 12 - in the now appearing typewritten middle name "Dela Cruz" and the last name "Arce" in Name of Mother: Natividad Dela Cruz Arce. The original entry could partially be deciphered as Natividad Cab-as Breva.
- On item no. 14 - in the now appearing typewritten figure "7" in Age of Mother (at the time of his birth): 37. The original entry could be deciphered as "3".
- On item no 17a - in the handwritten middle initial "A" and last name "Gonzalez" in Informants Signature written as Natividad A. Gonzalez. The original entry could not be deciphered as portions of it had been covered by the new superimposed entry.
- On item no. 18b - in the handwritten last name "Gonzalez" appearing below the typewritten name Natividad A. Gonzalez. The original entry could not be deciphered due to extensive erasure.
- On the three (3) now appearing handwritten surnames "Gonzalez" in Affidavit To Be Accomplished in Case of An Illegitimate Child (dorsal side of the Certificate of Live Birth). The original entries underneath the three (3) Gonzales signatures could be deciphered as "Breva."^[23] (citations omitted; underscoring in the original)

Acting on the basis of the special committee's findings, DOJ Secretary Gonzalez issued a Resolution dated 18 October 2004^[24] revoking the recognition accorded to respondent and five other PBA players.^[25] Secretary Gonzalez also directed the BI to undertake summary deportation proceedings against them.

On 20 October 2004, respondent and another PBA player, Michael Alfio Pennisi, filed a Petition for Prohibition with Application for a 72-hour Temporary Restraining Order and Preliminary Injunction with the Regional Trial Court of Pasig City.^[26] The petition sought to enjoin the DOJ and the BI proceedings for the revocation of citizenship and the summary deportation of respondent and Pennisi.^[27]

On 26 October 2004, the BI ordered the summary deportation of respondent. It noted that the recognition previously accorded to him as a Filipino citizen had been revoked by the DOJ because of the spurious documents submitted in support thereof.^[28] Consequently, the BI considered him an improperly documented alien subject to summary deportation proceedings pursuant to BI Memorandum Order Nos. ADD-01-031 and ADD-01-035.^[29]

Upon receipt of the Summary Deportation Order, respondent withdrew his petition for prohibition before the RTC.^[30] He thereafter filed a Petition for Review with an application for injunction before the CA^[31] to seek the reversal of the DOJ Resolution and the BI Summary Deportation Order.

In a Decision dated 16 July 2009,^[32] the CA granted the Petition and set aside the deportation order. It held that respondent, who was a recognized citizen of the Philippines, could not be summarily deported;^[33] and that his citizenship may only be attacked through a direct action in a proceeding that would respect his rights as a citizen:

Concomitant to his status as a recognized Filipino citizen, petitioner, therefore, cannot just be summarily deported by the BI. The BI no longer has jurisdiction to revoke the order of recognition it had granted to petitioner as the same order had already become final and executory pursuant to Book VII, Chapter 3, Section 15 of the Administrative Code of 1987. It must be noted that the order of recognition was issued 18 February 2000 and IC No. 018488 was issued on 24 October 2000. The Summary Deportation Order, on the other hand, was issued on 26 October 2004 or more than four years after petitioner was conferred recognition of his Filipino citizenship.

It is worth stressing that when the BI acknowledged petitioner's Filipino citizenship through the issuance of the order of recognition (with the affirmation of the DOJ) and IC No. 018488, the same is the last official act of the government which granted petitioner the rights of a Filipino citizen, the right to due process included. x x x.

x x x x

Moreover, the Summary Deportation Order collaterally attacks the Filipino citizenship of petitioner. 'This cannot be done. In our jurisdiction, an attack on a person's citizenship may only be done through a direct action for its nullity.' A Filipino citizen has the right to be secure in the enjoyment of the privileges accorded to him attendant to his citizenship. He has the right to live peacefully without perturbation from the authorities. Should he be disturbed by deportation proceedings, like in the instant case, he can resort to the courts for his protection. x x x^[34]

The CA, however, refused to settle the main controversy involving the citizenship of respondent.^[35] Citing his incorrect resort to a Rule 43 petition to assail the DOJ Resolution, the appellate court opted to resolve only the issues pertaining to the Summary Deportation Order.^[36]