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THIRD DIVISION

[G.R. No. 191810, June 22, 2015]

JIMMY T. GO A.K.A. JAIME T. GAISANO, PETITIONER, VS. BUREAU OF IMMIGRATION AND DEPORTATION AND ITS COMMISSIONERS AND LUIS T. RAMOS, RESPONDENTS.

DECISION

PERALTA, J.:

This is a petition for review on *certiorari* under Rule 45 of the Rules of Court (*Rules*) seeking to nullify the October 28, 2009 Decision[1] and March 22, 2010 Resolution[2] of the Court of Appeals in CA-G.R. SP No. 88840, which affirmed as final and executory the April 17, 2002 Decision[3] of the Bureau of Immigration (BI) in BSI-D.C. No. ADD-01-117.

In June 1999, the Concerned Employees of Noah's Arc Group of Companies filed a letter-complaint against petitioner Jimmy T. Go a.k.a. Jaime T. Gaisano (Go) and his father, Carlos *Go, Sr.* a.k.a. Go Kian Lu (*Go, Sr.*). It was claimed that *Go, Sr.* was an undocumented alien who later adopted the Filipino name "Carlos *Go, Sr.*" Allegedly, Go. Sr. obtained for himself some basic education and married a Chinese woman named Rosario Tan. Their union produced ten (10) children, one of whom is petitioner Go. On the premise that *Go, Sr.* was an undocumented alien, petitioner Go is also an alien, being a child of a Chinese citizen.

A year after, in April 2000, a complaint-affidavit[4] for deportation of petitioner Go was initiated, this time by Luis T. Ramos (Ramos), before the Bureau of Immigration. Ramos alleged that while petitioner Go represents himself as a Filipino citizen, his personal circumstances and relevant records indicate that he is a Chinese citizen born in the Philippines to Chinese parents, which is in violation of Commonwealth Act (C.A.) No. 613, otherwise known as the *Philippine Immigration Act of 1940*, as amended. To prove his contention, Ramos presented the birth certificates of petitioner Go as well as that of his sister Juliet Go (Juliet) and older brother Carlos Go, Jr. (Carlos, Jr.). The birth certificate indicates petitioner Go as "FChinese." The pertinent page from the Registry of Births also states that the citizenship of Baby Jimmy Go is "Chinese." Further, the birth certificates of his siblings show that they were born of Chinese parents.

Petitioner Go refuted the allegations in his counter-affidavit. He alleged that his father, *Go, Sr.*, who was the son of a Chinese father and Filipina mother, elected Philippine citizenship, as evidenced by his having taken the Oath of Allegiance on July 11, 1950 and having executed an Affidavit of Election of Philippine Citizenship on July 12, 1950. He added that *Go, Sr.* was a registered voter and actually voted in the 1952 and 1955 elections. As regards the entry in his siblings' certificates of birth, petitioner Go averred that Juliet and Carlos, Jr., were born on June 3, 1946 and April 2, 1949, respectively, or prior to their father's election of Philippine

citizenship. Finally, petitioner Go asserted that his birth certificate states that his father's citizenship is "Filipino."

In October 2000, the National Bureau of Investigation (NBI) forwarded to the BI a copy of its Investigation Report and probe on the investigation conducted against petitioner Go and *Go, Sr.* pursuant to the letter complaint of the Concerned Employees of Noah's Arc Group of Companies. The findings of the Special Investigator, which were affirmed by the Chief of the SLPS-NBI, stated that the election of Philippine citizenship of *Go, Sr.* was in accordance with the provisions of the 1935 Constitution and that the erasure on the original birth certificate of petitioner Go could not be attributed to him or *Go, Sr.* because said document was on file with the local civil registrar of Iloilo City.

Finding the evidence and report of the NBI as conclusive of the citizenship of petitioner Go and *Go, Sr.*, BI Associate Commissioner Linda L. Malenab-Hornilla subsequently rendered a Resolution dated February 14, 2001 that dismissed the complaint for deportation filed against petitioner Go.[5]

However, on March 8, 2001,[6] the BI Board of Commissioners (Board) reversed the case dismissal, holding that the election of Philippine citizenship of *Go, Sr.* was made out of time. The Board then directed the preparation and filing of the appropriate deportation charges against petitioner Go.

On July 3, 2001, the corresponding Charge Sheet[7] was filed against petitioner Go for violation of Section 37(a)(9), in relation to Section 45(e) of C.A. No. 613, as amended, committed as follows:

> 1. That Respondent was born on October 25, 1952 in Iloilo City, as evidenced by a copy of his birth certificate wherein his citizenship was recorded as "FChinese";
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> 2. That Respondent through some stealth machinations was able to subsequently cover up his true and actual citizenship as Chinese and illegally acquired a Philippine Passport under the name JAIME T. GAISANO, with the use of falsified documents and untruthful declarations, in violation of the above-cited provisions of the Immigration Act[;] [and]
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> 3. That [Respondent being an alien, has formally and officially represents and introduces himself as a citizen of the Philippines, for fraudulent purposes and in order to evade any requirements of the immigration laws, also in violation of said law.
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> CONTRARY TO LAW.[8]

In November 2001, petitioner Go and *Go, Sr.* filed a petition for *certiorari* and prohibition with application for injunctive reliefs before the Regional Trial Court (RTC) of Pasig City, Branch 167, docketed as SCA No. 2218, seeking to annul and set aside the March 8, 2001 Resolution of the Board and the Charge Sheet dated July 3, 2001.[9] Essentially, they challenged the jurisdiction of the Board to continue with the deportation proceedings.

In the interim, the Board issued a Decision dated April 17, 2002 in BSI-D.C. No. ADD-01-117, ordering the apprehension and deportation of petitioner Go. The dispositive portion of which reads:

> WHEREFORE, in view of the foregoing, the Board of Commissioners hereby Orders the apprehension of respondent JIMMY T. GO @ JAIME T. GAISANO and that he be then deported to CHINA of which he is a citizen, without prejudice, however, to the continuation of any and all criminal and other proceedings that are pending in court or before the prosecution arm of the Philippine Government, if any. And that upon expulsion, he is thereby ordered barred from entry into the Philippines.
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> SO ORDERED.[10]

The Board gave weight to the documents submitted against petitioner Go, to wit:

1. The Certificate of Birth of petitioner Go, issued on November 23, 1999 by the local civil registrar of Iloilo City, which showed that Baby Jimmy Go is "Chinese";

2. The Certificate of Live Birth of Juliet Go, which certified that her citizenship was Chinese. The same certificate also stated that *Go, Sr.* was a "Chinese" and the mother "Rosario Tan" was also "Chinese"; and

3. The Certificate of Live Birth of Carlos Go, Jr., whose citizenship was also certified as "Chinese."

The Board held that all documents submitted were *prima-facie* evidence of the facts regarding the nationality of petitioner Go pursuant to Article 410[11] of the Civil Code as they are considered public documents. Further, it was opined that petitioner Go's claim of being Filipino totally lacks merit since his father's election of Philippine citizenship was void for having been filed five (5) years after his attainment of the age of majority or when he was twenty-six (26) years old. The Board also observed that the certified true copy of the Oath of Allegiance of *Go, Sr.* appears to have been subscribed and sworn to before the Deputy Clerk of Court of Iloilo City on July 11, 1950 while his Affidavit of Election was subscribed and sworn to before the same public officer a day after. The Board considered this as irregular since *Go, Sr.* filed his Oath of Allegiance prior to his actual election of Philippine citizenship contrary to Section 1 of C.A. 625, which provides:

> Election of Philippine Citizenship must be expressed in a statement before any officer authorized to administer oaths and filed with the nearest civil registry and accompanied by an Oath of Allegiance to the Philippine Constitution.

In view of the adverse judgment, petitioner Go and *Go, Sr.* filed before the Pasig RTC a supplemental petition to declare the nullity of the Board's April 17, 2002 Decision.[12]

The Pasig RTC issued a writ of preliminary prohibitory injunction pending litigation on the main issue, enjoining the BI from enforcing the April 17, 2002 Decision.[13] Later, however, it dissolved the writ in a Decision dated January 6, 2004, which

dismissed the petition for lack of merit.[14] A motion for reconsideration was filed, but it was denied in an Order issued on May 3, 2004.[15]

Petitioner Go and *Go, Sr.* then questioned before the CA the RTC's January 6, 2004 Decision and May 3, 2004 Order by way of a petition for *certiorari* under Rule 65 of the Rules, which was docketed as CA-G.R. SP No. 85143.[16] The appellate court, however, dismissed the petition and denied the motion for reconsideration on October 25, 2004 and February 16, 2005, respectively.[17]

Meantime, on November 16, 2004, the Board issued a warrant of deportation, which led to the apprehension and detention of petitioner Go pending his deportation.[18]

Thereafter, petitioner Go and *Go, Sr.* filed before this Court a petition for review on *certiorari*, docketed as G.R. Nos. 167569 and 167570, assailing the CA decision and resolution in CA-G.R. SP No. 85143.

Petitioner Go also appealed to the Office of the President (OP), which, on September 29, 2004, concurred with the findings of the Board.[19] The OP likewise denied the motion for reconsideration on February 11, 2005.[20] As a result, petitioner Go elevated the case to the CA via petition for review under Rule 43 of the Rules.[21]

Meanwhile, the Court resolved G.R. Nos. 167569 and 167570 when *Go, Sr. v. Ramos*[22] was promulgated on September 4, 2009. The decision sustained the October 25, 2004 Decision and February 16, 2005 Resolution of the CA in CA-G.R. SP No. 85143.

More than a month after, on October 28, 2009, the CA dismissed the Rule 43 petition, holding that the April 17, 2002 Decision of the Board, which was the subject of appeal to the OP, had already become final and executory. The CA denied petitioner Go's motion for reconsideration on March 22, 2010; hence, this petition raising the issues as follows:

1. The Honorable Court erred in dismissing the instant petition;

2. The Honorable Court erred in declaring that the April 17, 2002 Decision of the Bureau of Immigration and Deportation in BSI-D.C. No. ADD- 01-117 is final and executory; and

3. The Honorable Court erred in not ruling on the irregularity of the issuance of the Office of the President of its September 29, 2004 and February 11, 2005 Resolutions.[23]

We deny.

Petitioner Go presumes that the April 17, 2002 Decision of the Board has not yet attained finality due to the pendency of his Motion for Leave to Admit Attached Second (2nd) Motion for Reconsideration, which this Court allegedly failed to resolve. He is mistaken.

As a general rule, a second motion for reconsideration cannot be entertained.

Section 2 of Rule 52 of the Rules of Court is unequivocal.[24] The Court resolutely holds that a second motion for reconsideration is a prohibited pleading, and only for extraordinarily persuasive reasons and after an express leave has been first obtained may such motion be entertained.[25] The restrictive policy against a second motion for reconsideration is emphasized in A.M. No. 10-4-20-SC, as amended (Internal Rules of the Supreme Court). Section 3, Rule 15 of which states:

> SEC. 3. *Second motion for reconsideration*. - The Court shall not entertain a second motion for reconsideration, and any exception to this rule can only be granted in the higher interest of justice by the Court *en banc* upon a vote of at least two-thirds of its actual membership. There is reconsideration "in the higher interest of justice" when the assailed decision is not only legally erroneous, but is likewise patently unjust and potentially capable of causing unwarranted and irremediable injury or damage to the parties. A second motion for reconsideration can only be entertained before the ruling sought to be reconsidered becomes final by operation of law or by the Court's declaration.
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> In the Division, a vote of three Members shall be required to elevate a second motion for reconsideration to the Court En Banc.

The Court has the power and prerogative to suspend its own rules and to exempt a case from their operation if and when justice requires it. In the exercise of sound discretion, We may determine issues which are of transcendental importance. This case is definitely not an exception.

Upon examination of the records of G.R. Nos. 167569 and 167570, We found that on August 18, 2010 petitioner's Motion for Leave to Attach a Second Motion for Reconsideration and the Second Motion for Reconsideration were denied and noted without action, respectively. Thus, the CA is correct in ruling that the April 17, 2002 Decision of the Board may no longer be reviewed as it already attained finality and should remain so. Based on the principle of immutability of judgment, a decision must become final and executory at some point in time; all litigations must necessarily come to an end.

> x x x A definitive final judgment, however erroneous, is no longer subject to change or revision.
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> **A decision that has acquired finality becomes immutable and unalterable.** This quality of immutability precludes the modification of a final judgment, even if the modification is meant to correct erroneous conclusions of fact and law. And **this postulate holds true whether the modification is made by the court that rendered it or by the highest court in the land. The orderly administration of justice requires that, at the risk of occasional errors, the judgments/resolutions of a court must reach a point of finality set by the law**. The noble purpose is to write *finis* to dispute once and for all. This is a fundamental principle in our justice system, without which there would be no end to litigations. Utmost respect and adherence to this principle must always be maintained by those who exercise the power of adjudication. Any act, which violates such principle, must immediately be struck down. Indeed, the principle of conclusiveness of