

## FIRST DIVISION

[ A.C. No. 9492, July 11, 2016 ]

**PLUTARCO E. VAZQUEZ, COMPLAINANTS, VS. ATTY. DAVID LIM QUECO KHO, RESPONDENT.**

### DECISION

**SERENO, C.J.:**

This case for disbarment was filed by complainant Plutarco E. Vazquez (Vazquez) against respondent Atty. David Lim Queco Kho (Atty. Kho). In his verified Complaint<sup>[1]</sup> filed with this Court on 11 July 2012, Vazquez alleges that Atty. Kho violated the lawyer's oath that he "will do no falsehood."<sup>[2]</sup> He further claims that respondent transgressed Rule 1.01 of the Code of Professional Responsibility.<sup>[3]</sup>

### FACTS

Vazquez and Atty. Kho were both members of the Coalition of Associations of Senior Citizens in the Philippines (Coalition), an accredited party-list group that participated in the national elections of 10 May 2010. The Complaint arose from an allegedly false statement made in respondent's Certificate of Acceptance of Nomination for the Coalition. Complainant contested the truth of the statement made under oath that Atty. Kho was a natural-born Filipino citizen.<sup>[4]</sup>

In his Complaint, Vazquez asserted that respondent was a Chinese national. He reasoned that when Atty. Kho was born on 29 April 1947 to a Chinese father (William Kho) and a Filipina mother (Juana Lim Queco), respondent's citizenship followed that of his Chinese father pursuant to the 1935 Constitution. Moreover, Vazquez argued that since respondent has elected Filipino citizenship, the act presupposed that the person electing was either an alien, of doubtful status, or a national of two countries.<sup>[5]</sup>

Upon receipt of the Complaint, the Court through its First Division issued a Resolution<sup>[6]</sup> dated 26 November 2012 requiring Atty. Kho to file his comment on the Complaint within 10 days from receipt of the Notice. Alleging he received the Court's Resolution on 18 February 2013, he filed his Comment<sup>[7]</sup> on 27 February 2013. As to the alleged falsity of his statement, Atty. Kho countered that when he was born on 29 April 1947, his Filipina mother was not yet married to his Chinese father, and that his parents only got married on 8 February 1977 or some 30 years after his birth. He then averred that according to the 1935 Constitution, his citizenship followed that of his Filipina mother, and thus he was a natural-born Filipino citizen.<sup>[8]</sup>

On the matter of his electing Filipino citizenship, respondent explained that since he was already a natural-born Filipino, his subsequent election of Philippine citizenship

on 25 February 1970 was superfluous and had no effect on his citizenship. Having established his natural-born status, he concluded that he had not committed any falsehood in his Certificate of Acceptance of Nomination, and that complainant had no cause of action to have him disbarred.<sup>[9]</sup>

Apart from defending his natural-born status, Atty. Kho also moved to dismiss the Complaint on the ground of forum shopping. He claimed that Vazquez had filed three (3) cases in which the latter raised the issue of respondent's citizenship: (1) the present disbarment case; (2) a *quo warranto* proceeding with the House of Representatives Electoral Tribunal (HRET); and (3) a criminal complaint for perjury lodged with the City Prosecutor of Quezon City. Atty. Kho alleged that both the *quo warranto* and the perjury cases had already been dismissed by the HRET<sup>[10]</sup> and the City Prosecutor respectively.<sup>[11]</sup> Finally, he raised jurisdictional questions, arguing that the proper remedy to attack his citizenship was not a disbarment case, but rather *quo warranto*.<sup>[12]</sup>

In answer to respondent's Comment, Vazquez filed with the Court a Reply to Comment<sup>[13]</sup> on 11 March 2013. He claimed therein that at the time of election of Philippine citizenship by respondent on 25 February 1970, the latter's mother was already a Chinese national by virtue of her marriage to respondent's father who was Chinese. Complainant also opposed respondent's assertion that the latter's parents were not yet married when he was born on 29 April 1947.<sup>[14]</sup> Complainant further cited respondent's Certificate of Live Birth, which stated that the latter's parents were married at the time he was born.<sup>[15]</sup>

That being so, complainant averred that at the time Atty. Kho was born, his mother was already a Chinese national. Thus, complainant concluded that respondent's election of Filipino citizenship was fatally defective, since the latter's parents were both Chinese at the time of his election.<sup>[16]</sup> Furthermore, complainant alleged that the marriage of respondent's parents on 8 February 1977 was just a ploy to put a semblance of legitimacy to his prior election of Filipino citizenship. Lastly, complainant denied the forum shopping charge, saying the three cases he had filed against respondent had different causes of action and were based on different grounds.<sup>[17]</sup>

On 8 April 2013, the Court issued a Resolution referring the administrative case to the Integrated Bar of the Philippines (IBP) for investigation, report, and recommendation or decision.<sup>[18]</sup> At the IBP Commission on Bar Discipline (IBP-CBD), the case was docketed as CBD Case No. 13-3885. Commissioner Victor Pablo C. Trinidad (Commissioner Trinidad) was designated as investigating commissioner. In a Notice dated 14 August 2013, he set the case for mandatory conference/hearing on 19 September 2013 and ordered the parties to submit their mandatory conference briefs.<sup>[19]</sup>

With both parties present at the scheduled mandatory conference/hearing, Commissioner Trinidad ordered them to submit their respective position papers within ten (10) days, after which the case would be deemed submitted for report and recommendation.<sup>[20]</sup> Only the respondent submitted a conference brief<sup>[21]</sup> and