

## THIRD DIVISION

[ G.R. No. 199113, March 18, 2015 ]

**RENATO M. DAVID, PETITIONER, VS. EDITHA A. AGBAY AND  
PEOPLE OF THE PHILIPPINES, RESPONDENTS.**

### DECISION

**VILLARAMA, JR., J.:**

This is a petition for review under Rule 45 seeking to reverse the Order<sup>[1]</sup> dated October 8, 2011 of the Regional Trial Court (RTC) of Pinamalayan, Oriental Mindoro, which denied the petition for certiorari filed by Renato M. David (petitioner). Petitioner assailed the Order<sup>[2]</sup> dated March 22, 2011 of the Municipal Trial Court (MTC) of Socorro, Oriental Mindoro denying his motion for redetermination of probable cause.

The factual antecedents:

In 1974, petitioner migrated to Canada where he became a Canadian citizen by naturalization. Upon their retirement, petitioner and his wife returned to the Philippines. Sometime in 2000, they purchased a 600-square meter lot along the beach in Tambong, Gloria, Oriental Mindoro where they constructed a residential house. However, in the year 2004, they came to know that the portion where they built their house is public land and part of the salvage zone.

On April 12, 2007, petitioner filed a Miscellaneous Lease Application<sup>[3]</sup> (MLA) over the subject land with the Department of Environment and Natural Resources (DENR) at the Community Environment and Natural Resources Office (CENRO) in Socorro. In the said application, petitioner indicated that he is a Filipino citizen.

Private respondent Editha A. Agbay opposed the application on the ground that petitioner, a Canadian citizen, is disqualified to own land. She also filed a criminal complaint for falsification of public documents under Article 172 of the Revised Penal Code (RPC) (I.S. No. 08-6463) against the petitioner.

Meanwhile, petitioner re-acquired his Filipino citizenship under the provisions of Republic Act No. 9225,<sup>[4]</sup> (R.A. 9225) as evidenced by Identification Certificate No. 266-10-07<sup>[5]</sup> issued by the Consulate General of the Philippines (Toronto) on October 11, 2007.

In his defense, petitioner averred that at the time he filed his application, he had intended to re-acquire Philippine citizenship and that he had been assured by a CENRO officer that he could declare himself as a Filipino. He further alleged that he bought the property from the Agbays who misrepresented to him that the subject property was titled land and they have the right and authority to convey the same.

The dispute had in fact led to the institution of civil and criminal suits between him and private respondent's family.

On January 8, 2008,<sup>[6]</sup> the Office of the Provincial Prosecutor issued its Resolution<sup>[7]</sup> finding probable cause to indict petitioner for violation of Article 172 of the RPC and recommending the filing of the corresponding information in court. Petitioner challenged the said resolution in a petition for review he filed before the Department of Justice (DOJ).

On June 3, 2008, the CENRO issued an order rejecting petitioner's MLA. It ruled that petitioner's subsequent re-acquisition of Philippine citizenship did not cure the defect in his MLA which was void *ab initio*.<sup>[8]</sup>

In the meantime, on July 26, 2010, the petition for review filed by petitioner was denied by the DOJ which held that the presence of the elements of the crime of falsification of public document suffices to warrant indictment of the petitioner notwithstanding the absence of any proof that he gained or intended to injure a third person in committing the act of falsification.<sup>[9]</sup> Consequently, an information for Falsification of Public Document was filed before the MTC (Criminal Case No. 2012) and a warrant of arrest was issued against the petitioner.

On February 11, 2011, after the filing of the Information and before his arrest, petitioner filed an Urgent Motion for Re-Determination of Probable Cause<sup>[10]</sup> in the MTC. Interpreting the provisions of the law relied upon by petitioner, the said court denied the motion, holding that R.A. 9225 makes a distinction between those who became foreign citizens during its effectivity, and those who lost their Philippine citizenship before its enactment when the governing law was Commonwealth Act No. 63<sup>[11]</sup> (CA 63). Since the crime for which petitioner was charged was alleged and admitted to have been committed on April 12, 2007 before he had re-acquired his Philippine citizenship, the MTC concluded that petitioner was at that time still a Canadian citizen. Thus, the MTC ordered:

**WHEREFORE,** for lack of jurisdiction over the person of the accused, and for lack of merit, the motion is **DENIED**.

**SO ORDERED.**<sup>[12]</sup>

In his motion for reconsideration,<sup>[13]</sup> petitioner questioned the foregoing order denying him relief on the ground of lack of jurisdiction and insisted that the issue raised is purely legal. He argued that since his application had yet to receive final evaluation and action by the DENR Region IV-B office in Manila, it is academic to ask the citizenship of the applicant (petitioner) who had re-acquired Philippine citizenship six months after he applied for lease of public land. The MTC denied the motion for reconsideration.<sup>[14]</sup>

Dissatisfied, petitioner elevated the case to the RTC via a petition<sup>[15]</sup> for certiorari under Rule 65, alleging grave abuse of discretion on the part of the MTC. He asserted that *first*, jurisdiction over the person of an accused cannot be a pre-condition for the re-determination of probable cause by the court that issues a warrant of arrest; and *second*, the March 22, 2011 Order disregarded the legal fiction that once a natural-born Filipino citizen who had been naturalized in another

country re-acquires his citizenship under R.A. 9225, his Filipino citizenship is thus deemed not to have been lost on account of said naturalization.

In his Comment and Opposition,<sup>[16]</sup> the prosecutor emphasized that the act of falsification was already consummated as petitioner has not yet re-acquired his Philippine citizenship, and his subsequent oath to re-acquire Philippine citizenship will only affect his citizenship status and not his criminal act which was long consummated prior to said oath of allegiance.

On October 8, 2011, the RTC issued the assailed Order denying the petition for certiorari after finding no grave abuse of discretion committed by the lower court, thus:

ACCORDINGLY, the petition is hereby DENIED. At any rate petitioner is not left without any remedy or recourse because he can proceed to trial where he can make use of his claim to be a Filipino citizen as his defense to be adjudicated in a full blown trial, and in case of conviction, to appeal such conviction.

**SO ORDERED.**<sup>[17]</sup>

Petitioner is now before us arguing that –

- A. By supporting the prosecution of the petitioner for falsification, the lower court has disregarded the undisputed fact that petitioner is a natural-born Filipino citizen, and that by re-acquiring the same status under R.A. No. 9225 he was by legal fiction “deemed not to have lost” it at the time of his naturalization in Canada and through the time when he was said to have falsely claimed Philippine citizenship.
- B. By compelling petitioner to first return from his legal residence in Canada and to surrender or allow himself to be arrested under a warrant for his alleged false claim to Philippine citizenship, the lower court has pre-empted the right of petitioner through his wife and counsel to question the validity of the said warrant of arrest against him before the same is implemented, which is tantamount to a denial of due process.<sup>[18]</sup>

In his Comment, the Solicitor General contends that petitioner’s argument regarding the retroactivity of R.A. 9225 is without merit. It is contended that this Court’s rulings in *Frialdo v. Commission on Elections*<sup>[19]</sup> and *Altarejos v. Commission on Elections*<sup>[20]</sup> on the retroactivity of one’s re-acquisition of Philippine citizenship to the date of filing his application therefor cannot be applied to the case of herein petitioner. Even assuming for the sake of argument that such doctrine applies in the present situation, it will still not work for petitioner’s cause for the simple reason that he had not alleged, much less proved, that he had already applied for reacquisition of Philippine citizenship before he made the declaration in the Public Land Application that he is a Filipino. Moreover, it is stressed that in falsification of public document, it is not necessary that the idea of gain or intent to injure a third person be present. As to petitioner’s defense of good faith, such remains to be a defense which may be properly raised and proved in a full-blown trial.

On the issue of jurisdiction over the person of accused (petitioner), the Solicitor General opines that in seeking an affirmative relief from the MTC when he filed his Urgent Motion for Re-determination of Probable Cause, petitioner is deemed to have submitted his person to the said court's jurisdiction by his voluntary appearance. Nonetheless, the RTC correctly ruled that the lower court committed no grave abuse of discretion in denying the petitioner's motion after a judicious, thorough and personal evaluation of the parties' arguments contained in their respective pleadings, and the evidence submitted before the court.

In sum, the Court is asked to resolve whether (1) petitioner may be indicted for falsification for representing himself as a Filipino in his Public Land Application despite his subsequent re-acquisition of Philippine citizenship under the provisions of R.A. 9225; and (2) the MTC properly denied petitioner's motion for re-determination of probable cause on the ground of lack of jurisdiction over the person of the accused (petitioner).

R.A. 9225, otherwise known as the "Citizenship Retention and Re-acquisition Act of 2003," was signed into law by President Gloria Macapagal-Arroyo on August 29, 2003. Sections 2 and 3 of said law read:

*SEC. 2. Declaration of Policy.*—It is hereby declared the policy of the State that all Philippine citizens who become citizens of another country **shall be deemed not to have lost their Philippine citizenship under the conditions of this Act.**

*SEC. 3. Retention of Philippine Citizenship.*—Any provision of law to the contrary notwithstanding, natural-born citizens of the Philippines who have lost their Philippine citizenship by reason of their naturalization as citizens of a foreign country are hereby deemed to have **reacquired Philippine citizenship upon taking the following oath of allegiance to the Republic:**

"I \_\_\_\_\_, solemnly swear (or affirm) that I will support and defend the Constitution of the Republic of the Philippines and obey the laws and legal orders promulgated by the duly constituted authorities of the Philippines; and I hereby declare that I recognize and accept the supreme authority of the Philippines and will maintain true faith and allegiance thereto; and that I impose this obligation upon myself voluntarily without mental reservation or purpose of evasion."

Natural-born citizens of the Philippines who, **after the effectivity of this Act**, become citizens of a foreign country shall **retain their Philippine citizenship upon taking the aforesaid oath.** (Emphasis supplied)

While Section 2 declares the general policy that Filipinos who have become citizens of another country shall be deemed "not to have lost their Philippine citizenship," such is qualified by the phrase "under the conditions of this Act." Section 3 lays down such conditions for two categories of natural-born Filipinos referred to in the first and second paragraphs. Under the first paragraph are those natural-born

Filipinos who have lost their citizenship by naturalization in a foreign country who shall re-acquire their Philippine citizenship upon taking the oath of allegiance to the Republic of the Philippines. The second paragraph covers those natural-born Filipinos who became foreign citizens after R.A. 9225 took effect, who shall retain their Philippine citizenship upon taking the same oath. The taking of oath of allegiance is required for both categories of natural-born Filipino citizens who became citizens of a foreign country, but the terminology used is different, "re-acquired" for the first group, and "retain" for the second group.

The law thus makes a distinction between those natural-born Filipinos who became foreign citizens before and after the effectivity of R.A. 9225. Although the heading of Section 3 is "Retention of Philippine Citizenship", the authors of the law intentionally employed the terms "re-acquire" and "retain" to describe the legal effect of taking the oath of allegiance to the Republic of the Philippines. This is also evident from the title of the law using both re-acquisition and retention.

In fine, for those who were naturalized in a foreign country, they shall be deemed to have re-acquired their Philippine citizenship which was lost pursuant to CA 63, under which naturalization in a foreign country is one of the ways by which Philippine citizenship may be lost. As its title declares, R.A. 9225 amends CA 63 by doing away with the provision in the old law which takes away Philippine citizenship from natural-born Filipinos who become naturalized citizens of other countries and allowing dual citizenship,<sup>[21]</sup> and also provides for the procedure for re-acquiring and retaining Philippine citizenship. In the case of those who became foreign citizens after R.A. 9225 took effect, they shall retain Philippine citizenship despite having acquired foreign citizenship provided they took the oath of allegiance under the new law.

Petitioner insists we should not distinguish between re-acquisition and retention in R.A. 9225. He asserts that in criminal cases, that interpretation of the law which favors the accused is preferred because it is consistent with the constitutional presumption of innocence, and in this case it becomes more relevant when a seemingly difficult question of law is expected to have been understood by the accused, who is a non-lawyer, at the time of the commission of the alleged offense. He further cites the letter-reply dated January 31, 2011<sup>[22]</sup> of the Bureau of Immigration (BI) to his query, stating that his status as a natural-born Filipino will be governed by Section 2 of R.A. 9225.

These contentions have no merit.

That the law distinguishes between re-acquisition and retention of Philippine citizenship was made clear in the discussion of the Bicameral Conference Committee on the Disagreeing Provisions of House Bill No. 4720 and Senate Bill No. 2130 held on August 18, 2003, where Senator Franklin Drilon was responding to the query of Representative Exequiel Javier:

REP. JAVIER. I have some questions in Section 3. Here, under Section 3 of the Senate version, "Any provision of law on the contrary notwithstanding, natural-born citizens of the Philippines who, after the effectivity of this Act, shall... and so forth, ano, shall retain their Philippine citizenship.