

SECOND DIVISION

CARLOS T. GO, SR.,
Petitioner,

- versus -

LUIS T. RAMOS,
Respondent.

X-----X

JIMMY T. GO,
Petitioner,

- versus -

LUIS T. RAMOS,
Respondent.

X-----X

HON. ALIPIO F. FERNANDEZ, JR.,
in his capacity as the Commissioner of
the BUREAU OF IMMIGRATION;
ATTY. FAISAL HUSSIN and
ANSARI M. MACAAYAN, in their
capacity as Intelligence Officers of the
BUREAU OF IMMIGRATION,
Petitioners,

- versus -

JIMMY T. GO a.k.a. JAIME T.
GAISANO,
Respondent.

G.R. No. 167569

Present:

QUISUMBING, *J.*, Chairperson,
CARPIO,^{*}
CARPIO MORALES,
DEL CASTILLO, and
ABAD, *JJ.*

G.R. No. 167570

G.R. No. 171946

Promulgated:

September 4, 2009

X-----X

DECISION

QUISUMBING, J.:

Before us are three petitions. G.R. Nos. 167569 and 167570 are petitions for review

on certiorari to set aside the October 25, 2004 Decision^[1] and February 16, 2005 Resolution^[2] of the Court of Appeals in CA-G.R. SP No. 85143 that affirmed the Decision^[3] dated January 6, 2004 and Order^[4] dated May 3, 2004 of the Regional Trial Court (RTC) of Pasig City, Branch 167 in SCA No. 2218 upholding the preparation and filing of deportation charges against Jimmy T. Go, the corresponding Charge Sheet^[5] dated July 3, 2001, and the deportation proceedings thereunder conducted.

On the other hand, G.R. No. 171946, also a petition for review on certiorari, seeks to set aside the December 8, 2005 Decision^[6] and March 13, 2006 Resolution^[7] of the appellate court in CA-G.R. SP No. 88277.

Considering that the three cases arose from the same factual milieu, the Court resolved to consolidate G.R. Nos. 167570 and 167569 with G.R. No. 171946 per Resolution^[8] dated February 26, 2007.

These petitions stemmed from the complaint-affidavit^[9] for deportation initiated by Luis T. Ramos before the Bureau of Immigration and Deportation (now Bureau of Immigration) against Jimmy T. Go alleging that the latter is an illegal and undesirable alien. Luis alleged that while Jimmy represents himself as a Filipino citizen, Jimmys personal circumstances and other records indicate that he is not so. To prove his contention, Luis presented the birth certificate of Jimmy, issued by the Office of the Civil Registrar of Iloilo City, which indicated Jimmys citizenship as FChinese. Luis argued that although it appears from Jimmys birth certificate that his parents, Carlos and Rosario Tan, are Filipinos, the document seems to be tampered, because only the citizenship of Carlos appears to be handwritten while all the other entries were typewritten. He also averred that in September 1989 or thereabout, Jimmy, through stealth, machination and scheming managed to cover up his true citizenship, and with the use of falsified documents and untruthful declarations, was able to procure a Philippine passport from the Department of Foreign Affairs.

Jimmy refuted the allegations in his counter-affidavit,^[10] averring that the complaint for deportation initiated by Luis was merely a harassment case designed to oust him of his rightful share in their business dealings. Jimmy maintained that there is no truth to the allegation that he is an alien, and insisted that he is a natural-born Filipino. Jimmy alleged that his father Carlos, who was the son of a Chinese father and Filipina mother, elected Philippine citizenship in accordance with Article IV, Section 1, paragraph 4^[11] of the 1935 Constitution and Commonwealth Act No. 625^[12] (Com. Act No. 625), 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. Although the said oath and affidavit were registered only on September 11, 1956, the reason behind such late registration was sufficiently explained in an affidavit. Jimmy added that he had even voted in the 1952 and 1955 elections.^[13] He denied that his father arrived in the Philippines as an undocumented alien, alleging that his father has no record of arrival in this country as alleged in the complaint-affidavit precisely because his father was born and raised in the Philippines, and in fact, speaks fluent Ilonggo and Tagalog.^[14]

With regard to the erroneous entry in his birth certificate that he is FChinese, he maintained that such was not of his own doing, but may be attributed to the employees of the Local Civil Registrars Office who might have relied on his Chinese-sounding surname when making the said entry. He asserted that the said office has control over his birth certificate; thus, if his fathers citizenship appears to be handwritten, it may have been changed when the employees of that office realized that his father has already taken his oath as a Filipino.^[15] As regards the entry in his siblings certificates of birth, particularly Juliet Go and Carlos Go, Jr., that their father is Chinese, Jimmy averred that the entry was erroneous because it was made without prior consultation with his father.^[16]

In a Resolution^[17] dated February 14, 2001, Associate Commissioner Linda L. Malenab-Hornilla dismissed the complaint for deportation against Jimmy. Associate Commissioner Hornilla affirmed the findings of the National Bureau of Investigation

tasked to investigate the case that Jimmys father elected Filipino citizenship in accordance with the provisions of the 1935 Philippine Constitution. By operation of law, therefore, the citizenship of Carlos was transmitted to Jimmy, making him a Filipino as well.

On March 8, 2001, ^[18] the Board of Commissioners (Board) reversed said dismissal, holding that Carlos election of Philippine citizenship was made out of time. Finding Jimmys claim to Philippine citizenship in serious doubt by reason of his fathers questionable election thereof, the Board directed the preparation and filing of the appropriate deportation charges against Jimmy.

On July 3, 2001, the corresponding Charge Sheet was filed against Jimmy, charging him of violating Section 37(a)(9) ^[19] in relation to Section 45(c) ^[20] of Com. Act No. 613, otherwise known as The Philippine Immigration Act of 1940, ^[21] as amended, committed as follows:

x x x x

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 Chinese;

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[;]

3. That [R]espondent being an alien, has formally and officially represent[ed] and introduce[d] 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.

CONTRARY TO LAW. ^[22]

On November 9, 2001, Carlos and Jimmy filed a petition for certiorari and prohibition ^[23] with application for injunctive reliefs before the 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 of Commissioners, the Charge Sheet, and the proceedings had therein. In essence, they challenged the jurisdiction of the Board to continue with the

deportation proceedings.

In the interim, the Board issued a Decision ^[24] dated April 17, 2002, in BSI-D.C. No. ADD-01-117, ordering the apprehension and deportation of Jimmy. The dispositive portion of the decision 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.

SO ORDERED. ^[25]

In view of the said Decision, Carlos and Jimmy filed on June 13, 2002 a supplemental petition for certiorari and prohibition ^[26] before the trial court and reiterated their application for injunctive reliefs. The trial court issued a writ of preliminary prohibitory injunction pending litigation on the main issue, enjoining the Bureau from enforcing the April 17, 2002 Decision. ^[27] Later, however, the trial court dissolved the writ in a Decision ^[28] dated January 6, 2004 as a consequence of the dismissal of the petition.

Carlos and Jimmy moved for reconsideration. But their motion was likewise denied. ^[29]

Following the dismissal of the petition in SCA No. 2218, the Board issued a warrant of deportation ^[30] which led to the apprehension of Jimmy. Jimmy commenced a petition for habeas corpus, but the same was eventually dismissed by reason of his provisional release on bail. ^[31]

Carlos and Jimmy then questioned the Decision in SCA No. 2218 as well as the Resolution denying their motion for reconsideration by way of a petition for certiorari

before the Court of Appeals, docketed as CA-G.R. SP No. 85143. They imputed grave abuse of discretion by the trial court for passing upon their citizenship, claiming that what they asked for in their petition was merely the nullification of the March 8, 2001 Resolution and the charge sheet.

The appellate tribunal dismissed the petition. ^[32] It did not find merit in their argument that the issue of citizenship should proceed only before the proper court in an independent action, and that neither the Bureau nor the Board has jurisdiction over individuals who were born in the Philippines and have exercised the rights of Filipino citizens. The appellate tribunal also rejected their claim that they enjoy the presumption of being Filipino citizens.

The Court of Appeals held that the Board has the exclusive authority and jurisdiction to try and hear cases against an alleged alien, and in the process, determine their citizenship.

The appellate court agreed with the trial court that the principle of *jus soli* was never extended to the Philippines; hence, could not be made a ground to one's claim of Philippine citizenship. Like the trial court, the appellate tribunal found that Carlos failed to elect Philippine citizenship within the reasonable period of three years upon reaching the age of majority. Furthermore, it held that the belated submission to the local civil registry of the affidavit of election and oath of allegiance in September 1956 was defective because the affidavit of election was executed after the oath of allegiance, and the delay of several years before their filing with the proper office was not satisfactorily explained.

The course of action taken by the trial court was also approved by the appellate tribunal. The Court of Appeals stated that the trial court necessarily had to rule on the substantial and legal bases warranting the deportation proceeding in order to determine whether the Board acted without or in excess of jurisdiction, or with grave abuse of discretion. Moreover, the appellate court found that due process was properly observed in the proceedings before the Board, contrary to the claim of Jimmy.

Unfazed with the said ruling, they moved for reconsideration. Their motion having

been denied,^[33] Carlos and Jimmy each filed a petition for review on certiorari before this Court, respectively docketed as G.R. Nos. 167569 and 167570.

Meanwhile, in view of the dismissal of CA-G.R. SP. No. 85143, Bureau of Immigration Commissioner Alipio F. Fernandez, Jr. issued Warrant of Deportation No. AFF-04-003^[34] dated November 16, 2004 to carry out the April 17, 2002 Decision in BSI-D.C. No. ADD-01-117. This resulted in the apprehension and detention of Jimmy at the Bureau of Immigration Bicutan Detention Center, pending his deportation to China.^[35]

On account of his detention, Jimmy once again filed a petition for habeas corpus^[36] before the RTC of Pasig City, Branch 167, docketed as SP. Proc. No. 11507 assailing his apprehension and detention despite the pendency of his appeal and his release on recognizance.

In an Order^[37] dated December 6, 2004, the trial court dismissed the said petition ruling that the remedy of habeas corpus cannot be availed of to obtain an order of release once a deportation order has already been issued by the Bureau. Jimmy moved for reconsideration of the Order, but this was also denied by the trial court in an Order^[38] dated December 28, 2004.

Jimmy assailed the Orders of the trial court in a petition for certiorari and prohibition before the appellate court, docketed as CA-G.R. No. 88277. The Court of Appeals granted the petition and enjoined the deportation of Jimmy until the issue of his citizenship is settled with finality by the court. The Court of Appeals held as follows:

x x x x

the issuance of a warrant to arrest and deport the petitioner without any proof whatsoever of his violation of the bail conditions [that he was previously granted] is arbitrary, inequitable and unjust, for the policies governing the grant of his bail should likewise apply in the cancellation of the said bail. Although a deportation proceeding does not partake of the nature of a criminal action, yet considering that it is such a harsh and extraordinary administrative proceeding affecting the freedom and liberty of a person who all his life has always lived in the Philippines, where he has established his family and

business interests, one who appears to be not completely devoid of any claim to Filipino citizenship, being the son of a Filipina, whose father is alleged to also have elected to be a Filipino, the constitutional right of such person to due process cannot be peremptorily dismissed or ignored altogether, and indeed should not be denied. If it later turns out that the petitioner is a Filipino after all, then the overly eager Immigration authorities would have expelled and relegated to statelessness one who might in fact be a Filipino by blood.

X X X X

WHEREFORE, in view of the foregoing, the petition with reference to the Warrant of Deportation issued by the BID is hereby **GRANTED**. The Bureau of Immigration and Deportation, through Commissioner Alipio F. Fernandez, Jr., Atty. Faizal Hussin and Ansari Maca Ayan, and any of their deputized agents, are **ENJOINED** from deporting petitioner Jimmy T. Go, a.k.a. Jaime T. Gaisano, until the issue of petitioners citizenship is finally settled by the courts of justice.

SO ORDERED. [\[39\]](#)

Their motion for reconsideration [\[40\]](#) having been denied on March 13, 2006, Hon. Alipio Fernandez, in his capacity as the Commissioner of the Bureau of Immigration, and Atty. Faisal Hussin and Ansari M. Macaayan, in their capacity as Intelligence Officers of the Bureau of Immigration, are before this Court as petitioners in G.R. No. 171946.

The parties have raised the following grounds for their respective petitions:

G.R. No. 167569

I.

THE PROCEEDINGS HAD BEFORE THE BUREAU OF IMMIGRATION AND DEPORTATION (B.I.D.) ARE NULL AND VOID FOR ITS FAILURE TO IMPLEAD AN INDISPENSABLE PARTY IN THE PERSON OF PETITIONER CARLOS GO, SR.

II.

GIVEN THE SUBSTANTIAL EVIDENCE TO PROVE HEREIN PETITIONER CARLOS GO SR.S FILIPINO CITIZENSHIP, A FULL BLOWN TRIAL UNDER THE MORE RIGID RULES OF EVIDENCE PRESCRIBED IN COURT PROCEEDINGS SHOULD HAVE BEEN CONDUCTED TO DETERMINE HIS FILIPINO CITIZENSHIP AND NOT THROUGH MERE SUMMARY PROCEEDINGS SUCH AS THE ONE HAD BEFORE THE B.I.D. AS WELL AS IN THE COURT *A QUO*.

III.

A FILIPINO CITIZEN IS NOT REQUIRED TO ELECT PHILIPPINE CITIZENSHIP.

IV.

ASSUMING CARLOS GO, SR. STILL NEEDS TO ELECT PHILIPPINE

CITIZENSHIP, HE HAD COMPLIED WITH ALL THE REQUIREMENTS OF COM. ACT NO. 625.

V.

PETITIONER CARLOS GO, SR. ENJOYS THE PRESUMPTION OF CITIZENSHIP.

VI.

RESPONDENTS CAUSE OF ACTION HAD LONG PRESCRIBED. [\[41\]](#)

G.R. No. 167570

I.

THE PROCEEDINGS HAD BEFORE THE BUREAU OF IMMIGRATION AND DEPORTATION (B.I.D.) ARE NULL AND VOID FOR ITS FAILURE TO IMPEAD AN INDISPENSABLE PARTY IN THE PERSON OF PETITIONERS FATHER, CARLOS GO, SR.

II.

THE DEPORTATION PROCEEDINGS BEFORE THE B.I.D. ARE NULL AND VOID FOR ITS FAILURE TO OBSERVE DUE PROCESS.

III.

THE B.I.D.S CAUSE OF ACTION AGAINST HEREIN PETITIONER JIMMY T. GO HAD ALREADY PRESCRIBED.

IV.

GIVEN THE SUBSTANTIAL EVIDENCE TO PROVE HEREIN PETITIONERS FILIPINO CITIZENSHIP, A FULL BLOWN TRIAL UNDER THE MORE RIGID RULES OF EVIDENCE PRESCRIBED IN COURT PROCEEDINGS SHOULD HAVE BEEN CONDUCTED TO DETERMINE HIS FILIPINO CITIZENSHIP AND NOT THROUGH MERE SUMMARY PROCEEDINGS SUCH AS THE ONE HAD BEFORE THE B.I.D. [\[42\]](#)

G.R. No. 171946

THE COURT OF APPEALS ERRED ON A QUESTION OF LAW IN ENJOINING RESPONDENTS DEPORTATION. [\[43\]](#)

Succinctly stated, the issues for our resolution are: (a) whether the cause of action of the Bureau against Carlos and Jimmy had prescribed; (b) whether the deportation proceedings are null and void for failure to implead Carlos as an indispensable party therein; (c) whether the evidence adduced by Carlos and Jimmy to prove their claim to

Philippine citizenship is substantial and sufficient to oust the Board of its jurisdiction from continuing with the deportation proceedings in order to give way to a formal judicial action to pass upon the issue of alienage; (d) whether due process was properly observed in the proceedings before the Board; and (e) whether the petition for habeas corpus should be dismissed.

The arguments raised by Carlos and Jimmy in their respective petitions are merely a rehash of the arguments they adduced before the appellate tribunal and the trial court. Once again, they raised the same argument of prescription. As to Carlos, it is his position that being recognized by the government to have acquired Philippine citizenship, evidenced by the Certificate of Election issued to him on September 11, 1956, his citizenship could no longer be questioned at this late date. As for Jimmy, he contends that the Board's cause of action to deport him has prescribed for the simple reason that his arrest was not made within five (5) years from the time the cause of action arose, which according to him commenced in 1989 when he was alleged to have illegally acquired a Philippine passport.

In any event, they argue that the deportation proceeding should be nullified altogether for failure to implead Carlos as an indispensable party therein. Jimmy posits that the deportation case against him was made to depend upon the citizenship of his father, Carlos, in that the Board found justification to order his deportation by declaring that his father is a Chinese citizen even though the latter was never made a party in the deportation proceedings. They argue that the Board could not simply strip Carlos of his citizenship just so they could question the citizenship of Jimmy. To do so without affording Carlos the opportunity to adduce evidence to prove his claim to Philippine citizenship would be the height of injustice. For failing to accord him the requisite due process, the whole proceeding should perforce be struck down.

While they concede that the Board has jurisdiction to hear cases against an alleged alien, they insist that judicial intervention may be resorted to when the claim to citizenship is so substantial that there are reasonable grounds to believe that the claim is correct, like in this case. Their claim to Philippine citizenship, they said, is clearly shown by the fact that they were born, had been raised and had lived in this country all their lives; they

speaking fluent Tagalog and Ilonggo; they engage in businesses reserved solely for Filipinos; they exercise their right to suffrage; they enjoy the rights and privileges accorded only to citizens; and they have no record of any Alien Certificate of Registration. More importantly, they contend that they were validly issued Philippine passports. They further posit that the judicial intervention required is not merely a judicial review of the proceedings below, but a full-blown, adversarial, trial-type proceedings where the rules of evidence are strictly observed.

Considering that his citizenship affects that of his son, Carlos opted to present controverting arguments to sustain his claim to Philippine citizenship, notwithstanding the fact that according to him, he was never impleaded in the deportation proceedings.

Carlos takes exception to the ruling of the appellate court that the doctrine of *jus soli* failed to accord him Philippine citizenship for the reason that the same was never extended to the Philippines. He insists that if his Philippine citizenship is not recognized by said doctrine, it is nonetheless recognized by the laws enforced prior to the 1935 Constitution, particularly the Philippine Bill of 1902^[44] and the Philippine Autonomy Act of August 29, 1916 (Jones Law of 1916).^[45]

According to Carlos, the Philippine Bill of 1902 and the Jones Law of 1916 deemed all inhabitants of the Philippine Islands as well as their children born after the passage of said laws to be citizens of the Philippines. Because his father, Go Yin An, was a resident of the Philippines at the time of the passage of the Jones Law of 1916, he (Carlos) undoubtedly acquired his father's citizenship. Article IV, first paragraph, of the 1935 Constitution therefore applies to him. Said constitutional provision reads:

ARTICLE IV. *Citizenship*

SECTION 1. The following are citizens of the Philippines:

(1) Those who are citizens of the Philippine Islands at the time of the adoption of this Constitution.

x x x x

Even assuming that his father remained as a Chinese, Carlos also claims that he

followed the citizenship of his Filipina mother, being an illegitimate son, and that he even validly elected Philippine citizenship when he complied with all the requirements of Com. Act No. 625. He submits that what is being disputed is not whether he complied with Com. Act No. 625, but rather, the timeliness of his compliance. He stresses that the 3-year compliance period following the interpretation given by *Cuenco v. Secretary of Justice* ^[46] to Article IV, Section 1(4) of the 1935 Constitution and Com. Act No. 625 when election must be made, is not an inflexible rule. He reasoned that the same decision held that such period may be extended under certain circumstances, as when the person concerned has always considered himself a Filipino, like in his case. ^[47]

We deny the appeal of Carlos and Jimmy for lack of merit.

Carlos and Jimmys claim that the cause of action of the Bureau has prescribed is untenable. Cases involving issues on citizenship are *sui generis*. Once the citizenship of an individual is put into question, it necessarily has to be threshed out and decided upon. In the case of *Frivaldo v. Commission on Elections*, ^[48] we said that decisions declaring the acquisition or denial of citizenship cannot govern a persons future status with finality. This is because a person may subsequently reacquire, or for that matter, lose his citizenship under any of the modes recognized by law for the purpose. ^[49] Indeed, if the issue of ones citizenship, after it has been passed upon by the courts, leaves it still open to future adjudication, then there is more reason why the government should not be precluded from questioning ones claim to Philippine citizenship, especially so when the same has never been threshed out by any tribunal.

Jimmys invocation of prescription also does not persuade us. Section 37 (b) of Com. Act No. 613 states:

Section 37.

x x x x

(b) Deportation may be effected under clauses 2, 7, 8, 11 and 12 of this section at any time after entry, but shall not be effected under any other clause unless the arrest in the deportation proceedings is made within five years after the cause of deportation arises.

X X X X

As shown in the Charge Sheet, Jimmy was charged for violation of Section 37(a) (9), ^[50] in relation to Section 45(e) ^[51] of Com. Act No. 613. From the foregoing provision, his deportation may be effected only if his arrest is made within 5 years from the time the cause for deportation arose. The court *a quo* is correct when it ruled that the 5-year period should be counted only from July 18, 2000, the time when Luis filed his complaint for deportation. It is the legal possibility of bringing the action which determines the starting point for the computation of the period of prescription. ^[52]

Additionally, Section 2 of Act No. 3326, ^[53] as amended, entitled An Act to Establish Periods of Prescription for Violations Penalized by Special Acts and Municipal Ordinances and to Provide When Prescription Shall Begin to Run, provides:

Sec. 2. Prescription shall begin to run from the day of the commission of the violation of the law, and if the same be not known at the time, from the discovery thereof and the institution of judicial proceedings for its investigation and punishment.

X X X X

The counting could not logically start in 1989 when his passport was issued because the government was unaware that he was not a Filipino citizen. Had the government been aware at such time that he was not a Filipino citizen or there were certain anomalies attending his application for such passport, it would have denied his application.

As to the issue of whether Carlos is an indispensable party, we reiterate that an indispensable party is a party in interest without whom no final determination can be had of an action, and who shall be joined either as plaintiff or defendant. ^[54] To be indispensable, a person must first be a real party in interest, that is, one who stands to be benefited or injured by the judgment of the suit, or the party entitled to the avails of the suit. ^[55] Carlos clearly is not an indispensable party as he does not stand to be benefited or injured by the judgment of the suit. What is sought is the deportation of Jimmy on the ground that he is an alien. Hence, the principal issue that will be decided on is the

propriety of his deportation. To recall, Jimmy claims that he is a Filipino under Section 1(3), ^[56] Article IV of the 1935 Constitution because Carlos, his father, is allegedly a citizen. ^[57] Since his citizenship hinges on that of his fathers, it becomes necessary to pass upon the citizenship of the latter. However, whatever will be the findings as to Carlos citizenship will in no way prejudice him.

Citizenship proceedings, as aforesaid, are a class of its own, in that, unlike other cases, *res judicata* does not obtain as a matter of course. In a long line of decisions, this Court said that every time the citizenship of a person is material or indispensable in a judicial or administrative case, whatever the corresponding court or administrative authority decides therein as to such citizenship is generally not considered as *res judicata*; hence, it has to be threshed out again and again as the occasion may demand. ^[58] *Res judicata* may be applied in cases of citizenship only if the following concur:

1. a persons citizenship must be raised as a material issue in a controversy where said person is a party;
2. the Solicitor General or his authorized representative took active part in the resolution thereof; and
3. the finding or citizenship is affirmed by this Court. ^[59]

In the event that the citizenship of Carlos will be questioned, or his deportation sought, the same has to be ascertained once again as the decision which will be rendered hereinafter shall have no preclusive effect upon his citizenship. As neither injury nor benefit will redound upon Carlos, he cannot be said to be an indispensable party in this case.

There can be no question that the Board has the authority to hear and determine the deportation case against a deportee and in the process determine also the question of citizenship raised by him. ^[60] However, this Court, following American jurisprudence, laid down the exception to the primary jurisdiction enjoyed by the deportation board in the case of *Chua Hiong v. Deportation Board* ^[61] wherein we stressed that judicial determination is

permitted in cases when the courts themselves believe that there is substantial evidence supporting the claim of citizenship, so substantial that there are reasonable grounds for the belief that the claim is correct.^[62] Moreover, when the evidence submitted by a deportee is conclusive of his citizenship, the right to immediate review should also be recognized and the courts shall promptly enjoin the deportation proceedings.^[63]

While we are mindful that resort to the courts may be had, the same should be allowed only in the sound discretion of a competent court in proper proceedings.^[64] After all, the Boards jurisdiction is not divested by the mere claim of citizenship.^[65] Moreover, a deportee who claims to be a citizen and not therefore subject to deportation has the right to have his citizenship reviewed by the courts, after the deportation proceedings.^[66] The decision of the Board on the question is, of course, not final but subject to review by the courts.^[67]

After a careful evaluation of the evidence, the appellate court was not convinced that the same was sufficient to oust the Board of its jurisdiction to continue with the deportation proceedings considering that what were presented particularly the birth certificates of Jimmy, as well as those of his siblings, Juliet Go and Carlos Go, Jr. indicate that they are Chinese citizens. Furthermore, like the Board, it found the election of Carlos of Philippine citizenship, which was offered as additional proof of his claim, irregular as it was not made on time.

We find no cogent reason to overturn the above findings of the appellate tribunal. The question of whether substantial evidence had been presented to allow immediate recourse to the regular courts is a question of fact which is beyond this Courts power of review for it is not a trier of facts.^[68] None of the exceptions^[69] in which this Court may resolve factual issues has been shown to exist in this case. Even if we evaluate their arguments and the evidence they presented once again, the same conclusion will still be reached.

One of the arguments raised to sustain Carlos claim to Philippine citizenship is the doctrine of *jus soli*, or the doctrine or principle of citizenship by place of birth. To recall, both the trial court and the Court of Appeals ruled that the doctrine of *jus soli* was never extended to the Philippines. We agree. The doctrine of *jus soli* was for a time the prevailing rule in the acquisition of ones citizenship.^[70] However, the Supreme Court abandoned the principle of *jus soli* in the case of *Tan Chong v. Secretary of Labor*.^[71] Since then, said doctrine only benefited those who were individually declared to be citizens of the Philippines by a final court decision on the mistaken application of *jus soli*.^[72]

Neither will the Philippine Bill of 1902^[73] nor the Jones Law of 1916^[74] make Carlos a citizen of the Philippines. His bare claim that his father, Go Yin An, was a resident of the Philippines at the time of the passage of the said laws, without any supporting evidence whatsoever will not suffice.

It is a settled rule that only legitimate children follow the citizenship of the father and that illegitimate children are under the parental authority of the mother and follow her nationality.^[75] Moreover, we have also ruled that an illegitimate child of a Filipina need not perform any act to confer upon him all the rights and privileges attached to citizens of the Philippines; he automatically becomes a citizen himself.^[76] However, it is our considered view that absent any evidence proving that Carlos is indeed an illegitimate son of a Filipina, the aforestated established rule could not be applied to him.

As to the question of whether the election of Philippine citizenship conferred on Carlos Filipino citizenship, we find that the appellate court correctly found that it did not.

Com. Act No. 625 which was enacted pursuant to Section 1(4), Article IV of the 1935 Constitution, prescribes the procedure that should be followed in order to make a valid election of Philippine citizenship. Under Section 1 thereof, legitimate children born of Filipino mothers may elect Philippine citizenship by expressing such intention in a

statement to be signed and sworn to by the party concerned before any officer authorized to administer oaths, and shall be filed with the nearest civil registry. The said party shall accompany the aforesaid statement with the oath of allegiance to the Constitution and the Government of the Philippines. [\[77\]](#)

However, the 1935 Constitution and Com. Act No. 625 did not prescribe a time period within which the election of Philippine citizenship should be made. The 1935 Charter only provides that the election should be made upon reaching the age of majority. The age of majority then commenced upon reaching 21 years. In the opinions of the then Secretary of Justice on cases involving the validity of election of Philippine citizenship, this dilemma was resolved by basing the time period on the decisions of this Court prior to the effectivity of the 1935 Constitution. In these decisions, the proper period for electing Philippine citizenship was, in turn, based on the pronouncements of the Department of State of the United States Government to the effect that the election should be made within a reasonable time after attaining the age of majority. The phrase reasonable time has been interpreted to mean that the election should be made within three (3) years from reaching the age of majority. [\[78\]](#)

It is true that we said that the 3-year period for electing Philippine citizenship may be extended as when the person has always regarded himself as a Filipino. Be that as it may, it is our considered view that not a single circumstance was sufficiently shown meriting the extension of the 3-year period. The fact that Carlos exercised his right of suffrage in 1952 and 1955 does not demonstrate such belief, considering that the acts were done after he elected Philippine citizenship. On the other hand, the mere fact that he was able to vote does not validate his irregular election of Philippine citizenship. At most, his registration as a voter indicates his desire to exercise a right appertaining exclusively to Filipino citizens but does not alter his real citizenship, which, in this jurisdiction, is determined by blood (*jus sanguinis*). The exercise of the rights and privileges granted only to Filipinos is not conclusive proof of citizenship, because a person may misrepresent himself to be a Filipino and thus enjoy the rights and privileges of citizens of this country. [\[79\]](#)

It is incumbent upon one who claims Philippine citizenship to prove to the satisfaction of the court that he is really a Filipino. No presumption can be indulged in favor of the claimant of Philippine citizenship, and any doubt regarding citizenship must be resolved in favor of the state. ^[80]

As Carlos and Jimmy neither showed conclusive proof of their citizenship nor presented substantial proof of the same, we have no choice but to sustain the Boards jurisdiction over the deportation proceedings. This is not to say that we are ruling that they are not Filipinos, for that is not what we are called upon to do. This Court necessarily has to pass upon the issue of citizenship only to determine whether the proceedings may be enjoined in order to give way to a judicial determination of the same. And we are of the opinion that said proceedings should not be enjoined.

In our considered view, the allegation of Jimmy that due process was not observed in the deportation proceedings must likewise fail.

Deportation proceedings are administrative in character, summary in nature, and need not be conducted strictly in accordance with the rules of ordinary court proceedings.

^[81] The essence of due process is simply an opportunity to be heard, or as applied to administrative proceedings, an opportunity to explain ones side or an opportunity to seek reconsideration of the action or ruling complained of. ^[82]

As long as the parties are given the opportunity to be heard before judgment is rendered, the demands of due process are sufficiently met. ^[83] Although Jimmy was not furnished with a copy of the subject Resolution and Charge Sheet as alleged by him, the trial court found that he was given ample opportunity to explain his side and present controverting evidence, thus:

x x x It must be stressed that after receiving the Order dated September 11, 2001 signed by BSI Chief Ronaldo P. Ledesma on October 4, 2001, petitioner Jimmy T. Go admitted that when his representative went to the B.I.D. to inquire about the said Order, the latter chanced upon the Resolution dated February 14, 2001 and March 8, 2001 as well as the Charge Sheet dated July 3, 2001. Hence on October 5, 2001, he filed a Motion for Extension of Time to File Memorandum and as such, was allowed by Ronaldo P.

Ledesma an extension of ten (10) days to submit his required memorandum. x x x ^[84]

This circumstance satisfies the demands of administrative due process.

As regards the petition in G.R. No. 171946, petitioners contend that the appellate tribunal erred in enjoining Jimmys deportation. ^[85]

Petitioners question the remedy availed of by Jimmy. They argue that the existence of the remedy of an ordinary appeal proscribes the filing of the petition for certiorari as was done in this case. They point out that the appeal period in habeas corpus cases is only 48 hours, compared to a special civil action under Rule 65 of the Rules of Court which is 60 days. This clearly shows that an ordinary appeal is the more plain, speedy and adequate remedy; hence, it must be the one availed of. ^[86] Since the decision of the trial court was not properly appealed, the same may be said to have attained finality, and may no longer be disturbed. ^[87]

They maintain that the dismissal of the petition for habeas corpus by the trial court was proper. A petition for habeas corpus has for its purpose only the determination of whether or not there is a lawful ground for Jimmys apprehension and continued detention. They urge that the decision of the Board dated April 17, 2002 that ordered Jimmys deportation has already attained finality by reason of the belated appeal taken by Jimmy from the said decision on April 2, 2004 before the Office of the President, or after almost two years from the time the decision was rendered. Said decision of the Board, they insist, is the lawful ground that sanctions Jimmys apprehension and detention. ^[88]

Petitioners in G.R. No. 171946 also argue that Jimmy cannot rely on the bail on recognizance he was previously granted to question his subsequent apprehension and detention. Under the Philippine Immigration Act of 1940, the power to grant bail can only be exercised while the alien is still under investigation, and not when the order of deportation had already been issued by the Board. ^[89] Hence, the bail granted was irregular as it has no legal basis. Furthermore, they said the petition for habeas corpus necessarily has to be dismissed because the same is no longer proper once the applicant

thereof has been charged before the Board, which is the case with Jimmy.^[90] Nonetheless, they claim that the habeas corpus case is rendered moot and academic as Jimmy is no longer being detained.^[91]

On the other hand, Jimmy counters that the instant petition for certiorari and prohibition is the most appropriate, speedy and adequate remedy in spite of the availability of ordinary appeal considering that what is involved in this case is his cherished liberty. Grave abuse of discretion on the part of the petitioners in ordering his arrest and detention, he argues, all the more justifies the avails of the extraordinary writ.^[92] Contrary to the petitioners stand, Jimmy argues that the April 17, 2002 Decision of the Board has not attained finality owing to the availability of various remedies, one of which is an appeal, and in fact is actually void because it was rendered without due process.^[93] He also insists that the bail issued to him is valid and effective until the final determination of his citizenship before the proper courts.^[94] Moreover, he maintains that the petition for habeas corpus was proper since its object is to inquire into the legality of one's detention, and if found illegal, to order the release of the detainee.^[95] As in his petition in G.R. No. 167570, Jimmy also contends that the proceedings before the Board is void for failure to implead therein his father, and that he should have been given a full blown trial before a regular court where he can prove his citizenship.^[96]

Considering the arguments and contentions of the parties, we find the petition in G.R. No. 171946 meritorious.

We have held in a litany of cases that the extraordinary remedies of certiorari, prohibition and mandamus are available only when there is no appeal or any plain, speedy and adequate remedy in the ordinary course of law. The writ of certiorari does not lie where an appeal may be taken or where another adequate remedy is available for the correction of the error.^[97]

The petitioners correctly argue that appeal should have been the remedy availed of as it is more plain, speedy and adequate. The 48-hour appeal period demonstrates the adequacy of such remedy in that no unnecessary time will be wasted before the decision will be re-evaluated.

A petition for the issuance of a writ of habeas corpus is a special proceeding governed by Rule 102 of the Revised Rules of Court. The objective of the writ is to determine whether the confinement or detention is valid or lawful. If it is, the writ cannot be issued. What is to be inquired into is the legality of a persons detention as of, at the earliest, the filing of the application for the writ of habeas corpus, for even if the detention is at its inception illegal, it may, by reason of some supervening events, such as the instances mentioned in Section 4^[98] of Rule 102, be no longer illegal at the time of the filing of the application.^[99]

Once a person detained is duly charged in court, he may no longer question his detention through a petition for issuance of a writ of habeas corpus. His remedy would be to quash the information and/or the warrant of arrest duly issued. The writ of habeas corpus should not be allowed after the party sought to be released had been charged before any court. The term court in this context includes quasi-judicial bodies of governmental agencies authorized to order the persons confinement, like the Deportation Board of the Bureau of Immigration.^[100] Likewise, the cancellation of his bail cannot be assailed via a petition for habeas corpus. When an alien is detained by the Bureau of Immigration for deportation pursuant to an order of deportation by the Deportation Board, the Regional Trial Courts have no power to release such alien on bail even in habeas corpus proceedings because there is no law authorizing it.^[101]

Given that Jimmy has been duly charged before the Board, and in fact ordered arrested pending his deportation, coupled by this Courts pronouncement that the Board was not ousted of its jurisdiction to continue with the deportation proceedings, the petition for habeas corpus is rendered moot and academic. This being so, we find it unnecessary to touch on the other arguments advanced by respondents regarding the same subject.

WHEREFORE, the petitions in G.R. Nos. 167569 and 167570 are **DENIED**. The Decision dated October 25, 2004 and Resolution dated February 16, 2005 of the Court of Appeals in CA-G.R. SP No. 85143 are **AFFIRMED**. The petition in G.R. No. 171946 is hereby **GRANTED**. The Decision dated December 8, 2005 and Resolution dated March 13, 2006 of the Court of Appeals in CA-G.R. SP No. 88277 are **REVERSED** and **SET ASIDE**. The December 6, 2004 and December 28, 2004 Orders of the Regional Trial Court of Pasig City, Branch 167 are hereby **REINSTATED**.

No pronouncement as to costs.

SO ORDERED.

LEONARDO A. QUISUMBING

Associate Justice

WE CONCUR:

ANTONIO T. CARPIO

Associate Justice

CONCHITA CARPIO MORALES

Associate Justice

MARIANO C. DEL CASTILLO

Associate Justice

ROBERTO A. ABAD

Associate Justice

A T T E S T A T I O N

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Courts Division.

LEONARDO A. QUISUMBING

Associate Justice

Chairperson

C E R T I F I C A T I O N

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairpersons Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Courts Division.

REYNATO S. PUNO

Chief Justice

* Additional member per Raffle of June 29, 2009 in place of Associate Justice Arturo D. Brion who concurred in the assailed Resolution.

[1] *Rollo* (G.R. No. 167569), pp. 597-609. Penned by Associate Justice Martin S. Villarama, Jr., with Associate Justices Edgardo F. Sundiam and Japar B. Dimaampao concurring.

[2] *Id.* at 611.

[3] *Id.* at 612-617. Penned by Judge Alfredo C. Flores.

[4] *Id.* at 618-619.

[5] *Rollo* (G.R. No. 167570), p. 157.

[6] *Rollo* (G.R. No. 171946), pp. 35-49. Penned by Associate Justice Eliezer R. De los Santos with Associate Justices Eugenio S. Labitoria and Jose C. Reyes, Jr. concurring.

[7] *Id.* at 50. Penned by Associate Justice Eliezer R. De los Santos with Associate Justices Arturo D. Brion (now a member of this Court) and Jose C. Reyes, Jr. concurring.

[8] *Rollo* (G.R. No. 167570), p. 530.

[9] *Rollo* (G.R. No. 167569), pp. 631-634.

[10] *Id.* at 636-646.

[11] ARTICLE IV. *Citizenship*

SECTION 1. The following are citizens of the Philippines:

x x x x

(4) Those whose mothers are citizens of the Philippines and, upon reaching the age of majority, elect Philippine citizenship.

x x x x

[12] AN ACT PROVIDING THE MANNER IN WHICH THE OPTION TO ELECT PHILIPPINE CITIZENSHIP SHALL BE DECLARED BY A PERSON WHOSE MOTHER IS A FILIPINO CITIZEN, approved on June 7, 1941.

[13] *Rollo* (G.R. No. 167569), pp. 642-643.

[14] *Id.* at 645-646.

[15] *Id.* at 644.

[16] *Id.*

[17] *Id.* at 685-687.

[18] *Rollo*, (G.R. No. 167570), pp. 155-156.

[19] Section 37. (a) The following aliens shall be arrested upon the warrant of the Commissioner of Immigration or of any other officer designated by him for the purpose and deported upon the warrant of the Commissioner of Immigration after a determination by the Board of Commissioners of the existence of the ground for deportation as charged against the alien:

x x x x

(9) Any alien who commits any of the acts described in sections forty-five and forty-six of this Act, independent of criminal action which may be brought against them: *Provided*, That in the case of an alien who, for any reason, is convicted and sentenced to suffer both imprisonment and deportation, said alien shall first serve the entire period of his imprisonment before he is actually deported: *Provided*, That the imprisonment may be waived by the Commissioner of Immigration with the consent of the Department Head, and upon payment by the alien concerned of such amount as the Commissioner may fix and approved by the Department Head;

x x x x

[20] Section 45. Any individual who—

x x x x

(c) Obtains, accepts or uses any immigration document, knowing it to be false; or

x x x x

[21] AN ACT TO CONTROL AND REGULATE THE IMMIGRATION OF ALIENS INTO THE PHILIPPINES, approved on August 26, 1940.

[22] *Rollo* (G.R. No. 167570), p. 157.

[23] *Rollo* (G.R. No. 167569), pp. 692-742.

[24] *Rollo* (G.R. No. 171946), pp. 106-124.

[25] *Id.* at 124.

[26] *Rollo* (G.R. No. 167569), pp. 743-761.

[27] *Rollo* (G.R. No. 171946), pp. 125-126.

[28] *Rollo* (G.R. No. 167569), pp. 612-617.

[29] *Rollo* (G.R. No. 171946), pp. 135-136.

[30] *Id.* at 137.

[31] *Records*, p. 71, SP. Proc. No. 11447.

[32] *Rollo* (G.R. No. 167569), p. 609.

[33] *Rollo* (G.R. No. 171946), p. 308.

[34] Id. at 309.

[35] Id. at 310.

[36] Id. at 311-316.

[37] Id. at 327-330.

[38] Id. at 331-332.

[39] Id. at 46-48.

[40] Id. at 50.

[41] *Rollo* (G.R. No. 167569), pp. 566-588.

[42] *Rollo* (G.R. No. 167570), pp. 32-46.

[43] *Rollo* (G.R. No. 171946), p. 18.

[44] AN ACT TEMPORARILY TO PROVIDE FOR THE ADMINISTRATION OF THE AFFAIRS OF CIVIL GOVERNMENT IN THE PHILIPPINE ISLANDS, AND FOR OTHER PURPOSES, approved on July 1, 1902.

[45] AN ACT TO DECLARE THE PURPOSE OF THE PEOPLE OF THE UNITED STATES AS TO THE FUTURE POLITICAL STATUS OF THE PEOPLE OF THE PHILIPPINE ISLANDS, AND TO PROVIDE A MORE AUTONOMOUS GOVERNMENT FOR THOSE ISLANDS, approved on August 29, 1916.

[46] No. L-18069, May 26, 1962, 5 SCRA 108.

[47] Id. at 110.

[48] G.R. Nos. 120295 & 123755, June 28, 1996, 257 SCRA 727.

[49] Id. at 761.

[50] *Supra* at 19.

[51] Section 45. Any individual who –

x x x x

(e) Being an alien, shall for any fraudulent purpose represent himself to be a Philippine citizen in order to evade any requirement of the immigration laws; or

x x x x

[52] *Tolentino v. Court of Appeals*, No. L-41427, June 10, 1988, 162 SCRA 66, 72.

[53] Approved on December 4, 1926.

[54] RULES OF COURT, Rule 3,
SEC 7. *Compulsory joinder of indispensable parties.* Parties in interest without whom no final determination can be had of an action shall be joined either as plaintiffs or defendants.

[55] RULES OF COURT, Rule 3,
SEC. 2 *Parties in interest.* A real party in interest is the party who stands to be benefited or injured by the judgment in the suit, or the party entitled to the avails of the suit. Unless otherwise authorized by law or these Rules, every action must be prosecuted or defended in the name of the real party in interest.

See also *Victorias Milling Co., Inc. v. NLRC*, G.R. No. 116236, October 2, 1996, 262 SCRA 623, 630.

[56] ARTICLE IV. *Citizenship*

SECTION 1.

x x x x

(3) Those whose fathers are citizens of the Philippines.

x x x x

[57] *Rollo* (G.R. No. 167569), p. 642.

- [58] *Moy Ya Lim Yao v. Commissioner of Immigration*, No. L-21289, October 4, 1971, 41 SCRA 292, 367; *Lee v. Commissioner of Immigration*, No. L-23446, December 20, 1971, 42 SCRA 561, 565; *Board of Commissioners (CID) v. Dela Rosa*, G.R. Nos. 95612-13, May 31, 1991, 197 SCRA 854, 877-878.
- [59] *Board of Commissioners (CID) v. Dela Rosa*, supra at 878. See also *Burca v. Republic*, No. L-24252, June 15, 1973, 51 SCRA 248, 259-260.
- [60] *Lao Gi v. Court of Appeals*, G.R. No. 81798, December 29, 1989, 180 SCRA 756, 761.
- [61] 96 Phil. 665 (1955).
- [62] *Chua Hiong v. Deportation Board*, supra at 672. See also *Co v. The Deportation Board*, No. L-22748, July 29, 1977, 78 SCRA 104, 107.
- [63] *Chua Hiong v. Deportation Board*, id. at 671. See also *Co v. The Deportation Board*, id. at 107; *Calacday v. Vivo*, No. L-26681, May 29, 1970, 33 SCRA 413, 416.
- [64] *Chua Hiong v. Deportation Board*, supra at 672. See also *Co v. The Deportation Board*, supra at 107-108.
- [65] *Chua Hiong v. Deportation Board*, supra at 670, citing *Miranda, et al. v. Deportation Board*, 94 Phil. 531, 533 (1954).
- [66] *Chua Hiong v. Deportation Board*, supra at 671.
- [67] *Vivo v. Montesa*, No. L-24576, July 29, 1968, 24 SCRA 155, 159.
- [68] *Civil Service Commission v. Bumogas*, G.R. No. 174693, August 31, 2007, 531 SCRA 780, 785.
- [69] *Ong v. Bogalbal*, G.R. No. 149140, September 12, 2006, 501 SCRA 490, 501; *Heirs of Dicman v. Cario*, G.R. No. 146459, June 8, 2006, 490 SCRA 240, 261-262; *Almendrala v. Ngo*, G.R. No. 142408, September 30, 2005, 471 SCRA 311, 322.
- [70] See *United States v. Ang*, 36 Phil. 858 (1917); *United States v. Lim Bin*, 36 Phil. 924 (1917); *Santos Co v. Government of the Philippine Islands*, 52 Phil. 543 (1928); *Haw v. Collector of Customs*, 59 Phil. 612 (1934); *Lam Swee Sang v. Commonwealth of the Philippines*, 73 Phil. 309 (1941); *Gallofin v. Ordoez*, 70 Phil. 287 (1940).
- [71] 79 Phil. 249, 257-258 (1947). See also *Tio Tiam v. Republic of the Philippines*, 101 Phil. 195, 198-199 (1957).
- [72] R. JOSON AND R. LEDESMA, MANUAL ON THE ALIEN REGISTRATION ACT OF 1950 10 (1999).
- [73] SECTION 4. That all inhabitants of the Philippine Islands continuing to reside therein who were Spanish subjects on the eleventh day of April, eighteen hundred and ninety-nine and then resided in said Islands, and their children born subsequent thereto, shall be deemed and held to be citizens of the Philippine Islands and as such entitled to the protection of the United States, except such as shall have elected to preserve their allegiance to the Crown of Spain in accordance with the provisions of the treaty of peace between the United States and Spain signed at Paris, December tenth, eighteen hundred and ninety-eight.
- [74] SECTION 2. That all inhabitants of the Philippine Islands who were Spanish subjects on the eleventh day of April, eighteen hundred and ninety-nine, and then resided in said islands, and their children born subsequent thereto, shall be deemed and held to be citizens of the Philippine Islands, except such as shall have elected to preserve their allegiance to the Crown of Spain in accordance with the provisions of the treaty of peace between the United States and Spain, signed at Paris, December tenth, eighteen hundred and ninety-eight, and except such others as have since become citizens of some other country: PROVIDED, That the Philippine Legislature, herein provided for, is hereby authorized to provide by law for the acquisition of the Philippine citizenship by those natives of the Philippine Islands who do not come within the foregoing provisions, the natives of the insular possessions of the United States, and such other persons residing in the Philippine Islands who are citizens of the United States, or who could become citizens of the United States under the laws of the United States if residing therein.
- [75] J. BERNAS, CONSTITUTIONAL RIGHTS AND SOCIAL DEMANDS: NOTES AND CASES PART II 929 (2004 ed.), citing *Ching Leng v. Galang*, 104 Phil. 1058 (1958), unreported; *Serra v. Republic*, 91 Phil. 914 (1952), unreported; *Zamboanga Transportation Co., Inc. v. Lim*, 105 Phil. 1321 (1959), unreported; *Board of Immigration Commissioners v. Go Callano*, No. L-24530, October 31, 1968, 25 SCRA 890.
- [76] *In re: Florencio Mallare*, Adm. Case No. 533, September 12, 1974, 59 SCRA 45, 52; *Re: Application for Admission to the Philippine Bar of Vicente D. Ching*, B.M. No. 914, October 1, 1999, 316 SCRA 1, 10-11.

- [77] *Re: Application for Admission to the Philippine Bar of Vicente D. Ching*, supra at 8.
- [78] Id. at 8-9.
- [79] I.R. LEDESMA, AN OUTLINE OF PHILIPPINE IMMIGRATION AND CITIZENSHIP LAWS 405 (2006 ed.)
- [80] *Paa v. Chan*, No. L-25945, October 31, 1967, 21 SCRA 753, 762.
- [81] *Lao Tang Bun v. Fabre*, 81 Phil. 682, 691 (1948).
- [82] *CMP Federal Security Agency, Inc. v. NLRC*, G.R. No. 125298, February 11, 1999, 303 SCRA 99, 111; *Philippine Long Distance Telephone Company v. NLRC*, G.R. No. 111933, July 23, 1997, 276 SCRA 1, 7.
- [83] *Montemayor v. Bundalian*, G.R. No. 149335, July 1, 2003, 405 SCRA 264, 269.
- [84] *Rollo* (G.R. No. 171946), p. 131.
- [85] Id. at 18.
- [86] Id. at 21-23.
- [87] Id. at 24.
- [88] Id. at 25-28.
- [89] Id. at 28.
- [90] Id. at 28-29.
- [91] Id. at 29.
- [92] Id. at 432-433.
- [93] Id. at 435-436.
- [94] Id. at 441.
- [95] Id. at 442.
- [96] Id. at 443-449.
- [97] *Dwikarna v. Domingo*, G.R. No. 153454, July 7, 2004, 433 SCRA 748, 754.
- [98] SEC. 4. *When writ not allowed or discharged authorized*. If it appears that the person alleged to be restrained of his liberty is in the custody of an officer under process issued by a court or judge or by virtue of a judgment or order of a court of record, and that the court or judge had jurisdiction to issue the process, render the judgment, or make the order, the writ shall not be allowed; or if the jurisdiction appears after the writ is allowed, the person shall not be discharged by reason of any informality or defect in the process, judgment, or order. Nor shall anything in this rule be held to authorize the discharge of a person charged with or convicted of an offense in the Philippines, or of a person suffering imprisonment under lawful judgment.
- [99] *Office of the Solicitor General v. De Castro*, A.M. No. RTJ-06-2018, August 3, 2007, 529 SCRA 157, 168-169.
- [100] Id. at 169-170; *Kiani v. Bureau of Immigration and Deportation (BID)*, G.R. No. 160922, February 27, 2006, 483 SCRA 341, 357.
- [101] *Bengzon v. Ocampo*, 84 Phil. 611, 613 (1949); *Ong See Hang v. Commissioner of Immigration*, No. L-9700, February 28, 1962, 4 SCRA 442, 447.