as a caution against analyzing those laws in terms of American legal concepts on the assurance that they were after all "based on" Federal securities laws.

We have not inquired as to which of the two systems compared is more "effective" in terms of realizing the goal of achieving an honest, orderly and vigorous capital market. Hopefully, we have given some indication of problems and inadequacies which exist in both systems and which warrant further analysis and, perhaps, corrective action.

RES JUDICATA IN MATTERS OF CITIZENSHIP

CYNTHIA R. ROXAS*

The doctrine of res judicata forecloses parties or privies in a case from litigating anew controversies finally decided in a previous action prosecuted between the same parties and involving the same subject matter and the same cause of action.[1] This doctrine has been consistently applied by the courts and affirmed by a long line of decisions as a sound rule to forestall endless litigations, and in order to give stability to our judicial system. A judgment, once final, bars any other action involving any controversy therein decided, although considered to be erroneous, but nevertheless promulgated by a court with proper jurisdiction.

The rule on the preclusive effect of a final judgment allows very few exceptions, generally only in matters involving high public interest where a new inquiry and a consequent injury to rights already vested can be justified by a greater good. Citizenship, undoubtedly, is a matter impressed with the highest public interest. It carries with it the duty of allegiance on the part of the member and the duty of protection on the part of the State and society. Thus, unlike in ordinary cases involving private rights, the application of the doctrine of res judicata in citizenship cases has yet to be developed as a rule. A great number of cases have rejected its application, but there are a few cases which have held decisions involving citizenship to be conclusive. The purpose of this article then, is to find out the extent of the applicability of res judicata to citizenship cases.

Once declared or granted by the proper bodies, an award of citizenship, like decisions on ordinary controversies, achieves finality, although not strictly in the sense that a final judgment becomes conclusive as to all matters therein raised and decided. Being infused, to a certain degree, with a character not present in ordinary

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[1] Roman Cath. Arch. v. Director of Lands, 35 Phil. 339, 351 (1916).

litigations, decisions involving citizenship, have been treated upon a different plane.

Declaration and Grant of Citizenship Distinguished

Citizenship is a political status. It is either acquired by birth or granted by the State under which the citizen holds political membership. Those who are citizen by birth are natural-born citizens while those who are citizens by state grant are naturalized citizens. The 1973 Constitution defines who are citizens of the Philippines:[2]

> (1) Those who are citizens of the Philippines at the time of the adoption of this Constitution;
> (2) Those whose fathers or mothers are citizens of the Philippines;
> (3) Those who elect Philippine citizenship pursuant to the provisions of the Constitution of 1935;[3]
> (4) Those who are naturalized in accordance with law.

Under our definition of a natural-born citizen,[4] those whose fathers or mothers are citizens of the Philippines and the children of those falling under paragraphs (1) and (3), are natural-born Filipinos. For this class of citizens, whenever their status as such is doubted, a declaration of their true status is all that is necessary; a grant of citizenship takes place only when an alien seeks to be admitted as a citizen through the judicial process of naturalization[5] or through naturalization by special law. Paragraph (4) refers to both judicial naturalization and naturalization by special law. A declaration of citizenship merely confirms a status which was there all along — even prior to such declaration; a grant gives a new status and involves a renunciation of prior nationality and a consequent change of status.

Unlike naturalization proceedings, a declaration of citizenship need not be made in a judicial proceeding. It can be rendered by administrative bodies. In fact, it is well settled under our laws, that there can be no judicial action or proceeding for the declaration of the citizenship of an individual, although as an incident in the adjudication of the rights of parties to a controversy, a court may properly pass upon and make a pronouncement on the citizenship of a person.[6] Whereas the law permits naturalization through judicial proceeding, there is no similar legislation authorizing the institution of a judicial proceeding to declare that a given person is part of our citizenry.[7]

A grant of citizenship then is distinct from a mere declaration. This essay will show how res judicata applies differently to each.

I. NATURALIZATION

Naturalization is the judicial act of adopting a foreigner and clothing him with the privileges of a native-born citizen. It implies the renunciation of a former nationality and the fact of entrance into a similar relation with a new body politic.[8] The new relationship created as a result of a grant of citizenship is practically the same as that existing between a natural-born citizen and his native state, save in those respects where the Constitution itself makes a distinction between natural-born and naturalized citizen. However, the opportunity of an alien to obtain citizenship through naturalization is a mere matter of grace, favor or privilege extended to him by the State. An alien does not have a natural, inherent, existing or vested right to be admitted to citizenship.[9] It is a privilege which a sovereign government can confer on or withhold from, or grant to him on such conditions as it sees fit, even without the support of any reason whatsoever.[10] An applicant's claim for citizenship under this process is never one of right, but of favor. There are no rights to be protected nor maintained, but simply a petition seeking the enjoyment of political rights to which he is not entitled. Thus, as the Court has aptly said: "a naturalization case is not an ordinary judicial contest to be decided in favor of the party whose claim is supported by a preponderance of evidence."[11]

The pertinent law covering the steps leading to naturalization in the Philippines is found in Commonwealth Act 473, as amended.[12] Like all naturalization laws, it is rigidly enforced and strictly construed in favor of the State and against the applicant.[13] Its provisions must be followed to the letter, otherwise, the application will be denied, because a grant of citizenship can only be enjoyed under the precise conditions set up by law. If, after having faithfully complied with all its requirements, a certificate of citizenship is granted, the grantee is never secured in the continuous possession of his new status, because the same law provides for denaturalization proceedings where the State is authorized to cancel the certificate previously granted. The certficate may be cancelled upon the following grounds:[14]

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[2] Art. III, sec. 1.

[3] Under the 1935 Constitution, those born of Filipino mothers and alien fathers must elect Philippine citizenship upon reaching the age of majority to become Filipino citizens. Otherwise, they follow the citizenship of their fathers. Only those born of Filipino fathers are considered Filipino citizens under the old constitution.

[4] "A natural-born citizen is one who is a citizen of the Philippines from birth without having to perform any act to acquire or perfect his Philippine citizenship", Art. III, sec. 4, 1973 Constitution.

[5] CA 473 as amended, which governs our naturalization laws, provides, among others, that the declaration of intention and the petition for naturalization be filed with the Court of First Instance.

[6] Board of Com. v. Domingo, 8 SCRA 661, 664 (July 31, 1963); Burca v. Republic, 51 SCRA 248, 257-258 (June 15, 1973).

[7] Singson v. Republic, 22 SCRA 353, 357 (Jan. 30, 1968).

[8] 2 Am. Jur. 561.

[9] Mu Yuen Tsi v. Republic, 5 SCRA 407, 415 (June 29, 1962); Cuaki Tan Si v. Republic, 6 SCRA 545, 546 (Oct. 31, 1962).

[10] Lo Beng Ha Ong v. Republic, 25 SCRA 247, 252 (Sept. 28, 1968) citing 3 C.J.S. 834.

[11] Cuaki Tan Si v. Republic, 6 SCRA 545, 546 (Oct. 31, 1962).

[12] This article does not touch on Letter of Instruction 270 which at the time of writing, had not yet been issued.

[13] Co y Quing Reyes v. Republic, 104 Phil. 889, 894-95 (1958) citing 3 C.J.S. 833.

[14] Sec. 18, CA 473.

(a) If it is shown that said naturalization certificate was obtained fraudulently or illegally;

(b) If the person naturalized shall, within the 5 years next following the issuance of said naturalization certificate, return to his native country or to some foreign country and establish his permanent residence there, *Provided*, that the fact of the person naturalized remaining for more than 1 year in his native country of his former nationality, or 2 years in any foreign country, shall be considered as prima facie evidence of his intention of taking up his permanent residence in the same;

(c) If the petition was made on an invalid declaration of intention;

(d) If it is shown that the minor children of the person naturalized failed to graduate from a public or private high school recognized by the Office of Private Education of the Philippines, where Philippine History, government and civics are taught as part of the school curriculum, thru the fault of their parents either by neglecting to support them or transferring them to another school or schools;

(e) If it is shown that the naturalized citizen has allowed himself to be used as a dummy in violation of the Constitutional or legal provision requiring Philippine citizenship as a requisite for the exercise, use or enjoyment of a right, franchise or privilege.

Paragraphs (b), (d), and (e) are grounds arising subsequent to the granting of the certificate. Law and jurisprudence allow cancellation upon such grounds[15] so that there is no question of res judicata involved. That the applicant is qualified for citizenship at the time the certificate is granted is not disputed, but because of subsequent acts his right is lost and the grant may be withdrawn from him. What really present a problem are those which involve grounds arising previous to the granting of the certificate, particularly that found in paragraph (a). Acts committed or omitted which would have rendered the applicant unqualified for citizenship but were never discovered at that stage subject the grantee to the cancellation of his certificate. Often, it has been asked: Will this not offend the now accepted doctrine that gives stability to judicial decisions, by permitting a new inquiry into the grantee's qualifications?

A finding that the applicant is qualified for citizenship becomes final after two years from the date of promulgation by the Court of First Instance, if there is no appeal, or two years after the date of promulgation by the Supreme Court in case the decision is appealed from.[16] During the two-year intervening period, the applicant must satisfy certain requirements,[17] after which an order allowing oath-taking is issued. Such order follows the same course of ordinary orders of the court, which, upon the expiration of the period for appeal therefrom, achieves finality, and the applicant is allowed to take his oath of allegiance thereby signifying his entrance into a new

[15] Go Tian An v. Republic, 17 SCRA 1053, 1055 (Aug. 31, 1966).
[16] Qua v. Republic, 15 SCRA 698, 703 (Dec. 31, 1965).
[17] During the 2-year intervening period, the applicant must: 1) not leave the Philippines; 2) dedicate himself continuously to a lawful calling or profession; 3) not be convicted of any offense or violation of govt.-promulgated rules; and 4) must not commit any act prejudicive to the interest of the nation or contrary to any govt.-announced policies (Secs. 1 & 2, RA 530).

body politic. It is settled that at the stage preparatory to oath-taking, any question affecting the qualification of the applicant may be inquired into, and no claim of res judicata as to his qualifications may be maintained.[18] At such stage, the decision granting the petition for naturalization has not really become final, and therefore one element for the application of res judicata is missing. What is not, however, settled is whether the question of qualifications may be inquired into after the applicant has already taken his oath and the certificate has been granted to him, the decision granting his petition having become final. In ordinary litigations, a decision which has become final, even if later found to be erroneous because of inaccurate appreciation of the facts, cannot be disturbed, and the issues settled by it may not be litigated again. A deviation from this rule however, has been made in a number of naturalization cases.

Not an Adversary Proceeding

A naturalization proceeding, while in a certain sense a judicial proceeding, being conducted in a court of record and made a matter of record therein, is not essentially an adversary proceeding. It is not a private contest between the applicant and whoever is the occupant of the Office of the Solicitor General.[19] It is the alien who applies to be admitted, makes the necessary declaration, adduces the required proofs and renounces his foreign allegiance, all as a condition precedent to his admission,[20] so that even without opposition from the government, the court may motu proprio deny the application for naturalization.[21] The order granting the issuance of the certificate is not a judgment rendered by a court in a suit between adverse parties and, as such, final and binding upon them upon matters involved in the suit and decided by judgment. Rather, it is merely a grant in special proceedings authorized by Congress of a political privilege conferred upon the petitioning alien purely as a gratuity.[22]

The cases wherein res judicata has been held to be inapplicable in naturalization proceedings are in agreement that the reason for inapplicability is that the proceedings for naturalization do not partake of the nature of a judicial adversary proceeding. Even the appearance of state agents in the proceedings does not convert it into an adversary one so as to make res judicata applicable.[23] In *Republic v. Go Bon Lee*[24] the Court said:

> ...unlike final decisions in actions and other proceedings in court, a decision or order granting citizenship to the applicant does not really become executory, and a naturalization proceeding not being a judicial adversary proceeding, the decision rendered

[18] Bun Tho Khu v. Republic, 16 SCRA 29, 31 (Jan. 22, 1966).
[19] Sy v. Republic, 55 SCRA 724, 728 (Feb. 28, 1974).
[20] 2 Am. Jur. 574.
[21] Pe v. Republic, 3 SCRA 573, 575 (Nov. 29, 1961).
[22] Maney v. U.S., 278 U.S. 17, 21 (1928).
[23] U.S. v. Ness, 245 U.S. 319, 325-326 (1917).
[24] Republic v. Go Bon Lee, 1 SCRA 1166, 1170 (April 29, 1961).

therein is not res judicata as to any of the reasons or matters which would support a judgment cancelling the certificate of naturalization for illegal or fraudulent procurement.

In *Go Tian An v. Republic*,[25] where the appellee's main argument, advanced with some vehemence, that the matter of his citizenship was res judicata, it was held by the Court that:

> This argument has been ventilated in this highest judicial forum of the land, and has been rejected without hesitation.
>
> Moreover, a naturalization proceeding is not a judicial adversary proceeding; the decision rendered therein is not res judicata as to any matter that would support a judgment cancelling a certificate of naturalization on the ground of illegal or fraudulent procurement thereof.
>
> Neither estoppel nor res judicata may be set up to bar the State from instituting appropriate proceeding directed at striking down a certificate of citizenship which was illegally or fraudulently secured.

In *Tan Teng Hen v. Republic*,[26] the Court, citing both of the above cases, held:

> As a naturalization proceeding is not a judicial adversary proceeding, the decision rendered is not res judicata as to any of the reasons or matters which would support a judgment cancelling the certificate of naturalization for illegal or fraudulent procurement.

Illegal or Fraudulent Procurement

In all the above three cases, the certificate was cancelled because of acts committed prior to the granting of the certificate, despite the fact that the decisions holding the applicants qualified for citizenship had already become final. In *Republic v. Go Bon Lee*, the certificate was cancelled because the applicant filed his petition for naturalization in less than a year after filing his declaration of intention,[27] a fact which was found by the Supreme Court to be in contravention of the express terms of Sec. 5 of the Revised Naturalization Law. The Court thus reversed the lower court's ruling that there is substantial compliance with the law even if the petition is filed in less than a year's time, as long as the hearing on such petition is held after one year from the date the declaration of intention is filed. In denying the applicant's contention that the matter of his citizenship was res judicata, the Court said that the language of the law is clear and explicit, and any certificate issued outside of its clear terms is illegally obtained.

In *Go Tian An*, cancellation was ordered for unauthorized use of aliases, although no such question was raised during the hearing of his petition. Citing *Beli v. Atty. General*,[28] the Court held that the certificate can be cancelled if it is discovered subsequently

[25] 17 SCRA 1053, 1055 (Aug. 31, 1966).
[26] 58 SCRA 500, 504 (Aug. 21, 1974).
[27] Sec. 5 of the Revised Naturalization Law requires that the petition for naturalization be filed after one year from the date of the filing of the declaration of intention with the CFI.
[28] 56 Phil. 667 (1932).

that the applicant obtained it by misleading the Court upon any material fact. In *Tan Teng Hen*, cancellation was granted because the notice of hearing, as issued by the lower court and as published in the Official Gazette and the Manila Chronicle, did not reproduce the petition *in toto* but merely contained a digest thereof. All these acts, which were either not known to the court or believed to be in compliance with law by the court at the time the certificate was granted, made the certificate either illegally or fraudulently procured.

A court in a naturalization proceeding does not possess any authority to grant citizenship unless there has been strict compliance with the requirements set up by law. Errors thus committed by the court do not make the holder of the certificate secure in his new status but allow the State the remedy of denaturalization whenever it can be found that the certificate was not procured in the manner prescribed by law. The government is never estopped by mistakes or errors on the part of its agents.[29]

> An alien friend is offered under certain conditions the privilege of citizenship. He may accept the offer and become a citizen upon compliance with the prescribed conditions, but not otherwise. He can only become a citizen upon and after a strict compliance with the acts of Congress. An applicant for this high prerogative is bound therefore to conform to the terms upon which alone the rights he seeks can be conferred. It is his province and he is bound, to see that jurisdictional facts upon which the grant is predicated actually exist, and if they do not, he takes nothing by this paper grant. A certificate purporting to grant citizenship to a person not entitled to receive it must be treated as a mere nullity, which confers no legal rights as against the government, for it has been obtained without warrant of law.[30]

In *Go Bon Lee*, the Court held that the language of Sec. 5 of the Revised Naturalization Law is clear and explicit; and the filing of the petition in less than a year after the declaration of intention was filed, is outside the scope of the law. When the law requires a certain period, it must be strictly complied with, for what is not strictly within its express terms is illegal and the certificate thus granted is illegally obtained. Likewise, when the notice of hearing is published only once when the law requires that it be published three times, a certificate granted in such case is illegal, despite the fact that the failure to publish the same more than once is due to a written directive by the clerk of court that one publication is sufficient, the directive being contrary to law.[31]

When on the face of the petition and the order granting naturalization, the requirements have been complied with, but the applicant misled the court into believing that there was indeed compliance by giving wrong information on any material fact, as in the case of the length of his residence in the Philippines,[32] the certificate so obtained is said to have been fraudulently procured.

[29] Pineda v. CFI of Tayabas, 52 Phil. 803, 807 (1929).
[30] Republic v. Go Bon Lee, 1 SCRA 1166, 1170-71 (April 29, 1961), citing U.S. v. Sponrer, 175 Fed. 440.
[31] Gan Tsitung v. Republic, 19 SCRA 401, 403 (Feb. 21, 1967).
[32] Bell v. Atty. Gen., 56 Phil. 667, 671 (1932).

Fraud connotes perjury, falsification, concealment and misrepresentation. The fraud, however, must be such as to amount to false representations or concealment of material facts, and without which, the judgment would not have been rendered and the certificate of citizenship would not have been issued.[33] The difference between what is illegally obtained and what is fraudulently obtained has been in every instance overlooked, so that the Court has not in any case distinguished between the two. In almost all cases (except in a few, where the Court uses either term)[34] the Court makes the general statement that the certificate has been illegally and fraudulently obtained, giving the impression that both terms are, in the final analysis, synonymous. In either case the defect is such as to affect the jurisdiction of the court,[35] and hence, the validity of the decision. But in order to set aside such a grant of citizenship, "the evidence must be clear, unequivocal and convincing — it cannot be done upon a bare preponderance of evidence which leaves the issue in doubt. This is so because rights once conferred, should not be lightly revoked. And more especially is this true when the rights are precious and when conferred by solemn adjudication, as in the situation when citizenship is granted."[36]

The Court is not saying that a grant of citizenship should be conclusive. As already stated, the State is not impotent to withdraw the privilege of citizenship from an alien unworthy thereof. All that the Court is saying is that there must be clear and positive proof that the certificate, for good reasons, must be cancelled. Otherwise, the State should respect the grantee's newly-acquired status.

CFI Grant

The cases of *Go Bon Lee, Go An Tian* and *Tan Teng Hen* have one thing in common: the decisions granting them Filipino citizenship were rendered by Courts of First Instance, from which no appeal was made, although an appeal could be had from such decisions.[37] Without such appeal, the grant of citizenship is said to have emanated from the Court of First Instance; where an appeal is made, the grant of citizenship comes from the Supreme Court. It is worth noting that in several other instances where the doctrine of res judicata was rejected in naturalization cases, what were involved were Court of First Instance grants. Whether or not such factor is controlling is yet to be settled squarely in a case.

Supreme Court Grant

An apparent deviation from the accepted rule that a final decision granting naturalization is not conclusive as against the State

[33] *Id*, citing U.S. v. Albertini, 206 Fed. 133, (1913).
[34] The Court used the term fraudulent in Bell v. Atty. Gen. and illegal in Republic v. Go Bon Lee and Gan Tsitung v. Republic, *supra*.
[35] Go v. Republic, 13 SCRA 548, 551 (Mar. 31, 1965).
[36] Schneiderman v. U.S., 320 U.S. 118, 125 (1942).
[37] Sec. 11, CA 473.

in a cancellation proceeding may be found in *Chan Teck Lao v. Republic*.[38] Far from overruling previous decisions holding res judicata inapplicable, *Chan Teck Lao* presents a unique set of facts, thus explaining the difference in the end results. For one, the decision granting citizenship was made by the highest Tribunal of the land, a fact which the Supreme Court, in the decision reversing the lower Court's order of cancellation, stressed at the outset when it said that "the petitioner had in his favor a decision no less than from this Tribunal granting him citizenship."[39]

The facts of the case in brief are as follows: The application of *Chan Teck Lao* for naturalization was denied by the lower court on October 31, 1949. Upon appeal, the Supreme Court, on June 15, 1950, reversed such decision and granted the petition. On June 16, 1962, or a full 12 years later, a petition for cancellation was instituted. On the basis of the decision in *Tan Ten Koc v. Republic*,[40] rendered on February 28, 1964, which required the applicant to present positive proof that the newspaper where his petition was published was indeed of general circulation in the province where the proceedings was had, the lower court ordered cancellation in 1965, counsel for petitioner having admitted failure to present such evidence. In 1967, *Gan Tsitung v. Republic*[41] settled the rule that no retroactive effect is to be given a judicial pronouncement that would have the effect of imposing on a party in a denaturalization proceeding a requirement not in existence at the time his application was heard and favorably acted on. The Supreme Court in reversing the lower court's order of cancellation said:[42]

> To rely on the 1964 *Tan Ten Koc* ruling, which after all these years, would require that positive proof as to the paper wherein the application was published in the place where the proceeding was had being of general application to petitioner-appellant who, as far as June 15, 1950, had already been granted citizenship by this Court, his certificate being issued 2 years thereafter, would, in the language of *Gan Tsitung*, be "far from just, fair and reasonable."

Continuing, it held:

> ...to impose additional burden for the first time to warrant the denaturalization of a citizen whose naturalization was obtained after the most exacting scrutiny not only by the lower courts but by this Tribunal, and especially so after a long lapse of time, would be clearly to subject him to a risk that certainly, the Constitution, with its pledge of equal protection, cannot countenance.[43]

Thus, the Court spoke in no uncertain terms that, as far back as 1950, the petitioner had met all the qualifications for citizenship.[44]

[38] 55 SCRA 1 (Jan. 4, 1974).
[39] *Id*, at 4.
[40] 10 SCRA 286 (Feb. 28, 1964).
[41] 19 SCRA 401, 404 (Feb. 21, 1967).
[42] Chan Teck Lao v. Republic, 55 SCRA 1, 4-5 (Jan. 4, 1974).
[43] *Id*, at 6.
[44] *Id*, at 7.

What makes *Chan Tek Lao* different from the previous cases and even from the subsequent case of *Tan Teng Hen,* which was rendered on August 21, 1974?

The following should be noted:

First, unlike the other cases, the grant of citizenship in *Chan Tek Lao* proceeded from no less than the Supreme Court. It seems rather evident that the Supreme Court relied heavily on this fact. The double scrutiny made on the applicant's qualifications appears to be a major factor in giving such decision a conclusive effect.

Second, the proceeding for cancellation was instituted after a long lapse of time, extending to more than 10 years after the decision granting citizenship became final. In the other cases where the decisions in the matter of citizenship were not given conclusive effect, cancellation was sought within a short period of time, never extending to more than 10 years, the shortest of which, in the case of *Go An Tian,* was two months. Of the three American cases cited in *Chan Teck Lao — Schneiderman v. U.S.,*[45] *Baumgartner v. U.S.,*[46] and *Knauer v. U.S.*[47] — cancellation proceedings were instituted after a lapse of more than ten years in two cases: twelve years in the case of *Schneiderman,* and almost eleven years in the case of *Baumgartner.* In both, cancellation was denied. The petition for cancellation in the case of *Knauer* was filed after six years. Cancellation was granted.

Third, the case was decided under the concept of non-retroactivity of laws where retroactivity would violate equal protection. At the time the certificate was granted, the applicant had strictly complied with the requirements set up by law and had established the requisite facts, for it was only a year later that the rule requiring positive proof of proper publication was promulgated. Under no interpretation then could citizenship be said to have been illegally or fraudulently obtained. The court granting citizenship acted in the proper exercise of its jurisdiction and therefore, the grantee was in all respects a naturalized citizen. Naturalized citizens are as much entitled to equal protection as natural born citizens,[48] their citizenship not being a second-class citizenship.[49]

No such claim can be made by a person who has obtained citizenship illegally or fraudulently. the decision granting the same being jurisdictionally defective. Besides, naturalization statutes should be interpreted prospectively unless their language requires a retrospective construction.[50] The same shoud also be true with decisions made by the Supreme Court which are considered as part

[45] 320 U.S. 118 (1942).
[46] 322 U.S. 665 (1944).
[47] Knauer v. U.S., 328 U.S. 654, 657 (1946), Justices Rutledze and Murphy dissenting.
[48] 3 C.J.S. 834.
[49] Knauer v. U.S., 328 U.S. 654, 658 (1946).
[50] 3 C.J.S. 834.

of our laws. To deprive a naturalized citizen of his status, in the words of *Schneiderman,* is in its consequences "more serious than the taking of his property or the imposition of a fine or other penalty."[51] However, *Schneiderman* adds: "This does not mean that once granted to an alien, citizenship cannot be revoked or cancelled on legal grounds under appropriate proof."[52]

Thus, a decision granting citizenship, even if final, is never conclusive against the State in a proceeding to cancel the same, unless it is attended by extraordinary circumstances, such as those appearing in the case of *Chan Teck Lao.*

Conclusive When Collaterally Attacked

Except as against the State in a proceeding to cancel the certificate of citizenship, the judgment in a naturalization proceeding is entitled to full faith and credit, and is conclusive as to all matters involved in the issue and placed before the court. It is to be accepted as a complete evidence of its own validity and may not be attacked collaterally, unless it is void.[53] The matter of the grantee's qualifications for citizenship is settled and may not be inquired into in any other proceeding in court outside of cancellation proceedings. Whenever citizenship is essential element in any other action or proceeding, a naturalized citizen may securely rely on the judgment granting him naturalization. The theory upon which this is based is that such decision is of the same dignity as any other judgment and is entitled to the same degree of respect.[54]

II. DECLARATION OF CITIZENSHIP

A pronouncement that a person is a Filipino citizen may at times be called for. Unlike in naturalization cases, there is no change of citizenship involved in such a case but only a declaration, pure and simple, that a person is in possession of such status. As previously stated, this refers to a declaration made either by a court or by an administrative agency.

Judicial Declaration

The rule is that there can be no judicial action or proceeding for the declaration of the citizenship of an individual under our present laws.[55] Thus, a petition for declaratory relief to declare one a citizen has been consistently rejected by our courts, such right not having been granted by substantive or procedural law. Courts of justice exist for the settlement of justiciable controversies, which imply a given right, legally demandable and enforce-

[51] Schneiderman v. U.S., 320 U.S. 118, 122 (1942).
[52] *Id,.*
[53] 3 C.J.S. 853-854.
[54] Oehlert v. Oehlert, 6 A.L.R. 406, 407 (1919).
[55] Board of Com. v. Domingo, 8 SCRA 661, 664 (July 31, 1963); Singson v. Republic, 22 SCRA 353, 357 (Jan. 30, 1968); Burca v. Republic, 51 SCRA 248, 257-258 (June 15, 1973).

able, an act or omission violative of said right, and remedy granted or sanctioned by law, for said breach of right,[56] or in anticipation of any such controversy. Such conditions do not obtain where one simply files an action to declare himself a citizen.

This does not mean however, that no such declaration can be made in judicial proceedings, because all the cases wherein such rule has been applied are quick to add that as an incident in the adjudication of the rights of the parties to a controversy, the court may pass upon and make a pronouncement relative to their citizenship status. It is only in this instance that the courts can make such a pronouncement.[57]

Thus, in one case, the Court ruled that if a person claiming to be a citizen of the Philippines is compelled to register as an alien by administrative officers of the government, he can bring an injunction suit against such officers and prove that he is a Filipino citizen.[58]

Similarly, judicial declaration of the citizenship of a person has been allowed in a proceeding for the exclusion of voters, "inasmuch as the authority to order the inclusion or exclusion from the list of voters necessarily carries with it the power to inquire into and settle all matters essential to the exercise of said authority unless the law provides otherwise."[59]

The court's power to make a declaration of citizenship as an incident in the adjudication of the rights of the parties in a case admits of only one exception: a declaration that a person is a Filipino citizen cannot be made in a petition for naturalization wherein it is prayed that the petitioner be admitted as a citizen of the Philippines.[60] Rightfully, this is so because a petition for naturalization necessarily implies that the petitioner is an alien seeking a grant of citizenship.

Effect of Declaration

The lower court decision which was reversed by the above ruling on the exclusion of voters had refused to pass upon the important question of citizenship for the reason that it was a summary proceeding and because of the mistaken understanding that the decision therein could not be appealed to a higher court. The Supreme Court said that this process of reasoning overlooked the fact that a decision affirming the right to remain in the list of voters could not constitute res judicata with respect to the nationality of the person concerned and on his right to vote.[61] In other words, whatever the decision might be, it would not be conclusive on his political status. Such declaration may be made simply for

[56] Singson v. Republic, 22 SCRA 353, 357 (Jan. 30, 1963).
[57] *Id*,.
[58] Lim v. de la Rosa, 10 SCRA 536, 542 (March 31, 1968).
[59] Ozamiz v. Zosa, 34 SCRA 424, 427 (Aug. 31, 1970).
[60] Palaron v. Republic, 4 SCRA 79, 82-83 (Jan. 30, 1962).
[61] Ozamiz v. Zosa, 34 SCRA 424, 427 (Aug. 31, 1970).

the purpose of deciding the controversy and cannot be taken as conclusive on his nationality in any other case. Likewise, when two petitioners-appellants moved to withdraw their appeal for correction of entry in the Civil Registry changing their status from Chinese to Filipino on the ground that the matter had become moot and academic as to them, in view of a decision of another branch of the Court of First Instance declaring them Filipino citizens, the Court held that "whatever be the stage of finality reached in that decision, . . . it cannot affect their status as aliens, . . . anything said to the contrary notwithstanding."[62]

Thus, while a judicial declaration may be made as an incident to the adjudication of the rights of the parties to a controversy, it can be seen that the purpose is merely to enable the court to perform its duty of settling all cases brought before it. Without such power, no decision can be made on the main controversy, but any pronouncement made on a person's citizenship cannot have res judicata effect with respect to the matter of citizenship. This was the constant ruling of the Court until 1973, when *Burca v. Republic*[63] was promulgated. *Burca*, as will be discussed later, would set down the rules under which res judicata may be applied to declarations of citizenship made by Courts of First Instance.

Administrative Declaration

Administrative declaration of citizenship occurs when administrative bodies, in the course of the performance of their duties, pass upon and determine the nationality of persons involved in cases pending before them. This happens in a situation where Filipino citizenship is made a prerequisite to the exercise of any right or privilege claimed. Among the administrative agencies and officials that may, in the course of the performance of their functions, pass upon the citizenship of persons are the following: Bureau of Immigration; Secretary of Justice; Department Heads; Chiefs of Bureaus and Offices; Heads of Government-owned or controlled corporations; Deportation Board; Secretary of Foreign Affairs; Board of Examiners for Medicine, Engineering, Accountancy, Pharmacy and Dentistry; and other professions the practice of which is limited to Filipino citizens; Public Service Commission; Bureau of Mines; Anti-Dummy Board; Bureau of Lands; Civil Service Commission; and other administrative offices, which, in the course of the performance of their functions may have occasion to pass upon the citizenship of persons transacting business with them.[64]

The effect of any such declaration is the same as the effect of declarations made by the courts as an incident of the adjudication of rights of parties. It cannot, in any event, be of any greater

[62] Dy En Siu v. Local Civil Registrar, 24 SCRA 309, 312-313 (July 29, 1968).
[63] 51 SCRA 248 (June 15, 1973).
[64] Legaspi, *Administrative Declaration of Citizenship*, NATURALIZATION AND IMMIGRATION LAWS, U.P. Law Center: 1967, pp. 164-168.

substance than that made by courts. Thus for instance, an opinion of the Secretary of Justice saying that the evidence is insufficient to warrant a conclusion that the petitioner is a Filipino citizen does not have a conclusive character as to petitioner's citizenship.[65] Similiarly, decisions of the Bureau of Immigration Commission, like that of any other administrative body, do not constitute res judicata so as to bar a re-examination of the alien's right to enter or stay.[66]

When Conclusive

As already stated above, the constant ruling of the Supreme Court prior to the case of *Burca v. Republic* was that a final and executory decision on the question of citizenship made by a court, other than in a naturalization proceeding, or by an administrative body, is generally not considered binding in other cases and for any other purpose than that specifically involved in the case where such declaration on citizenship was rendered.

The Court illustrated this rule:

> Thus, for instance, in a case involving the determination of the citizenship of a party as a prerequisite to the exercise of a license, franchise or privilege, such as the operation of a public utility, and where the administrative agency concerned shall have found as an established fact that the applicant is a Filipino citizen, even if such finding may have been affirmed by this Court on appeal, the same will not be conclusive on the question of such citizenship. Hence, if such party shall apply for a license to engage in retail trade or for the lease or purchase of any disposable lands of the public domain, the question of his citizenship may be litigated again.[67]

Since then, however, the Court has had a change of heart. In *Burca v. Republic* it rested that "such a result is unfair to the party concerned. Instead of according finality and stability to judicial or administrative decisions, it engenders confusions and multiplicity of suits."[68] Thus, a new rule was laid down: If the decision of an administrative agency on the question of citizenship is affirmed by the Supreme Court on the ground that the same is supported by substantial evidence, there is no valid reason why such finding should have no conclusive effect in other cases, where the same issue is involved. The same holds true with respect to a decision of a court on the matter of citizenship as a material matter in issue in the case before it, if it is affirmed by the Supreme Court. In every case, however, the Solicitor General or his authorized representative should be allowed to intervene on behalf of the State and to take appropriate steps. In other words, where the citizenship of a party in a case is definitely resolved by a court or by an administrative agency, as a material issue in a controversy, after a full-blown hearing, with the active participation of

[65] Lim v. de la Rosa; 10 SCRA 536, 543-544 (March 31, 1964).
[66] Board of Immigration Com. v. Go Callano, 25 SCRA 890, 900 (Oct. 31, 1968).
[67] Burca v. Republic, 51 SCRA 248, 258 (June 15, 1973).
[68] *Id*, at 258-259.

the Solicitor General or his authorized representative and this finding is affirmed by the Supreme Court, the decision on the matter shall constitute a conclusive proof on the question of citizenship in any case or proceeding.[69] Thus, to be conclusive, any determination on the question of citizenship must bear the two requisites: (1) It must be affirmed by the Supreme Court and (2) the Solicitor General or his authorized representative should be allowed to intervene on behalf of the State. Otherwise, the matter of citizenship cannot be res judicata and may be litigated again.

Conclusion

Thus, to the question as to whether or not a finding on one's citizenship may be considered res judicata, the cases cited show that:

Where citizenship has been granted in naturalization proceedings, the grant may be withdrawn by the State in an action to cancel the certificate of naturalization previously issued, upon clear and convincing proof that the certificate has been illegally or fraudulently procured. The decision granting citizenship cannot be considered conclusive as against the State. However, the measure for compliance with the naturalization law are the rules existing at the time of grant of citizenship and not those formulated thereafter. Otherwise violence can be done to the equal protection clause. Moreover, a grant of citizenship is not subject to collateral attack.

Where citizenship has been merely declared, either by a court or by an administrative agency, the declaration becomes conclusive only if the following requirements are met: (a) the finding on citizenship is affirmed by the Supreme Court, and (b) the Solicitor General or his authorized representative was given an opportunity to be heard in a full-blown hearing.

[69] *Id*, at 259-260.