

# The *Ipsa Facto* Grant of Philippine Citizenship to an Alien Wife of a Filipino: Assessing Its Lawfulness and Implications

Maria Cecilia G. Natividad\*

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## I. INTRODUCTION

Being a citizen means being a member of a political community, owing allegiance to it, and being entitled to the enjoyment of full civil and political rights.<sup>1</sup> Citizenship confers rights to the exclusion of aliens. Under the

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\* '08 J.D., *second honors*, Ateneo de Manila University School of Law. She was a member of the Board of Editors (2006–2008) of the *Ateneo Law Journal*. She was the Lead Editor for Vol. 52, Issue No. 3 and Associate Lead Editor for Vol. 51, Issue No. 4. This is an abridged version of the author's Juris Doctor Thesis on file with the Ateneo de Manila University Professional Schools Library.

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1. JOAQUIN G. BERNAS, S.J., *THE 1987 CONSTITUTION OF THE REPUBLIC OF THE PHILIPPINES: A COMMENTARY* 609 (2003 ed.) [hereinafter BERNAS, COMMENTARY].

Philippine Constitution, a citizen is granted the right to vote, to run for public office, to exploit natural resources, to acquire land, to operate public utilities, to administer educational institutions, and to manage mass media.<sup>2</sup> It is with respect to these rights where the difference between an alien and a citizen lies. It is here where the importance of citizenship is emphasized. It is because of these rights that the duty of a state to ensure that citizenship is not liberally granted arises. In the words of Chief Justice Melville Fuller of the United States Supreme Court, “the question of citizenship in a nation is of the most vital importance. It is a precious heritage, as well as estimable acquisition.”<sup>3</sup>

The right to determine who are its rightful subjects or citizens belongs to the state. It is a personal status. It cannot be presumed.<sup>4</sup> Citizenship is generally acquired either by operation of law or through the process of naturalization.

Naturalization is “a process by which a foreigner acquires, voluntarily or by operation of law, the citizenship of another state.”<sup>5</sup> It confers upon the petitioner all the rights of a Philippine citizen except only in those instances where the Constitution itself makes a distinction.<sup>6</sup> It is not a matter of right but is a privilege extended to him by the state. Subject to limitations imposed by international laws, each state has the inherent and independent right to set its own rules governing the grant of citizenship. An alien’s right to become a citizen is conferred by statute and to acquire the status of citizen, he must strictly comply with all the statutory conditions and requirements.<sup>7</sup> In the Philippines, C.A. No. 473 as amended,<sup>8</sup> otherwise known as the Revised Naturalization Law, lays down the qualifications, disqualifications, and procedures for naturalization. It requires going through a rigid judicial procedure where the burden of proof is upon the alien who must adduce satisfactory evidence indicating that he or she has the qualifications and none of the disqualifications.<sup>9</sup>

Naturalization involves a political status and confers privileges which are afforded to members of a community. Thus, it has been stated that it should

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2. ISAGANI A. CRUZ, *CONSTITUTIONAL LAW* 372 (2000).

3. *U.S. v. Wong Kim Ark*, 169 U.S. 649, 727 (1898).

4. *Paa v. Chan*, 21 SCRA 753, 762 (1967).

5. CRUZ, *supra* note 2, at 376.

6. *Chen Teck Lao v. Republic*, 55 SCRA 1, 5-6 (1974).

7. *Mo Yuen Tsi v. Republic*, 5 SCRA 407, 415 (1962).

8. An Act to Provide for the Acquisition of Philippine Citizenship by Naturalization, and to Repeal Act Numbered 2927 and 3448, Commonwealth Act No. 473 (1939).

9. *Ly Hong v. Republic*, 109 Phil. 635, 640 (1960).

not be easily given away.<sup>10</sup> Its rules and regulations are, therefore, strictly construed against the applicant.<sup>11</sup> In the language of *Corpus Juris Secundum*, naturalization law “should be rigidly enforced and strictly construed in favor of the government and against the applicant for citizenship.”<sup>12</sup>

Nevertheless, despite the seemingly restrictive policy with respect to naturalization laws, the prevailing interpretation given to section 15 of C.A. No. 473 by the decision in *Moy Ya Lim Yao v. Commissioner of Immigration*<sup>13</sup> appears to have provided for an exception. This case gave a liberal interpretation with respect to the granting of Philippine citizenship to an alien wife of a Filipino. The ruling effectively reversed the long line of Supreme Court decisions since 1957 which provided that alien women who marry Filipino citizens do not acquire automatically Philippine citizenship.

In *Moy Ya Lim Yao*, the phrase “who might herself be lawfully naturalized” in section 15 of C.A. No. 473 was interpreted to mean that the alien wife must only show that she does not have any of the disqualifications provided by law without the need to prove that she possesses all the qualifications for naturalization. The pronouncement made by the Supreme Court ruled that she can establish her claim to Philippine citizenship in administrative proceedings before the immigration authority without the need to file a judicial action for this purpose. In the said case, Justice Antonio Barredo declared:

Accordingly, We now hold, all previous decisions of this Court indicating otherwise notwithstanding, that under Section 15 of Commonwealth Act 473 an alien marrying a Filipino, native-born or naturalized, becomes *ipso facto* a Filipina provided she is not disqualified to be a citizen of the Philippines under Section 4 of the same law. Likewise, an alien woman married to an alien is subsequently naturalized here follows the Philippine citizenship of her husband the moment he takes his oath as Filipino citizen, provided that she does not suffer from any of the disqualifications under said Section 4.<sup>14</sup>

Thus, this ruling removed the requirement that an alien woman, who is married to a Filipino citizen and who is seeking to be naturalized, to prove in a judicial proceeding that she possesses all the qualifications provided in section 2 and none of the disqualifications under section 4 of C.A. No. 473. It is no longer necessary for the alien wife of a Filipino to follow the strict procedure in ordinary naturalization cases before she can be declared a citizen by reason of her marriage.

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10. *In Re Chua Eng Hok v. Republic*, 15 SCRA 170, 173 (1965).

11. *Sy Ang Hok v. Republic*, 1 SCRA 886, 891 (1960).

12. 3 C.J.S. *Aliens* § 135 (1936).

13. *Moy Ya Lim Yao v. Commission of Immigration*, 41 SCRA 292 (1971).

14. *Id.* at 351.

Since then, several authors have raised concerns about the validity and constitutionality of paragraph 1, Section 15 of C.A. No. 473 and the pronouncement made in the said Supreme Court decision.<sup>15</sup> Section 15 of C.A. No. 473 and the case of *Moy Ya Lim Yao* remain the authorities as to the granting of Philippine citizenship to an alien wife of a Filipino. It is in this light that the concept of citizenship as a privilege seemed to have failed. The alien wife of a Filipino citizen is now *ipso facto* considered a Filipina provided she is not disqualified to be a citizen of the Philippines under Section 4 of C.A. No. 473.

Also, another area of concern is the fact that such grant of citizenship is not equally applicable to an alien husband of a Filipina, thereby violating the equal protection and non-discrimination clauses of the Constitution and international laws. It appears, therefore, that unless the Legislature amends C.A. No. 473, Section 15 thereof and current jurisprudence may be used to circumvent the guarded policies of Philippine naturalization laws.

## II. NATURALIZATION UNDER COMMONWEALTH ACT NO. 473

For those not born as Filipinos and are not covered by the Administrative Naturalization Law of 2000<sup>16</sup>, they may acquire Philippine citizenship by naturalization through a judicial process prescribed under C.A. No. 473.

### A. Qualifications for Naturalization

An alien seeking to be naturalized as a Philippine citizen must have the following qualifications:

- (1) He must be not less than twenty-one years of age on the day of the hearing of the petition;
- (2) He must have resided in the Philippines for a continuous period of not less than ten years;
- (3) He must be of good moral character and believes in the principles underlying the Philippine Constitution, and must have conducted himself in a proper and irreproachable manner during the entire period of his residence in the Philippines in his relation with the constituted government as well as with the community in which he is living.

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15. See Jorge R. Coquia, Annotation, *Citizenship of Alien Women Married to Filipino Citizens Revisited*, 41 SCRA 389 (1971); JOVITO R. SALONGA, PRIVATE INTERNATIONAL LAW 174-75 (1995); Ronaldo P. Ledesma, *Marriage as a (Radical?) Mode of Acquiring Philippine Citizenship Under Commonwealth Act No. 473, Section 15, As Amended*, LAW. REV., OCT 2005, at 8.

16. An Act Providing for the Acquisition of Philippine Citizenship for Certain Aliens by Administrative Naturalization and For Other Purposes [The Administrative Naturalization Law of 2000], Republic Act No. 9139 (2000).

- (4) He must own real estate in the Philippines worth not less than five thousand pesos, Philippine currency, or must have some known lucrative trade, profession, or lawful occupation;
- (5) He must be able to speak and write English or Spanish and any one of the principal Philippine languages; and
- (6) He must have enrolled his minor children of school age, in any of the public schools or private schools recognized by the Office of Private Education of the Philippines, where the Philippine history, government and civics are taught or prescribed as part of the school curriculum, during the entire period of the residence in the Philippines required of him prior to the hearing of his petition for naturalization as Philippine citizen.<sup>17</sup>

The requirement of 10 continuous years of residence shall be reduced to five years if the petitioner has any of the following qualifications:

- (1) Having honorably held office under the Government of the Philippines or under that of any of the provinces, cities, municipalities, or political subdivisions thereof;
- (2) Having established a new industry or introduced a useful invention in the Philippines;
- (3) Being married to a Filipino woman;
- (4) Having been engaged as a teacher in the Philippines in a public or recognized private school not established for the exclusive instruction of children of persons of a particular nationality or race, in any of the branches of education or industry for a period of not less than two years;
- (5) Having been born in the Philippines.<sup>18</sup>

The residence requirement contemplated in Sections 2 and 3 has been held to be “not mere legal residence but actual and substantial residence in order to enable the government and the community to observe the conduct of the applicant and to ensure his having imbibed sufficiently the principles and the spirit of our institutions.”<sup>19</sup> Actual physical presence during the period is not absolutely required. Thus, temporary absence from the Philippines for periods of short duration was held not fatal, provided, there is an intent to return.<sup>20</sup>

As to the good moral character requirement, the Supreme Court held that there is no necessity for a criminal conviction for a crime involving

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17. C.A. No. 473, § 2.

18. *Id.* § 3.

19. SALONGA, *supra* note 15, at 82.

20. *Dargani v. Republic*, 106 Phil. 735 (1959).

moral turpitude because while conviction is required to show disqualification, lack of conviction does not necessarily mean that the petitioner is of good moral character.<sup>21</sup> With regard to what constitutes “proper and irreproachable conduct,” such must be determined not by the law of the country of which the petitioner is a citizen but by “the standard of morality prevalent in this country, and this in turn, by the religious beliefs and social concepts existing here.”<sup>22</sup> In *Chua Pun v. Republic*,<sup>23</sup> it was pointed out that “morally irreproachable conduct imposes a higher standard of morality than ‘good moral character.’ Hence, being merely ‘very good’ or a ‘law-abiding citizen’ will not be enough for naturalization purposes.”<sup>24</sup>

The law also requires belief in the principles underlying the Philippine Constitution.<sup>25</sup> It is the belief in the principles and not the mere ability to enumerate the provisions expressly that is essential.<sup>26</sup> In *Qua v. Republic*,<sup>27</sup> it was held that evidence of knowledge is not equivalent to evidence of belief.<sup>28</sup>

The petitioner must further show his financial capacity either by way of (1) ownership of real estate in the Philippines or (2) possession of some lucrative trade, profession, or lawful occupation<sup>29</sup> in order to forestall the applicant’s becoming an object of charity.<sup>30</sup> This requirement is, in the alternative, in view of the constitutional proscription against ownership by aliens of certain real properties.<sup>31</sup> Thus, submission of proof of lucrative trade, profession, or lawful occupation is deemed satisfactory compliance with this requirement.<sup>32</sup>

The law requires the concurrence of both the ability to speak and write English or Spanish and any one of the principal Philippine languages.<sup>33</sup> If the

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21. *Tio Tek Chay v. Republic*, 12 SCRA 224 (1964).

22. EDGARDO L. PARAS, PHILIPPINE CONFLICT OF LAWS 134, 146 (1996) (citing *Yu Singco v. Republic*, 50 O.G. 104).

23. *Chua Pun v. Republic*, 3 SCRA 652 (1961).

24. SALONGA, *supra* note 15, at 182.

25. C.A. No. 473, § 2(3).

26. *Lin v. Republic*, 106 Phil. 587 (1959).

27. *Qua v. Republic*, 11 SCRA 270 (1964).

28. *Id.*

29. C.A. No. 473, § 2(3).

30. SALONGA, *supra* note 15, at 182-83.

31. *Krivenko v. Register of Deeds*, 79 Phil. 461 (1947).

32. RONALDO P. LEDESMA, AN OUTLINE OF PHILIPPINE IMMIGRATION AND CITIZENSHIP LAWS 521 (2006).

33. C.A. No. 473, § 2(5).

applicant can understand but cannot speak and write the requisite languages, he cannot be considered qualified.<sup>34</sup>

Last, the proof of compliance with the requirement that all children of the applicant should have been enrolled in Philippine schools when they are of school age during the residence period is completely mandatory.<sup>35</sup> Aside from the fact of enrolment, the applicant must also show that the curriculum of said school prescribes Philippine history, government and civics.<sup>36</sup> The reason for this provision is to give the children the training that the country desires of its citizens in order that they will become useful, responsible, and law-abiding citizens upon their parent's admission.<sup>37</sup>

*B. Disqualifications under Section 4 of Commonwealth Act No. 473*

Under C.A. No. 473, it is not enough that the applicant possesses all the qualifications under section 2. He must also show that he is not disqualified under Section 4. Under the said provision, the following cannot be naturalized as Philippine citizens:

- (a) Persons opposed to organized government or affiliated with any association or group of persons who uphold and teach doctrines opposing all organized governments;
- (b) Persons defending or teaching the necessity or propriety of violence, personal assault, or assassination for the success and predominance of their ideas;
- (c) Polygamists or believers in the practice of polygamy;
- (d) Persons convicted of crimes involving moral turpitude;
- (e) Persons suffering from mental alienation or incurable contagious diseases;
- (f) Persons who, during the period of their residence in the Philippines, have not mingled socially with the Filipinos, or who have not evinced a sincere desire to learn and embrace the customs, traditions, and ideals of the Filipinos;
- (g) Citizens or subjects of nations with whom the United States and the Philippines are at war, during the period of such war;

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34. *Te Chao Ling v. Republic*, 97 Phil. 1007 (1955).

35. *Chua Chiong v. Republic*, 5 SCRA 333 (1962).

36. *Garchitorea v. Republic*, 1 SCRA 988 (1961); *Vivo v. Cloribel*, 18 SCRA 713 (1966).

37. *Lim Siong v. Republic*, 105 Phil. 668 (1959); *Chan Lia v. Republic*, 106 Phil. 210 (1959); *Ting Tong v. Republic*, 15 SCRA 271 (1966); *Ang Phue v. Republic*, 17 SCRA 672 (1966); *Vivo*, 18 SCRA at 713; *Du v. Republic*, 92 Phil. 519 (1953).

Citizens or subjects of a foreign country other than the United States whose laws do not grant Filipinos the right to become naturalized citizens or subjects thereof.<sup>38</sup>

The alien seeking to be naturalized, upon application and during the hearing, must show that he has all the qualifications and none of the disqualifications. While in an earlier decision, the Supreme Court held that the burden of proof as to qualifications is on the applicant whereas the burden of proceeding with respect to the disqualifications is ordinarily on the state,<sup>39</sup> the Court in *Singh v. Republic*<sup>40</sup> held that, the applicant must also establish by proof that he has none of the disqualifications. In later decisions, the Court added that, even without any objection from the Solicitor General, the Court may *motu proprio* deny the application if the evidence does not show that all the requirements have been met.<sup>41</sup>

### C. Procedures Involved

The application process for naturalization entails a rigid judicial procedure which begins with a filing by the applicant of a declaration under oath of his intention to become a citizen of the Philippines with the Office of the Solicitor General.<sup>42</sup> Unless the applicant is exempted,<sup>43</sup> failure to file a

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38. C.A. No. 473, § 4.

39. *Yap Chin v. Republic*, 93 Phil. 215 (1953).

40. *Singh v. Republic*, 97 Phil. 622 (1955). See *Ly Hong v. Republic*, 109 Phil. 635 (1960).

41. *Pe v. Republic*, 3 SCRA 573 (1961); *Hao Su Siong v. Republic*, 5 SCRA 628 (1962).

42. C.A. No. 473, § 5.

43. *Id.* § 6. Section 6 provides:

*Persons exempt from requirement to make a declaration of intention.* – Persons born in the Philippines and have received their primary and secondary education in public schools or those recognized by the Government and not limited to any race or nationality, and those who have resided continuously in the Philippines for a period of thirty years or more before filing their application, may be naturalized without having to make a declaration of intention upon complying with the other requirements of this Act. To such requirements shall be added that which establishes that the applicant has given primary and secondary education to all his children in the public schools or in private schools recognized by the Government and not limited to any race or nationality. The same shall be understood applicable with respect to the widow and minor children of an alien who has declared his intention to become a citizen of the Philippines, and dies before he is actually naturalized.



declaration of intention is fatal to the application.<sup>44</sup> The declaration of intention must be filed “one year prior to the filing of a petition for admission to Philippine citizenship”<sup>45</sup> to afford the State a reasonable time to screen and study the qualifications of the applicant<sup>46</sup> and to gauge the good intention and sincerity of purpose of the applicant.<sup>47</sup> In *Chua v. Republic*,<sup>48</sup> it was held that the period was meant to prevent aliens, who have accumulated wealth, from applying for citizenship just to protect their interest and not because of a sincere desire to embrace Philippine citizenship.

After one year from the filing of the declaration of intention, a petition for naturalization must then be filed in the Regional Trial Court of the province in which the petitioner has resided at least one year immediately preceding the filing of the petition.<sup>49</sup> The petition, aside from containing all the assertions required, must also be supported by the affidavit of at least two credible persons<sup>50</sup> stating that:

- (1) They are citizens of the Philippines;
- (2) They personally know the petitioner to be a resident of the Philippines for the period of time required by the Naturalization Law;
- (3) The petitioner is a person of good repute and is morally irreproachable; and

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44. *Uy Boco v. Republic*, 85 Phil. 320 (1950); *Son v. Republic*, 87 Phil. 666 (1950); *Uy Yap v. Republic*, 91 Phil. 914 (1952); *Dy v. Republic*, 92 Phil. 278 (1952); *Yu v. Republic*, 92 Phil. 804 (1953); *De la Cruz v. Republic*, 92 Phil. 74 (1953); *Tan v. Republic*, 94 Phil. 882 (1954); *Ong Khan v. Republic*, 109 Phil. 855 (1960); *Yap v. Republic*, 2 SCRA 856 (1961); *Lim Cho Kuan v. Republic*, 16 SCRA 25 (1966).

45. C.A. No. 473, § 5.

46. *Id.*; *Chua v. Republic*, 91 Phil. 927 (1952).

47. *Kiat v. Republic*, 92 Phil. 987 (1953).

48. *Chua v. Republic*, 91 Phil. 927 (1952); *See Tan*, 94 Phil. at 882.

49. *Yu v. Republic*, 44 SCRA 518 (1972).

50. *See Dy Shin Sheng v. Republic*, 107 Phil. 718 (1960) (defining a “credible person,” as required under the Naturalization Law, as one who is not only a Filipino citizen but also has a good standing in the community — one who is known to be honest and upright); *Lim v. Republic*, 17 SCRA 424 (1966) (explaining that there must be personal knowledge of the petitioner’s conduct during the entire period of his residence in the Philippines); *Cu v. Republic*, 89 Phil. 473, 478 (1951) (citing *In Re Kornstain*, 268 Fed. Rep. 182) (elucidating that such “credible persons” are required by law because “[t]he courts cannot be expected to possess acquaintance with the candidates presenting themselves naturalization ...; so that witnesses appearing before them are in a way insurers of the character of the candidate concerned, and on their testimony the courts are of necessity compelled to rely.”).

- (4) He has, in their opinion, all the qualifications, and none of the disqualifications for naturalization.<sup>51</sup>

Immediately after the filing of the petition, it shall be the duty of the clerk of court to publish the same once a week for three consecutive weeks in the Official Gazette and in a newspaper of general circulation in the province where the petitioner resides.<sup>52</sup> The purpose of this requirement is to apprise the public of the pendency of the petition so that those who may have any legal objection thereto might come forward with the information.<sup>53</sup> As stressed by the Supreme Court, this must be so “for the acquisition of citizenship by naturalization is of public interest, involving as it does the conferment of political and economic rights and privileges.”<sup>54</sup> The proceeding being one *in rem*, which binds the whole world, the publication requirement must be strictly enforced.<sup>55</sup> It is jurisdictional, such that non-compliance therewith renders all the proceedings in such case null and void.<sup>56</sup>

After proper publication and posting of the petition, the same shall be heard by the court in public.<sup>57</sup> Further, the Solicitor General, as the proper party-oppositor, must be notified of the naturalization proceedings, the order and the decision therein, as well as the proceedings leading to the oath-taking.<sup>58</sup> The law prescribes that the Solicitor General, either personally or through a delegate, or the provincial officer concerned shall appear on behalf of the Government in all proceedings and at the hearing and oppose an application for naturalization.<sup>59</sup> Thus, a private individual who wants to oppose the petition should present such objection to the Solicitor General.<sup>60</sup>

If after due hearing, the court believes that the petitioner has complied with all the requisites established by law and has all the qualifications and

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51. C.A. No. 473, § 7.

52. *Id.* § 9.

53. *Yu Seco v. Republic*, 108 Phil. 807 (1960).

54. *Jao v. Republic*, 22 SCRA 165, 167-68 (1968). *See Ng Bui Kui v. Republic*, 104 Phil. 957 (1958).

55. *Tan Teng Hen v. Republic*, 58 SCRA 500 (1974).

56. *Yao Mun Tek v. Republic*, 37 SCRA 55 (1971); *Chua Bon Chiong v. Republic*, 39 SCRA 318 (1971).

57. C.A. No. 473, § 9.

58. *Lim v. Republic*, 33 SCRA 291 (1970); *Tan Ngo v. Republic*, 46 SCRA 683 (1972); *Watt v. Republic*, 46 SCRA 683 (1972); *Uy Giok Chiu v. Republic*, 46 SCRA 683 (1972); *Republic v. CFI of Albay*, 60 SCRA 195 (1974).

59. *Anti-Chinese League v. Felix and Lim*, 77 Phil. 1018 (1947); *Go v. Anti-Chinese League and Fernandez*, 84 Phil. 468 (1949).

60. *Go*, 84 Phil. at 468.

none of the disqualifications, it is mandatory for the court to grant the petition.<sup>61</sup> Even if the court approves the petition, however, the decision will not be executory until after two years after its promulgation. The petitioner is placed under probation during the two-year period<sup>62</sup> where certain conditions<sup>63</sup> under R.A. No. 530<sup>64</sup> must be complied with. It is only after due hearing and upon showing that Section 1 of R.A. No. 530 has been complied with that the order of the court granting citizenship shall be registered.<sup>65</sup> The failure of the petitioner to pass the two-year probationary period results in the loss of whatever rights he or she may have acquired under the decision. Thus, the decision is nullified and can no longer be revived or be declared valid and executory.<sup>66</sup>

After the registration of the order, the petitioner shall then be allowed to take the oath,<sup>67</sup> and shall be issued a Certificate of Naturalization.<sup>68</sup> Nevertheless, while the decision granting Philippine citizenship may have already become executory, it can never be considered final. Section 18 of C.A. No. 473<sup>69</sup> authorizes the State to take corrective action through

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61. *Id.*

62. *Dee Sam v. Republic*, 98 Phil. 592 (1956).

63. An Act Making Additional Provisions for Naturalization, Republic Act No. 530, § 1 (1950). Section 1 provides that the court must be satisfied that the applicant has complied with the following conditions:

[T]he applicant has: (1) not left the Philippines, (2) has dedicated himself continuously to a lawful calling or profession, (3) has not been convicted of any offense or violation of Government promulgated rules, or (4) committed any act prejudicial to the interest of the nation or contrary to any Government announced policies.

64. *Id.*

65. *Albano v. Republic*, 104 Phil. 795 (1958); R.A. No. 530, § 2.

66. *Republic v. Maglanoc*, 7 SCRA 269 (1963).

67. R.A. No. 530, § 2.

68. C.A. No. 473, § 12.

69. *Id.* § 18. Section 18 provides:

*Cancellation of naturalization certificate issue.* Upon motion made in the proper proceedings by the Solicitor General or his representative, or by the proper provincial fiscal, the competent judge may cancel the naturalization certificate issued and its registration in the Civil Registry:

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

If the person, naturalized shall, within five years next following the issuance of said naturalization certificate, returns 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

denaturalization proceedings for the cancellation of the naturalization certificate if any of the grounds for its cancellation is shown in proper proceedings.<sup>70</sup>

In summary, the following are the steps in naturalization proceedings:

- (a) A declaration of intention to become a Filipino citizen must be filed, unless the applicant is exempted from this requirement;
- (b) A petition for naturalization must be filed;
- (c) After publication in the Official Gazette, the petition shall be heard;
- (d) If the petition is approved, there will be a rehearing two years after the promulgation of the judgment awarding naturalization;
- (e) The taking of the oath of allegiance to support and defend the Constitution and the laws of the Philippines; and
- (f) The issuance of Certificate of Naturalization.

#### *D. Effects of Naturalization*

The completion of the naturalization proceedings grants the petitioner the rights that belong to a natural-born citizen except only those reserved by the

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more than one year in his native country or the country of his former nationality, or two year in any other foreign country, shall be considered as *prima facie* evidence of his intention of taking up his permanent residence in the same;

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

If it is shown that the minor children of the person naturalized failed to graduate from a public or private high schools recognized by the Office of the Private Education of the Philippines [now Bureau of Private Schools], where Philippine history, government and civics are taught as part of the school curriculum, through the fault of their parents either by neglecting to support them or by transferring them to another school or schools. A certified copy of the decree canceling the naturalization certificate shall be forwarded by the clerk of the Court to the Department of the Interior [now Office of the President] and the Bureau of Justice [now Office of the Solicitor General].

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.

70. Republic v. Cokeng, 23 SCRA 559, 563 (1968).

Constitution to natural-born citizens of the Philippines.<sup>71</sup> As to the effect of naturalization on the wife and children, section 15 of C.A. No. 473 provides:

*Effect of the Naturalization on Wife and Children.* Any woman who is now or may hereafter be married to a citizen of the Philippines, and who might herself be lawfully naturalized shall be deemed a citizen of the Philippines.

Minor children of persons naturalized under this law who have been born in the Philippines shall be considered citizens thereof.

A foreign-born minor child, if dwelling in the Philippines at the time of the naturalization of the parent, shall automatically become a Philippine citizen, and a foreign-born minor child, who is not in the Philippines at the time the parent is naturalized, shall be deemed a Philippine citizen only during his minority, unless he begins to reside permanently in the Philippines when still a minor, in which case, he will continue to be a Philippine citizen even after becoming of age.

A child born outside of the Philippines after the naturalization of his parent, shall be considered a Philippine citizen, unless one year after reaching the age of majority, he fails to register himself as a Philippine citizen at the American Consulate [now Philippine Consulate] of the country where he resides, to take the necessary oath of allegiance.<sup>72</sup>

Paragraph 1 of the above-quoted provision is the main area of concern sought to be addressed. Under this provision, the alien wife of a natural-born or naturalized Filipino shall be deemed a citizen of the Philippines “if she might herself be lawfully naturalized.”<sup>73</sup> This provision has been the subject of inconsistent and wavering interpretations by the Supreme Court.<sup>74</sup> As it stands, the clause “who might herself be lawfully naturalized” was interpreted to mean only that the alien wife must not have any of the disqualifications prescribed by law for naturalization. She no longer needs to prove as well that she possesses all the qualifications required under section 2. Moreover, she need not go through the rigid judicial procedure as she can establish her claim to Philippine citizenship in administrative proceedings before the immigration authorities.<sup>75</sup>

### III. SURVEY OF JURISPRUDENCE

The interpretation of paragraph 1, section 15 of C.A. No. 473 has been the subject of conflicting decisions by the Philippine Supreme Court. An initial reading of the provision would make one conclude that it is the fact of marriage of an alien wife to a Filipino husband which grants her Filipino

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71. CRUZ, *supra* note 2, at 381.

72. C.A. No. 473, § 15.

73. *Id.*

74. CRUZ, *supra* note 2, at 383.

75. See *Moy Ya Lim Yao v. Commissioner of Immigration*, 41 SCRA 292 (1971).

citizenship if she might be lawfully naturalized — that as a consequence of her marriage, Philippine citizenship is automatically bestowed upon her. Jurisprudence, however, provided otherwise. In the cases involving the citizenship of an alien wife of a natural-born or naturalized Filipino, similar issues were addressed by the Court. These were (1) whether under Section 15 of C.A. No. 473, an alien woman, by the fact of her marriage to a Filipino, automatically acquires Philippine citizenship; (2) whether the law requires that the alien wife prove that she has all the qualifications prescribed in section 2 and none of the disqualifications under Section 4 of C.A. No. 473; and (3) whether the court has jurisdiction and authority to determine if the alien wife is one “who might herself be naturalized.”<sup>76</sup>

*A. Cases Prior to Moy Ya Lim Yao v. Commissioner of Immigration*

*Ly Giok Ha v. Galang*<sup>77</sup> was the first case decided by the Supreme Court which addressed the issue of “whether an alien female who marries a male citizen of the Philippines follows *ipso facto* his political status.”<sup>78</sup>

In this case, Ly Giok Ha, a Chinese woman, was a temporary visitor in the Philippines who married eight days before the expiration of her authority to stay. The day after her marriage, her husband demanded from the Commissioner of Immigration the cancellation of her bond contending that his wife had become a Filipina by reason of their marriage. The Commissioner denied the request which prompted Ly Giok Ha to file an action for the recovery of the bond paid for her temporary stay in the Philippines. The lower court sustained her contention and ordered the return of her bond.

Upon appeal and with the argument that Ly Giok Ha’s marriage to a Filipino “justified or, at least, excused her failure to depart”<sup>79</sup> from the country on or before the date of the expiration of her temporary visitor status, the Court, through Justice Roberto Concepcion, said that:

Indeed, if this conclusion were correct, it would follow that, in consequence of her marriage, she had been naturalized as such citizen, and hence, the decision appealed from would have to be affirmed for section 40 (c) of Commonwealth Act No. 613 provides that “in the even of the naturalization as a Philippine citizen ... of the alien on whose behalf the

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76. Alice V. Pesigan, *Survey of Jurisprudence of Supreme Court Decisions on Naturalization and Immigration Cases*, in NATURALIZATION AND IMMIGRATION LAWS 188-89 (Florida Ruth P. Romero ed., 1970).

77. *Ly Giok Ha v. Galang*, 101 Phil. 459 (1957).

78. *Id.* at 463.

79. *Id.* at 462.

bond deposit is given, *the bond shall be cancelled or the sum deposited shall be returned* to the depositor or his legal representative.<sup>80</sup>

Citing section 15 of C.A. No. 473, the Supreme Court held that “marriage to a male Filipino does not vest Philippine citizenship to his foreign wife, unless she ‘herself may be lawfully naturalized.’”<sup>81</sup> Further, the Court concurred with an opinion of the Secretary of Justice<sup>82</sup> which provides that “this limitation of Section 15 excludes, from the benefits of naturalization by marriage, those disqualified from being naturalized as citizens of the Philippines under Section 4 of said Commonwealth Act No. 473.”<sup>83</sup> Holding as such and noting that there was neither proof nor allegation in the pleading that Ly Giok Ha does not fall under any of the classes disqualified by law,<sup>84</sup> the Court remanded the case to the lower court for further proceedings to determine whether Ly Giok Ha became a Filipino citizen upon her marriage to a Filipino in accordance with its decision.

*Cua v. Board of Immigration Commissioners*<sup>85</sup> gave the same impression as held in *Ly Giok Ha* with regard to the meaning of the phrase “unless she herself may be lawfully naturalized.” In this case, the petitioner filed a petition for the issuance of a writ of prohibition and mandamus to compel the Board of Immigration Commissioners to desist from continuing deportation proceedings against the petitioner’s wife and to issue her a certificate showing her status to be that of a Filipino citizen. The lower court dismissed the case, holding that the marriage of the female alien to the Filipino petitioner, celebrated 10 days after the warrant for her arrest and deportation was issued, was resorted to only as a means of impeding the pending deportation proceedings against her.<sup>86</sup> On appeal, petitioner insisted that the marriage was valid and that the marriage automatically conferred Philippine citizenship upon the alien wife, rendering her immune to deportation.<sup>87</sup>

In affirming the decision of the lower court, the Supreme Court, through Justice J.B.L. Reyes, ruled against the petitioner on the ground that his wife did not adduce any evidence to show that “she might herself be

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80. *Id.* at 463.

81. *Id.*

82. Department of Justice, Opinion No. 52, Series of 1950.

83. *Ly Giok Ha v. Galang*, 101 Phil. 459, 463 (1957).

84. *Id.* at 464.

85. *Cua v. Board of Immigration Commissioners*, 101 Phil. 521 (1957).

86. *Id.* at 522-23.

87. *Id.*

lawfully naturalized.”<sup>88</sup> Here, the Court reiterated its ruling in the *Ly Giok Ha* case when it said:

Granting the validity of marriage, this Court has ruled in the recent case of *Ly Giok Ha v. Galang*, *supra*, p. 459, that the bare fact of a valid marriage to a citizen does not suffice to confer his citizenship upon the wife. Section 15 of the Naturalization law requires that the alien woman who marries a Filipino must show, in addition, that she “might herself be lawfully naturalized” as a Filipino citizen. As construed in the decision cited, this last condition requires proof that the woman who married a Filipino is herself not disqualified under section 4 of the Naturalization law.<sup>89</sup>

About two years later, the Court, in *Lee Suan Ay v. Galang*,<sup>90</sup> modified the interpretation of the phrase “she might herself be lawfully naturalized.” For the first time, and with Justice Sabino Padilla speaking for a unanimous court, it was held that the appellant cannot be deemed to have been naturalized as a Filipino citizen as there was no showing that she “possesses all the qualifications and none of the disqualifications provided for by law to become a Filipino by naturalization.”<sup>91</sup> Thus, this decision effectively ruled that for an alien wife of a Filipino citizen to be deemed as naturalized, she must also show that, aside from being not disqualified by law, she possess the qualifications required by law to become a Filipino citizen by naturalization.

The same pronouncement was made in *Kua Suy v. Commissioner of Immigration*.<sup>92</sup> In rejecting Kua Suy’s claim to Philippine citizenship, the Court held that the fact of marriage to a citizen, by itself alone, does not suffice to confer citizenship and that there was in the case “no evidence of record as to qualifications or absence of disqualifications of appellee Kua Suy.”<sup>93</sup>

It was only in *Lo Suan Tuang v. Galang*<sup>94</sup> where the question on whether the phrase “she might herself be lawfully naturalized” would require proof that the alien wife has all the qualifications and none of the disqualifications under C.A. No. 473 was squarely put in issue. In this case, the appellant came to the Philippines as a temporary visitor and was authorized to stay in the Philippines for one year. Instead of departing on the expiration date of her temporary visitor status, however, she asked the Commissioner of Immigration for the cancellation of her alien certificate of registration on the

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88. *Id.* at 523.

89. *Id.*

90. *Lee Suan Ay v. Galang*, 106 Phil. 706 (1959).

91. *Id.* at 713.

92. *Kua Suy v. Commissioner of Immigration*, 9 SCRA 300 (1963).

93. *Id.* at 305.

94. *Lo San Tuang v. Galang*, 9 SCRA 638 (1963).



ground that she followed the citizenship of her husband who had been previously granted Philippine citizenship. As the Commissioner denied her request, she filed a petition for prohibition and mandamus in the Court of First Instance. In support thereof, she submitted, among others, an affidavit in which she stated that she is not disqualified under the law from becoming a citizen of the Philippines. In dismissing her petition, the trial court held that she failed to prove that she has all the qualifications and none of the disqualifications for naturalization.

In this case, the Supreme Court noted that the petitioner anchored her claim for citizenship on the basis of the decision laid down in the case of *Leonard v. Grant*<sup>95</sup> where the Circuit Court of Oregon held that:

[I]t was only necessary that the alien wife should be a person of the class or race permitted to be naturalized by existing laws, and that in respect of the qualifications arising out of her conduct or opinions, being the wife of a citizen, she is to be regarded as qualified for citizenship, and therefore considered a citizen.<sup>96</sup>

In rejecting this argument, the Court held that although such interpretation may be applicable under the old Philippine Naturalization Law,<sup>97</sup> the same cannot be said with the approval of the Revised Naturalization Law. The removal of class or racial considerations from the qualifications of applicants for naturalization<sup>98</sup> provided in the Revised Naturalization law dictates a different interpretation of the phrase “who might herself be lawfully naturalized.” The Court held that such phrase “must be understood in the context in which it is now found and in a setting so different from that in which it was found by the Court in *Leonard v. Grant*.”<sup>99</sup> Thus, it was ruled that the phrase must necessarily be understood as referring to those who, under Section 2 of the law, are qualified to become citizens of the Philippines.<sup>100</sup> In justifying its pronouncement, the Court said that:

A person who is not disqualified is not necessarily qualified to become a citizen of the Philippines, because the law treats “qualifications” and

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95. *Leonard v. Grant*, 5 F. 11 (1880).

96. *Lo San Tuang*, 9 SCRA at 641-42.

97. Act No. 2925, as amended by Act No. 3438.

98. *Lo San Tuang*, 9 SCRA at 644 n. 4 (citing VICENTE G. SINCO, PHILIPPINE POLITICAL LAW 502 (11th ed.)). The footnote provides: “According to its proponent, the purpose of eliminating this consideration was, first, to remove the features of existing naturalization act which discriminated in favor of Caucasians and against Asiatics who are our neighbours and are related to us by racial affinity and, second, to foster amity with all nations.”

99. *Id.* at 644 (emphasis supplied).

100. *Lo San Tuang v. Galang*, 9 SCRA 638, 644 (1963).

“disqualifications” in separate sections. An then it must not be lost sight of that even under the interpretation given to the former law, it was to be understood that the alien woman was not disqualified under Section 2 of that law. *Leonard v. Grant* did not rule that it was enough if the alien woman does not belong to the class of disqualified persons in order that she may be deemed to follow the citizenship of her husband: What the case held was that the phrase “who might herself be lawfully naturalized” merely means that she belongs to the class or race of persons qualified to become citizens by naturalization — *the assumption being always that she is not otherwise disqualified*.<sup>101</sup>

In the end, the Court upheld the decision of the trial court and made the categorical pronouncement that paragraph one of Section 15 of the Naturalization Law should be taken to mean that an alien woman, who is married to a citizen of the Philippines, acquires the citizenship of her husband only if she has all the qualifications and none of the disqualifications provided by law.<sup>102</sup>

The requirement as to qualifications prescribed in Section 2 of the C.A. No. 473 was emphasized in *Tong Siok Sy v. Vivo*.<sup>103</sup> In this case, the Supreme Court upheld the decision of the Court of First Instance denying the alien petitioner’s claim to Philippine citizenship based on her marriage to a Filipino on the ground that she lacked the residence requirement of the Naturalization Law.

Since the *Lo San Tuang* and *Tong Siok Sy* cases, it has become the uniform ruling of the Supreme Court that both qualifications and disqualification requirements must be proved in order that an alien woman may properly claim Philippine citizenship based on her marriage to a Filipino.<sup>104</sup>

In *Choy King Tee v. Galang*,<sup>105</sup> which involved a petition for mandamus to compel the Commissioner of Immigration to cancel the wife’s alien certificate of registration, the Court through Justice Querube Makalintal

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101. *Id.* (emphasis supplied).

102. *Id.* at 645. See *Sun Peck Yong v. Commissioner of Immigration*, 9 SCRA 874 (1963) (reiterated *Lo San Tuang v. Galang*).

103. *Tong Siok Sy v. Vivo*, 9 SCRA 876 (1963).

104. See *Sun Peck Young*, 9 SCRA at 874; *Brito v. Commissioner of Immigration*, 14 SCRA 539 (1965); *Lao Chay v. Galang*, 12 SCRA 252 (1964); *Choy King Tee v. Galang*, 13 SCRA 402 (1965); *Austria v. Conchu*, 14 SCRA 336 (1965); *Ly Giok Ha v. Galang*, 16 SCRA 414 (1966); *Go Im Ty v. Republic*, 17 SCRA 797 (1966); *Morano v. Vivo*, 20 SCRA 562 (1967); *Burca v. Republic*, 19 SCRA 186 (1967); *Vivo v. Cloribel*, 25 SCRA 616 (1968); *Commissioner of Immigration v. Go Tieng*, 28 SCRA 237 (1969); *Vivo v. Puno*, 29 SCRA 392 (1969); *Joaquin v. Galang*, 33 SCRA 362 (1970).

105. *Choy King Tee*, 13 SCRA at 402.

reiterated the arguments of Justice Roberto Regala in *Lo San Tuang* and further added that:

The rule laid down by this court in this and in other cases heretofore decided is believed to be in line with the national policy of selective admission to citizenship, which after all is a privilege granted only to those who are found worthy thereof, and not indiscriminately to anybody at all on the basis alone of marriage to a man who is a citizen of the Philippines, irrespective of moral character, ideological beliefs, and identification with Filipino ideals, customs and traditions.<sup>106</sup>

*Austria v. Conchu*<sup>107</sup> was thus decided upon this authority. Here, the Court reversed the decision of the lower court granting the writs of mandamus and prohibition against the Commissioner of Immigration upon finding that Austria's wife did not have all the qualifications for naturalization in addition to the fact that she only submitted an affidavit that she did not have any of the disqualifications. The Court did the same in *Brito v. Commissioner*<sup>108</sup> which once more stressed that marriage to a Filipino citizen by an alien woman "does not automatically make her a Philippine citizen entitled to enjoy all the rights and privileges of citizenship. She must, as a prerequisite, establish satisfactorily in appropriate proceedings, that she has all the qualifications and none of the disqualifications required by law."<sup>109</sup>

Then there was the second *Ly Giok Ha v. Galang*.<sup>110</sup> At this instance, the Court noted that at the time the original case was remanded to the court of origin in 1960, the issue on whether the alien woman married to a Filipino must also possess the qualifications required by law was not conclusively settled as there was only that pronouncement in *Lee Suan Ay v. Galang*.<sup>111</sup> In again passing upon the case, the Supreme Court considered that since the case was first brought to the Court there had been a long line of decisions which repeatedly held that the requirement of Section 15 of C.A. No. 473, that an alien woman married to a citizen should be one who "might herself be lawfully naturalized," meant not only a woman free from the disqualifications enumerated in Section 4, but also one who possesses the qualifications prescribed by section 2 of C.A. 473.<sup>112</sup> Furthermore, Justice

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106. *Id.* at 405-06.

107. *Austria*, 14 SCRA at 336.

108. *Brito*, 14 SCRA at 539.

109. *Id.* at 543.

110. *Ly Giok Ha v. Galang*, 16 SCRA 414 (1966).

111. *Lee Suan Ay v. Galang*, 106 Phil. 706, 713 (1959). There the Court said that "[t]he marriage of a Filipino citizen to alien does not automatically confer Philippine citizenship upon the latter. She must possess the qualifications required by law to become a Filipino citizen by naturalization."

112. *Ly Giok Ha*, 16 SCRA at 414.

J.B.L. Reyes advanced a more extensive reasoning of *Choy King Tee* by illustrating the “danger of relying exclusively on the absence of disqualifications, without taking into account the other affirmative requirements of the law.”<sup>113</sup>

Reflection will reveal why this must be so. The qualifications prescribed under section 2 of the Naturalization Act, and the disqualifications enumerated in its section 4, are not mutually exclusive; and if all that were to be required is that the wife of a Filipino be not disqualified under section 4, the result might be well that citizenship would be conferred upon persons in violation of the policy of the statute. For example, section 4 disqualifies only –

(c) Polygamists or believers in the practice of polygamy; and

(d) Persons convicted of crimes involving moral turpitude,

so that a blackmailer, or a maintainer of gambling or bawdy houses, not previously convicted of a competent court, would not be thereby disqualified; still, it is certain that the law did not intend such a person to be admitted as a citizen in view of the requirement of section 2 that an applicant for citizenship ‘must be of good moral character.’

Similarly, the citizen’s wife might be convinced believer in racial supremacy, in government by certain classes, in the right to vote exclusively by certain “herrenvolk,” and thus disbelieve in the principles underlying the Philippine Constitution; yet she would not be disqualified under section 4, as long as she is not “opposed to organized government,” nor affiliated to groups “upholding or teaching doctrines opposing all organized governments,” nor “defending or teaching the necessity or propriety of violence, personal assault or assassination for the success or predominance of their ideas.” *Et sic de caeteris*.<sup>114</sup>

The above-cited cases settled the question on what the alien wife ought to do to be naturalized. Nevertheless, the issue of the proper venue and proceeding in which the alien wife must prove her marriage, her qualifications as well as lack of any disqualification to become a citizen has not been resolved. The Supreme Court expressly said in at least two cases that she may do this in a proper proceeding<sup>115</sup> without specifying the nature and venue of the proceeding. In cases brought to the Supreme Court from 1957–1967,<sup>116</sup> it was implicit that such proceeding is a judicial one for these

113. *Id.* at 418.

114. *Id.* at 417–18.

115. *See* *Ly Giok Ha v. Galang*, 101 Phil. 459 (1957); *Cua v. Board of Immigration Commissioners*, 101 Phil. 521 (1957); *Brito v. Commissioner of Immigration*, 14 SCRA 539 (1965).

116. *Sun Peck Young v. Commissioner*, 9 SCRA 874 (1963); *Brito*, 14 SCRA at 539; *Lao Chay v. Galang*, 12 SCRA 252 (1964); *Choy King Tee v. Galang*, 13 SCRA 402 (1965); *Austria v. Conchu*, 14 SCRA 336 (1965); *Ly Giok Ha v.*

cases involved appeals from the Court of First Instance which either granted or denied mandamus and prohibition suits against the Bureau of Immigration for refusing to recognize the claim of the alien woman to Philippine citizenship by virtue of her marriage.<sup>117</sup>

It was only in *Burca v. Republic*<sup>118</sup> where the Supreme Court made it clear that such a claim must be made and proved in a judicial proceeding. It was in the same case that the Court specified and described the appropriate judicial proceeding where it must be made. In the case, it was categorically declared that the proper proceeding is a citizenship or naturalization proceeding.<sup>119</sup>

This case involved a petition to declare Zita Ngo Burca as possessing all qualifications and none of the disqualifications for naturalization for the purpose of cancelling her alien registry with the Bureau of Immigration. Resolving what “appropriate proceeding” means, the Supreme Court ruled that: (1) an alien woman married to a Filipino who desires to be a Philippine citizen must file a petition for citizenship; (2) the petition for citizenship must be filed in the Court of First Instance of the place where she has resided for at least one year immediately preceding the filing of her petition; and (3) any action by any other office, agency, board, or official, administrative, or otherwise certifying or declaring that an alien wife of a Filipino citizen is also a Filipino citizen shall be null and void.<sup>120</sup> As to the merits of the case, the Court dismissed the petition upon finding that the petition was not supported by the affidavit of at least two credible persons and that Burca failed to allege in her petition all her former places of residence.<sup>121</sup>

In *Lo Beng Ha Ong v. Republic*,<sup>122</sup> the Supreme Court rejected the petitioner’s plea that non-relaxation of naturalization rules would separate her from and deny her the love of her husband.<sup>123</sup> The Court said that appellee’s arguments missed the nature of citizenship and the power of the state over it, saying,

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Galang, 16 SCRA 414 (1966); *Go Im Ty v. Republic*, 17 SCRA 797 (1966); *Morano v. Vivo*, 20 SCRA 562 (1967).

117. B.T.E. Austria, Annotation, *Acquisition of Philippine Citizenship by an Alien Woman Married to a Filipino*, 25 SCRA 627, 632 (1968).

118. *Burca v. Republic*, 19 SCRA 186 (1967).

119. PARAS, *supra* note 21, at 116.

120. *Burca*, 19 SCRA at 194.

121. *Id.* at 195.

122. *Lo Beng Ha Ong v. Republic*, 25 SCRA 247 (1968).

123. *Id.* at 251.

The provisions of the civil code that she relies govern the relations between husband and wife *inter se*; but the law on citizenship is political in character (Roa v. Collector of Customs, 23 Phil. 315) and the national policy is one for selective admission to Philippine citizenship. (Brito v. Commissioner; Go Im Ty v. Republic) Citizenship is not a right similar to those that exist between husband and wife or between private persons but ‘is a privilege which a sovereign government may confer on, or withhold from, an alien or grant to him on such conditions as it sees fit, without the support of any reason whatsoever (3 C.J.S. 834).’<sup>124</sup>

*B. Moy Ya Lim Yao v. Commission of Immigration*

In *Moy Ya Lim Yao v. Commissioner of Immigration*,<sup>125</sup> the Supreme Court reversed the jurisprudential rule laid down since 1957, that alien women who marry Filipino citizens do not automatically acquire Philippine citizenship. Under the new doctrine introduced by *Moy Ya Lim Yao*, paragraph 1 of Section 15 of C.A. No. 473 merely requires that an alien woman marrying a Filipino citizen should not be disqualified herself from becoming a citizen without the necessity of proving that she possesses all the qualifications.

This case stemmed from a petition for a writ of preliminary injunction by husband and wife, Moy Ya Lim Yao and Lau Yuen Yeung, against the Commissioner of Immigration seeking to restrain the latter from ordering Lau Yuen Yeung to leave the Philippines. At the hearing, it was admitted the Lau Yuen Yeung could not write either English or Filipino. Except for a few words, she could also not speak either English or Tagalog. She could not identify any other Filipino neighbor except one named Rosa. She did not even know the names of her brothers-in-law or sisters-in-law. Given these, the lower court denied the petition for injunction for failure of Lau Yuen Yeung to show that she was not disqualified and that she possessed all the qualifications required by law.

The lower court, sustaining the objections of the Solicitor General, made an observation that if the intention of the law that the alien woman, to be deemed a citizen of the Philippines by virtue of marriage to a Filipino citizen, need only be not disqualified under the Naturalization Law, it would have been worded “and who herself is not disqualified to become a citizen of the Philippines.”<sup>126</sup> Second, it noted that the marriage between the petitioners was effected merely for convenience to defeat or avoid her then impending compulsory departure. This was evident from the fact that Lay

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124. *Id.* at 251-52 (1968).

125. *Moy Ya Lim Yao v. Commissioner of Immigration*, 41 SCRA 292 (1971).

126. *Id.* at 295.

Yuen Yueng's marriage to a Filipino was only just a little over a month before the expiry date of her allowed stay.<sup>127</sup>

Thus, the Court was once again confronted with the questions: (1) whether the mere marriage of a Filipino citizen to an alien automatically confer upon the latter Philippine citizenship and (2) whether an alien woman who marries a Filipino or who is married to a man who subsequently becomes a Filipino, aside from not suffering from any of the disqualifications enumerated in the law, must also possess all the qualifications required by said law.<sup>128</sup> Even with the settled rule of the necessity to prove possession of all the qualifications and absence of disqualifications, the Court decided to take up the matter anew by the taking into consideration the following factors: (1) the substantial change in the membership of the Court since *Go Im Ty*;<sup>129</sup> (2) the practical aspects thereof in light of the actual situation of thousands of alien wives of Filipinos who have so long considered themselves as Filipinas and have always lived and acted as such;<sup>130</sup> and (3) if only to afford the Court an opportunity to consider the view of the five justices who took no part in *Go Im Ty*.<sup>131</sup>

In addressing the issues presented, the Supreme Court, by a divided vote,<sup>132</sup> reversed the then established rules. Considering the previous decision flawed, the Court pronounced in *Moy Ya Lim Yao* that the alien woman who marries a Filipino and who seeks to be a Filipino needs only to show that she has none of the disqualifications in Section 4 of C.A. No. 473. In holding such, the Court chose to adopt the interpretation by American courts of a similar provision in the Revised Statutes of the United States. It held that since section 15 of C.A. No. 473 was an exact copy of Section 1994 of the Revised Statutes of the United States, the settled construction by American courts and administrative authorities should be followed.<sup>133</sup> After quoting several American cases, the Court thus said:

Accordingly, we now hold, all previous decisions of this Court indicating otherwise notwithstanding, that under Section 15 of Commonwealth Act

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127. *Id.* at 296.

128. *Id.* at 298-99.

129. *Id.* at 320. See *Go Im Ty v. Republic*, 17 SCRA 797 (1966).

130. *Moya Ya Lim Yao*, 41 SCRA at 230. See *Go Im Ty v. Republic*, 17 SCRA 797 (1966).

131. *Moy Ya Lim Yao v. Commissioner of Immigration*, 41 SCRA 292, 320-21 (1971). See *Go Im Ty v. Republic*, 17 SCRA 797 (1966).

132. *Moy Ya Lim Yao*, 41 SCRA at 292. Justices Arsenio Dizon, Fred Castro, Claudio Teehankee, Julio Villamor, Querube Makalintal, and Enrique Fernando concurred while Justices Roberto Concepcion, Calixto Zaldivar, J.B.L. Reyes, and Felix Makasiar dissented.

133. *Id.* at 350.

No. 463, an alien woman marrying a Filipino, native born or naturalized, becomes *ipso facto* a Filipina provided she is not disqualified to be a citizen of the Philippines under Section 4 of the same law. Likewise, an alien woman married to an alien who is subsequently naturalized here follows the Philippine citizenship of her husband the moment he takes his oath as Filipino citizen, provided she does not suffer from any of the disqualifications under said Section 4.<sup>134</sup>

With the foregoing pronouncement, the Court was then confronted with the issue on what would be the appropriate proceeding that would substitute naturalization and enable the alien wife to have the matter of her citizenship settled.<sup>135</sup> While admitting that, at that time, there was no procedure provided under the law, the Court believed that following the procedure stated in Opinion No. 38, series of 1958 of then Acting Secretary of Justice Jesus G. Barrera may be a good starting point in addressing the issue.<sup>136</sup>

Regarding the steps that should be taken by an alien woman married to a Filipino citizen in order to acquire Philippine citizenship, the procedure followed in the Bureau of Immigration is as follows: The alien woman must file a petition for the cancellation of her alien certificate of registration alleging, among other things, that she is married to a Filipino citizen and that she is not disqualified from acquiring her husband's citizenship pursuant to section 4 of Commonwealth Act No. 473, as amended. Upon the filing of said petition, which should be accompanied or supported by the joint affidavit of the petitioner and her Filipino husband to the effect that the petitioner does not belong to any of the groups disqualified by the cited section from becoming naturalized Filipino citizen (please see attached CEB Form 1), the Bureau of Immigration conducts an investigation and thereafter promulgates its order or decision granting or denying the petition.<sup>137</sup>

In view of these, the Supreme Court reversed the lower court's judgment and thus granted appellant's petition by permanently enjoining the Commissioner of Immigration from causing the arrest and deportation and the confiscation of the bond of Lau Yuen Yueng who have become a Filipino citizen from and by virtue of her marriage to Moy Ya Lim Yao.<sup>138</sup>

### *C. Summary of Conflicting Decisions*

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134. *Id.* at 351.

135. *Id.* at 366-67.

136. *Id.* at 367.

137. *Moy Ya Lim Yao v. Commissioner of Immigration*, 41 SCRA 292, 367 (1971).

138. *Id.* at 368.



The cases since 1957<sup>139</sup> until prior to the *Moy Ya Lim Yao* case uniformly held that an alien wife can only be granted Philippine citizenship if she can prove in a proper proceeding that she has all the qualifications and none of the disqualifications as provided in Sections 2 and 4 of C.A. No. 473. The argument about possible adverse effect to family solidarity was regarded by the Supreme Court as irrelevant to the issue of citizenship. The Court chose to submit that the said rule is in accordance with the national policy of selective admission to Philippine citizenship.

Then came the *Moy Ya Lim Yao* case in 1971. The Court, with four of the 10 justices dissenting, overturned previous interpretations of Section 15. In brief, this case ruled that it is not necessary for the alien wife of a Filipino seeking Philippine citizenship to prove in a judicial proceeding that she possesses all the qualifications and none of the disqualifications set forth in C.A. No. 473. She needs only to show that she has none of the disqualifications in Section 4 of C.A. No. 473 in an administrative proceeding.

The *Moy Ya Lim Yao* ruling was subsequently followed in *Yap v. Republic*<sup>140</sup> and the second *Burca v. Republic*<sup>141</sup> and remains to be the doctrine followed at present.

#### *D. Comparison of Requirements for Naturalization*

Prior to *Moy Ya Lim Yao*, all aliens had to go through the naturalization process to become a Filipino citizen. The previous decisions required both possession of qualifications and absence of disqualifications from the applicant. Applying the previous rulings, all may be deemed to be on equal footing, except as to the alien husband with respect to the residence requirement. Then, the disparity between the alien wife married to a Filipino and alien husband married to a Filipina was only limited to the requirement of 10-year residence as to the alien woman as opposed to the five-year residence as to the alien husband. With the introduction of a new doctrine in the *Moy Ya Lim Yao*, however, the differences as to the

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139. See *Sun Peck Young v. Commissioner*, 9 SCRA 874 (1963); *Brito v. Commissioner of Immigration*, 14 SCRA 539 (1965); *Lao Chay v. Galang*, 12 SCRA 252 (1964); *Choy King Tee v. Galang*, 13 SCRA 402 (1965); *Austria v. Conchu*, 14 SCRA 336 (1965); *Ly Giok Ha v. Galang*, 16 SCRA 414 (1966); *Go Im Ty v. Republic*, 17 SCRA 797 (1966); *Morano v. Vivo*, 20 SCRA 562 (1967); *Burca v. Republic*, 19 SCRA 186 (1967); *Vivo v. Cloribel*, 25 SCRA 616 (1968); *Commissioner of Immigration v. Go Tieng*, 28 SCRA 237 (1969); *Vivo v. Puno*, 29 SCRA 392 (1969); *Joaquin v. Galang*, 33 SCRA 362 (1970).

139. *Choy King Tee v. Galang*, 13 SCRA 402 (1965).

140. *Yap v. Republic*, 45 SCRA 36 (1972).

141. *Burca v. Republic*, 51 SCRA 249 (1973).

procedure and qualifications broadened. The differences and similarities are specifically illustrated in the following tables:

TABLE I  
DIFFERENCE AS TO NATURALIZATION PROCESS

REQUIREMENTS	SINGLE ALIEN	ALIEN HUSBAND OF A FILIPINA	ALIEN WIFE OF A FILIPINO
FILING OF DECLARATION OF INTENTION	✓	✓	✗
FILING OF PETITION IN COURT	✓	✓	✗
PUBLICATION	✓	✓	✗
HEARING	✓	✓	✗
2-YEAR PROBATION PERIOD	✓	✓	✗
REHEARING	✓	✓	✗
OATH OF ALLEGIANCE	✓	✓	✓

TABLE 2  
POSSESSION OF QUALIFICATIONS

QUALIFICATIONS	SINGLE ALIEN	ALIEN HUSBAND OF A FILIPINA	ALIEN WIFE OF A FILIPINO
Age	✓	✓	✗
Residence	✓	✓ (only a five-year residence is required from an alien husband of a Filipina)	✗

Good moral character and belief in the principles underlying the Philippine Constitution	✓	✓	✗
Ownership of real property or occupation	✓	✓	✗
Language requisites	✓	✓	✗
Enrollment of minor children of school age	✓	✓	✗

TABLE 3  
ABSENCE OF DISQUALIFICATIONS

DISQUALIFICATIONS	SINGLE ALIEN	ALIEN HUSBAND OF A FILIPINA	ALIEN WIFE OF A FILIPINO
Opposed to organized government or affiliated with any association or group of persons who uphold and teach doctrines opposing all organized governments	✓	✓	✓
Defends or teaches the necessity or propriety of violence, personal assault, or assassination for the success and predominance of their ideas	✓	✓	✓
Polygamists or believers in the practice of polygamy	✓	✓	✓
Convicted of crimes involving moral turpitude	✓	✓	✓
Suffering from mental alienation or incurable contagious diseases	✓	✓	✓
Have not mingled socially with the Filipinos, or who have not evinced a sincere desire to learn and embrace the customs, traditions, and ideals of the	✓	✓	✓

Filipinos			
Citizens or subjects of nations with whom the United States and the Philippines are at war, during the period of such war	✓	✓	✓
Citizens or subjects of a foreign country other than the United States whose laws do not grant Filipinos the right to become naturalized citizens or subjects thereof	✓	✓	✓

The first major difference is the procedure. Instead of undergoing a rigid judicial naturalization process, the alien wife of a Filipino will undergo administrative proceedings. The process for the alien wife begins with the filing of a petition for cancellation of her alien certificate of registration alleging that she is married to a Filipino citizen and that she is not disqualified from acquiring her husband's citizenship pursuant to Section 4 of C.A. No. 473. The petition must be accompanied by the joint affidavit of the petitioner and her husband stating that the petitioner does not belong to any of the groups disqualified under Section 4. Thereafter, the Bureau of Immigration shall conduct an investigation and thereafter promulgate its decision. If the petition is granted, the alien woman shall then be allowed to take her oath of allegiance. Afterwards, her Alien Registration Certificate will be cancelled and she shall be issued a Filipino Identification Certificate.

In this administrative proceeding, there are no publication and probation requirements. In addition, the active participation of the Solicitor General, as the representative of the State in all naturalization proceedings, is no longer necessary.

The second major difference refers to the requirement of proof of possession of qualifications. Whereas a single alien and an alien married to a Filipina need to allege and prove that they have all the qualifications set forth in Section 2 of the law, an alien wife of a Filipino is not required to show compliance with such qualifications. Thus, with respect to her, the requirements as to age, residence, good moral character, belief in the principles underlying the Philippine Constitution, ownership of real property or occupation, language, and enrolment of minor children are immaterial.

As the rule stands today and as discussed above, except as to the requirement of the absence of the disqualifications provided in Section 4, the procedure and requirement of qualifications now greatly differ between a single alien and an alien husband of a Filipina on the one hand, and a wife of a Filipino on the other.

## IV. ANALYSIS

Paragraph 1 of Section 15 of the C.A. No. 473 provides that “[a]ny woman who is now or may hereafter be married to a citizen of the Philippines, and who might herself be lawfully naturalized shall be deemed a citizen of the Philippines.”<sup>142</sup> While the provision may at first appear to be without need of interpretation, the Supreme Court, after almost 20 years since the law was enacted, was faced with the question on what should be the proper import of the above-quoted provision.

Since the first case<sup>143</sup> dealing with the interpretation of Section 15, the Court was consistent that the provision does not automatically grant Philippine citizenship to an alien woman upon her marriage to a Filipino. Nevertheless, it is the phrase “who might herself be lawfully naturalized” which required much deliberation. It was in *Lee Suan Ay v. Galang*<sup>144</sup> that the Court for the first time held that the phrase required that the alien woman seeking to be naturalized by virtue of marriage prove in proper proceedings the possession of qualifications and the absence of disqualifications. Since then, it has become the uniform ruling that both qualification and disqualification requirements must be proved before the court, stressing that departure from established precept cannot be done by virtue of the principle of selective citizenship.<sup>145</sup> In 1971, however, in a complete turn, the Supreme Court decided to revisit the interpretation through *Moy Ya Lim Yao v. Commissioner of Immigration*. The decision, which relied primarily on opinions of Secretary of Justice and interpretation of American courts, reversed the long-standing doctrine that alien women who marry Filipino citizens do not automatically acquire Philippine citizenship. With four of the 10 justices dissenting, the Court held that the alien woman becomes *ipso facto* a Filipino provided she is not disqualified to be a Filipino citizen under section 4 of C.A. No. 473.

In subsequent cases<sup>146</sup> which dealt with the same issue, the *Moy Ya Lim Yao* doctrine was upheld. Even in those cases, however, dissents were still made. Thus, it may be observed that, although the *Moy Ya Lim Yao* remains to be the authority with regard to the interpretation of paragraph 1, Section 15 of C.A. No. 473, doubts may still be raised as to its correctness and application. With these, it may be apt to consider the questions: (1) What brought about the sudden change in the interpretation of paragraph 1, Section 15 of C.A. No. 473? (2) Why would a seemingly simple provision necessitate numerous Supreme Court decisions? and (3) What are the

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142. C.A. No. 473, § 2.

143. *Ly Giok Ha v. Galang*, 101 Phil. 459 (1957).

144. *Id.*

145. *Morano v. Vivo*, 20 SCRA 562, 567 (1967).

146. *Yap*, 45 SCRA at 36; *Burca*, 51 SCRA at 248.

consequences of the present wording and prevailing interpretation of the law?

*A. Manifest Reliance on Opinions of the Secretary of Justice in Moy Ya Lim Yao v. Commissioner of Immigration*

*Ly Giok Ha v. Galang* was the case in which Section 15 of C.A. No. 473 was first interpreted. Here, the Court gave the impression that the phrase “who might herself be lawfully naturalized” referred to an alien woman not suffering from any of the disqualifications under Section 4. This may be presumed as the Court chose to remand the case to the lower court for further proceedings after noting that there was neither proof nor allegation that the petitioner does not fall under any of the classes disqualified by law instead of denying the petition outright for lack of residence requirement of the alien woman, as appearing in the records. In this case, Justice Concepcion said: “As correctly held in an opinion of the Secretary of Justice (Op. No. 52, series of 1950),<sup>147</sup> this limitation of Section 15 excludes from the benefits of naturalization by marriage, those disqualified from being naturalized as citizens of the Philippines under Section 4 of said Commonwealth Act No. 473.”<sup>148</sup>

From the quoted statement, there was no categorical declaration that the limitation solely refers to the disqualification. On the other hand, it was also without any mention of the qualifications and the necessity of proving the same. This notwithstanding, the Supreme Court in *Moy Ya Lim Yao* interpreted the statement as one referring exclusively to disqualifications when it said that, “[t]his Court declared as correct the opinion of the Secretary of Justice that the limitation of Section 15 of the Naturalization Law excludes from the benefits of naturalization by marriage, *only those disqualified* from being naturalized under Section 4 of the law quoted in the decision.”<sup>149</sup> Albeit the explanation of Chief Justice Concepcion, *ponente* of *Ly Giok Ha* and who was still part of the Supreme Court during the deliberations of *Moy Ya Lim Yao*, that his opinion in *Ly Giok Ha* was not meant to give that impression,<sup>150</sup> the Court in *Moy Ya Lim Yao* said that, “in referring to the disqualifications enumerated in the law, the Court somehow felt the impression that no inquiry need be made as to qualifications ....”<sup>151</sup>

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147. *Moy Ya Lim Yao v. Commission of Immigration*, 41 SCRA 292, 304 n.\* (1971). The footnote provides: “See also, Ops., Sec. of Justice, No. 28, s. 1950; No. 96, s. 1949; Nos. 43, 58, 98, and 281, s. 1948; No. 95, s. 1941; Nos. 79 and 168, s. 1940.”

148. *Ly Giok Ha*, 101 Phil. at 463.

149. *Moy Ya Lim Yao*, 41 SCRA at 305-06.

150. *Id.* at 306, n.5.

151. *Id.* at 306.

In rejecting Chief Justice Concepcion's clarification, the Court relied on the fact that the *Ly Giok Ha* decision cited and footnoted several opinions of the Secretary of Justice which the *Moy Ya Lim Yao* Court interpreted to mean essentially that qualifications need not be possessed or proven.<sup>152</sup> The Court took the reference made by Justice Concepcion to mean that the opinions of the Secretary of Justice were wholly and explicitly adopted in the *Ly Giok Ha* case.<sup>153</sup> The Court further said that in any case and while the *Ly Giok Ha* and *Cua* cases made no reference to qualifications, "it is a fact that the Secretary of Justice understood them to mean that such qualifications need not be possessed nor proven."<sup>154</sup> At this instance, the Court quoted opinions of then Secretary of Justice Jesus Barrera, rendered by him subsequent to *Ly Giok Ha*, which expressed that an alien woman married to a Filipino citizen needs only to show that "she might herself be lawfully naturalized" where compliance with other conditions (qualifications and judicial proceedings) of the law are not necessary.<sup>155</sup>

On this point, it is worthy to note that then Secretary of Justice Jesus Barrera later became a member of the Supreme Court and penned the decisions in *Sun Peck Yong v. Commissioner of Immigration*<sup>156</sup> and *Tong Siok Sy v. Vivo*<sup>157</sup> in 1963 — about eight years before *Moy Ya Lim Yao* was decided. These two cases held that to make the alien wife a citizen of the Philippines, it must be shown that she herself possesses all the qualifications and none of the disqualifications. The doctrine advanced in these cases evidently contradicted his previous opinions rendered while he was the Secretary of Justice and yet, in these decisions, there was no mention of any opinions of the Secretary of Justice. Had Justice Barrera wished to assert his previous stand on this matter, reference to his opinions, as then Secretary of Justice, could have been made. Moreover, his reservations on this matter, if he had any, could have been raised subsequently in *Lao Chay v. Galang*,<sup>158</sup> *Chong King Tee v. Galang*,<sup>159</sup> *Brito v. Commissioner of Immigration*,<sup>160</sup> *Ly Giok Ha v. Galang*,<sup>161</sup> and *Go Im Ty v. Republic*.<sup>162</sup> In these cases which were decided

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152. *Id.* at 306-09.

153. *Moy Ya Lim Yao v. Commission of Immigration*, 41 SCRA 292, 312 (1971).

154. *Id.* at 308-09.

155. See Department of Justice, Opinion. Nos. 12, 38, 57 Series of 1958; Opinion. No. 134, Series of 1962.

156. *Sun Peck Yong v. Commissioner of Immigration*, 9 SCRA 874 (1963).

157. *Tong Siok Sy v. Vivo*, 9 SCRA 876 (1963).

158. *Lao Chay v. Galang*, 12 SCRA 252 (1964).

159. *Chong King Tee v. Galang*, 13 SCRA 402 (1965).

160. *Brito v. Commissioner of Immigration*, 14 SCRA 539 (1965).

161. *Ly Giok Ha v. Galang*, 16 SCRA 414 (1966).

162. *Go Im Ty v. Republic*, 17 SCRA 797 (1966).

similarly as in *Sun Peck Yong* and *Tong Siok Sy*, Justice Barrera, as a member of the Court, chose not to dissent. With these, it may be inferred that Justice Barrera, at that point, abandoned his views as conveyed in his Secretary of Justice opinions and adopted the then prevailing doctrine. Thus, question may be made as to why the *Moy Ya Lim Yao* Court heavily cited and relied on the opinions of then Secretary of Justice Barrera instead of the decisions penned by him as a member of the Supreme Court.

In *Moy Ya Lim Yao*, the Court also found fault with the *Lee Suan Ay v. Galang* decision. It noted that in that decision, the construction of the law was significantly modified without any explanation.<sup>163</sup> It took notice that the part in the *Lee Suan Ay* decision which held that the alien wife “must possess the qualifications required by law to become a Filipino citizen by naturalization” made reference to Section 15 of C.A. No. 473 and *Ly Giok Ha v. Galang*.<sup>164</sup> With this reference, the *Moy Ya Lim Yao* Court again stressed the import of the opinions of the Secretary of Justice cited in *Ly Giok Ha* — that the clause “who might herself be lawfully naturalized,” should be taken to mean as not requiring from the alien woman “to have the qualifications of residence, good character, etc., as in cases of naturalization by judicial proceedings, but merely that she is of the race by persons who may be naturalized.”<sup>165</sup> Here, once again, the *Moy Ya Lim Yao* Court preferred to rely on the opinions of the Secretary of Justice, rather than to recognize the *Lee Suan Ay* ruling even considering that *Lee Suan Ay* was penned by Justice Sabino Padilla for a unanimous court which included Justices Concepcion and Reyes — the same justices who penned *Ly Giok Ha* and *Cua* cases, respectively. In view of this, it may be asked: if Justices Concepcion and Reyes had intended to adopt entirely the Secretary of Justice opinions in their previous decisions, then why was the *Lee Suan Ay* case decided unanimously? In this case, neither Justice Concepcion nor Justice Reyes opposed the doctrine advanced in *Lee Suan Ay* that the alien wife of a Filipino seeking to be naturalized needs to show that she has all the qualifications and none of the disqualifications as required in C.A. No. 473.

*B. Adoption of American Court Interpretation of Paragraph 1, Section 15 of C.A. No. 473 in Moy Ya Lim Yao v. Commissioner of Immigration*

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163. *Moy Ya Lim Yao v. Commission of Immigration*, 41 SCRA 292, 310-12 (1971).

164. *Lee Suan Ay v. Galang*, 106 Phil. 706, 713 n.1 (1959). In *Lee Suan Ay*, the footnote after the statement “She must possess the qualifications required by law to become a Filipino citizen by naturalization” states: “Section 15, Commonwealth Act No 473; *Ly Giok Ha alias Wy Giok Ha v. Galang*, 54 Off. Gaz., 356.”

165. *Moy Ya Lim Yao*, 41 SCRA at 312 (citing Department of Justice, Opinion. No. 176, Series of 1940).



The main decisive point in addressing the issue in the *Moy Ya Lim Yao* case was the interpretation given by American courts to section 1994 of the Revised Statutes<sup>166</sup> — a provision similar to paragraph 1, section 15 of C.A. No. 473. Doubtful about the line of reasoning presented in *Lo San Tuang* and *Choy King Tee* cases, the *Moy Ya Lim Yao* Court discussed the American naturalization law as regards an alien wife and its meaning as understood by American courts and administrative authorities.

As may be recalled, in *Lo San Tuang*, the primary argument advanced by Justice Regala was that as a consequence of the non-reenactment of Section 1 of the previous Philippine Naturalization Law,<sup>167</sup> which provided who alone might become citizens in C.A. No. 473, the phrase “who might herself be lawfully naturalized” must be understood as referring to those falling under Section 2 and not merely those not belonging to the class of disqualified persons under Section 4. It was in this case where it was held that the enactment of C.A. No. 473 without the section providing for who might become citizens resulted in the removal of class or racial considerations from the qualifications of applicants for naturalization. The same thrust was followed in *Choy King Tee* where it was held that “who might herself be lawfully naturalized” no longer referred to the class or race to which the alien wife belongs but to the qualifications and disqualifications for naturalization as enumerated in Sections 2 and 4 of C.A. No. 473 and that a different interpretation would render the phrase “who might herself be lawfully naturalized” a “meaningless surplusage.”<sup>168</sup>

In refuting the above arguments, the *Moy Ya Lim Yao* Court held that the supposition that the elimination of Section 1 of Act No. 2927 by C.A. No. 473 was for the abolition of racial discrimination had no clear factual basis.<sup>169</sup> Aside from mentioning that the statement in Sinco’s book cited by Justice Regala in *Lo San Tuang* does not have any authoritative source,<sup>170</sup> the Court stated that the elimination of Section 1 was more of an effect of the establishment of the Philippine Commonwealth and the exercise of

166. Act of February 10, 1855, 10 Stat. 604 (1855).

167. Naturalization Law of the Philippines, Act No. 2927, § 1 (1920). Section 1 of the said Act provides:

*Who may become Philippine citizens.* — Philippine citizenship may be acquired by: (a) natives of the Philippines who are not citizens thereof under the Jones Law; (b) natives of the other Insular possessions of the United States; (c) citizens of the United States, or foreigners who under the laws of the United States may become citizens of said country if residing therein.

168. *Choy King Tee v. Galang*, 13 SCRA 402, 405 (1965).

169. *Moy Ya Lim Yao v. Commission of Immigration*, 41 SCRA 292, 330 (1971).

170. *Id.* at 330, n.17.

legislative autonomy on citizenship matters with the Philippine legislature wanting to “free our Naturalization Law from the impositions of American legislation.”<sup>171</sup>

As regards the proper interpretation of the phrase “who might herself be lawfully naturalized,” the Court deemed it proper to examine American cases as according to it, Section 15 “has been taken directly, copied and adopted from its American counterpart” and is “nothing less than a reenactment of the American provision.”<sup>172</sup> Being an exact copy, the Court held that the construction uniformly followed in all courts of the United States must be considered as if it were written in the statute itself.<sup>173</sup> After quoting a summary of the construction of the provision by the American courts and administrative authorities, the Court noted that: (1) the phrase “who might herself be lawfully naturalized” was not meant solely as a racial bar<sup>174</sup> and that (2) the inference in *Lo San Tuang*, *Choy King Tee*, and the second *Ly Giok Ha*, which in effect stated that section 2 of C.A. No. 473 has purposely replaced Section 1 of Act No. 2927, was not sufficiently justified.<sup>175</sup> In rejecting the views expressed in the earlier cases, the Court stressed that since Section 15 is a copy of Section 1994 of the Revised Statutes then the American authorities which said that the qualifications of residence, good moral character, and adherence to the Constitution are not to be taken into account should be upheld. Hence, the Court said:

Unless We disregard now the long settled familiar rule of statutory construction that in a situation like this where our legislature has copied an American statute word for word, it is understood that the construction already given to such statute before its being copied constitute part of our own law, there seems to be no reason how We can give a different connotation or meaning to the provision in question.<sup>176</sup>

Further, it asserted that it would be “in defiance of reason and the principles of statutory construction to say that Section 15 has a nationalistic and selective orientation and that it should be construed independently of the previous American posture because of the difference of circumstances here and in the United States.”<sup>177</sup> Thus, in effect, the doctrine established in several cases prior to *Moy Ya Lim Yao* was abandoned mainly on the basis that Section 15 of C.A. No. 473 was a verbatim copy of Section 1994 of the Revised Statutes of the United States. Since Section 1994 of the Revised

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171. *Id.* at 329.

172. *Id.* at 321.

173. *Id.* at 331.

174. *Id.* at 337.

175. *Moy Ya Lim Yao v. Commission of Immigration*, 41 SCRA 292, 339 (1971).

176. *Id.* at 340.

177. *Id.* at 342.

Statutes of the United States had been construed by American courts as requiring only that the alien wife should not be disqualified herself from being a citizen, then a similar interpretation must be given to Section 15 of C.A. No. 473.

From the main opinion, it may be observed that the reliance of the Court in the American interpretation is based on the statutory construction rule which states that borrowed statutes must be given effect in the same way as it was understood and construed by the courts and administrative authorities of the country from which it was copied. In previous cases decided by the Court dealing with the interpretation of statutes modelled upon Anglo-American laws, it had been held that:

For the proper construction and application of the provisions of a legislative enactments which have been borrowed from or modeled upon Anglo-American precedents, it is proper and often times essential to review the legislative history of such precedents and to find an authoritative norm for their interpretation and application in the decisions of American and English courts of last resort construing and applying similar legislation in those countries.<sup>178</sup>

This point may, however, be opposed by an equally settled rule that in the determination of the true intent of the legislature, “the particular clauses and phrases of the statute should not be taken as detached and isolated expressions, but the whole and every part thereof must be considered in fixing the meaning of any of its parts.”<sup>179</sup> A statute must be interpreted in such a way as to:

[H]armonize and give effect to all its provisions whenever possible. The meaning of the law, it must be borne in mind, is not to be extracted from any single part, portion, section or from isolated words and phrases, clauses, or sentences but from a general consideration or view of the act as a whole. Every part of a statute must be interpreted with reference to the context. This means that every part of the statute must be considered together with the other parts, and kept subservient to the general intent of the whole enactment, not separately and independently.<sup>180</sup>

This is for the reason that a particular provision or phrase, taken in the abstract, “might easily convey a meaning which is different from the one actually intended.”<sup>181</sup> Thus, in the dissent of Justice J.B.L. Reyes in *Moy Ya*

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178. *United States v. De Guzman*, 30 Phil. 416, 419 (1915) (citing *Kepner v. U.S.*, 195 U.S. 100 (1904) & 11 Phil. 669 (1908); *Serra v. Mortiga*, 204 U.S. 470 (1907) & 11 Phil. 762 (1908); *Alzua v. Johnson*, 21 Phil. 308 (1912)).

179. *Commissioner of Customs v. Esso Standard Eastern, Inc.*, 66 SCRA 113, 120 (1975).

180. *Aisporna v. Court of Appeals*, 113 SCRA 459, 466-67 (1982).

181. *PLDT, Inc. v. City of Davao*, 363 SCRA 522 (2001).

*Lim Yao*, which was concurred in by Chief Justice Roberto Concepcion and Justices Zaldivar and Makasiar, it was contended that the adoption of the American interpretation might have been tenable if C.A. No. 473 had been *in its entirety*, not just with respect to Section 15, a reproduction of the American model.<sup>182</sup>

[W]here the coincidence is limited to a section of the Philippine statute, which is taken as a whole is different in requirements and in spirit, I submit that the rule advocated in the main opinion does not apply, and that our section 15 should be construed conformably to the context and intendment of the statute of which it is a part, and in harmony with the whole.<sup>183</sup>

Showing how the American statute differs from C.A. No. 473, Justice Reyes pointed out that the American law of naturalization stresses primarily the disqualifications for citizenship,<sup>184</sup> while our naturalization law separates qualifications from disqualifications. At the time that the first law<sup>185</sup> was enacted concerning acquisition of citizenship by alien women married to American citizens, the positive qualifications are limited to a “bona fide intention to become a citizen of the United States and to renounce forever all allegiance and fidelity” to previous sovereign.<sup>186</sup> Under these circumstances, Justice Reyes said that “it is understandable that the interpretation of the words ‘who might herself be lawfully naturalized’ should be that the marrying alien woman should not be disqualified from becoming a citizen.”<sup>187</sup> On the other hand, this cannot be applied equally to Philippine naturalization law as C.A. No. 473 provides expressly under Section 2 thereof positive qualifications which “express a policy of restriction as to candidates for naturalization as much as the disqualifications under Section 4.”<sup>188</sup> This standpoint is supported by the discussion found in the second *Ly Giok Ha* case where Justice Reyes showed that those not disqualified under Section 4 are not automatically qualified under Section 2, such that construing Section 15 as excluding only those women suffering from disqualification under Section 4 could result in admitting to citizenship those which Section 2 intends to exclude.<sup>189</sup>

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182. *Moy Ya Lim Yao v. Commission of Immigration*, 41 SCRA 292, 387 (1971) (Reyes, J., dissenting).

183. *Id.*

184. *Id.* (citing USCA, tit. 8, §§ 363-66 & 378.)

185. *Id.* (citing The Act of February 10, 1855).

186. *Id.* (citing USCA, tit. 8, § 372).

187. *Id.* at 387-88.

188. *Moy Ya Lim Yao v. Commission of Immigration*, 41 SCRA 292, 388 (1971).

189. *Ly Giok Ha v. Galang*, 30 SCRA 414, 417 (1966). *See also Moy Ya Lim Yao*, 41 SCRA at 388 (Reyes, J., dissenting).

Justice Reyes also mentioned that, “[t]he spirit of the American law, decidedly favorable to the absorption of immigrants, is not embodied in our Constitution and laws, because of the nationalistic spirit of the latter.”<sup>190</sup> Thus, in choosing to adopt the American interpretation, the main decision, in effect, “introduces marriage to a citizen as a means of acquiring citizenship, a way not contemplated by Article IV of the Constitution.”<sup>191</sup>

Having been presented with these arguments, a question may accordingly be raised as to the propriety of the adoption of the American court interpretation of paragraph 1, Section 15 of C.A. No. 473 considering that C.A. No. 473 is not entirely identical to American naturalization laws. As stated, the main decision rejected that section 15 has a nationalistic and selective orientation based on Philippine circumstances and claimed that there is no other option but to adopt the settled interpretation given by American courts and authorities. The Philippine Supreme Court, however, has already explained that, American decisions and authorities are not *per se* controlling and that Philippine law must be construed according to the intention of the lawmakers, which in turn may be deduced from the language of the law and the context of other related laws.<sup>192</sup>

Despite such pronouncement in a case decided two years before the *Moy Ya Lim Yao* case, the *Moy Ya Lim Yao* Court still chose to place an unqualified reliance on American jurisprudence and authorities.

### *C. Inconsistency of Section 15 and Existing Jurisprudence with the Restrictive Policies of Philippine Naturalization Laws*

A naturalized citizen becomes a member of the society having all the rights of a natural-born citizen and standing on the same footing as a native,<sup>193</sup> except as otherwise limited by the Constitution.<sup>194</sup> Because of the rights and privileges that may be acquired by those seeking to be naturalized, bestowal of Philippine citizenship is subject to a stringent process. The intent to have a restrictive policy with regard to the grant of citizenship is evident from requirement of a judicial procedure for naturalization in C.A. No. 473.

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190. *Moy Ya Lim Yao*, 41 SCRA at 388 (Reyes, J., dissenting).

191. *Id.*

192. *Proctor & Gamble Philippine Manufacturing Corporation v. Commissioner of Customs*, 23 SCRA 691, 697 (1968). *See also* *Ortigas and Co., Limited Partnership v. Feati Bank and Trust, Co.*, 94 SCRA 533, 549 (1979).

193. *United States v. Wong Kim Ark*, 169 U.S. 649, 703 (1898) (citing *Osborn v. Bank of the United States*, 9 Wheat. 738 (1824)).

194. Under the 1987 Philippine Constitution, only a citizen is given the right to vote, run for public office, exploit natural resources, acquire land, to operate public utilities, administer educational institutions, and manage mass media. CRUZ, *supra* note 2, at 372.

It has been an accepted rule that naturalization laws “should be rigidly enforced and strictly construed in favor of the government and against the applicant for citizenship.”<sup>195</sup> All those seeking to acquire Philippine citizenship must prove that they have complied with all the requirements of the law.<sup>196</sup> In one case, the Court emphasized why this must be so, and to pertinently quote:

Citizenship is a privilege. If the applicant for naturalization is really inspired by an abiding love for this country and its institutions (and no other reason is admissible), he must prove it by acts of strict compliance with the legal requirements. It may mean hardship and sacrifices; but citizenship in this Republic, be it ever so small and weak, is always a privilege; and no alien, he be a subject of the most peaceful nation of the world, can take such citizenship for granted or assume it as a matter of right.<sup>197</sup>

As a consequence, the procedure prescribed by the law for the naturalization of an alien should be strictly followed<sup>198</sup> and, in case of doubt, the same should be resolved against the grant of citizenship.<sup>199</sup> Such has been the standard followed by the Supreme Court in the interpretation and application of Philippine naturalization laws.<sup>200</sup> Nevertheless, this cannot be said of the *Moy Ya Lim Yao* ruling. Whether it stemmed from the wording of section 15 or with the interpretation given to it by the Court, the *Moy Ya Lim Yao* actually resolved the doubt in favor of the grant of citizenship.

The wording and prevailing interpretation of Section 15 resulted in a relaxed naturalization proceeding exclusive to the alien wife of a Filipino, in both the procedure and qualification requirements. As ruled in *Moy Ya Lim Yao*, and as implemented to date by the Bureau of Immigration,<sup>201</sup> the alien wife would only have to file a petition for the cancellation of her Alien Certificate of Registration (ACR). Upon cancellation of her ACR, she shall be allowed to take her oath of allegiance.

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195. 3 C.J.S. *Aliens* § 135 (1936).

196. LEDESMA, *supra* note 31, at 376 (citing *Tochip v. Republic*, 13 SCRA 251 (1965); *Ng v. Republic*, 25 SCRA 574 (1968); *Cua Sun Ke v. Republic*, 159 SCRA 477 (1988)).

197. Coquia, *supra* note 15, at 400 (citing *Ng Sin v. Republic*, G.R. No. L-3590, Sep. 20, 1955)).

198. *Id.*

199. *Ly Hong v. Republic*, 109 Phil. 635 (1960).

200. *See Pardo v. Republic*, 85 Phil. 323 (1950); *Bautista v. Republic*, 87 Phil. 818 (1950); *De La Cruz v. Republic*, 92 Phil. 714 (1953).

201. Bureau of Immigration, Cancellation of ACR by Marriage, *available at* [http://immigration.gov.ph/index.php?option=com\\_content&task=view&id=76](http://immigration.gov.ph/index.php?option=com_content&task=view&id=76) (last accessed June 21, 2008).

The elimination of majority of the procedural requirements as to the alien wife can be considered as contrary to the restrictive policy of Philippine naturalization laws. First, the removal of the requirement of filing a petition of intention in effect deprived the State of a chance to determine the good intention and sincerity of purpose of the applicant. As discussed, the filing of the petition of intention one year prior to the filing of petition for naturalization was intended to prevent aliens from applying for citizenship to protect their interest and not because of a sincere desire to embrace Philippine citizenship.<sup>202</sup> Second, the lack of publication of the petition for Philippine citizenship denies the public the opportunity of presenting important information regarding the alien wife's eligibility or ineligibility. Naturalization proceedings involve public interest where the entire record thereof is subject to scrutiny<sup>203</sup> at any stage of the proceeding. Thus, the Supreme Court in *Republic v. Santos*<sup>204</sup> held that:

[F]irm and unwavering adherence to the concept of Filipino citizenship, being an inestimable boon and a priceless acquisition, one who seeks to enjoy its rights and privileges must not shirk from the most exacting scrutiny as to his fulfilling the qualifications required by law, which must be fully met and could be inquired into at any stage of the proceeding, whether it be in the course of the original petition or during the stage leading to his oath-taking pursuant to Republic Act No. 530.<sup>205</sup>

Also, being an *in rem* proceeding, where the object is to bar indifferently all who might be minded to make an objection of any sort,<sup>206</sup> the publication requirement in ordinary naturalization proceedings has been held to be indispensable.<sup>207</sup> Third, as there is no longer a court hearing, the appearance and participation of the Solicitor General accordingly becomes unnecessary. As a result, the State, as a party in interest in all naturalization proceedings, will not be properly represented.<sup>208</sup> Last, the two-year probationary period required by R. A. No. 530 is not imposed on the alien wife as compared to the other aliens who shall undergo judicial naturalization. Thus, there is no longer an opportunity to determine if the alien "posed a risk to the general welfare during specified periods of

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202. *Chua v. Republic*, 91 Phil. 927 (1952).

203. *Tan v. Republic*, 17 SCRA 339 (1954).

204. *Republic v. Santos*, 24 SCRA 314 (1968).

205. *Id.* at 316.

206. I JOSE Y. FERIA & MARIA CONCEPCION S. NOCHE, CIVIL PROCEDURE ANNOTATED 205 (2001 ed.) (citing *Alba v. De la Cruz*, 17 Phil. 49, 61-62 (1910)).

207. *Tan Teng Hen v. Republic*, 58 SCRA 500 (1974).

208. *Ledesma*, *supra* note 15, at 9.

residence in Philippines.”<sup>209</sup> The government is deprived of that additional period in which to test the sincerity of the applicant of naturalization.<sup>210</sup>

Apart from the distinct special procedure available to an alien wife of a Filipino, the alien wife need not show possession of qualifications. All she needs to prove is that she does not have any of the disqualifications provided in section 4 of C.A. No. 473. But as explained by Justice J.B.L. Reyes in the second *Ly Giok Ha* case, the qualifications and disqualification in C.A. No. 473 are not mutually exclusive and by requiring only from an alien wife of a Filipino that she not be disqualified under Section 4 may result in the grant of citizenship in violation of the policy of the statute.<sup>211</sup> Section 4 provides for an exclusive list of disqualifications. Thus, as long as the alien wife shows that she is not disqualified under Section 4, she may be given Philippine citizenship even though she may be without good moral character, or does not believe in the principles underlying the Philippine Constitution and yet she may be granted citizenship as long as she is not “opposed to organized government,” nor affiliated to groups “upholding or teaching doctrines opposing all organized governments” nor “defending or teaching the necessity or propriety of violence, personal assault or assassination for the success and predominance of their ideas.”<sup>212</sup> Therefore, in relying exclusively on the absence of disqualifications without considering the other affirmative requirements, the State may be admitting as part of the citizenry those that are intended to be excluded by the law.

As discussed, it can be observed that this mode of acquiring Philippine citizenship provides for liberal procedures and evidentiary requirements. It offers a more expedient and lenient access to Philippine citizenship which might be used as “a convenient means of circumventing the restrictive policies of the Philippine Naturalization Law.”<sup>213</sup> This apprehension was not unknown to the *Moy Ya Lim Yao* Court. In the main decision, the Court, while recognizing the likelihood that this easy access to Philippine citizenship may be subject to abuse, also deemed that such foreseeable situation be addressed as it arises. Thus, it held:

As under any other law rich in benefits for those coming under it, doubtless there will be instances where unscrupulous persons will attempt to take advantage of this provision of law by entering into fact and fictitious marriages or *mala fide* matrimonies. We cannot as a matter of law hold that just because of these possibilities, the construction of the provision should be otherwise than as dictated inexorably by more ponderous relevant

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209. *Id.*

210. Myrna P. Cruz, Annotation, *Naturalization*, 9 SCRA 311, 314 (1965).

211. *Ly Giok Ha v. Galang*, 16 SCRA 414, 417-18 (1966).

212. *Id.*

213. Coquia, *supra* note 15, at 399.



considerations, legal, juridical and practical. There can always be means of discovering such undesirable practices and every case can be dealt with accordingly as it arises.<sup>214</sup>

Notwithstanding the resolution of the Court, there is still a compelling and valid concern that by stressing only the need to show proof of the absence of the disqualifications under C.A. No. 473, the administrative procedure applicable peculiarly to the alien wife of a Filipino would allow “for a convenient conferment of Philippine citizenship under very, very permissive safeguards.”<sup>215</sup> Furthermore, there is that apprehension over the fact that the determination as whether to grant or not citizenship to the alien wife of Filipino rests with an administrative agency. Absent any statutory rules to specifically govern the procedure, the prevailing process can easily be prone to abuse, “whether in the direction of extreme laxity or of utmost strictness. In the latter case, the *ipso facto* language of the Supreme Court is not as automatic as it purports to be. In the context of Philippine conditions, unlimited administrative discretion is fraught with unfortunate consequences.”<sup>216</sup>

From all these, it may thus be inferred that Section 15, in effect, by itself and as it is understood in the *Moy Ya Lim Yao* case, “added marriage, even not bona fide, as a convenient means of acquiring Philippine citizenship.”<sup>217</sup> Moreover, it can be said that with respect only to the alien wife of a Filipino, the Philippines follows a liberalized naturalization policy.

Nevertheless, this liberalized attitude on naturalization later became debatable due to the events that transpired subsequent to the *Moy Ya Lim Yao* ruling. The summary grant of Philippine citizenship through Presidential Decrees<sup>218</sup> during the term of President Ferdinand Marcos was considered to be a novel move tainted with “far-reaching consequences.”<sup>219</sup> Consequently, it became the subject of severe criticism and inquiry during the drafting of the 1987 Constitution.<sup>220</sup> Expressing his preference to make acquisition of citizenship difficult and limited to judicial proceedings, Commissioner Concepcion said:

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214. *Moy Ya Lim Yao*, 41 SCRA at 351-52.

215. Ledesma, *supra* note 15, at 10.

216. SALONGA, *supra* note 15, at 174-75.

217. Coquia, *supra* note 15, at 400.

218. For example, Presidential Decree No. 1686, dated 19 March 1980, granted Philippine citizenship to Michael M. Keon — the then President’s nephew; Presidential Decree No. 1686-A, also dated 19 March 1980, granted Philippine citizenship to basketball players Jeffrey Moore and Dennis George Still. *Tañada v. Tuvera*, 146 SCRA 446 (1986) (Fernan, J., concurring).

219. SALONGA, *supra* note 15, at 187.

220. *Id.*

The number of cases for naturalization has grown considerably since the adoption of the 1935 Constitution which limits the enjoyment of natural resources and the participation in the operation of public utilities to citizens of the Philippines. A liberalization through legislative action would enhance the problem of reserving the enjoyment of our resources to Filipinos and not only in terms of physical or tangible possessions but also in so far as human resources are concerned.<sup>221</sup>

It has been years since the concern over liberalized citizenship policy was first considered and discussed during the drafting of the 1987 Constitution. In spite of this, the Legislature has yet to make a concrete move as to settle the confusion on whether the Philippines adheres to a restrictive or a liberalized citizenship policy. On this point, it is pertinent to quote Commissioner Roberto Concepcion's sentiments on this regard.

I will say only two things. First, do we want to still maintain the policy of relative Filipinization for the enjoyment of natural resources and the operation of public utilities? If we want to maintain the same, we must see to it that the matter of acquisition of citizenship by naturalization is made as strict as possible.

And the second point that I would want to advert to is that although we seemingly are more prosperous now, yet I feel that the Filipino people are poorer, much poorer than before, and that aliens or naturalized citizens are much richer than before. It is for the nation or for the Filipino people to decide what policy to adopt.<sup>222</sup>

#### *D. Violation of the Equal Protection Clause*

In the previous discussion, the patent differences on procedure and requirements applicable to single alien, alien husband of a Filipina, and alien wife of a Filipino were shown. Except as to the lowered residency requirement from the alien husband of a Filipina, the procedure, qualifications, and disqualifications are the same as regards a single alien and an alien husband of a Filipina. On the other hand, in view of the wording of the law and its prevailing interpretation, there is a clear disparity on the requirements for naturalization of an alien husband of a Filipina compared to that of an alien wife of a Filipino. It is this disparity that the law, whether it is applied strictly or liberally, may be questioned vis-à-vis the equal protection clause provided in the Constitution.

The second part of Section 1, Article III of the 1987 Constitution guarantees that no person shall "be denied the equal protection of the laws." The equal protection clause, as included in the concept of due process, is a safeguard against unfair discrimination which offends the requirements of

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221. I 1986 RECORDS OF THE CONSTITUTIONAL COMMISSION 188.

222. *Id.* at 208.

justice and fair play.<sup>223</sup> The Constitution does not require that laws should operate on all people without distinction.<sup>224</sup> Rather, it requires equality among equals<sup>225</sup> — that all persons or things similarly situated should be treated alike, both as to rights conferred and responsibilities imposed.<sup>226</sup>

When C.A. No. 473 is applied in its strict and literal sense and in the interpretation given to it in the cases prior to *Moy Ya Lim Yao* as to the naturalization of the alien wife of Filipino, the alien wife would have to go through the same judicial procedure required from a single alien and an alien husband of a Filipina. Further, it would demand from her proof of possession of qualifications and non-possession of disqualifications. Construing it that way, it would seem that a single alien, an alien wife of a Filipino and an alien husband of a Filipina are placed on equal footing when it comes to naturalization. In this situation, however, the alien husband of a Filipina is slightly at an advantage since Section 3 of C.A. No. 473 reduces the residency requirement of an alien who is married to a Filipino woman. Thus, the question: why demand a 10-year residence period from an alien woman married to a Filipino, when only a five-year residence is required from an alien man married to a Filipino woman?<sup>227</sup>

On the other hand, when Section 15 is interpreted as solely an effect of naturalization in line with the pronouncement in *Moy Ya Lim Yao*, the alien wife of a Filipino is considered to be privileged. This is because to be naturalized, she needs only to show in an administrative proceeding that she is not disqualified under Section 4 of C.A. No. 473. As discussed, the difference in requirements between an alien husband of a Filipina and an alien wife of a Filipino was significantly broadened. While the alien wife, in this situation, is given a special naturalization procedure, the alien husband remains to be in the same position as any other alien seeking to be naturalized who has to go through the arduous judicial proceeding.

In any of these two scenarios, either the alien husband or the alien wife is granted partiality of law and, under both situations, the alien husband of a Filipina is classified differently from an alien wife of a Filipino. Thus, the issue on equal protection of the law arises. On this matter, an inquiry may be made as to the reason and validity of the classification as to make it consistent with the guarantee of equal protection of the law.

The guarantee of equal protection of the laws means “that no person or class of persons shall be deprived of the same protection of the laws which is

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223. CRUZ, *supra* note 2, at 122.

224. *Id.* at 126.

225. *Id.*

226. *Ichong v. Hernandez*, 101 Phil. 1155 (1957).

227. PARAS, *supra* note 21, at 118.

enjoyed by other persons or other classes in the same place and in like circumstances.”<sup>228</sup> It is a “more specific guaranty against any form of undue favoritism or hostility from the government.”<sup>229</sup> It assures “legal equality” or the “equality of all persons before the law.”<sup>230</sup>

Nevertheless, the equal protection clause does not divest the State the power to make reasonable classifications based on “factual differences between individuals and classes.”<sup>231</sup> The State having the right to legislate has the right to classify.<sup>232</sup> Thus, in deciding equal protection cases, the determining factor is the validity of the classification made by law.<sup>233</sup>

To be valid, the legislation must be based on reasonable classification.<sup>234</sup> Classification, which has been defined as the grouping of persons or things similar to each other in certain particulars and different from all others in these same particulars,<sup>235</sup> to be reasonable (1) must rest on substantial distinctions; (2) must be germane to the purpose of the law; (3) must not be limited to the existing conditions only; and (4) must apply equally to all members of the same class.<sup>236</sup>

An examination of paragraph 1, Section 15 of C.A. No. 473 reveals that the special privileged naturalization procedure available to an alien wife of a Filipino fails to comply with the equal protection clause. The requisites for reasonable classification provided in *People v. Cayat*<sup>237</sup> were not satisfied.

First, the classification does not rest on substantial distinction. There is no real difference between an alien wife of a Filipino and an alien husband of a Filipina insofar as entitlement to a specially privileged procedure is concerned. Rather, it appears that the unequal treatment was anchored on social conventions or socially-constructed differences.

The different classification for the wife and the husband in naturalization laws may be justified in the past by the adoption of many States of the patriarchal position that a woman’s legal status is acquired through her

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228. Tolentino v. Board of Accountancy, 90 Phil. 83, 90 (1951).

229. CRUZ, *supra* note 2, at 122.

230. BERNAS, COMMENTARY, *supra* note 1, at 136 (citing II SCHWARTZ, THE RIGHTS OF THE PERSONS, 487-88 (1968)).

231. *Id.* at 136.

232. *Id.* at 136-37.

233. *Id.* at 137.

234. *People v. Cayat*, 68 Phil. 12, 18 (1939).

235. *International Harvested Co. v. Missouri*, 234 U.S. 199 (1914).

236. *Cayat*, 68 Phil. at 18. See Joseph Tussman & Jacobus tenBroek, *The Equal Protection of the Laws*, 27 CAL. L. REV. 341, 344 (1949).

237. *Cayat*, 68 Phil. 12 (1939).

relationship to a man — first, through her father, and then, through her husband.<sup>238</sup> This principle of dependent nationality “rested on the conviction that a family should have the same nationality and on the patriarchal notion that the husband should determine that nationality.”<sup>239</sup> As a consequence of stressing unity of nationality of spouses,<sup>240</sup> a woman who marries a foreigner either automatically acquires the nationality of her husband upon marriage or is granted relaxed naturalization procedure. This principle, therefore, treated an alien wife of a national differently from the alien husband of a national.

The ensuing unequal treatment affects not only the alien husband of a Filipina but also the Filipina spouse for, as observed, “the petition for adjustment of status based upon marriage does not involve merely the due process claims of an alien seeking entry. It implicates the rights of another: the non-resident alien’s citizen ... spouse.”<sup>241</sup> Under the existing law and jurisprudence, it is more difficult for a Filipina spouse to have unity of nationality with her husband than for a Filipino spouse. The procedures, if they violate anyone’s rights at all, violate the couple’s rights — those of the citizen spouse as well as those of the alien.

Moreover, it may be observed that the principle of dependent nationality may be of limited relevance at present in view of the Constitution and international laws. International laws now give married women the same right as men to retain and change their nationality.<sup>242</sup> In

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238. U.N. Dep’t of Econ. & Soc. Affairs, Division for the Advancement of Women, *Women, nationality and citizenship*, WOMEN2000 AND BEYOND, June 2003, at 5.

239. Karen Knop & Christine Chinkin, *Remembering Chrystal Macmillan: Women’s Equality and Nationality in International Law*, 22 MICH. J. INT’L L. 523, 545 (2001) (citing Costa Rica Advisory Opinion, Inter-Am. Ct. H.R. (Ser. A) No. 4, P64; U.N. Dep’t of Econ. & Soc. Affairs, Convention on the Nationality of Married Women: Historical Background and Commentary at 3, U.N. Doc. E/CN.6/389, U.N. Sales No. 62.IV.3 (1962)).

240. *Id.*

241. David Moyce, *Petitioning on Behalf of an Alien Spouses: Due Process Under the Immigration Laws*, 74 CAL.L. REV. 1747, 1761 (1986).

242. Montevideo Convention on the Nationality of Married Women, Dec. 26, 1933, arts. 1 & 6, 28 AJIL Supp. 62 (Article 1 states that “There shall be no distinction based on sex as regards nationality, in their legislation or in their practice.”); (Article 6 states that “Neither matrimony nor its dissolution affects the nationality of the husband or of their children.”), [hereinafter Montevideo Convention].

Convention on the Elimination of All Forms of Discrimination against Women, Dec. 18, 1979, part II, art. 9, 1249 U.N.T.S. 13 [hereinafter CEDAW].

States Parties shall grant women equal rights with men to acquire, change or retain their nationality. They shall ensure in particular that

the Philippines, Section 14, Article II of the 1987 Constitution commands the State to ensure the fundamental equality of women and men before the law<sup>243</sup> while Article IV has sought the equalization of men and women at least in matters of citizenship.<sup>244</sup> Although Section 14, Article II of the Constitution is not a directive to automatically repeal discriminatory laws, it has a significant role in gearing laws toward equality of men and women by abolishing or amending discriminatory laws. Thus, the law should “ignore sex where sex is not a relevant factor in determining rights and duties.”<sup>245</sup>

Second, classifying an alien husband of a Filipina differently from the alien wife of a Filipino is not germane to the purpose of the law. C.A. No. 473 was enacted to facilitate and regulate the acquisition of Philippine citizenship by naturalization — providing for qualifications, disqualifications, and procedures. If the State wants to ensure that Philippine citizenship is granted only to those worthy of it, then the law must be strictly complied with. The grant of a special privileged naturalization procedure to an alien wife of a Filipino, while withholding the same privilege from an alien husband of a Filipina, is not relevant to the law’s objective because the general differences between men and women are not determinative of who should be given a more permissive naturalization procedure. Differential treatment between the sexes, to be defensible, must be:

[F]ree of fixed notions concerning the roles and abilities of males and females. Care must be taken in ascertaining whether the statutory objective itself reflects archaic and stereotypic notions. Thus, if the statutory objective is to exclude or “protect” members of one gender because they are presumed to suffer from an inherent handicap, or to be innately inferior, the objective itself is illegitimate.<sup>246</sup>

A classification, to be valid, should be “based on real and substantial differences having a reasonable relation to the subject of the particular legislation.”<sup>247</sup> The imposition of burdens or the granting of special benefits must always be justified.<sup>248</sup> Further, “they can only be justified as being

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neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband.

243. PHIL. CONST. art. II, § 14. This section provides: “[t]he State recognizes the role of women in nation building and shall ensure the fundamental equality before the law of women and men.”

244. BERNAS, COMMENTARY, *supra* note 1, at 157.

245. JOAQUIN G. BERNAS S.J., THE 1987 PHILIPPINE CONSTITUTION: A COMPREHENSIVE REVIEWER 18 (2006) [hereinafter BERNAS, REVIEWER].

246. Mississippi University for Women v. Hogan, 450 U.S. 718, 1098 (1982).

247. Villegas v. Hiu Chiong, 86 SCRA 270, 275 (1978).

248. Tussman & tenBroek, *supra* note 234, at 358.

directed at the elimination of some social evil, the achievement of some public good.”<sup>249</sup> If the purpose of the law is to regulate naturalization, then there is no reasonable basis for singling out alien women for easier acquisition of Philippine citizenship. Thus, the classification under C.A. No. 473 offends the constitutional safeguard of equal protection as it rests on grounds irrelevant to the law’s objectives.

Third, the classification is limited to existing conditions only. The classification made by the law fails to recognize the changing status of women and the common concern against discrimination. The provision may have been previously justified under the concept of dependent nationality. Nevertheless, this no longer holds true at present in light of various international laws which grant women equal rights with men to acquire, change or retain their nationality<sup>250</sup> and guarantees equality and non-discrimination.<sup>251</sup> Clearly, paragraph 1, Section 15 of C.A. No. 473 fails to comply with the third requisite for a reasonable classification.

Fourth, the law is not applicable to all members of the class. To define a class is to “designate a quality or characteristic or trait or relation, or any combination of these, the possession of which, by an individual, determines his membership in or inclusion within the class.”<sup>252</sup> It is submitted that when it comes to naturalization, an alien wife of a Filipino and an alien husband of a Filipina belongs to the same class. There is substantial similarity between their situation and status — they are married to Filipino nationals. Thus, the grant of citizenship through naturalization relaxed or strict should apply equally to alien spouses of Filipino nationals for the reason that absolute similarity is not required. As long as such group is distinguishable from all others, substantial similarity will suffice to justify classification.<sup>253</sup>

It is not necessary that the classification be made with absolute symmetry, in the sense that the members of the class should possess the same characteristics in equal degree. Substantial similarity will suffice; and as long as this is achieved, all those covered by the classification are to be treated equally. The mere fact that an individual belonging to a class differs from the other members, as long as that class is substantially distinguishable from all others, does not justify the non-application of the law to him.<sup>254</sup>

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249. *Id.*

250. *See* Montevideo Convention; CEDAW, part II, art. 9.

251. *See* Universal Declaration of Human Rights, Dec. 10, 1948, art. 7, U.N. G.A. Res. 217A (III), U.N. GAOR, 3d Sess., 1st plen. mtg., Res. 71, Doc. A/810 [hereinafter UDHR]; International Covenant on Civil and Political Rights, Dec. 19, 1966, 999 U.N.T.S. 171 [hereinafter ICCPR].

252. Tussman & tenBroek, *supra* note 234, at 344.

253. CRUZ, *supra* note 2, at 334-35.

254. *Id.*

The classification made by C.A. No. 473 is invalid for alien spouses of nationals, although belonging to the same class, are not similarly treated, both as to the rights conferred and obligations imposed.

Aside from the failure of the discriminatory provisions to satisfy the requisites for a valid classification, it appears that the possible reason for providing different treatment as regards nationality to men and women is no longer tenable in view of the mandate of international laws and the Constitution. There no longer exists a basis for the substantial distinction between an alien wife and an alien husband with regard to acquisition of citizenship through naturalization that would justify a preferential treatment of one over the other. Hence, Philippine naturalization laws, particularly with regard to loss and acquisition of citizenship by an alien wife of a Filipino and an alien husband of Filipina must conform to the imperative guarantees of the equal protection and non-discrimination clauses under the Constitution and international laws.

#### *E. Violation of International Laws*

Historically, there was a well-accepted principle in most states which provided for dependent nationality or the unity of nationality of spouses.<sup>255</sup> This is based on the assumptions that all members of the family should have the same nationality and that important decisions affecting the family would be made by the husband.<sup>256</sup>

Nevertheless, laws that establish the principle of dependent nationality later drew attention from feminist activists for being disempowering to women by depriving them of any choice about their nationality. This led to a move to provide for an international treaty that would give married women the same rights as men to retain and change their nationality.<sup>257</sup> The 1933 Montevideo Convention on Nationality of Married Women provided that, “[t]here shall be no distinction based on sex as regards nationality, in their legislation or in their practice.”<sup>258</sup> There was also the 1933 Montevideo Convention on Nationality which provides that, “[n]either matrimony nor its dissolution affects the nationality of the husband or wife or of their children.”<sup>259</sup> With these, women were granted the right to retain their nationality upon marriage. In addition, the Convention on the Nationality

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255. United Nations, Convention on the Nationality of Married Women: Historical Background and Commentary at 2, U.N. Doc. E/CN.6/389, U.N. Sales No. 62.IV.3 (1962).

256. *Id.*

257. NITZA BERKOVITCH, FROM MOTHERHOOD TO CITIZENSHIP: WOMEN’S RIGHTS AND INTERNATIONAL ORGANIZATIONS 10-15 (1999).

258. Montivideo Convention, art. 1.

259. *Id.* art. 6.



of Married Women<sup>260</sup> gave women the option to acquire the nationality of their husbands through specialized privileged naturalization procedures, to wit:

Each Contracting State agrees that the alien wife of one of its nationals may, at her request, acquire the nationality of her husband through specially privileged naturalization procedures, the grant of such nationality may be subject to such limitations as may be imposed in the interests of national security or public policy.<sup>261</sup>

Although the above-quoted provision addressed the concern on the nationality of women, such failed to deal with the problem that occurs where a married man wishes to acquire his wife's nationality. In dealing with this issue, contemporary international law now "seeks to facilitate the acquisition by both spouses of the other spouses' nationality through requirements which are more flexible than for others applying for naturalization."<sup>262</sup> Domestic legal provisions which grant special privileged naturalization procedures to foreign wives but not to foreign husbands have already been held to violate the guarantees of non-discrimination and equality before the law.<sup>263</sup> Thus, international human rights instruments on prohibitions of discrimination and guarantees of equality before the law have been used to strike down discriminatory nationality legislation.

The 1948 Universal Declaration of Human Rights (UDHR) includes both the right of non-discrimination on the ground of sex<sup>264</sup> and the right to nationality.<sup>265</sup> By taking these two provisions together, it may be contended that the UDHR "prohibits sexual discrimination in the laws awarding nationality."<sup>266</sup> The right against discrimination is further advanced in Article 7 of UDHR which states that "[a]ll are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination."<sup>267</sup> This right is subsequently reinforced with the passage and ratification of the International Covenant on Civil and Political Rights (ICCPR), Article 26 of which provides:

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260. Convention on the Nationality of Married Women, Feb. 20, 1957, 309 U.N.T.S. 65.

261. *Id.* art. 3 (1).

262. WOMEN2000 AND BEYOND, *supra* note 236, at 10.

263. Proposed Amendments to the Naturalization Provisions of the Constitution of Costa Rica, 5 HUM. RTS. L. J. 161 (1984).

264. UDHR, art. 2.

265. *Id.* art. 15.

266. Knop & Chinkin, *supra* note 237, at 570.

267. UDHR, art. 7.

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.<sup>268</sup>

Said article is in addition to other pertinent non-discrimination provisions<sup>269</sup> which include sex, along with race and other facts, among the prohibited grounds for differentiation or classification. Moreover, as a supplement to the ICCPR, the United Nations adopted the Optional Protocol<sup>270</sup> to the ICCPR to give victims of violations of any of the rights set forth in the ICCPR a venue for redress. Under this separate treaty, the Human Rights Committee is authorized to receive and consider communications from individuals who claim to be victims of human rights violations by a State Party.<sup>271</sup>

The provisions in the UDHR and ICCPR, when taken in conjunction with the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW),<sup>272</sup> in effect, now require States Parties to

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268. ICCPR, art. 26.

269. *Id.* art. 2 (1). The article states:

Each State party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kinds, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status;

*Id.* art. 3. The article reads: “the States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights set forth in the present Covenant.”

270. Optional Protocol to the International Covenant on Civil and Political Rights, Dec. 16, 1966, 999 U.N.T.S. 302 [hereinafter *Optional Protocol*].

271. *Id.* art. 1.

272. CEDAW, arts. 2 (1), 3 & 9. Article 2 (1) reads:

States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake:

To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of this principle;

Article 3 reads:

States Parties shall take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including

equalize the procedures for the acquisition of nationality by the spouses of a national. While the Convention on the Nationality of Married Women proposes specialized naturalization procedures for foreign wives,<sup>273</sup> the UDHR, ICCPR, and CEDAW require identical naturalization procedures for both alien wives and husbands of nationals. Thus, these international human rights instruments, which embody the right of equality or non-discrimination, may be used to challenge a state's nationality law on the ground that it is discriminatory.

The most relevant case decided by the Human Rights Committee is *Aumeeruddy-Cziffra v. Mauritius*<sup>274</sup> which dealt with the issue of equal treatment for foreign husband and wives in immigration law. In this case, a number of Mauritian women petitioned the Human Rights Committee under the First Optional Protocol to the ICCPR, claiming that the Mauritian Immigration Amendment Act of 1977 and the Deportation Act of 1977 were discriminatory because they limited the rights of foreign husbands, but not foreign wives, to attain Mauritian resident status. They argued that the amendments violated their right to equality and right to family life under the ICCPR which are legal obligations that Mauritius had accepted through ratification of the Covenant. The Committee held that while Mauritius may be justified in restricting the access of aliens to its territory and could expel them for security concerns, the law which subjected foreign husbands of Mauritian women, but not foreign wives of Mauritian men, to such restrictions, was discriminatory and could not be justified. Thus, Mauritius was asked to adjust its legislation in order to remove its discriminatory aspects and bring the law in line with its obligations under the Covenant.

The Mauritian case is comparable to the preferential treatment to an alien wife of a Filipino seeking to be naturalized under C.A. No. 473 and the prevailing Supreme Court interpretation. Such preference may be held to be

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legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.

Article 9 (1) reads:

State Parties shall grant women equal rights with men to acquire, change or retain their nationality. They shall ensure in particular that neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband.

273. Knop & Chinkin, *supra* note 237, at 572.

274. *Aumeeruddy-Cziffra v. Mauritius*, Communication No. 35/1978, U.N. Human Rights Committee, Selected Decisions Under the Optional Protocol 67, U.N. Doc. CCPR/C/OP1 (1985).

discriminatory and thus contrary to the obligation of the State to comply with international instruments to which Philippines is a signatory namely, the United Nations Charter, the UDHR, the CEDAW, the ICCPR, as well as to the Optional Protocol to the ICCPR.<sup>275</sup>

#### V. CONCLUSION

The grant of citizenship involves membership in a political community and conferment of civil and political rights. Once an alien is naturalized, he or she is deemed to be the same in all respects as a natural-born citizen except for those specifically reserved by the Constitution to natural-born citizens. As it would involve bestowal of rights and privileges, it cannot be carelessly given to those who desire it. It may be enjoyed only under the precise conditions prescribed by law.

In the Philippines, naturalization laws follow a restrictive or selective policy of admission to citizenship. To obtain citizenship, one has to undergo a judicial proceeding and present proof of compliance with the requirements of the law. Philippine citizenship is thus limited to those who can prove that they have the qualifications and none of the disqualifications. Nevertheless, paragraph 1, Section 15 of Commonwealth Act No. 473 together with its prevailing interpretation provided in *Moy Ya Lim Yao v. Commissioner of Immigration* provided for an exception to the restrictive policy of Philippine naturalization laws. The alien wife of a Filipino citizen is now *ipso facto* considered Filipina provided she is not disqualified under Section 4 of C.A. No. 473. The alien wife does not have to go through judicial proceedings and prove possession of qualifications under Section 2 thereof. An alien wife of a Filipino now has an easier access to Philippine citizenship.

This exceptional mode of acquiring Philippine citizenship applicable only to alien women resulted in the apprehension that it might be used as a convenient means of circumventing the restrictive policies of Philippine naturalization laws. This almost effortless procedure might be used as an expeditious way of securing rights and privileges exclusive to Filipinos — the right to vote, run for public office, exploit natural resources, acquire land, operate public utilities, administer educational institutions, and manage mass media.

Moreover, there is that concern on the lack of a similar privilege that can be availed of by an alien husband of a Filipina in acquiring Philippine citizenship. In providing for a special privileged procedure for naturalization

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275. The UDHR was adopted by the United Nations to which Philippines is a member-state. The Philippines signed the CEDAW on July 15, 1980 and ratified it on Aug. 5, 1981. The Philippines signed and ratified the ICCPR on Dec. 19, 1966 and Oct. 23, 1986, respectively. On the other hand, the Optional Protocol on ICCP was signed on Dec. 19, 1966 and ratified on Aug. 22, 1989.

to the alien wife of a Filipino without the giving the same to an alien husband of a Filipina constitutes violation of the guarantees of equal protection of the law and non-discrimination embodied in the Philippine Constitution and international laws — for while naturalization laws may vary from one country to another and may depend on different conditions, it cannot vary with the sex of the spouse.

Taking into account the issues presented, the case of foreign nationals who marry a Filipino or a Filipina and thereafter seek to be naturalized should be of considerable interest to the Legislature. Without clearly-defined qualifications, disqualifications, and procedures applicable to alien spouses of Philippine nationals, provisions in the naturalization laws may be susceptible to interpretations which could produce unjust or unreasonable results that could defeat the very purpose for which the legislation was enacted. The complicated wording of C.A. No. 473 with regard to the acquisition of a foreign spouse of a Philippine national and its prevailing interpretation have resulted in loopholes that need to be addressed.

First, the Legislature should address the issues on equality and discrimination. In granting privileged naturalization procedures to a spouse of a Philippine national, the State should not consider the sex of the alien spouse as determinative of whether he or she shall be entitled to the privilege.

Second, the Legislature should identify the qualifications and disqualifications that will be applicable both to an alien wife of a Filipino and to an alien husband of the Filipina. The existing special privileged naturalization procedure for an alien wife of a Filipino only requires that she does not have any of the disqualifications. Without requiring other qualifications, the State may admit as part of the citizenry those who are intended to be excluded by the Constitution and Philippine naturalization laws. It is submitted, however, that the concept of selective admission of citizenship should not, in case of a grant of specially privileged naturalization procedures to alien spouses of Filipinos, be stretched to the point of imposing qualifications or conditions that are unwarranted by the public policy sought to be implemented.

Thus, it is proposed that not all of the requirements set forth in Section 2 of C.A. No. 473 be required from an alien spouse. The requirement as to age, language, good moral character, belief in the principles underlying the Philippine Constitution, and proper and irreproachable conduct in relation to the constituted government as well as with the community in which he or she lives should be maintained. The residence requirement for a continuous period of 10 years should be lessened taking into account that in providing special qualifications in Section 3 of C.A. No. 473, the Legislature then already recognized the need to require a shorter residency period for an alien spouse of a Philippine national — albeit in that case, the reduced residence

requirement is applicable only to an alien husband of a Filipina. On the other hand, the requirement of ownership of real estate in the Philippines should be removed considering the constitutional prohibition against the acquisition of land by aliens.

The qualifications need not be limited to the above suggestions. On the other hand, the disqualifications need not be confined to what existing laws provide. The Legislature may prescribe for other qualifications and disqualifications as it may deem proper provided that they are line with the Constitution and the selective policy of Philippine naturalization laws.

Last, the Legislature should provide for statutory rules to specifically govern the procedure of naturalization with respect to alien spouses of Philippine nationals. Without any clear directive from the legislature, the prevailing process may be subject to abuse considering that in the context of Philippine conditions, unlimited administrative discretion is usually attended with unfortunate consequences.

Within some limitations imposed by international law, it is established that each State is entitled to lay down the rules governing the grant of its own nationality. Thus, the decision to restrict or liberalize Philippine naturalization policies is upon the Legislature. Nevertheless, it must not be too exacting as to eliminate the opportunity for naturalization nor too liberal as to render naught the value of Philippine citizenship.