

Republic of the Philippines
Supreme Court
 Manila

FIRST DIVISION

**REPUBLIC OF THE PHILIPPINES,
 HON. RAUL S. GONZALEZ, in his
 capacity as Secretary of the
 Department of Justice, HON. ALIPIO
 F. FERNANDEZ, JR., in his capacity
 as Commissioner of the Bureau of
 Immigration, HON. ARTHEL B.
 CAROÑONGAN, HON. TEODORO
 B. DELARMENTE, HON. JOSE D.
 CABOCHAN, and HON. FRANKLIN
 Z. LITTAUA, in their capacity as
 members of the Board of
 Commissioners of the Bureau of
 Immigration,**

G.R. No. 188829

Petitioners,

Present:

SERENO, *CJ*, Chairperson,
 LEONARDO-DE CASTRO,
 BERSAMIN,
 PERLAS-BERNABE and
 CAGUIOA, *JJ*.

- versus -

DAVONN MAURICE C. HARP,
 Respondent.

Promulgated:

JUN 13 2016

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DECISION

SERENO, *CJ*:

Before this Court is a Petition for Review¹ under Rule 45 of the Rules of Court assailing the Decision² of the Court of Appeals (CA) dated 16 July 2009 in CA-G.R. SP No. 87272. The CA nullified the Summary Deportation Order³ issued by the Board of Commissioners of the Bureau of Immigration (BI) against respondent Davonn Maurice Harp.

Petitioners Republic of the Philippines, Hon. Raul S. Gonzalez, in his capacity as Secretary of the Department of Justice (DOJ); Hon. Alipio F.

¹ *Rollo*, pp. 13-37.

² *Id.* at 38-50. Penned by Associate Justice Priscilla J. Baltazar-Padilla and concurred in by Associate Justices Mariano C. del Castillo (now a member of this Court) and Monina Arevalo-Zenarosa.

³ *Id.* at 133-141.

Fernandez, in his capacity as Commissioner of the BI; and Hon. Arthel B. Carononagan; Hon. Teodoro B. Delarmente, Hon. Jose D. L. Cabochan, and Hon. Franklin Z. Littaua, in their capacities as members of the Board of Commissioners of the BI (petitioners) seek the reinstatement of (a) the DOJ Resolution⁴ dated 18 October 2004 revoking the Order of Recognition and Identity Certificate issued to respondent;⁵ and (b) the BI Summary Deportation Order dated 26 October 2004⁶ issued after the revocation. Petitioners emphasize that there is substantial evidence to support the finding that respondent is not a Philippine citizen⁷ and, therefore, his summary deportation was warranted.⁸

FACTUAL ANTECEDENTS

Respondent Davonn Maurice Harp was born and raised in the United States of America to Toiya Harp and Manuel Arce Gonzalez (Manuel) on 21 January 1977.⁹ While on a visit to the Philippines,¹⁰ he was discovered by basketball talent scouts. He was invited to play in the Philippine Basketball League¹¹ and was eventually drafted to play in the Philippine Basketball Association (PBA).¹²

Sometime in 2002, respondent was among those invited to participate in a Senate investigation jointly conducted by the Committee on Games, Amusement, and Sports; and the Committee on Constitutional Amendments, Revision of Codes and Laws. The Senate inquiry sought to review the processes and requirements involved in the acquisition and determination of Philippine citizenship in connection with the “influx of bogus Filipino-American (Fil-Am) or Filipino-foreign (Fil-foreign) basketball players into the PBA and other basketball associations in the Philippines.”¹³

In the course of the inquiry, it was established that respondent had previously obtained recognition as a citizen of the Philippines from the BI¹⁴ and the DOJ¹⁵ upon submission of the following documents:

- a) Respondent’s birth certificate;
- b) A certified true copy of the birth certificate of respondent’s father, Manuel;

⁴ Id. at 130-132.

⁵ Id. at 131.

⁶ Id. at 133-141.

⁷ Id. at 130.

⁸ Id. at 133.

⁹ Id. at 40.

¹⁰ Id.

¹¹ Id.

¹² Id.

¹³ Id. at 58.

¹⁴ Id. at 54.

¹⁵ Id. at 55.

- c) A Certification from the Consulate General of the Philippines stating that Manuel became a citizen of the United States of America only on 10 November 1981;
- d) An affidavit affirming Manuel's Filipino citizenship at the time of respondent's birth;
- e) Respondent's passport;
- f) The passports of respondent's parents; and
- g) The marriage contract of respondent's parents.

The Senate committees, however, found reason to doubt the Philippine citizenship of respondent. After a scrutiny of the documents he had submitted and its own field investigation of his purported background, they concluded that he had used spurious documents in support of his Petition for Recognition. In Committee Report No. 256 dated 7 August 2003, the Senate committees explained:

COMMITTEES' FINDINGS

The Committees have the honor to submit the following findings of said inquiry to the Senate after conducting seven (7) public hearings and thorough field investigations.¹⁶

x x x x

D. Devonn Harp presented before the BI and the committees a certified true copy of the Certificate of Live Birth of his father, Manuel Arce Gonzales, to prove his claim for Philippine citizenship.

It appears, however, that the above certificate of birth is simulated, if not, highly suspicious.

First, the certified true copy of Manuel Arce Gonzales, in photocopy form, appears to have alterations on its face since the entries therein look to be superimposed. Some of the entries as printed in the Certificate of Live Birth appear light while the others dark, not to mention the traces of erasures thereon.

Second, Devonn Harp in his affidavit of Philippine citizenship executed in January 2000 deposed that his father is a certain Manuel S. Gonzales. The discrepancy is in the middle/initial name as the record of birth of his father indicates Manuel Arce Gonzales.

Third, upon field investigations, the marriage of Manuel Arce Gonzales' parents, Devonn's alleged grandparents, namely Ernesto Prudencio Gonzalez and Natividad de la Cruz cannot be established. Certifications by offices concerned in this regard were issued and obtained by the field investigators.

Lastly, Ms. Liza T. Melgarejo, barangay secretary of Barangay Alicia, Bago Bantay, Quezon City, certified that 'as per record existing in

¹⁶ Id. at 58.

this office (voters list 2002) there is no person registered/existing under the name of Manual Arce Gonzalez.

She further stated that Block 24, Bago Bantay, Quezon City exists. However, despite efforts exerted by the field investigators, they were not able to find lot 14, the alleged address of Devonn's relatives.¹⁷

In the report, the Senate committees also directed the BI and the DOJ to examine thoroughly the authenticity of the documents submitted by certain PBA players, including respondent, and to determine if they were indeed citizens of the Philippines.¹⁸

Pursuant to this directive, the DOJ issued Department Order No. 412 creating a special committee to investigate the citizenship of the PBA players identified in the report.¹⁹ As part of the investigation, respondent and the other players were required to submit their position papers to the special committee for consideration. Respondent filed his Position Paper²⁰ on 14 October 2004.

The DOJ special committee submitted its findings and recommendations in a Memorandum to the Secretary of Justice dated 15 October 2004.²¹ With regard to respondent, the committee concluded that there was "substantial evidence to conduct summary deportation proceeding x x x for 'misrepresentation as a Filipino citizen' in applying for recognition before the Bureau of Immigration and the Department of Justice."²² The Committee relied, in particular, on the findings of the Senate committees and the National Bureau of Investigation (NBI) on the apparent alterations made in the Certificate of Live Birth of respondent's father:

x x x While we recognize the evidentiary rule that entries in public records like Certificate of Live Birth are prima facie evidence of the facts stated therein, it is worthy to mention that the pieces of information adduced during the Senate Committee investigation have produced clear, strong and convincing evidence to overcome the positive value of the said document.

This Committee further considers the probability that the document itself may have been fraudulently tampered. We concur with the observations of the Senate Committee on the patent alterations appearing on the face of the Certificate of Live Birth of Manuel Arce Gonzales.

Incidentally, the National Bureau of Investigation thru the Questioned Documents Examination Section came up with its own findings that some of the entries in the "Certificate of Live Birth of

¹⁷ Id. at 61-62.

¹⁸ Id. at 65.

¹⁹ Id. at 82.

²⁰ Id. at 70-81.

²¹ Id. at 82-129.

²² Id. at 113.

Manuel Arce Gonzales” have been substantially altered. The summary of the NBI findings are as follows:

Laboratory analysis of the specimen submitted under magnification using stereoscopic microscope, magnifying lens, varied lighting process and with the aid of photographic enlargements, reveal evidence of alteration by mechanical erasures (scraping off), obliteration and superimposition on the following areas of the questioned Certificate of Live Birth, as shown by fiber disturbance, differences in type design of typewriter used, typewriter ribbon, tint/shade of writing instrument, and traces of outlines of the original entries could be deciphered as:

- On item no. 3 – in the now appearing typewritten name “Manuel” in Name of Child: Manuel Arce Gonzalez. Traces of the original entry could be deciphered as “N-erto”.
- On item no. 6 – in the now appearing typewritten entry “Aug. 11” in Date of Birth: Aug. 11, 1957. The original entry could possibly be “Aug. 13, 1957”.
- On item no. 12 - in the now appearing typewritten middle name “Dela Cruz” and the last name “Arce” in Name of Mother: Natividad Dela Cruz Arce. The original entry could partially be deciphered as Natividad Cab-as Breva.
- On item no. 14 – in the now appearing typewritten figure “7” in Age of Mother (at the time of his birth): 37. The original entry could be deciphered as “3”.
- On item no 17a – in the handwritten middle initial “A” and last name “Gonzalez” in Informants Signature written as Natividad A. Gonzalez. The original entry could not be deciphered as portions of it had been covered by the new superimposed entry.
- On item no. 18b – in the handwritten last name “Gonzalez” appearing below the typewritten name Natividad A. Gonzalez. The original entry could not be deciphered due to extensive erasure.
- On the three (3) now appearing handwritten surnames “Gonzalez” in Affidavit To Be Accomplished in Case of An Illegitimate Child (dorsal side of the Certificate of Live Birth). The original entries underneath the three (3) Gonzales signatures could be deciphered as “Breva.”²³ (citations omitted; underscoring in the original)

Acting on the basis of the special committee’s findings, DOJ Secretary Gonzalez issued a Resolution dated 18 October 2004²⁴ revoking the recognition accorded to respondent and five other PBA players.²⁵ Secretary Gonzalez also directed the BI to undertake summary deportation proceedings against them.

²³ Id. at 109-111.

²⁴ Id. at 130-132.

²⁵ Id. at 131.

On 20 October 2004, respondent and another PBA player, Michael Alfio Pennisi, filed a Petition for Prohibition with Application for a 72-hour Temporary Restraining Order and Preliminary Injunction with the Regional Trial Court of Pasig City.²⁶ The petition sought to enjoin the DOJ and the BI proceedings for the revocation of citizenship and the summary deportation of respondent and Pennisi.²⁷

On 26 October 2004, the BI ordered the summary deportation of respondent. It noted that the recognition previously accorded to him as a Filipino citizen had been revoked by the DOJ because of the spurious documents submitted in support thereof.²⁸ Consequently, the BI considered him an improperly documented alien subject to summary deportation proceedings pursuant to BI Memorandum Order Nos. ADD-01-031 and ADD-01-035.²⁹

Upon receipt of the Summary Deportation Order, respondent withdrew his petition for prohibition before the RTC.³⁰ He thereafter filed a Petition for Review with an application for injunction before the CA³¹ to seek the reversal of the DOJ Resolution and the BI Summary Deportation Order.

In a Decision dated 16 July 2009,³² the CA granted the Petition and set aside the deportation order. It held that respondent, who was a recognized citizen of the Philippines, could not be summarily deported;³³ and that his citizenship may only be attacked through a direct action in a proceeding that would respect his rights as a citizen:

Concomitant to his status as a recognized Filipino citizen, petitioner, therefore, cannot just be summarily deported by the BI. The BI no longer has jurisdiction to revoke the order of recognition it had granted to petitioner as the same order had already become final and executory pursuant to Book VII, Chapter 3, Section 15 of the Administrative Code of 1987. It must be noted that the order of recognition was issued 18 February 2000 and IC No. 018488 was issued on 24 October 2000. The Summary Deportation Order, on the other hand, was issued on 26 October 2004 or more than four years after petitioner was conferred recognition of his Filipino citizenship.

It is worth stressing that when the BI acknowledged petitioner's Filipino citizenship through the issuance of the order of recognition (with the affirmation of the DOJ) and IC No. 018488, the same is the last

²⁶ Id. at 142-159.

²⁷ Id. at 142.

²⁸ Id. at 139.

²⁹ Id.

³⁰ Id. at 43.

³¹ Id.

³² Id. at 38-50.

³³ Id. at 48.

official act of the government which granted petitioner the rights of a Filipino citizen, the right to due process included. x x x.

x x x x

Moreover, the Summary Deportation Order collaterally attacks the Filipino citizenship of petitioner. ‘This cannot be done. In our jurisdiction, an attack on a person’s citizenship may only be done through a direct action for its nullity.’ A Filipino citizen has the right to be secure in the enjoyment of the privileges accorded to him attendant to his citizenship. He has the right to live peacefully without perturbation from the authorities. Should he be disturbed by deportation proceedings, like in the instant case, he can resort to the courts for his protection. x x x³⁴

The CA, however, refused to settle the main controversy involving the citizenship of respondent.³⁵ Citing his incorrect resort to a Rule 43 petition to assail the DOJ Resolution, the appellate court opted to resolve only the issues pertaining to the Summary Deportation Order.³⁶

ARGUMENTS RAISED

Petitioners assert that in granting the Petition for Review filed by respondent, the CA erred for the following reasons: (1) his appeal was rendered moot and academic by his voluntary departure from the Philippines;³⁷ (2) the CA had no jurisdiction over his appeal because the petition had been filed out of time;³⁸ and (3) the appellate court used his Philippine citizenship as a basis to set aside the Summary Deportation Order despite the DOJ’s valid revocation of the recognition accorded to him.³⁹

Respondent, on the other hand, maintains that he is a recognized natural-born Philippine citizen, who cannot be deprived of his rights and summarily deported by the BI.⁴⁰ He alleges that his citizenship was duly established when he filed his petition for recognition before the DOJ and the BI,⁴¹ and that the recognition they granted to him cannot be overturned merely on the basis of the “unfounded conjectures and baseless speculations” of the Senate committees, the DOJ and the NBI.⁴²

OUR RULING

We **DENY** the Petition.

³⁴ Id. at 47-48.

³⁵ Id. at 43.

³⁶ Id.

³⁷ Id. at 21-22.

³⁸ Id. at 22-23.

³⁹ Id. at 25-32.

⁴⁰ Id. at 455-457; 461-462.

⁴¹ Id. at 457-459.

⁴² Id. at 459-460.

Respondent's appeal was not rendered moot and academic by his voluntary departure from the Philippines.

Petitioners allege that it is no longer necessary to resolve the appeal of respondent because he has voluntarily departed from the Philippines and is now beyond the legal processes of the country.⁴³ They argue that pursuant to the ruling in *Lewin v. The Deportation Board*,⁴⁴ his voluntary departure has rendered his appeal moot and academic.

We find this argument unmeritorious. As explained by this Court in *Gonzalez v. Pennisi*,⁴⁵ *Lewin* involved an alien who entered the Philippines as a temporary visitor and eventually left without any assurance that he would be allowed to return to the country. For obvious reasons, the ruling in that case cannot be applied to others whose Philippine citizenship has also been previously recognized and whose intention to return to the country has likewise been manifested. In *Gonzalez*, this Court stated:

However, we agree with respondent that the factual circumstances in *Lewin* are different from the case before us. In *Lewin*, petitioner was an alien who entered the country as a temporary visitor, to stay for only 50 days. He prolonged his stay by securing several extensions. Before his last extension expired, he voluntarily left the country, upon filing a bond, without any assurance from the deportation board that he would be admitted to the country upon his return. The court found that he did not return to the country, and at the time he was living in another country. The court ruled that Lewin's voluntary departure from the country, his long absence, and his status when he entered the country as a temporary visitor rendered academic the question of his deportation as an undesirable alien.

In this case, respondent, prior to his deportation, was recognized as a Filipino citizen. He manifested his intent to return to the country because his Filipino wife and children are residing in the Philippines. The filing of the petitions before the Court of Appeals and before this court showed his intention to prove his Filipino lineage and citizenship, as well as the error committed by petitioners in causing his deportation from the country. He was precisely questioning the DOJ's revocation of his certificate of recognition and his summary deportation by the BI.⁴⁶

Therefore, we rule that respondent's deportation did not render the present case moot.

Like the respondent in *Gonzalez*, respondent herein is also a recognized citizen of the Philippines. He has fought for his citizenship and

⁴³ Id. at 21.

⁴⁴ 114 Phil. 248 (1962).

⁴⁵ 628 Phil. 194 (2010).

⁴⁶ Id.



clearly demonstrated his intent to return to the country.⁴⁷ Consequently, we hold that his departure has not rendered this case moot and academic.

The filing of respondent's Petition before the CA was not unreasonably delayed.

Petitioners also argue that the Petition of respondent before the CA should have been dismissed on the ground of late filing.⁴⁸ They allege that he only had until 3 November 2004 to file an appeal of the DOJ Resolution, since he received a copy thereof on 19 October 2004.⁴⁹ Petitioners contend that because his Petition was filed only on 4 November 2004, the DOJ Resolution had already become final and executory, and the CA no longer had the authority to modify it.⁵⁰

In his Comment,⁵¹ respondent explained that he was able to file his appeal with the CA only on 4 November 2004, because he had to wait for the RTC to grant him leave to withdraw his pending Petition.⁵² He asked the Court to consider the fact that the one-day delay in filing the appeal was not caused by his thoughtlessness, but by the need to ensure that he would not violate the rule against forum shopping.⁵³

We rule for respondent. The one-day delay in the filing of the Petition is excusable.

In *Heirs of Crisostomo v. Rudex International Development Corp.*,⁵⁴ the Court explained that the limited period of appeal was instituted to prevent parties from intentionally and unreasonably causing a delay in the administration of justice. The dismissal of a petition is unwarranted if the element of intent to delay is clearly absent from a case.⁵⁵ Here, it is apparent that the delay in the filing of the Petition was for a valid reason, i.e. respondent had to wait for the RTC Order allowing him to withdraw his then pending Petition. It is likewise clear that he did not intend to delay the administration of justice, as he in fact filed the appeal with the CA on the very same day the RTC issued the awaited Order.⁵⁶

⁴⁷ *Rollo*, p. 451.

⁴⁸ *Id.* at 22-24.

⁴⁹ *Id.* at 23.

⁵⁰ *Id.* at 24.

⁵¹ *Id.* at 447-464.

⁵² *Id.* at 452.

⁵³ *Id.* at 452-453.

⁵⁴ 671 Phil. 721 (2011).

⁵⁵ *Id.*

⁵⁶ *Rollo*, p. 161.

We also note that in *Gonzalez*,⁵⁷ a case involving exactly the same circumstances, the Court ruled that the one-day delay in filing the Petition for Review with the CA was justified:

A one-day delay does not justify the appeal's dismissal where no element of intent to delay the administration of justice could be attributed to the petitioner. The Court has ruled:

The general rule is that the perfection of an appeal in the manner and within the period prescribed by law is, not only mandatory, but jurisdictional, and failure to conform to the rules will render the judgment sought to be reviewed final and unappealable. By way of exception, unintended lapses are disregarded so as to give due course to appeals filed beyond the reglementary period on the basis of strong and compelling reasons, such as serving the ends of justice and preventing a grave miscarriage thereof. The purpose behind the limitation of the period of appeal is to avoid an **unreasonable** delay in the administration of justice and to put an end to controversies.

Respondent had a valid excuse for the late filing of the petition before the Court of Appeals. It is not disputed that there was a pending petition for prohibition before the trial court. Before filing the petition for review before the Court of Appeals, respondent had to withdraw the petition for prohibition before the trial court. The trial court granted the withdrawal of the petition only on 4 November 2004, the date of filing of the petition for review before the Court of Appeals. Under the circumstances, we find the one-day delay in filing the petition for review excusable. (Citations omitted and capitalized in the original)

We find no reason to depart from the above ruling. All things considered, a liberal construction of the rules of procedure is in order. The ends of justice would be better served by a review of this case on the merits rather than by a dismissal based on technicalities.

The DOJ erroneously revoked the recognition accorded to respondent.

Before proceeding to resolve the central issue in this controversy, we first clarify the parameters of this ruling. The Court is aware that respondent has failed to appeal the CA's dismissal of his Petition insofar as it refers to the DOJ Resolution. While we affirm the doctrine that the resolutions of the DOJ cannot be challenged via a petition for review under Rule 43, the Court believes that the Summary Deportation Order is necessarily intertwined with the DOJ Resolution. The propriety of the deportation proceedings against respondent cannot be determined without passing upon the DOJ's findings on his citizenship.

⁵⁷ Supra note 45.

In the interest of putting an end to the entire controversy, we shall resolve all issues raised by the parties in relation to the DOJ Resolution and the Summary Deportation Order, in particular: (a) the finality of the recognition accorded to respondent as a citizen of the Philippines; (b) the validity of the DOJ Resolution; and (c) the legality of the Summary Deportation Order.

a) Finality of the Recognition Accorded to Respondent

As the agency tasked to “provide immigration and naturalization regulatory services” and “implement the laws governing citizenship and the admission and stay of aliens,”⁵⁸ the DOJ has the power to authorize the recognition of citizens of the Philippines. Any individual born of a Filipino parent is a citizen of the Philippines⁵⁹ and is entitled to be recognized as such.⁶⁰ Recognition is accorded by the BI and the DOJ to qualified individuals, provided the proper procedure is complied with and the necessary documents are submitted.⁶¹ In this case, respondent was accorded recognition as a citizen on 24 February 2000. On 24 October 2000, he was issued Identification Certificate No. 018488, which confirmed his status and affirmed his entitlement to all the rights and privileges of citizenship.⁶²

Petitioners, however, are correct in saying that the recognition granted to respondent has not attained finality. This Court has consistently ruled that the issue of citizenship may be threshed out as the occasion demands.⁶³ *Res judicata* only applies once a finding of citizenship is affirmed by the Court in a proceeding in which: (a) the person whose citizenship is questioned is a party; (b) the person’s citizenship is raised as a material issue; and (c) the Solicitor General or an authorized representative is able to take an active part.⁶⁴ Since respondent’s citizenship has not been the subject of such a proceeding, there is no obstacle to revisiting the matter in this case.

b) Validity of the DOJ Resolution

As in any administrative proceeding, the exercise of the power to revoke a certificate of recognition already issued requires the observance of the basic tenets of due process. At the very least, it is imperative that the ruling be supported by substantial evidence⁶⁵ in view of the gravity of the consequences that would arise from a revocation.

⁵⁸ Administrative Code of 1987, Book IV, Title III, Chapter 1, Section 3.

⁵⁹ 1987 Constitution, Article IV, Section 1(2); see also 1973 Constitution, Article III, Section 1(2).

⁶⁰ Bureau of Immigration Law Instruction No. RBR-99-002

⁶¹ *Id.*

⁶² *Rollo*, p. 56.

⁶³ *Gonzalez v. Pennisi*, 628 Phil. 194 (2010); *Go, Sr. v. Ramos*, 614 Phil. 451 (2009); *Tecson v. COMELEC*, 468 Phil. 421 (2004).

⁶⁴ *Go, Sr. v. Ramos*, *supra*.

⁶⁵ *Gonzalez v. Pennisi*, *supra*.

In this case, the DOJ relied on certain pieces of documentary and testimonial evidence to support its conclusion that respondent is not a true citizen of the Philippines: (a) the findings of the Senate committees⁶⁶ and the NBI⁶⁷ that alterations were made in the Certificate of Live Birth of Manuel; (b) the discrepancy between the middle initial found in Manuel's birth certificate and that which appears in respondent's affidavit of citizenship;⁶⁸ (c) the results of the Senate's field investigations of respondent's relatives;⁶⁹ and (d) a Certification from the Secretary of *Barangay* Alicia, Bago Bantay, Quezon City, stating that "Manuel Arce Gonzalez" was not included in the 2002 list of voters in that *barangay*.⁷⁰

The Court finds these pieces of evidence inadequate to warrant a revocation of the recognition accorded to respondent.

We note that respondent was earlier recognized as a natural-born citizen of the Philippines on the strength of the documentary evidence he presented. He has established that (a) he is the son of Manuel, as indicated in his birth certificate;⁷¹ and (b) Manuel was a Filipino citizen when respondent was born, as shown by the former's Certificate of Live Birth⁷² and Naturalization Certificate,⁷³ as well as a Certification⁷⁴ issued by the Consulate General of the Philippines in San Francisco. In its Resolution, however, the DOJ decided to attach more importance to the "clear and convincing" rebuttal evidence from the Senate committees and the NBI, which supposedly outweighed the probative value of these authenticated documents.

We are not convinced.

First, the reports relied upon by the DOJ as evidence of the alleged alterations made in Manuel's Certificate of Live Birth are far from conclusive.

From Senate Committee Report No. 256 dated 7 August 2003, it appears that the supposed discovery of alterations was based on a mere photocopy of Manuel's Certificate of Live Birth.⁷⁵ Since the original document was not inspected, the committees could not make any categorical finding of purported alterations. They were only able to conclude that Manuel's birth certificate *appeared to be* "simulated, if not, highly

⁶⁶ *Rollo*, p. 61.

⁶⁷ *Id.* at 110-111.

⁶⁸ *Id.* at 61.

⁶⁹ *Id.* at 61-62.

⁷⁰ *Id.* at 62.

⁷¹ *CA rollo*, p. 46.

⁷² *Id.* at 45.

⁷³ *Id.* at 48.

⁷⁴ *Id.* at 44.

⁷⁵ *Id.* at 58.

suspicious.”⁷⁶ The Court cannot rely on this inconclusive finding. In the same way that forgery cannot be determined on the basis of a comparison of photocopied instruments,⁷⁷ the conclusion that a document has been altered cannot be made if the original is not examined.

Neither can the Court accord any probative value to the NBI report on the questioned document. We note that not only did petitioners fail to submit a copy of this report to the Court; the quoted portions of the report in the Petition and the DOJ Resolution also failed to identify the specimen used by the NBI for its examination.⁷⁸ As an appellate court, we cannot look beyond the record to affirm or reverse a ruling.⁷⁹ Because of the absence of these crucial facts from the records of the case, the purported contents of the report are unsupported assertions to which the Court can give very little weight.

Moreover, the repeated allegations⁸⁰ of respondent that the NBI examined only a copy of his father’s birth certificate, and not the original document, remained uncontroverted. The only response of the OSG to this objection is that it remains the responsibility of respondent to show proof that the document he relies upon is genuine.⁸¹ It must be emphasized, however, that Manuel’s birth certificate, a public document and an official record in the custody of the Civil Registrar, enjoys the presumption of regularity and authenticity.⁸² To defeat these presumptions, the party making the allegation must present clear, positive and convincing evidence of alteration.⁸³ For obvious reasons, this burden cannot be discharged by the mere submission of an inconclusive report from the Senate Committee and the presentation of an excerpt of an NBI report on the purported alterations.

Second, the Court is not convinced that the other pieces of evidence relied upon by the DOJ sufficiently contradict the claimed Philippine citizenship of respondent. The veracity of that claim is certainly not negated by the results of the field investigation of the Senate, specifically its failure to obtain a record of the marriage between the grandparents of respondent and its inability to find any of his relatives. There are a number of possible explanations for these circumstances – for instance, the marriage of his grandparents may not have been properly reported or the record thereof may have been lost or destroyed; his relatives, on the other hand, may have died or transferred to another place of residence. Based solely on the available

⁷⁶ *Id.*

⁷⁷ See: *Heirs of Gregorio v. Court of Appeals*, 360 Phil. 753 (1998).

⁷⁸ *Rollo*, pp. 110-111

⁷⁹ The fifth cardinal right in due process in administrative proceedings as stated in *Ang Tibay v. CIR* [69 Phil. 635 (1940)] requires that the decision must be rendered on the evidence presented at the hearing, or at least contained in the record and disclosed to the parties affected; Also see: *Russell v. Southard*, 53 U.S. 139, 158; 13 L. Ed. 927 (1851); and *Holmes v. Trout*, 32 U.S. 171; 8 L. Ed. 647 (1833).

⁸⁰ *Rollo*, pp. 186, 460.

⁸¹ *Id.* at 483.

⁸² RULES OF COURT, Rule 130, Section 44; Rule 132, Section 23.

⁸³ *Ladignon v. Court of Appeals*, 390 Phil. 1161 (2000).

pieces of evidence, it is impossible for us to conclude that he deceived the DOJ and the BI about his citizenship.

As to the Certification issued by the Secretary of *Barangay* Alicia, Bago Bantay, Quezon City, the Court finds it irrelevant. Since Manuel became a naturalized American citizen on 10 November 1981,⁸⁴ it is only logical that his name no longer appears in the 2002 list of voters in the *barangay*. Finally, the inconsistency between his middle initial in his birth certificate and that which appears in the affidavit of citizenship submitted by respondent has been adequately explained as a mere typographical error.

The evidence relied upon by the DOJ and the BI is simply not enough to negate the probative value of the documentary evidence submitted by respondent to prove his Philippine citizenship. Without more, the Court finds no reason to set aside the rule that public documents, particularly those related to the civil register, are “*prima facie* evidence of the facts therein contained.”⁸⁵ Hence, we rely on these documents to declare that respondent is a citizen of the Philippines.

c) Validity of the Summary Deportation Order

It is settled that summary deportation proceedings cannot be instituted by the BI against citizens of the Philippines.⁸⁶ In *Board of Commissioners v. Dela Rosa*,⁸⁷ the Court reiterated the doctrine that citizens may resort to courts for protection if their right to live in peace, without molestation from any official or authority, is disturbed in a deportation proceeding. In that case, we stated:

However, the rule enunciated in the above-cases admits of an exception, at least insofar as deportation proceedings are concerned. Thus, what if the claim to citizenship of the alleged deportee is satisfactory? Should the deportation proceedings be allowed to continue or should the question of citizenship be ventilated in a judicial proceeding? In *Chua Hiong vs. Deportation Board* (96 Phil. 665 [1955]), this Court answered the question in the affirmative, and We quote:

When the evidence submitted by a respondent is conclusive of his citizenship, the right to immediate review should also be recognized and the courts should promptly enjoin the deportation proceedings. A citizen is entitled to live in peace, without molestation from any official or authority, and if he is disturbed by a deportation proceeding, he has the unquestionable right to resort to the courts for his protection, either by a writ of habeas corpus or of prohibition, on the legal ground that the Board lacks

⁸⁴ *Rollo*, pp. 51-52.

⁸⁵ Civil Code, Article 410; See also Rules of Court, Rule 130, Section 44.

⁸⁶ *Chua Hiong v. Deportation Board*, 96 Phil. 665 (1995).

⁸⁷ 274 Phil. 1156 (1991).

jurisdiction. **If he is a citizen and evidence thereof is satisfactory, there is no sense nor justice in allowing the deportation proceedings to continue, granting him the remedy only after the Board has finished its investigation of his undesirability.**

. . . And if the right (to peace) is precious and valuable at all, it must also be protected on time, to prevent undue harassment at the hands of ill-meaning or misinformed administrative officials. Of what use is this much boasted right to peace and liberty if it can be availed of only after the Deportation Board has unjustly trampled upon it, besmirching the citizen's name before the bar of public opinion? (Emphases supplied)

Since respondent has already been declared and recognized as a Philippine citizen by the BI and the DOJ, he must be protected from summary deportation proceedings. We affirm the ruling of the CA on this matter:

True, “[t]he power to deport an alien is an act of the State. It is an act by or under the authority of the sovereign power. It is a police measure against undesirable aliens whose presence in the country is found to be injurious to the public good and domestic tranquility of the people.” However, in this controversy, petitioner is not an alien. He is a Filipino citizen duly recognized by the BI, the DOJ and the DFA x x x.⁸⁸ (Citations omitted)

A final word. The Court is compelled to make an observation on the cavalier way by which the BI, the DOJ and the Senate committee handled this matter. The DOJ and the BI relied on inconclusive evidence – in particular, on questionable reports based on photocopied documents – to take away the citizenship of respondent and even justify his deportation. These acts violate our basic rules on evidence⁸⁹ and, more important, the fundamental right of every person to due process.⁹⁰

The Senate committee, for its part, did acknowledge that further investigation of the citizenship of respondent and the authenticity of the documents he submitted was necessary.⁹¹ However, it still proceeded to conclude that his father’s Certificate of Live Birth had been simulated and


⁸⁸ *Rollo*, p. 49.

⁸⁹ Rule 133, Section 5 of the Rules of Court states:

In cases filed before administrative or quasi-judicial bodies, a fact may be deemed established if it is supported by substantial evidence, or that amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion.

⁹⁰ In the landmark case of *Ang Tibay v. CIR* [69 Phil. 635 (1940)], the Court emphasized that the right to due process in administrative proceedings obligates a tribunal to ensure that there is substantial evidence to support its finding or conclusion. Similarly, Section 10 of the Senate Rules of Procedure Governing Inquiries in Aid of Legislation recognize the applicability in such inquiries of judicial rules of evidence when they affect substantive rights.

⁹¹ *Id.* at 65.



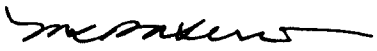
altered.⁹² For evident reasons, it was unfair and careless for the committee to make those statements, given the admitted fact that it had examined a mere photocopy of the document. At the least, it cast aspersions on the reputations of respondent and his family and placed the authenticity of public records under suspicion. Even if an investigation later controverts the contents of the report, the damage can no longer be completely undone.

The conduct of these three institutions is quite puzzling to the Court considering that any one of them could have simply required the appropriate agencies to present the original documents for inspection. Alternatively, these agencies could have been asked to repeat their examination of the documents using original specimens to determine whether alterations had indeed been made. It is most unfortunate that they failed to use their legal authority to make sure that there was sufficient evidence before they revoked his citizenship.

Furthermore, considering the gravity of the allegation that respondent submitted forged documents to support his claim, government institutions and agencies cannot make this accusation irresponsibly. The detrimental effects of one reckless allegation – on the right of a person to reputation and livelihood, among others – are clearly exemplified in this case. We also emphasize that what is at stake is the citizenship of an individual. This Court will not sanction a revocation of this most basic of rights⁹³ on frivolous grounds.

WHEREFORE, the Petition is **DENIED**. The Resolution of the Department of Justice dated 18 October 2004 and the Summary Deportation Order dated 26 October 2004 issued by the Bureau of Immigration are hereby **SET ASIDE**.

SO ORDERED.


MARIA LOURDES P. A. SERENO
Chief Justice, Chairperson

⁹² Id. at 61.

⁹³ In his Dissent in *Perez v. Brownell*, 356 U.S. 44, 64; 2 L. Ed. 2d 603, 617 (1958) Chief Justice Warren of the United States Supreme Court explained the nature of the right to citizenship:

Citizenship is man's basic right for it is nothing less than the right to have rights. Remove this priceless possession and there remains a stateless person, disgraced and degraded in the eyes of his countrymen. He has no lawful claim to protection from any nation, and no nation may assert rights on his behalf.

WE CONCUR:

TERESITA LEONARDO DE CASTRO
TERESITA J. LEONARDO-DE CASTRO
Associate Justice

LUCAS P. BERSAMIN
LUCAS P. BERSAMIN
Associate Justice

ESTELA M. PERLAS-BERNABE
ESTELA M. PERLAS-BERNABE
Associate Justice

ALFREDO BENJAMIN S. CAGUIOA
ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

CERTIFICATION

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

MARIA LOURDES P. A. SERENO
MARIA LOURDES P. A. SERENO
Chief Justice