organized, and functioning under the authority of the Japanese imperial government are null and void and should not be given any effect. Consequently, it is our opinion that the petition must be granted in the sense that the decision of November 18, 1944, be declared null and void and set aside.

Petition denied.

[No. 47616. September 16, 1947]

JOSE TAN CHONG, petitioner and appellee, *vs.* THE SECRETARY OF LABOR, respondent and appellant.

[No. 47623. September 16, 1947]

LAM SWEE SANG, petitioner and appellee, *vs.* THE COMMONWEALTH OF THE PHILIPPINES, oppositor and appellant.

1. POLITICAL LAW; CITIZENSHIP; "JUS SOLI," PRINCIPLE OF; CHANGING ATTITUDE OF SUPREME COURT.—In a long line of decisions, this court has held that the principle of *jus soli* applies in this jurisdiction. It is embodied in the Fourteenth Amendment to the Constitution of the United States which provides that "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside," and which was declaratory of the common law as existed in England and in the United States before and after the Declaration of Independence. The principle of *jus soli* was the rule in this jurisdiction until the 30th of September, 1939, when in the case of Chua *vs.* Secretary of Labor (68 Phil., 649), this Court abandoned it and held that a person of Chinese parentage born in the Philippines in 1914 is not a citizen thereof, because she followed the citizenship of her Chinese parents and she is not a citizen of the Philippines under the provisions of section 2 of the Jones Law, the Act of Congress of 29 August 1916. But in the cases of Torres *vs.* Tan Chim (69 Phil., 518), and Gallofin *vs.* Ordoñez (70 Phil., 287), this Court reverted to the rule of *jus soli* laid down in the cases prior to the decision in the case of Chua *vs.* Secretary of Labor, *supra*.

2. ID.; ID.; ID.; ELEMENTS OF CITIZENSHIP.—While birth is an important element of citizenship, it alone does not make a person a citizen of the country of his birth. Youth spent in

the country; intimate and endearing association with the citizens among whom he lives; knowledge and pride of the country's past; belief in the greatness and security of its institutions, in the loftiness of its ideals, and in the ability of the country's government to protect him, his children and his earthly possessions against perils from within and from without; and his readiness to defend the country against such perils, are some of the important elements that would make a person living in a country its citizen. Citizenship is a political status. The citizen must be proud of his citizenship. He should treasure and cherish it. In the language of Chief Justice Fuller, "the question of citizenship in a nation is of the most vital importance. It is a precious heritage, as well as an inestimable acquisition." (U. S. *vs.* Wong Kim Ark, 169 U. S., 640.) Citizenship, the main integrate element of which is allegiance, must not be taken lightly. Dual allegiance must be discouraged and prevented. But the application of the principle of *jus soli* to persons born in this country of alien parentage would encourage dual allegiance which in the long run would be detrimental to both countries of which such persons might claim to be citizens.

3. ID.; ID.; ID.; ID.; "STARE DECISIS," PRINCIPLE OF, WHEN TO BE ABANDONED.—The principle of *stare decisis* does not mean blind adherence to precedents. The doctrine or rule laid down, which has been followed for years, no matter how sound it may be, if found to be contrary to law, must be abandoned. The principle of *stare decisis* does not and should not apply when there is conflict between the precedent and the law. The duty of this Court is to forsake and abandon any doctrine or rule found to be in violation of the law in force.

4. ID.; ID.; ID.; REVOCATION OF; CASE AT BAR.—Considering that the common law principle or rule of *jus soli* obtaining in England and in the United States, as embodied in the Fourteenth Amendment to the Constitution of the United States, has never been extended to this jurisdiction (sec. 1, Act of 1 July 1902; sec. 5, Act of 29 August 1916); considering that the law in force and applicable to the petitioner and the applicant in the two cases at the time of their birth is section 4 of the Philippine Bill (Act of 1 July 1902), as amended by Act of 23 March 1912, which provides that only those "inhabitants of the Philippine Islands continuing to reside therein who were Spanish subjects on the 11th day of April, 1899, and then resided in said islands, and their children born sub-

sequent thereto, shall be deemed and held to be citizens of the Philippine Islands," this Court holds that the petitioner in the first case and the applicant in the second case, who were born of alien parentage, were not and are not, under said section, citizens of the Philippine Islands.

5. ID.; ID.; ID.; ID.; EFFECT OF DECISION.—This decision does not divest of their Filipino citizenship those who had been declared to be Filipino citizens, or upon whom such citizenship had been conferred, by the courts because of the doctrine or principle of *res adjudicata*.

DECISION on motion for reconsideration.

The facts are stated in the opinion of the Court.

First Assistant Solicitor General Jose B. L. Reyes and *Solicitor Lucas Lacson* for appellants.

Antonio V. Raquiza for appellee.

PADILLA, *J.*:

On 15 October 1941, a decision was promulgated in the case of Tan Chong *vs.* Secretary of Labor, G. R. No. 47616, whereby this Court affirmed the judgment of the Court of First Instance of Manila, which had granted the writ of *habeas corpus* applied for by Tan Chong, on the ground that he, being a native of the Philippines, of a Chinese father and a Filipino mother, is a citizen of the Philippines.

On the same date, in the case of Lam Swee Sang *vs.* Commonwealth of the Philippines (G. R. No. 47623), this Court rendered a decision dismissing the petition of the applicant for naturalization filed in the Court of First Instance of Zamboanga, on the ground that the applicant, having been born in Sulu, Philippines, of a Chinese father and a Filipino mother, is a citizen of the Philippines. The dismissal of the petition implies and means that there was no need of naturalization for the applicant who is a Filipino citizen.

On 21 October 1941, a motion for reconsideration was filed in both cases by the Solicitor General. The latter contends that even if the petitioner in the first case and

the applicant in the second were born in the Philippines, of a Chinese father and a Filipino mother, lawfully married, still they are not citizens of the Philippines under and pursuant to the laws in force at the time of their birth, and prays that both decisions be set aside and the judgments appealed from be reversed. This motion for reconsideration was pending in this Court when the Pacific war broke out. During the battle for liberation, the records of both cases were destroyed. Upon petition of the Assistant Solicitor General, Mr. Roberto A. Gianzon, the records were reconstituted in accordance with the provisions of Act No. 3110. The record of the first case, G. R. No. 47616, was declared reconstituted on 5 June, and of the second case, G. R. No. 47623, on 28 June 1946. Upon these reconstituted records, we now proceed to dispose of the motion for reconsideration.

In a long line of decisions, this Court has held that the principle of *jus soli* applies in this jurisdiction. It is embodied in the Fourteenth Amendment to the Constitution of the United States which provides that "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside." In the case of U. S. *vs.* Wong Kim Ark, 169 U. S., 649, the Supreme Court of the United States applying the principle of *jus soli* held that a person born in the United States of Chinese parents domiciled therein is a citizen of the United States. It further held that the Fourteenth Amendment was declaratory of the common law as existed in England and in the United States before and after the Declaration of Independence. From that decision, Mr. Chief Justice Fuller, with whom concurred Mr. Justice Harlan, dissented. The principle of *jus soli* was the rule in this jurisdiction until the 30th of September, 1939, when in the case of Chua *vs.* Secretary of Labor (68 Phil., 649), this Court abandoned it and held that a person of Chinese parentage born in the Philippines in 1914 is not a citizen thereof,

because she followed the citizenship of her Chinese parents and she is not a citizen of the Philippines under the provisions of section 2 of the Jones Law, the Act of Congress of 29 August 1916. But in the cases of Torres and Galloffn *vs.* Tan Chim (69 Phil., 518), decided on 3 February 1940 (69 Phil., 518), and Gallofin *vs.* Ordoñez, decided on 27 June 1940 (70 Phil., 287), this Court reverted to the rule of *jus soli* laid down in the cases prior to the decision in the case of Chua *vs.* Secretary of Labor, *supra*.

The Solicitor General heeding the opinions of the Assistant Secretary of State, Mr. G. S. Messermith, of 15 January 1938; of the Second Assistant Secretary of State, Mr. Alvey A. Adee, dated 12 September 1921, and of the Acting Secretary of State, Mr. Huntington Wilson, of 5 April 1912, who held that a person born in the Philippines of alien parentage is not a citizen thereof, because the common law principle of *jus soli* or the Fourteenth Amendment to the Constitution of the United States was not extended to the Philippines—the same opinions upon which the Solicitor General had relied in the case of Chua *vs.* The Secretary of Labor, *supra*, in his contention that the rule applying the principle of *jus soli* in this jurisdiction should be abandoned—urges upon this Court to reconsider its decisions in the cases under consideration.

In the case of Muñoz *vs.* Collector of Customs, 20 Phil., 494, the Court applied the principle of *jus soli* to a person born in the Philippines of a Chinese father and a Filipino mother, and in so doing it cited the case of U. S. *vs.* Go-Siaco, 12 Phil., 490 where, according to the Court, the principle had been applied. But nowhere in the decision of the last mentioned case was such principle applied, because the only question passed upon was whether a person detained for not having a certificate of registration, as required by Act 702, could be admitted to bail pending determination of his appeal by this Court as to whether he did come within the provisions of said Act.

In the case of Roa *vs.* Collector of Customs, 23 Phil., 315, this Court passed upon the question as to whether a person born in the Philippines of a Chinese father and a Filipino mother, legally married, is a citizen thereof. In this case this Court took into consideration the provisions of articles 17, 18 and 19 of the Civil Code in view of the fact that the petitioner was born on 6 July 1889; the second paragraph of Article IX of the Treaty of Paris; section 4 of the Philippine Bill (Act of Congress of 1 July 1902) and the amendatory Act of Congress of 23 March 1912, these being the laws then applicable. Commenting on sec. 4 of the Philippine Bill, as amended, this Court said:

"By section 4 *the doctrine or principle of citizenship by place of birth* which prevails in the United States *was extended to the Philippine Islands,* but with limitations. In the United States every person, with certain specific exceptions, born in the United States is a citizen of that country. *Under section 4 every person born after the 11th of April, 1899, of parents who were Spanish subjects on that date and who continued to reside in this country are at the moment of their birth ipso facto citizens of the Philippine Islands.* From the reading of section 4 and taking into consideration the Act of March 23, 1912, it is clear that *Congress realized that there were inhabitants in the Philippine Islands who did not come within the provisions of said section,* and also that Congress did not *then by express legislation determine the political status of such persons.* Therefore, the inquiry is—Did Congress intend to say that all of the inhabitants who were not included in section 4 are to be 'deemed and held to be' aliens to the Philippine Islands?" (Pp. 333-334.) (Italics supplied.)

In answering the question in the negative, this Court cited the case of an unmarried woman, a native of Porto Rico, 20 years of age, who arrived in New York by steamer from Porto Rico on 24 August 1902. She was detained at the Immigrant station, examined by a board of special inquiry, and excluded. The writ for *habeas corpus* having been denied by the Circuit Court, for the reason that she might become a public charge, she appealed to the Supreme

Court of the United States which held that she was not an alien to the United States. But the decision of the Supreme Court of the United States in the case cited does not answer negatively the question asked by this Court, because it does not appear that she is of alien parentage and it appears that she was a resident of Porto Rico on 11 April 1899. (192 U. S. 1.) Further commenting on section 4, this Court said:

> This section declares that a certain class of inhabitants shall be citizens of the Philippine Islands. It does not declare that other inhabitants shall not be citizens. Neither does it declare that other inhabitants shall be deemed to be aliens to the Philippine Islands, and especially it does not declare that a person situated as is the appellant shall not be nor shall not elect to be a citizen of the country of his birth. The appellant could, as we have said, elect to become a citizen of the United States had he been born in that country under the same circumstances which now surround him. All the laws and the rulings of the courts on the subject so declare, and this has been the declared policy of the United States. While it has been decided that the Constitution and acts of Congress do not apply *ex proprio vigore* to this country, but that they must be expressly extended by Congress, nevertheless, some of the basic principles upon which the government of the United States rests and the greater part of the Bill of Rights, which protects the citizens of that country, have been extended to the Philippine Islands by the instructions of the President to the first Philippine Commission and the Philippine Bill. (P. 339-340.)

The declaration that a certain class of inhabitants shall be citizens of the Philippines is tantamount or equivalent to declaring that those who do not belong to that class shall not be. Realizing the weakness of the position taken, in view of the express provisions of section 4 of the Philippine Bill, as amended, and of the fact that the Constitution of the United States and Acts of Congress do not apply *ex proprio vigore* to the Philippines, the Court hastened to add another ground in support of the pronouncement that petitioner Roa is a Filipino citizen, and for that reason entitled to land and reside in the Philippines. The additional ground is that the petitioner's father having died in China in 1900, his mother reacquired her Filipino citi-

zenship which he being under age followed upon the death of his father. The concluding pronouncement in the decision of the case is, as follows:

> The nationality of the appellant having followed that of his mother, he was therefore a citizen of the Philippine Islands on July 1, 1902, and never having expatriated himself, he still remains a citizen of this country.

If all the native inhabitants residing in the Philippines on the 11th day of April 1899, regardless of their alien parentage, are citizens thereof, the amendatory Act of Congress of 23 March 1912 empowering the Philippine Legislature to provide by legislation for the acquisition of Filipino citizenship by those natives excluded from such citizenship by the original section 4 of the Philippine Bill, would be meaningless.

We are not unmindful of the importance of the question submitted to us for decision. We know that the decision upon the motion for reconsideration in these cases is momentous. We have given the time and the thought demanded by its importance. While birth is an important element of citizenship, it alone does not make a person a citizen of the country of his birth. Youth spent in the country; intimate and endearing association with the citizens among whom he lives; knowledge and pride of the country's past; belief in the greatness and security of its institutions, in the loftiness of its ideals, and in the ability of the country's government to protect him, his children, and his earthly possessions against perils from within and from without; and his readiness to defend the country against such perils, are some of the important elements that would make a person living in a country its citizen. Citizenship is a political status. The citizen must be proud of his citizenship. He should treasure and cherish it. In the language of Mr. Chief Justice Fuller, "the question of citizenship in a nation is of the most vital importance. It is a precious heritage, as well as an inestimable acquisi-

tion." (U. S. *vs.* Wong Kim Ark, *supra.*) Citizenship, the main integrate element of which is allegiance, must not be taken lightly. Dual allegiance must be discouraged and prevented. But the application of the principle of *jus soli* to persons born in this country of alien parentage would encourage dual allegiance which in the long run would be detrimental to both countries of which such persons might claim to be citizens.

The principle of *stare decisis* does not mean blind adherence to precedents. The doctrine or rule laid down, which has been followed for years, no matter how sound it may be, if found to be contrary to law, must be abandoned. The principle of *stare decisis* does not and should not apply when there is conflict between the precedent and the law. The duty of this Court is to forsake and abandon any doctrine or rule found to be in violation of the law in force.

It appears that the petitioner in the first case was born in San Pablo, Laguna, in July 1915, of a Chinese father and a Filipino mother, lawfully married, left for China in 1925, and returned to the Philippines on 25 January 1940. The applicant in the second case was born in Jolo, Sulu, on 8 May 1900, of a Chinese father and a Filipino mother. It does not appear whether they were legally married, so in the absence of proof to the contrary they are presumed to be lawfully married. From the date of his birth up to 16 November 1938, the date of the filing of his application for naturalization, and up to the date of hearing, he had been residing in the Philippines. He is married to a Filipino woman and has three children by her. He speaks the local dialect and the Spanish and English languages.

Considering that the common law principle or rule of *jus soli* obtaining in England and in the United States, as embodied in the Fourteenth Amendment to the Constitution of the United States, has never been extended to

this jurisdiction (section 1, Act of 1 July 1902; sec. 5, Act of 29 August 1916); considering that the law in force and applicable to the petitioner and the applicant in the two cases at the time of their birth is sec. 4 of the Philippine Bill (Act of 1 July 1902), as amended by Act of 23 March 1912, which provides that only those "inhabitants of the Philippine Islands continuing to reside therein who were Spanish subjects on the 11th day of April, 1899, and then resided in said Islands, and their children born subsequent thereto, shall be deemed and held to be citizens of the Philippine Islands," we are of the opinion and so hold that the petitioner in the first case and the applicant in the second case, who were born of alien parentage, were not and are not, under said section, citizens of the Philippine Islands.

Needless to say, this decision is not intended or designed to deprive, as it cannot divest, of their Filipino citizenship those who had been declared to be Filipino citizens, or upon whom such citizenship had been conferred, by the courts because of the doctrine or principle of *res adjudicata*.

Accordingly, the decision of this Court in the first case confirming the lower court's judgment is set aside; the judgment of the Court of First Instance of Manila appealed from is reversed; the petitioner is recommitted to the custody of the Commissioner of Immigration to be dealt with in accordance with law; and the decision of this Court in the second case is set aside; the decree of the Court of First Instance of Zamboanga appealed from granting the applicant's petition for naturalization filed on 16 November 1938 is affirmed, for the applicant comes under section 1 (*a*), Act 2927, as amended by Act 3448, and possesses the qualifications required by section 3 of the same Act, as amended, which was the law in force at the time of the filing of the petition for naturalization. No costs shall be taxed in both cases.

Moran, C. J., Parás, Feria, Pablo, Perfecto, Bengzon, Briones, and *Hontiveros, JJ.*, concur.

HILADO, *J.*, concurring:

I concur in the entire majority opinion. I concur in the revocation of the doctrine of *jus soli* enunciated, among other cases, in Roa *vs.* Insular Collector of Customs, 23 Phil., 315. Besides, the ruling in that case can not be invoked in favor of the petitioner in G. R. No. 47616 nor of the applicant in G. R. No. 47623 for the reason that, while Tranquilino Roa in that case was born in the Philippines in the year 1889, when articles 17 *et seq.* of the Civil Code were yet in force here and made him a Spanish subject, the said petitioner and applicant in the instant cases were born, although also in the Philippines, in 1915 and 1900, respectively, *i. e.*, after the abrogation of said articles, due to their political character, upon the change of sovereignty following the Treaty of Paris ending the Spanish-American war (Roa *vs.* Insular Collector of Customs, 23 Phil., 315, 330; Halleck's International Law, Chapter 34, par. 14; American and Ocean Insurance Companies *vs.* 356 Bales of Cotton, 1 Pet. [26 U. S.], 511, 542, 7 Law. ed., 242). As declared in the majority opinion, the citizenship of said petitioner and applicant should be determined as of the dates of their respective births.

At the time the petitioner in G. R. No. 47616 was born (1915) the law on Philippine citizenship was contained in the Philippine Bill, section 4, as amended by the Act of Congress of March 23, 1912. Under this provision said petitioner could not be a Filipino citizen upon the date of his birth because his father, who was legally married to his mother, was a Chinese citizen and not a subject of Spain. If his father had been a subject of Spain on April 11, 1899, like his mother, who was a native Filipina, before their marriage—and in that case, after said marriage, she would have acquired the citizenship of her husband even

if she had been a foreigner—then under section 4 of the Philippine Bill, as amended, said parents of said petitioner would have become citizens of the Philippines unless they should have elected to preserve their allegiance to Spain in the manner and within the period therein prescrived; and then, too, the petitioner upon being born in 1915 would automatically have acquired Philippine citizenship. But such was not the case.

The applicant in G. R. No. 47623 could not possibly be a Filipino citizen upon his birth (1900) because, aside from the fact that his father, who is presumed to have been legally married to his mother, was a Chinese subject, there was no law on Philippine citizenship at that time, because, firstly, even the aforecited articles of the Civil Code had previously been abrogated, as already stated by the change of sovereignty in the Philippines following the Spanish-American war, secondly, said articles at any rate did not regulate Philippine citizenship nor did they make said applicant's father a Spanish subject, and, thirdly, the Philippine Bill was not enacted until July 1, 1902.

In the case of the applicant in G. R. No. 47623, his father was a Chinese subject on April 11, 1899. And his mother, upon her marriage with her Chinese husband, acquired his nationality. So that when said applicant was born in 1900 his parents were Chinese subjects. When the Philippine Bill was enacted on July 1, 1902, therefore, said applicant and his parents were not subjects of Spain and consequently could not have acquired Philippine citizenship by virtue of section 4 thereof. It was only after the Philippine Naturalization Law was enacted, pursuant to the Act of Congress of August 29, 1916 (Jones Law), that the said applicant had his first opportunity to become a naturalized citizen of this country.