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2252, New Civil Code). Moreover, "if a right should be declared for the first time in this Code, it shall be effective at once, even though the act or event which gives rise thereto may have been done or may have occurred under the prior legislation, provided said new right does not impair or prejudice any vested or acquired right, of the same origin" (Art 2253, New Civil Code).¹ Evidently, appellant did not have a vested right or acquired right not to be held liable or responsible for moral damages, either by judicial pronouncements or by provision of law. By the same token, therefore, defendant-appellant is also liable to plaintiff-appellee for attorney's fees, under paragraphs (1), (2), (5), (6) and (11), Article 2208 of the New Civil Code. The damages fixed by the trial court are reasonable and conscionable.

The judgment under review is affirmed, with costs against the petitioner.

Bengzon, Montemayor, Reyes, A., Bautista Angelo, Labrador, Concepción, Reyes, J. B. L., Endencia, and Félix. JJ., concur.

Judgment affirmed.

[No. L-9602. April 25, 1957]

In the Matter of the Petition of TEOTIMO RODRIGUEZ TIO TIAM to be admitted a citizen of the Philippines. TEOTIMO RODRIGUEZ TIO TIAM, petitioner and appellee, vs. REPUBLIC OF THE PHILIPPINES, oppositor and appellant.

1. NATURALIZATION; PERSONS BORN IN THE PHILIPPINES OF ALIEN PARENTS WHO HAD NOT BEEN DECLARED FILIPINO CITIZENS BY JUDICIAL PRONOUNCEMENT BEFORE OVERRULING OF ROA DOCTRINE CAN NOT INVOKE PRINCIPLE OF *Jus Soli*.—While this Court has held in the case of *Roa vs. Collector of Customs*, 23 Phil., 313, that persons born in the Philippines of alien parents are deemed Filipino citizens by virtue of the principle of *jus soli*, however, petitioner can not invoke the benefit granted by said decision even if he is similarly situated for the reason that he has

¹ *Ayson vs. Arambulo, G. R.* Nos. L-6501 and L-6599, 31 May 1955; *Velayo vs. Shell Co. of the Phil. Islands*, 100 Phil., 186, 54 Off. Gaz., 68.

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not been declared a Filipino citizen by *judicial pronouncement* before the overruling of said decision in the case of *Tan Chong vs. Secretary of Labor*, 79 Phil., 249. This is clearly inferred from the decision in the *Tan Chong* case wherein this Court has held that "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*."

2. *Id.*; *Id.*; RIGHT OF AN APPLICANT ENTITLED TO PHILIPPINE CITIZENSHIP IS NOT AFFECTED BY HEARSAY EVIDENCE.—Except the testimony of the Chief of the National Bureau of Investigation who declared on a supposed investigation conducted by an agent of his office, where one S. T. gave sworn statement as to an alleged illicit relation had by petitioner with a woman, which evidence however is hearsay and incompetent not only because the supposed sworn statement was not presented as evidence, but also because S. T. never appeared to testify in spite of the opportunity given her by the Court to do so, the evidence on record shows that petitioner possesses all the qualifications and none of the disqualifications prescribed in the law for the acquisition of Philippine citizenship. Hence, petitioner is entitled to become a Philippine citizen subject, however, to the requirements of Republic Act No. 530 relative to the two-year suspension of the period prior to the effectivity of the decision.

APPEAL from a judgment of the Court of First Instance of Cebu. *Piccio, J.*

The facts are stated in the opinion of the Court.

Jose L. Rodriguez and *Nicolas Jumapao* for appellee.

Solicitor General Ambrosio Padilla and *Solicitor Isidro C. Borromeo* for appellant.

BAUTISTA ANGELO, *J.*:

Teotimo Rodriguez Tio Tiam filed this petition for naturalization before the Court of First Instance of Cebu praying that he be granted Philippine citizenship. During the hearing, petitioner asked that he be allowed to present evidence to show that long before the filing of the petition he had already possessed the status of a Filipino citizen. The court granted this request and, after the presentation

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of the evidence, found the same sufficient to consider petitioner a Filipino citizen and rendered, accordingly, a decision declaring him Filipino citizen without the need of complying with the requirements of Republic Act No. 530 relative to the two-year suspension of the period prior to the effectivity of the decision. From this decision, the Government has appealed.

The evidence of petitioner shows that he was born in Cebu City of Chinese parents on January 12, 1904 and has never left the Philippines since then. He is married to a Chinese woman with whom he has eleven children. He considers himself Filipino and has voted in the elections held in 1964, 1949, 1951 and 1953. On October 25, 1945, while he was forty-one years old, he took the oath of allegiance as a citizen of the Philippines before the Court of First Instance of Cebu. His wife and children never registered as aliens in the Bureau of Immigration. During the occupation, he joined the Cebu Guerrilla Command with the rank of second lieutenant under General Macario Peralta, Jr. He finished first year high school while all his children are presently studying in schools recognized by the Government. He is at present a businessman by profession with an average annual income of ₱20,000 and is a registered owner of several real properties situated in Cebu City. He has evinced a sincere desire to learn and embrace the customs, traditions, and ideals of the Filipino people. He has never been convicted of any crime involving moral turpitude. He is not opposed to organized government nor is he affiliated with any person or association with subversive ideas. He is not a believer in the practice of polygamy and is not suffering from any mental ailment or any incurable contagious disease. He believes in the principles underlying the Philippine Constitution and is able to speak and write English and Chinese languages and the Cebuano dialect. And he was once brought to Camp Murphy, Philippine Army Headquarters, where he was investigated for the the charge of

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rebellion and multiple murder, but subsequently, however, he was cleared by the army authorities.

The Government did not introduce any evidence except the testimony of Mauro Magsaysay, Chief of National Bureau of Investigation, Cebu Office, who declared that Agent No. 64 was assigned by him to cover the case of petitioner and that said agent obtained a sworn statement of Sonia Tiu to the effect that petitioner had illicit relations with another woman and begot Sonia Tiu as a result. -However, Sonia Tiu, notwithstanding the opportunity given to her, failed to appear to substantiate the charge.

The lower court, on the strength of the evidence presented, declared petitioner as having already acquired Filipino citizenship relying apparently on the decision rendered in the case of *Roa vs. Collector of Customs* (23 Phil., 315), which holds that those born in the Philippines of alien parents are deemed Filipino citizens by virtue of the principle of *jus soli*. However, we are of the opinion that petitioner cannot invoke said decision in his favor for the reason that the same has already been expressly overruled in the case of *Tan Chong vs. Secretary of Labor*, 79 Phil., 249. Said the Court in said case:

"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."

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Neither can petitioner invoke the benefit of the Roa decision even if he is similarly situated for the reason that he has not been declared a Filipino citizen *by judicial pronouncement* before the overruling of said decision. This is clearly inferred from our decision in the Tan Chong case wherein we stated: "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*. (Italics supplied).

We believe, however, that petitioner can be given the benefit of our naturalization law considering that, as his evidence shows, he possesses all the qualifications and none of the disqualifications prescribed in the law for the acquisition of Philippine citizenship. Indeed, the Government has not presented any evidence that may serve as basis for his disqualification, except the testimony of Mauro Magsaysay who declared on a supposed investigation conducted by an agent of his office, wherein one Sonia Tiu gave sworn statement as to an alleged illicit relation had by petitioner with a woman, which evidence however is hearsay and incompetent not only because the supposed sworn statement was not presented as evidence, but also because Sonia Tiu never appeared to testify in spite of the opportunity given her by the court to do so. The claim of the Government that petitioner is disqualified to be naturalized because he does not possess good moral character or has not behaved in a proper and irreproachable manner during his stay in the Philippines, cannot therefore be sustained.

Wherefore, the decision appealed from is modified in the sense that petitioner is granted Philippine citizenship subject to the requirements of Republic Act No. 530.

Bengzon, Padilla, Montemayor, Reyes, A., Labrador, Concepción, Reyes, J. B. L., Endencia, and Felix, JJ., concur.

Judgment modified.