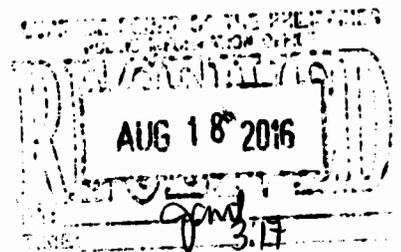




Republic of the Philippines  
**Supreme Court**  
Manila

FIRST DIVISION



**PLUTARCO E. VAZQUEZ,**  
Complainants,

A.C. No. 9492

Present:

- versus -

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

**ATTY. DAVID LIM QUECO**  
**KHO,**  
Respondent.

Promulgated:  
**JUL 11 2016**

x ----- x

**DECISION**

**SERENO, CJ:**

This case for disbarment was filed by complainant Plutarco E. Vazquez (Vazquez) against respondent Atty. David Lim Queco Kho (Atty. Kho). In his verified Complaint<sup>1</sup> filed with this Court on 11 July 2012, Vazquez alleges that Atty. Kho violated the lawyer’s oath that he “will do no falsehood.”<sup>2</sup> He further claims that respondent transgressed Rule 1.01 of the Code of Professional Responsibility.<sup>3</sup>

**FACTS**

Vazquez and Atty. Kho were both members of the Coalition of Associations of Senior Citizens in the Philippines (Coalition), an accredited

<sup>1</sup> Rollo, pp. 8-11.

<sup>2</sup> Id. at 8.

<sup>3</sup> A lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct.

party-list group that participated in the national elections of 10 May 2010. The Complaint arose from an allegedly false statement made in respondent's Certificate of Acceptance of Nomination for the Coalition. Complainant contested the truth of the statement made under oath that Atty. Kho was a natural-born Filipino citizen.<sup>4</sup>

In his Complaint, Vazquez asserted that respondent was a Chinese national. He reasoned that when Atty. Kho was born on 29 April 1947 to a Chinese father (William Kho) and a Filipina mother (Juana Lim Queco), respondent's citizenship followed that of his Chinese father pursuant to the 1935 Constitution. Moreover, Vazquez argued that since respondent has elected Filipino citizenship, the act presupposed that the person electing was either an alien, of doubtful status, or a national of two countries.<sup>5</sup>

Upon receipt of the Complaint, the Court through its First Division issued a Resolution<sup>6</sup> dated 26 November 2012 requiring Atty. Kho to file his comment on the Complaint within 10 days from receipt of the Notice. Alleging he received the Court's Resolution on 18 February 2013, he filed his Comment<sup>7</sup> on 27 February 2013. As to the alleged falsity of his statement, Atty. Kho countered that when he was born on 29 April 1947, his Filipina mother was not yet married to his Chinese father, and that his parents only got married on 8 February 1977 or some 30 years after his birth. He then averred that according to the 1935 Constitution, his citizenship followed that of his Filipina mother, and thus he was a natural-born Filipino citizen.<sup>8</sup>

On the matter of his electing Filipino citizenship, respondent explained that since he was already a natural-born Filipino, his subsequent election of Philippine citizenship on 25 February 1970 was superfluous and had no effect on his citizenship. Having established his natural-born status, he concluded that he had not committed any falsehood in his Certificate of Acceptance of Nomination, and that complainant had no cause of action to have him disbarred.<sup>9</sup>

Apart from defending his natural-born status, Atty. Kho also moved to dismiss the Complaint on the ground of forum shopping. He claimed that Vazquez had filed three (3) cases in which the latter raised the issue of respondent's citizenship: (1) the present disbarment case; (2) a quo warranto proceeding with the House of Representatives Electoral Tribunal (HRET); and (3) a criminal complaint for perjury lodged with the City Prosecutor of

---

<sup>4</sup> *Rollo*, pp. 8-9.

<sup>5</sup> *Id.* at 9-10.

<sup>6</sup> *Id.* at 16.

<sup>7</sup> *Id.* at 18-24.

<sup>8</sup> *Id.* at 20.

<sup>9</sup> *Id.* at 21-22.

Quezon City. Atty. Kho alleged that both the quo warranto and the perjury cases had already been dismissed by the HRET<sup>10</sup> and the City Prosecutor respectively.<sup>11</sup> Finally, he raised jurisdictional questions, arguing that the proper remedy to attack his citizenship was not a disbarment case, but rather *quo warranto*.<sup>12</sup>

In answer to respondent's Comment, Vazquez filed with the Court a Reply to Comment<sup>13</sup> on 11 March 2013. He claimed therein that at the time of election of Philippine citizenship by respondent on 25 February 1970, the latter's mother was already a Chinese national by virtue of her marriage to respondent's father who was Chinese. Complainant also opposed respondent's assertion that the latter's parents were not yet married when he was born on 29 April 1947.<sup>14</sup> Complainant further cited respondent's Certificate of Live Birth, which stated that the latter's parents were married at the time he was born.<sup>15</sup>

That being so, complainant averred that at the time Atty. Kho was born, his mother was already a Chinese national. Thus, complainant concluded that respondent's election of Filipino citizenship was fatally defective, since the latter's parents were both Chinese at the time of his election.<sup>16</sup> Furthermore, complainant alleged that the marriage of respondent's parents on 8 February 1977 was just a ploy to put a semblance of legitimacy to his prior election of Filipino citizenship. Lastly, complainant denied the forum shopping charge, saying the three cases he had filed against respondent had different causes of action and were based on different grounds.<sup>17</sup>

On 8 April 2013, the Court issued a Resolution referring the administrative case to the Integrated Bar of the Philippines (IBP) for investigation, report, and recommendation or decision.<sup>18</sup> At the IBP Commission on Bar Discipline (IBP-CBD), the case was docketed as CBD Case No. 13-3885. Commissioner Victor Pablo C. Trinidad (Commissioner Trinidad) was designated as investigating commissioner. In a Notice dated 14 August 2013, he set the case for mandatory conference/hearing on 19 September 2013 and ordered the parties to submit their mandatory conference briefs.<sup>19</sup>

---

<sup>10</sup> Id. at 34.

<sup>11</sup> Id. at 35-37.

<sup>12</sup> Id. at 22.

<sup>13</sup> Id. at 38-43.

<sup>14</sup> Id. at 38.

<sup>15</sup> Id. at 44.

<sup>16</sup> Id. at 39-40.

<sup>17</sup> Id. at 41.

<sup>18</sup> Id. at 47.

<sup>19</sup> Records of the IBP-CBD, p. 1.

With both parties present at the scheduled mandatory conference/hearing, Commissioner Trinidad ordered them to submit their respective position papers within ten (10) days, after which the case would be deemed submitted for report and recommendation.<sup>20</sup> Only the respondent submitted a conference brief<sup>21</sup> and position paper.<sup>22</sup>

### **IBP'S REPORT AND RECOMMENDATION**

On 3 November 2013, Commissioner Trinidad promulgated his Report and Recommendation (Report)<sup>23</sup> finding Atty. Kho “innocent of the charges” and recommended that the case be dismissed for utter lack of merit. Upon weighing the evidence presented by both parties, Commissioner Trinidad found no merit to the allegation that respondent had committed dishonesty and deceitfulness when he indicated in his verified Certificate of Acceptance of Nomination that he was a natural-born citizen.<sup>24</sup>

Commissioner Trinidad said that respondent Atty. Kho, as a natural-born Filipino citizen, fell under the category of someone who was born of a Filipino mother before 17 January 1973, and who elected Philippine citizenship upon reaching the age of majority.<sup>25</sup> On the matter of jurisdiction, the IBP-CBD said that it had jurisdiction to hear the matter, since the issue was whether respondent violated his lawyer’s oath and the relevant provisions of the Code of Professional Responsibility. Although it acknowledged that citizenship cannot be attacked collaterally, it ruled that it had to make a finding thereon, since the alleged dishonesty hinged on that very matter. The IBP-CBD clarified though, that its ruling was limited and “cannot strip or sustain the respondent of his citizenship.”<sup>26</sup>

Lastly, the IBP-CBD found Vazquez guilty of forum shopping since in all the three cases he had filed, he was questioning whether or not respondent was a natural-born citizen. It said that the actions filed by complainant involved the same transactions, the same essential facts and circumstances, as well as identical subject matter and issues.<sup>27</sup>

On 10 August 2014, the IBP Board of Governors passed Resolution No. XXI-2014-519, which adopted and approved the Report and

---

<sup>20</sup> Id. at 8.

<sup>21</sup> Id. at 10-11.

<sup>22</sup> Id. at 22-31.

<sup>23</sup> Report and Recommendation of the IBP-CBD, 10 pages; penned by Commissioner Victor Pablo C. Trinidad

<sup>24</sup> Id. at 2.

<sup>25</sup> Id. at 6-7.

<sup>26</sup> Id. at 5.

<sup>27</sup> Id. at 8-9.

Recommendation of the Investigating Commissioner dismissing the case against Atty. Kho.

### THE RULING OF THE COURT

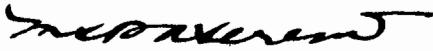
**We adopt and approve the IBP Report and Recommendation and dismiss the instant administrative case against respondent for lack of merit.**

This disbarment case centers on whether Atty. Kho violated his lawyer's oath that he shall do no falsehood and that he shall not engage in unlawful, dishonest, immoral, or deceitful conduct. According to complainant, a violation occurred when respondent declared in his verified Certificate of Acceptance of Nomination that he was a natural-born Filipino citizen. Although the question of one's citizenship is not open to collateral attack,<sup>28</sup> the Court acknowledges the IBP-CBD's pronouncement that it had to make a limited finding thereon, since the alleged dishonesty hinged on this issue.

We have constantly ruled that an attack on a person's citizenship may only be done through a direct action for its nullity.<sup>29</sup> A disbarment case is definitely not the proper venue to attack someone's citizenship. For the lack of any ruling from a competent court on respondent's citizenship, this disbarment case loses its only leg to stand on and, hence, must be dismissed.

**WHEREFORE**, the instant Administrative Complaint for violation of the lawyer's oath and the Code of Professional Responsibility filed against **Atty. David Lim Queco Kho** is hereby **DISMISSED**.

**SO ORDERED.**

  
**MARIA LOURDES P. A. SERENO**  
Chief Justice, Chairperson

<sup>28</sup> *Go v. Bureau of Immigration and Deportation*, G.R. No. 191810. 22 June 2015.

<sup>29</sup> *Co v. House of Representatives Electoral Tribunal*, 276 Phil. 758 (1991); *Go v. Bureau of Immigration and Deportation*, G.R. No. 191810. 22 June 2015.

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