I

Antonio Delumen et al.. Petitioners-Appellees, vs. Republic of the Philippines, Oppositor-Appellant, G. R. No. L-5552. January 23, 1954.

1. RULES OF COURT; REQUISITES FOR DECLARATORY RELIEF. — A petition for declaratory relief must be predicated on the following requisites: (1) there must be a justiciable controversy; (2) the controversy must be between persons whose interests are adverse; (3) the party seeking declaratory relief must have a legal interest in the controversy; and (4) the issue invoked must be ripe for judicial determination.

2. IBID; ACTION FOR DECLARATORY RELIEF IMPROPER IN THE CASE AT BAR. — In essence, the appellees merely wanted to remove all doubts in their minds as to their citizenship, but an action for declaratory judgment cannot be invoked solely to determine or try issues or to determine a moot, abstract or theoretical question, or to decide claims which are uncertain or hypothetical. (1 C. J. S., p. 1024.) And the fact that appellees' desires are thwarted by their "own doubts, or by fears of others x x x does not confer a cause of action."

Solicitor General Juan R. Liwag and *Solicitor Florencio Villamor* for appellant.
Romeo M. Escareal for appellees.

DECISION

PARAS, *C. J.*:

On October 9, 1951, Antonio, Juan and Julito, surnamed Delumen, filed a petition in the Court of First Instance of Samar, alleging that they are legitimate children of Paciencia Pua, a Filipino woman, and Mariano Delumen who was declared a Filipino citizen by the same court in an order dated August 7, 1950, and praying said court to determine whether they are Filipino citizens and to declare their corresponding rights and duties. It is further alleged in the petition that the petitioners have continuously resided in the Philippines since their birth, have considered themselves as Filipinos, had exercised the right to vote in the general elections of 1946 and 1947, and were registered voters for the elections in 1951. The Solicitor General, in behalf of the Republic of the Philippines, filed an answer alleging that the petition states no cause of action, there being no adverse party against whom the petitioners have an actual or justiciable controversy. After hearing, the Court of First Instance of Samar rendered a decision declaring the appellees to be Filipinos by birth and blood. From this decision the Solicitor General had appealed.

Under the first assignment of error, the appellant cites our decision in Hilarion G. Tolentino vs. The Board of Accountancy, et. al., G. R. No. L-3062, September 28, 1951, wherein we held that: "A petition for declaratory relief must be predicated on the following requisites: (1) there must be a justiciable controversy; (2) the controversy must be between persons whose interests are adverse; (3) the party seeking declaratory relief must have a legal interest in the controversy; and (4) the issue invoked must be ripe for judicial determination."

While the Solicitor General contends that a justiciable controversy is one involving "an active antagonistic assertion of a legal right on one side and a denial thereof on the other concerning a real, and not a mere theoretical question or issue (C. J. S., p. 1026)," and that in the present case " no specific person was mentioned in the petition as having or claiming an adverse interest in the matter and with whom the appellees have an actual controversy," the appellees argue that, by virtue of the answer filed by the Solicitor General opposing the petition for declaratory relief, a justiciable controversy thereby arose. We are of the opinion that appellant's contention is tenable, since there is nothing in the petition which even intimates that the alleged status of the appellees as Filipino citizens had in any instance been questioned or denied by any specific person or authority. Indeed, the petition alleges that the appellees have considered themselves and were considered by their friends and neighbors as Filipino citizens, voted in the general elections of 1946 and 1947, and were registered voters for the elections of 1951, and it is not pretended that on any of said occasions their citizenship was controverted. It is not accurate to say, as appellees do, that an actual controversy arose after the filing by the Solicitor General of an opposition to the petition, for the reason that the cause of action must be made out by the allegations of the complaint or petition, without the aid of the answer. As a matter of fact, the answer herein alleges that the petition states no cause of action. In essence, the appellees merely wanted to remove all doubts in their minds as to their citizenship, but an action for declaratory judgment cannot be invoked solely to determine or try issues or to determine a moot, abstract or theoretical question, or to decide claims which are uncertain or hypothetical. (1 C.J.S., p. 1024.) And the fact that appellees' desires are thwarted by their "own doubts, or by fears of others x x x does not confer a cause of action." (Moran, Comments on the Rules of Court, 1952 ed., Vol. II, p. 148, citing Willing vs. Chicago Auditorium Assn., 277 U. S. 274, 289, 48 Sup. Ct. 507, 509.)

In view of what has been said, it becomes unnecessary to discuss either the second contention of the Solicitor General that the trial court erred in holding that the petition for declaratory relief may be utilized to obtain a judicial pronouncement as to appellees' citizenship, or his third contention that the evidence does not support the conclusion in the appealed decision that the appellees are Filipino citizens.

Wherefore, the appealed decision is reversed and the petition dismissed without pronouncement as to costs. So ordered.

Pablo, Bengzon, Padilla, Montemayor, Reyes, Jugo, Bautista Angelo and *Labrador, J.J.*, concur.

II

Pilar Bautista, etc. et al., Plaintiffs-Appellants, vs. Hilaria Uy Isabelo, etc., Defendant-Appellant, G. R. No. L-3007, September 29, 1953.

CONSTITUTION; PROVISION THEREOF DISQUALIFYING ALIENS FROM ACQUIRING REAL PROPERTIES IN THE PHILIPPINES. — The question is whether the defendant spouses, assuming that they were Chinese citizens and that the sale was made to both and not solely to Hilaria Uy Isabelo, are disqualified to acquire and hold the property in question in view of section 1 of Article XII of the Constitution, as construed in Krivenko vs. Register of Deeds of Manila, 44 O. G. 471. In the case of Trinidad Gonzaga de Cabauatan, et al. vs. Uy Hoo, et al., G. R. No. L-2207, decided on January 23, 1951, we already held that the Constitution was not in force during the Japanese military occupation and therefore the constitutional provision disqualifying aliens from acquiring real properties in the Philippines was not applicable and the doctrine laid down in the Krivenko case cannot be invoked in a sale that took place during said occupation. This decision was followed in the latter case of Ricamara, et al. vs. Ngo Ki alias Sin Sim, G. R. No. L-5836, decided on April 29, 1953. It results that the sale in question has to be sustained.

Quintin Paredes for defendants-appellants.
Delgado and *Flores* and *Alejandro de Santos* for plaintiffs-appellants.

DECISION

PARAS, *C. J.*:

On August 18, 1943, Pilar T. Bautista was the owner of four parcels of land, with improvements, located at the corner of Azcarraga and Ylaya Streets in the City of Manila, and more parti-