

CITIZENSHIP 101: What the Constitutions Says

According to the Supreme Court, “*Citizenship is a treasured right conferred on those whom the state believes are deserving of the privilege.*” This privilege – which includes being able to own land – is mainly conferred by the Constitution.

Since the American era, our country has adapted a number of Constitutions: the 1935 Constitution, the 1973 Constitution and our present 1987 Constitution.

For purposes of determining the qualifications for citizenship, there is a need to look back at the Constitution enforced at the time of a person’s birth. For majority of us, we can simply look at the citizenship of our parents to determine our own citizenship. However, for those who derive their citizenship from their grandparents or even from older generations, a review of their family trees as well as the applicable Constitution would be necessary.

What this means is that the subsequent relaxation of previous qualifications by the adaption of a new constitution does not apply retroactively to those born under a previous constitution.

Hence, we have the following scenarios:

1. Where the 1935 Constitution recognized those whose fathers were Filipinos as citizens, the same does not hold true for those with alien fathers and Filipino mothers. They need to first elect to become citizens upon reaching the age of majority;
2. The 1973 Constitution required that *both* parents must be Filipinos; and
3. The 1987 Constitution only requires that *either* parent be Filipino.

Note that neither the 1973 Constitution nor the 1987 Constitution cured the need for electing citizenship for those covered by the 1935 Constitution.

A Supreme Court case will illustrate the importance of this point.

Vicente was born in 1964 (and therefore covered under the 1935 constitution). He is the daughter of a Chinese father and *a Filipino mother*. In 1998, when he was already 35 years old, he elected to become a Philippine citizen so that he could become a lawyer. Vicente justified his failure to elect Filipino citizenship immediately after reaching the age of majority by stating that he has never left the Philippines, is a certified public accountant, and has consistently been a voter.

The Supreme Court denied Vicente’s application ruling that “reasonable time” within which to elect citizenship is only 3 years from the time of reaching the age of majority.

Now if Vicente had been born in 1974 (under the 1973 constitution), he wouldn't even have been able to elect Philippine citizenship since only his mother was Filipino. And if he had been born in 1988 (under the 1987 constitution), then Vicente would automatically have been a Filipino citizen.

Therefore, the Constitution – be it the 1935, 1973, or the 1987 – is the first point of reference to determine if a person is a Filipino citizen. However, while seemingly clear and specific, there are some circumstances affecting citizenship that even the Constitution is unintentionally silent on. This will be the topic of the next article.

(Based on BAR MATTER No. 914, October 1, 1999)