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SO ORDERED.

Barredo (Acting Chairman), Antonio, Aquino, and *Abad Santos, JJ.*, concur.

Concepcion Jr., J., is on leave.

SECOND DIVISION

[G.R. No. L-24045. June 19, 1979]

PERCIVAL PICARDO, *petitioner, vs.* **SECRETARY OF FOREIGN AFFAIRS,** *respondent.*

SYLLABUS

REMEDIAL LAW; ACTIONS; MOOT CASES; CIRCUMSTANCES WHICH RENDERED A PETITION FOR *MANDAMUS* MOOT AND ACADEMIC; CASE AT BAR.— The issues raised in this appeal with *mandamus* have become moot and academic, not only because the incident involved had taken place way back in the year 1964, when there was a total ban on travel by Filipino nationals to communist states like Red China, but also because diplomatic relations had already been established between the Philippines and the said country thru a joint communique issued on June 9, 1975, and the prohibition against Filipino citizens from visiting Red China has been lifted.

R E S O L U T I O N

SANTOS, *J.*:

Appeal from the decision dated November 24, 1964 of the Court of First Instance of Manila, Branch III, then Judge later Justice of the Court of Appeals Jesus *y* Perez, presiding, in Civil Case No. 58625, entitled "*Percival Picardo*, petitioner,

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vs. Secretary of Foreign Affairs," respondent, denying petitioner-appellant Picardo's petition for *mandamus* to compel the respondent Secretary of Foreign Affairs to issue to him a passport to go to Hongkong, and eventually to Red China.

It appears that on October 2, 1964, herein petitioner-appellant who was a reporter of the defunct Manila Chronicle and a member of the Manila Press Club, applied for a passport to Hongkong.[1] The Secretary of Foreign Affairs, Hon. Mauro Mendez, refused to issue the passport on the ground that Percival Picardo was among the newspapermen who were invited by the Chinese Communist representative in Jakarta, Yang Yi, for a visit to Red China. At that time, the government had a standing policy to prohibit Filipino citizens from visiting communist-oriented countries including Red China.[2] Consequently, petitioner-appellant, through counsel, filed a petition for *mandamus* with the aforesaid Court of First Instance, praying that the Secretary of Foreign Affairs be directed to issue the requested passport.

Petitioner-appellant contended that the refusal of the Department of Foreign Affairs to issue his passport was a patent violation of his constitutional right to travel, "which right is part of the liberty of which the citizen cannot be deprived without due process of law . . ."[3]

Upon the other hand, the Department, through the Office of the Solicitor General, claimed that it has the power and authority to control exit from the country because Section 28 of the Executive Order No. 1, series of 1946 authorizes the Secretary of Foreign Affairs to prescribe regulations on the issuance of passports.[4]

CFI Judge Jesus Y. Perez decided in favor of the Department of Foreign Affairs and denied Picardo's petition for *mandamus*

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[1] *Rollo*, p. 113 (Decision).

[2] *Ibid.*

[3] *Id.*, p. 74.

[4] *Id.*, p. 91.

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stating, among other things, that "the prohibition to go to communist-controlled countries is within the competence of the Chief Executive to promulgate in the exercise of the vast Constitutional power to conduct our foreign relations x x x" and is political in character; thus, the policy "should not be interfered with by the Court."[5]

Petitioner-appellant appealed to this Court.

The issues raised in this appeal with *mandamus* have become moot and academic, not only because the incident involved had taken place way back in the year 1964, when there was a total ban on travel by Filipino nationals to communist states like Red China,[6] but also because diplomatic relations had already been established between the Philippines and the said country thru a joint communique issued on June 9, 1975, and the prohibition against Filipino citizens from visiting Red China has been lifted.

IN VIEW THEREOF, this case is hereby ordered DISMISSED. No costs.

SO ORDERED.

Antonio (Acting Chairman),[*] *Aquino, Abad Santos,* and *De Castro,*[**] *JJ.*, concur.

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[5] *Id.*, pp. 140-141 (Decision).

[6] See testimony of Mr. Librado D. Cayco, t.s.n. of Nov. 4, 1964, p. 11.

[*] Justice Antonio P. Barredo is on leave.

[**] Justice Pacifico de Castro was designated to sit in the Second Division in lieu of Justice Hermogenes Concepcion Jr.