

G.R. No. L-5799

[G.R. No. L-5799. June 29, 1954]

IN THE MATTER OF THE PETITION OF TAM TAN TO BE ADMITTED A CITIZEN OF THE PHILIPPINES. TAM TAN, PETITIONER-APPELLEE, VS. REPUBLIC OF THE PHILIPPINES, OPPOSITOR AND APPELLANT.

D E C I S I O N

PADILLA, J.:

A petition for naturalization filed by Tarn Tan was granted after notice by publication and hearing, because the Court found that the applicant possesses all the qualifications and none of the disqualifications to become a citizen of the Philippines by naturalization under the provisions of Commonwealth Act No. 473, as amended by Com. Act No. 535 and Republic Act No. 530. From this decree the Government appeals.

The appeal is predicated on the fact that the petition for naturalization was filed (26 October 1950) before the lapse of one year from and after the filing of a verified declaration of his *bona fide* intention to become a citizen (4 April 1950), in violation of section 5 of Commonwealth Act No. 473, as amended.

The position of the Government is well taken, because no petition for naturalization may be filed and heard and hence no decree may be issued granting it under the provisions of Commonwealth Act No. 473, as amended, before the expiration of one year from and after the date of the filing of a verified declaration of his *bona fide* intention to become a citizen of the Philippines. This is mandatory.^[1]

Failure to raise in the lower court the question of non-compliance therewith does not preclude the Government from raising it on appeal.^[2]

Nevertheless, after the one-year period, the applicant may renew his

petition for naturalization and the evidence already taken or heard may be offered anew without the necessity of bringing to court the witnesses who had testified. And the Government may introduce evidence in support of its position.^[3]

The decree granting the petition for naturalization is set aside, without costs.

Paras, C, J. Pablo, Bengzon, Montemayor, Reyes, A., Jugo, Bautista Angelo, Labrador and Concepcion, JJ., concur.

^[1] *Uy Yap vs. Republic*, G. R. No. L-4270, 8 May 1952; *Yu vs. Republic*, G. R. No. L-3808, 29 July 1952; *Chua vs. Republic*, G. R. No. L-4112, 28 August 1952.

^[2] *Cruz vs. Republic*, 49 Off. Gaz., 958.

^[3] *Uy Yap vs. Republic*, *supra*.
