101 Phil. 690

[G. R. No. L-9683. May 30, 1957]

IN THE MATTER OF THE PETITION OF QUEZON ONG" TAN *ALIAS* WELLINGTON TAN, TO BE ADMITTED A CITIZEN OF THE PHILIPPINES. QUEZON ONG TAN, *ALIAS* WELLINGTON TAN, PETITIONER AND APPELLEE, VS. REPUBLIC OF THE PHILIPPINES, OPPOSITOR AND APPELLANT.

D E C I S I O N

FELIX, J.:

Petitioner Quezon Ong Tan alias Wellington Tan was born in Cebu City, Philippines, on June 10, 1922 (Exh/ A—Alien Certificate of Registration; Exh, B—Immigrant Certificate of Residence, and Exh. G—-Birth Certificate), of Chinese parents. He married Emiliana Go (Exh. B—marriage contract) who before her marriage to petitioner was a Filipino citizen. As a result of their wedlock petitioner had three children Wellington Tan, Jr., Richard Tan and Samuel Tan—the eldest of whom is G years and the youngest 4 years old. Petitioner has been residing in this country since birth, or for the last 30 odd years, never having gone out of the Philippines to any foreign land and intending to remain for the rest of his natural life in this country, he having no more relatives in China because his 6 brothers and 2 sisters, as well as his parents, are already living in the Philippines. He speaks and writes English and Visayan Cebuaro dialect and is actually engaged in business as owner of the Lam Chan Trading Co. of Cebu City (Exh. Q), with an annual income of P5,000.00, more or less. In short, the record shows that he has all the qualifications prescribed by law and none of the disqualifications enumerated in the Revised Naturalization Act for being a Filipino citizen.

As stated in the petition, the applicant did not file the declaration of intention prescribed in Section 5 of Commonwealth Act No. 473, for he claims to be exempt from such requisite for having been born in the Philippines and received his primary and secondary education in schools recognized by the Government and not limited to any race or nationality and resided continuously in the Philippines for a period of more than 30 years before filing his application herein.

After the usual court proceedings the case was heard in the Court of First Instance of Cebu where the petition for naturalization was filed on September 30, 1952, after which the Court rendered decision the dispositive part of which is as follows:

> "In View Thereof, and it appearing that notwithstanding the publication of this petition in the Official Gazette (Exh. E— Certificate of publication) as well as in the local newspaper 'La Prensa', of general circulation in the City of Cebu and elsewhere. (Exh. F-affidavit of publication; Exhs. F-1 to F-3, corresponding newspaper clipping's), nobody has appeared to contest the same, except the Provincial Fiscal on behalf of the Solicitor General, this Court hereby declares petitioner Quezon Ong Tan alias Wellington Tan a citizen of the Philippines. This order or pronouncement, however, shall not be executory until after the (lapse of) two (2) years from its promulgation, and the Court, on proper hearing, with attendance of the Solicitor General or his representative, shall have satisfied and so finds that during said intervening time said applicant (1) has not left the Philippines; (2) has dedicated himself continuously to a lawful calling or profession; (3) has not been convicted of any offense or violation of Government promulgated rules; nor (4) committed an act prejudicial to the interests of the nation or contrary to any Government announced policies."

From this decision the Solicitor General appealed, maintaining that the lower Court erred:

1. In not finding that the petitioner-appellee has failed to comply with the prerequisite of filing a declaration of intention to become a citizen of the Philippines in accordance with Section 5 of the Revised Naturalization Law (Commonwealth Act No. 47S); and
2. In granting Philippine citizenship to the herein petitioner- appellee.

After counsel for petitioner-appellee had submitted his brief in this case, he filed on August 29, 1956, a motion to dismiss the appeal and for affirmance of the judgment of the lower Court, alleging that on August 18, 1956, petitioner filed a declaration of intention with the office of the Solicitor General (Annex A), thus causing the ground of the appeal to become purely academic. This motion was opposed by the Solicitor General on the ground that according to law said declaration of intention should have been filed "one

year prior to the filing of his petition for admission to Philippine citizenship", and that the belated filing of said declaration of intention could not cure the defect of his petition for naturalization. By resolution of September 17, 1956, this Court resolved to defer action on this point until consideration of the case upon the merits.

The solution of this case depends on Our determination of the only question at issue in this appeal, i.e., of whether, under the circumstances appearing of record, petitioner is or is not exempt from filing the declaration of intention prescribed in Section 5. of Commonwealth Act No. 473. Section 6 of this Act reads as follows:

> "Sec. 6. PERSONS EXEMPT FROM REQUIREMENT TO MAKE A DECLARATION OF INTENTION.—Persons *born in the Philippines and have received their primary and secondary education in public schools or those recognized by the Government and not limited to any race or nationality, and those who have resided continuously in the Philippines for a period of thirty years or more before filing their application, may be naturalised without having to make, a declaration of intention upon complying with the other requirements of this Act.* To such requirements *shall be added that which establishes that the applicant has given primary and secondary education to all his children in the public schools or in private schools recognized by the Government and not limited to any race or nationality*. The same children of an alien who has declaied his intention to become a citizen of the Philippines and dies before he is actually naturalized. (As amended by Commonwealth. Act No. 535)"

The petitioner himself states in his petition that he has filed no declaration of intention because he is exempt therefrom. The Solicitor General, however, submits:

> "That he is not among those exempted from filing a declaration of intention, for it is obvious that there was no compliance with the additional requirement of school enrollment of *all* his children, as stated above. It may be argued, however, how can petitioner- appellee enroll his children when they are not yet of school age? One answer is that the law does not concede any exception and, therefore, petitioner-appellee is not exempted to make a declaration of intention (Sec. 6).

In other words, it is the contention of the oppositor that petitioner is duty bound to file the declaration of intention because he cannot state in the application that he has given primary and secondary education to all his children in the public schools or in private schools recognized by the Government and not limited to any

race or nationality, for that is not the case with him. This contention is far from being tenable, for counsel for the oppositor forgets that the *additional requirement* of said Section 6 of the Revised Naturalization Act, "which establishes that the applicant has given primary and secondary education to all his children in the public schools, etc." refers only to children of *school age*, as made clear in Section 2, paragraph 6 of said Act. The Solicitor General cites numerous decisions of this Court to strengthen his arguments, but all said decisions lay down general principles that are to be followed in naturalization cases, but none of them is in point to the facts under consideration.

During the deliberation of this ease one of the members of the Court noted that the petitioner identifies himself as Quezon Ong Tan alias Wellington Tan, and remarked that under the law the unauthorized use of aliases is forbidden and penalized. Section 1 of Commonwealth Act No. 142 prescribes:

"Section 1. Except as pseudonyms for literary purposes, no person shall use any name different from the one with which he was christened or by which he has been known since his childhood; or such substitute name as may have been authorized by a competent court. The name shall comprise the patronymic name and one or two surnames." The Civil Code also provides:

> "Art. 379. The employment of pen names or stage names is permitted, provided it is done in good faith and there is no injury to third persons. Pen names and stage names cannot be usurped."
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> "Art. 380. Except as provided in the preceding article, no person shall use different names and surnames." The Solicitor General has not objected to the use by petitioner of his aforementioned alias and the record does not shed any light as to whether the use of said alias was duly authorized or not; so We cannot under the circumstances declare that the use by petitioner of the alias "Wellington. Tan" is proper or improper.

Considering the conclusion arrived at in this case, We do not need to pass upon petitioner's motion to dismiss the appeal.

Wherefore, the decision appealed from is hereby affirmed. We order, however, that when letters of citizenship be issued to the petitioner, the same should be in the name of Quezon Ong Tan only, which is considered sufficient to identify him. No costs. It is so ordered.

Bengzon, Padilla, Montemayor, Reyes, A. Bautista Angelo, Labrador, Conception, Reyes, J. B. L., and Endencia, JJ., concur.

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