

**IN THE MATTER OF THE PETITION OF WADHU PRIBHDAS SHAHANI
TO BE ADMITTED A CITIZEN OF THE PHILIPPINES. WADHU
PRIBHDAS SHAHANI, PETITIONER AND APPELLEE, VS. REPUBLIC OF
THE PHILIPP...**

G.R. No. L-19451. July 30, 1966

Ponente: DIZON, J.

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DIZON, J.:

Appeal taken by the Republic of the Philippines from the decision of the Court of First Instance of Iloilo in Civil Case No. 135 admitting Wadhu Pribhdas Shahani to Philippine citizenship.

On August 18, 1960, appellee, a subject of India, filed a petition for naturalization as a Filipino citizen with the above-named court. Notice of the hearing thereof set for May 3, 1961, was published in accordance with law, but prior to that date Felipe Ysmael, one of appellee's character witnesses, died. In view thereof, appellee moved the court to allow him to substitute José Ma. Vallejo in place of said deceased. The City Fiscal of Iloilo, in representation of the Solicitor General, consented to the substitution subject to the condition that the petition, with the affidavit of the new witness incorporated therein, be published anew. This notwithstanding, in its order of May 19, 1961, the court allowed the substitution without requiring a new publication of the petition.

Appellant moved for a reconsideration of the order alleging that a substitution of a character witness constitutes a substantial amendment to the petition requiring a republication of the same, but no resolution thereon appears in the records, apparently because said motion was made in the written opposition to the motion for substitution and was, obviously, taken by the court only as an argument in support thereof.

After trial, the court rendered the appealed judgment.

Upon the facts above stated, We are of the opinion that the appealed judgment should be set aside for the reason that, in allowing the substitution of the deceased character witness Felipe Ysmael by Jose Ma. Vallejo, without requiring a new publication in accordance with the condition under which the City Fiscal of Iloilo gave his assent to the substitution, the lower court committed a reversible error.

The present case is not covered by our ruling in the case of *Pe vs. Republic*, 99 Phil., 586; 52 Off. Gaz., p. 5855, firstly, because the substitute witness in the latter case was, at the time of the hearing¹, the Provincial Governor of the province and was therefore a very widely known person within the province where the hearing was held; secondly, in the case at bar, the City Fiscal of Iloilo gave his assent to the substitution expressly subject to the condition that there should be a new publication of the petition, as required by law. This necessarily implied that the State needed sufficient time to gather and check all information that could be obtained about the credibility of the substitute witness and his relation's to the petitioner. Of this opportunity—so important in proceedings of this nature—the State was deprived. There is no showing here that in the *Pe* case, the representative of the government also assented to the substitution of the deceased character witness subject to the condition that there should be a

new publication of the petition. To the contrary, it may be gathered from the circumstances of the new witness that the said representative had given his unconditional conformity to the substitution.

Wherefore, the decision appealed from is set aside and this case is remanded below for the corresponding additional proceedings.

Concepción C. J., Reyes, J. B. L., Barrera, Regala, Makalintal, Bengzon, Zaldivar, Sanchez and Ruiz Castro, JJ., concur.

Judgment set aside.

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