

THE MATTER OF THE PETITION OF TAN TENG HEN ALIAS FRANCISCO TAN TENG HEN TO BE ADMITTED A CITIZEN OF THE PHILIPPINES. TAN TENG HEN ALIAS FRANCISCO TAN TENG HEN, PETITIONER-APPELL...

G.R. No. L-31862. August 21, 1974

Ponente: AQUINO, J.

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AQUINO, J.:

The Republic of the Philippines appealed from the order of the Court of First Instance of Quezon Province, denying its petition to declare void the decision granting Philippine citizenship to Tan Teng Hen and to revoke his naturalization (Naturalization Case No. 204).

The record shows that on June 29, 1962 Tan Teng Hen, a citizen of Nationalist China, filed in the lower court a petition for naturalization. He alleged therein that he was born on February 25, 1923 in Lamo, Foochow, China and that he came to the Philippines in 1931 on board the SS Susana. He further alleged, inter alia, that his full name is Tan Teng Hen alias Francisco Tan Teng Hen, that he had always resided in Sariaya, Quezon and that he was married to Vicenta Yu who was born in Manila and who was residing with him.

On June 30, 1962 the lower court issued a notice of hearing, containing a digest of the contents of the petition. That notice, which did not reproduce the full text of the petition, was published in the Official Gazette and in the Manila Chronicle (Exh. P and P-I).

After trial, the lower court on February 20, 1963 granted the petition. More than two years later, or on May 7, 1965, it ordered, after hearing, the issuance of a naturalization certificate to Tan Teng Hen upon his taking an oath of allegiance as a citizen of the Philippines. On that same date, when the order allowing the oath-taking was issued and without awaiting its finality, Tan Teng Hen was allowed to take the oath of allegiance. Obviously, because the lower court realized that irregularity, it allowed Tan Teng Hen to take another oath on October 15, 1966.

On June 6, 1967 the Solicitor General filed a petition to declare void the lower court's decision and to cancel the naturalization of Tan Teng Hen on two grounds: (1) that the petitioner did not state in his petition that he had resided at 654 Magdalena Street, Manila, an address stated in his marriage contract dated November 20, 1949 (Exh. J, also known as Exh. C) and (2) that he failed to state in his petition that he had used the name Francisco Tan Ting Heng, as shown in the aforementioned marriage contract, and the name Francisco Tan as shown in the registration papers of his truck (Exh. T and KK-1, also known as Exh. D, E and F). The movant relied on the rule that failure to state in the petition all of the applicant's places of residence and his other names renders the proceeding invalid (*Go vs. Republic*, L-20558, March 31, 1965, 13 SCRA 548; *Ng vs. Republic*, L-19646, May 31, 1965, 14 SCRA 207).

The petitioner opposed the petition for cancellation of his naturalization. He contended that he resided at 654

Magdalena Street only for five days, on the occasion when he was going to get married, and that his wedding sponsor, Lorenzo Sia, was the one who indicated in his application for marriage license and in the marriage contract that he was residing at 654 Magdalena. He had nothing to do with the preparation of the marriage contract. He and his wife went direct to Sariaya after the marriage. For that same reason, he argued that he could not be held responsible for the use of the name of Francisco Tan Ting Heng in that same marriage contract.

With respect to the use of Francisco Tan in the registration papers of his truck, it was his driver, Carlito Magnata, who used that shortened name. He (the petitioner) had no intervention in the execution of the registration papers. He also pleaded that the State was estopped to assail his naturalization, considering that more than two years and six months had elapsed from the time that he took his first oath.

The trial court, sustaining petitioner's opposition, denied the Solicitor General's motion to revoke petitioner's naturalization. Hence, this appeal. The petitioner was not able to file an appellee's brief.

In this Court the State invoked an additional ground for the cancellation of the naturalization, namely, that the notice of hearing, as issued by the lower court and as published in the issues of the Official Gazette dated June 25, July 2 and 9, 1962 and in the issues of the Manila Chronicle dated July 13, 16 and 20, 1962, did not reproduce in toto the petition but merely contained a digest thereof. The witnesses' affidavit and petitioner's immigrant certificate of residence, which were annexed to the petition, were not included in the notice of hearing and, consequently, were not published.

The cancellation of petitioner's naturalization on the third ground, which is not controversial and which is that the notice of hearing was defective because it did not reproduce the petition in its entirety, is sufficient for the reversal of the trial court's order and for the cancellation of petitioner's naturalization.

Section 9 of the Revised Naturalization Law, Commonwealth Act No. 473, explicitly provides that "immediately upon the filing of a petition, it shall be the duty of the clerk of the court to publish the same at petitioner's expense." The word "same" refers to the petition itself. The law contemplates that the petition should be published verbatim or textually. To publish a summary or restatement thereof is not a compliance with Section 9. The publication requirement is jurisdictional. Noncompliance with it nullifies the proceeding including the decision rendered in applicant's favor (*Sy vs. Republic*, L-32287, February 28, 1974, 55 SCRA 724, 729; *Ngo vs. Republic*, L-25805, February 27, 1969, 27SCRA88).

A naturalization case is a proceeding in rem. Jurisdiction over the "whole world" is acquired by means of publication. Hence, the publication requirement should be strictly observed; otherwise, the court would have no jurisdiction over all the parties concerned and, as a consequence, any decision rendered in the case would be a nullity. The naturalization law should be rigidly enforced and strictly construed in favor of the State and against the applicant for citizenship. (*Co y Quing Reyes vs. Republic*, 104 Phil. 889, 894-5 citing 3 C. J. S. 833).

As observed in the *Co* case, noncompliance with the requirement relative to the publication of the petition affects the court's jurisdiction. It constitutes a fatal defect because it impairs the very root or foundation of the authority to decide the case regardless of whether the one to blame therefor is the clerk of court or the petitioner or his counsel. Failure to raise that question in the lower court would not cure such a defect.

The State can at all stages of a naturalization proceeding raise the issue of noncompliance with the legal requirements even without filing a formal opposition to the petition. For the State it is never too late (*Republic vs. Santos*, L-23919, July 29, 1968, 24 SCRA 314, 320; *Chua Bon Chiong vs. Republic*, L-29200, May 31, 1971, 39 SCRA 318, 324).

As a naturalization proceeding is not a judicial adversary proceeding, the decision therein rendered is not res judicata as to any of the reasons or matters which would support a judgment cancelling the certificate of naturalization for illegal or fraudulent procurement. The certificate may be cancelled upon grounds or conditions subsequent to the granting thereof (Republic vs. Go Bon Lee, 111 Phil. 805, 809; Go Tian An vs. Republic, L-19833, August 31, 1966, 17 SCRA 1053).

Petitioner's failure to state in his petition that he had used the names Francisco Tan Ting Heng and Francisco Tan, is another ground for the cancellation of his naturalization. Granting arguendo that his padrino was the one who used the name Francisco Tan Ting Heng and that it was his driver who adopted the name Francisco Tan. The fact remains that he was aware of the use of those names. The documents containing those names were in his possession. He could have easily apprised his lawyer that those names had been used in his marriage contract and in the registration papers of his truck.

The requirement that the petitioner should state in his petition all the names by which he is known is intended to apprise any person who has known him by any of those names to come forward and apprise the authorities of any matter which might affect his application for naturalization. The omission of any of those names renders the publication incomplete and impairs thereby the court's jurisdiction (Saw Cen vs. Republic, L-20310, April 30, 1965, 13SCRA711).

It is not necessary to resolve whether his failure to state in his petition that he had resided at 654 Magdalena Street, Manila for five days justifies the cancellation of his naturalization.

WHEREFORE, (a) the trial court's order of December 22, 1967, denying the Solicitor General's motion for the revocation of petitioner's naturalization is reversed, (b) the decision dated February 20, 1963, granting the petition for naturalization, is set aside, and (c) petitioner's naturalization is hereby declared void. The petitioner is directed to surrender his naturalization certificate to the Clerk of Court of the lower court within ten (10) days from the entry of final judgment in this case (Gurbuxani vs. Government of the Philippines, 69 Phil. 280, 285). The Clerk of Court of the lower court is further directed to cause the cancellation of petitioner's naturalization to be entered in the civil register of Sariaya, Quezon (Art. 408, Civil Code). Costs against the appellee.

SO ORDERED.

Zaldivar (Chairman), Fernando, Antonio, and Fernandez, JJ., concur.
Barredo, J., did not take part.

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