

**IN THE MATTER OF THE PETITION OF ONG SON CUI TO BE
ADMITTED A CITIZEN OF THE PHILIPPINES. ONGC SON CUI,
PETITIONER AND APPELLEE, VS. REPUBLIC OF THE PHILIPPINES,
OPPOSITOR AND A...**

G. R. No. L-9858. May 29, 1957

Ponente: ENDENCIA, J.

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ENDENCIA, J.:

The Solicitor General, in representation of the Government, seeks the reversal of the decision of the Court of First Instance of Manila granting the petition of the appellee for naturalization, on the ground that the trial court erred (1) in finding that the petitioner-applicant has complied with all the requirements of the law; (2) in finding that the petitioner has all the qualifications for the grant of Filipino citizenship; and (3) in granting him such citizenship. "

Carefully considered, the evidence of record fully justifies the following findings of fact of the trial court:

"That the petitioner was born, in Ching kang, China, on May 5, 1914; that he came to the Philippines for the first time in 1932, arriving at tile Port of Manila on board the vessel 'Ang Kian,' and has continuously resided in the Philippines—except for short trips to China in 1946 and in 1948, where he stayed each time for less than a year, and then to Hongkong in 1950 and in 1952, where he stayed each time for less than a month, but returning to the Philippines after each of those trips—and in the City of Manila for a term of one year at least immediately preceding the date of the filing' of the petition; that at present, ho is living at No. 362 Camba St., San Nicolas, Manila; that he was engaged in the importation business in the year 1950 and 3951, from which he derived an average annual income of P6,000, and that since 1953 up to the present he is employed as agent of Ong Sing with an annual salary of P2,400; that he is married to Chua Sio Ha who was born in Ching kang, China, by whom he has two children, namely, Ong Yok Him and Luz Ong, both born also in Ching kang, China, on November 5, 1947 and on December 16, 1949, respectively; that his wife and two children have never visited the Philippines, as they continuously resided up to the present in Ching kang, China; that the two children are not enrolled in any school because they are not yet of school age; that he can speak and write English and Tagalog; that he believes in the principles underlying the Philippine Constitution; that he has conducted himself in a proper and irreproachable manner during the entire period of his residence in the Philippines in his relations with the constituted authorities and with the community in which he is living; that he has mingled socially with Filipinos and has evinced a sincere desire to learn and embrace their customs, traditions and ideals; that he is not opposed to organized government or affiliated with any association or group of persons who uphold and teach doctrines opposing all organized governments; that he is not defending or teaching the necessity or propriety of violence, personal assault or assassination for the success and predominance of men's ideas; that he is not a polygamist nor a believer in the practice of polygamy; that he has not been convicted of any crime involving moral turpitude; that he is not suffering from any incurable contagious disease; that the nation of which he is a citizen or, subject (Nationalist Republic of China) is not at war with the Philippine; that it is his intention in good faith to become a citizen of ,the Philippines and to renounce absolutely and forever all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty, particularly to the Republic of China of which at this time he is a citizen or subject; that he has

resided continuously in the Philippines from the date of the filing of this petition up to the present time, and will do so up to the time of his final admission as Filipino citizen; and that he has not heretofore made or filed any petition for citizenship with any other court.

"The petitioner presented as his witnesses former Congressman Cesar Miraflor and Assistant City Fiscal Pedro Asis, Jr., of Manila, who testified that they have known the applicant for more than ten years; that to their personal knowledge, the petitioner has been and is a person of good repute and morally irreproachable, attached to the principles underlying the Philippine Constitution and well disposed to the good order and happiness of the Philippines; and that they recommend the petitioner to become a Filipino citizen."

Under the first assignment of error, it is contended by the Solicitor General that the case should be dismissed because there was no due publication of the notice of hearing as required in section 9 of the Revised Naturalization Law, for said notice was only published once in the Official Gazette No. 7, Vol. 49, issued in July, 1953, and therefore the requirement of the law that said notice should be published once a week for three consecutive weeks in the Official Gazette has not been complied with. The notice of hearing was, however, published once in the Official Gazette and for three consecutive weeks in the Voz de Manila, viz.; on July 28, August 2 and August 8 of 1953, and the reason why it has not been published for three consecutive weeks in the Official Gazette was that it is now published monthly and not weekly; hence the appellee contends that there has been a substantial compliance with the law in regard to the publication of the notice of hearing in the present case and therefore the application should be granted.

Section 9 of the Revised Naturalization Law provides as follows:

Sec. 9. Notification and appearance. 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, once a week for three consecutive weeks, in the Official Gazette, and in one of the newspapers of general circulation in the province "where the petitioner resides, and to have copies of said petition and a general notice of the hearing be posted in a public and conspicuous place in his office or in the building where said office is located, setting forth in such notice the name, birthplace and residence of the petitioner, the date of his arrival in the Philippines, the name of the witnesses whom the petitioner proposes to introduce in support of his petition, and the date of the hearing of the petition, which hearing shall not be held within ninety days from the date of the last publication of the notice. * * *"

It could be seen that, under the aforequoted section of the Revised Naturalization Law, the notice of hearing of the application for citizenship should be published three y times in the Official Gazette, or, in the language of the law, "once a week for three consecutive weeks and so in the order. of publication of the notice of hearing of the present case, it was enjoined that the same be made "once a week for three consecutive weeks in the Official Gazette and in the Voz de Manila." The notice of hearing of this case should therefore have been published three times not only in the Voz de Manila hut in the Official Gazette as well. And there being only one publication of said notice of hearing in this case the Official Gazette, the same is clearly incomplete and therefore insufficient to confer jurisdiction to the court a quo to try the case and grant the petition. It is argued, however, that there has been it a substantial compliance with law because the notice of hearing in question was published three times in the Voz de Manila and once in the. Official Gazette; but since the law expressly provides that the notice of hearing be published three times, this should be strictly observed, for, as correctly pointed out by the Solicitor General in his brief,

"The publication required by law in the Official Gazette and in a newspaper of general circulation is a means of screening aliens applying for Filipino citizenship by giving the public a chance to come forward and protest the grant of such citizenship if they possess any information derogatory to the applicant. The official organ of the government caters to the officials and employees of the government and to the lawyers as well. These

people, by reason of their occupation are in a better position to acquire knowledge of aliens running afoul of the law than the average reader who scans the newspaper for news. If the law was, not after the number of times the notice is published in the Official Gazette, it could have expressed in plain words that a single publication in the Official Gazette would suffice; but when the law expressly provides its publication 'once a week for 3 consecutive weeks' the intention to give the reading public 3 chances to read that item is very clear. A single publication therefore of the notice where the law requires 3 is an incomplete publication, and an incomplete publication is not a valid publication. The grant of citizenship is only a mere privilege, and a strict compliance with law on the part of the applicant is essential."

Petitioner may contend, however, that the law provides that the publication of the notice of hearing should be made for three consecutive weeks and as the- Official Gazette is now being published monthly,, and not weekly as it was before, petitioner cannot actually comply with law; and because he had the notice of hearing in question published, once, in the Official Gazette, he should be given the benefit of having followed the law. This contention does not merit serious consideration. While it is true that the notice of hearing in question cannot actually be published for three consecutive weeks in the Official Gazette, it is no less true that said notice may be published three times consecutively, although not weekly, in the Official Gazette, and because the true intent of the law is that the said notice be published 3 times, it is our considered opinion that in the instant case the single publication of the notice of hearing in question is not a sufficient compliance with law.

And in view of the foregoing considerations, we find it unnecessary to discuss the question raised in the second assignment of error.

Wherefore, the decision appealed from is hereby reversed and the petition dismissed without prejudice, with costs against the appellee.

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

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