

**IN THE MATTER PETITION OF LIM CHUY TIAN TO BE ADMITTED A
CITIZEN OF THE PHILIPPINES. LIM CHUY TIAN,
PETITIONER-APPELLEE, VS. REPUBLIC OF THE PHILIPPINES,
MOVANT-APPELLANT.**

G.R. No. L-26602. April 25, 1969

Ponente: CASTRO, J.

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CASTRO, J.:

On October 30, 1961 the Court of First instance of Manila, in naturalization case 45705, rendered judgment finding that the petitioner Lim Chuy Tian has "all the qualifications and none of the disqualifications for Philippine citizenship," and, consequently, granted his petition for naturalization. On November 5, 1963 he moved that he be allowed to take his oath as Filipino citizen and issued a naturalization certificate. Pursuant to the lower Court's order of February 21, 1964, he took his oath on March 31, and on the same day the clerk of court issued him the corresponding naturalization certificate.

On March 28, 1968 the Republic of the Philippines filed with the court a motion for the cancellation of Lim's naturalization certificate, on the ground that he obtained it "fraudulently and illegally." Specifically the Government maintained (1) that he had failed to enroll his children of school age in public or private schools recognized by the Government where Philippine history, civics and government are taught or prescribed as part of the curriculum, during the entire period of his residence prior to the hearing of his petition for naturalization; and (2) that he violated an announced policy of the Government requiring visitors to leave the country after their authorized stay has expired, by allowing his wife and two children - all temporary visitors - to remain in the Philippines, even after the expiration of the period of their authorized stay.

In answer to the motion, Lim asserted that he did not obtain his naturalization certificate fraudulently and illegally, because the salient facts concerning him, his wife and children "were all known to the Solicitor General who represented the Government" during the hearing on his petition for naturalization, and the Government Could have raised at the said hearing the two points now posed against him, instead of waiting for two years after he was issued the naturalization certificate.

On July 1, the lower court denied the motion to cancel the naturalization certificate.

Hence this appeal by the Government.

Firmly entrenched in our jurisprudence are the doctrines that (1) a judgment directing the issuance of a certificate of naturalization is a mere grant by the Government of a political privilege to an alien, (2) that the certificate is subject to cancellation if it was obtained illegally and fraudulently, and (3) neither estoppel nor res judicata will bar an action for cancellation of the certificate.[1]

Lim Chuy Tian, from Amoy, China, emigrated to the Philippines, arriving at the port of Manila on December 8, 1931. He left for Amoy in 1947, married Tan Soat Kiat alias Chan Shoet Kit, and stayed there with her for about

10 months. In 1957 he went to Hongkong to visit his wife, and stayed there with her for about 6 months. Of this marriage, two children were born, namely, Lim Lily who was born in Amoy, China, on March 31, 1948, and Lim Tai Li who was born in Hongkong on June 16, 1959. It was on February 18, 1960, when Lim Lily and her mother and sister were first admitted as temporary visitors into the Philippines.

It is clear therefore that when the petitioner filed his present petition for naturalization, Lim Lily was over 12 years old.

Section 2 of the Revised Naturalization Law requires the enrollment of school-age children of applicants for naturalization in local Filipino schools to ensure their training in the Filipino way of life, and as an indelible mark of the applicant's sincere desire to assume the duties and obligations of Philippine citizenship. By acts of strict compliance with the legal requirement of education, among others, can an applicant for naturalization prove that he is really imbued with love for this country and its institutions.[2]

The inability of Lim Chuy Tian to bring his child Lily into the Philippines upon her attaining school age did not excuse him from complying with the education requirement. Thus, where four of a petitioner's children have always resided in China, and, therefore, have never had any schooling in this country, this Court held that "there is failure to comply with the (education) requirement. That it was impossible for the applicant to comply with this requirement due to financial difficulties or due to the strictness of the immigration authorities is not a valid ex-cuse. The requirement is mandatory and non-compliance therewith is fatal to the petition for naturalization." [3]

In the case at bar, the situation with regard to the petitioner is worse, because after successfully bringing in his child of school age as a temporary visitor, he enrolled her at the St. Stephen High School, which is admittedly a Chinese school where the majority of the students are Chinese, transferring her to this school after first enrolling her at the Quezon College. This act negates the petitioner's pretense of sincerity in his avowed desire to embrace and imbibe the ideals, traditions and customs of the Filipinos. On the contrary, it reveals an abiding intent to preserve to his daughter a purely Chinese upbringing during her tender formative years.[4] The fact that the said child was later transferred to the Santa Rosa College did not improve the situation.[5]

With the view that we take of this case, it serves no useful purpose to resolve the other issues posed in this appeal.

ACCORDINGLY, the decision a quo of October 30, 1961, granting Lim Chuy Tian's petition for naturalization, and the order of July 1, 1966, denying the Government's motion to cancel the certificate of naturalization 3605 issued to him on March 31, 1964, are set aside. The said naturalization certificate is hereby ordered cancelled and revoked. Costs against the petitioner.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Sanchez, Fernando, and Capistrano, JJ., concur. Teehankee and Barredo, JJ., took no part.

[1] Republic vs. Reyes etc., et al., L-22550, May 16, 1966; see also Gurbuxani vs. Government of the Philippines, 69 Phil. 280, 283-285.

[2] Ng Sin @ Lucio Hernandez vs. Republic, L-7590, September 20, 1955.

[3] Chan Lai vs. Republic, L-11803, Sept. 23, 1959, 106 Phil. 210; accord: Republic vs. Go Bon Lee, L-11499, April 29, 1961; Ong So vs. Republic, L-20145, June 30, 1965.

[4] Lee Ng Len vs. Republic, L-20151, March 31, 1965; Sia vs. Republic, L-20290, Aug. 31, 1965; Harry Ong Ping Seng vs. Republic, L-19582, Feb. 26, 1965; Yap Chun vs. Republic, L-18516, Jan. 31, 1964; Lim Yuen vs.

Republic, L-21218, Dec. 24, 1965.

[5] Lim Yuen vs. Republic, *supra*, see note 4.

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