

ANTONIO QUA ALIAS QUA ENG KIAN, PETITIONER, VS. REPUBLIC OF THE PHILIPPINES, OPPOSITOR.

G. R. No. L-21418. December 31, 1965

Ponente: BARRERA, J.

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BARRERA, J.:

A petition for naturalization was filed by Antonio Qua, alias Qua Eng Kiang on May 25, 1960, in the Court of First Instance of Albay, alleging that he was born in Legazpi City on March 15, 1936, and a permanent resident of Tabaco, Albay; he was married to Aurora P. Sy, a Filipino citizen; a second year medical student at the University of Santo Tomas; and speaks and writes English, Tagalog and Bicol dialects. The Provincial Fiscal of Albay, in representation of the Solicitor General, opposed the petition on the ground that petitioner does not own real estate worth P5,000.00, nor has he a known lucrative trade, profession, or gainful occupation.

After due hearing, the court rendered a decision on December 22, 1960, granting the application for naturalization, b upon the finding that petitioner was an employee of Gua Chee Gan & Co. since February, 1959, receiving a monthly salary of P250.00, with free board and lodging; he has a current account deposit of P6,000.00 with the Philippine Bank of Communications in Manila; he is married to a Filipina, with whom he has a child, aged three and a half months old; and his good moral character has been duly established; in short, he has all the qualifications required by law and none of the specified disqualifications for admission to Philippine citizenship.

On January 20, 1961, the Provincial Fiscal of Albay filed a motion for reconsideration of the decision on the ground that petitioner, as a medical student, could not have been employed and earned P250.00 a month as found in the decision. Besides, said amount cannot also be considered lucrative income, considering that he is married and has one child. This motion was later withdrawn and a notice of appeal was instead filed. On February 24, 1961, however, the appeal was also withdrawn allegedly upon instruction of the Assistant Solicitor General, which was granted by the court.

On December 13, 1962, petitioner filed a petition alleging that he had complied with all the requirements of the law during the 2-year probationary period, and praying that he be allowed to take the necessary oath of allegiance on December 22, 1962. Copy of this petition was furnished the Provincial Fiscal of Albay. On December 22, 1962, after hearing thereof, the court issued an order allowing petitioner to take the oath of allegiance (which he did on the same day), and the issuance to him of the corresponding certificate of naturalization. Copy of this order was received by the Provincial Fiscal on December 23, 1962. On March 13, 1963, the Office of the Solicitor General received from the Provincial Fiscal of Albay the aforementioned order of the court of December 22, 1962.

On March 29, 1963, the Solicitor General moved for a reconsideration of this order (of December 22, 1962), claiming that when the same issued and petitioner took his oath of allegiance, the decision granting the petition for naturalization had not yet become final and executory. By order of April 6, 1963, this motion was denied, for the reason that while it may be true that the decision of December 22, 1960 became final on February 26, 1961 or

after the withdrawal of the appeal, yet, the court was without authority to set aside the order of December 22, 1962 executing the same, because when the motion for reconsideration (of the latter order) was filed by the Solicitor General on March 29, 1963, the said order was already final. It is from this order that the oppositor has appealed.

It is here contended that as the Office of the Solicitor General received copy of the order of December 22, 1962 on March 13, 1963, the filing of the motion for reconsideration on March 29, 1963 was timely. On the other hand, appellee alleges that the receipt by the Provincial Fiscal of Albay of a copy of the order on December 23, 1962 should be considered for purposes of determining the period within which a reconsideration thereof may be sought.

The appellant's contention must be sustained. As this Court had ruled in a previous case:[1]

"There is no question that the appearance of the City Attorney for the government, in the hearing, was authorized. This authorization, however, in the light of the foregoing provision of law, cannot be construed to have divested the Solicitor General of his control of the stand or defense of the state, nor did it make of the City Attorney of Davao the counsel of record for the oppositor Republic of the Philippines, Note that the law prescribes that the Solicitor General shall appear on behalf of the government 'either himself or through is delegate or the provincial fiscal concerned.' It did not say, 'the Solicitor General or the provincial fiscal' can appear on behalf of the Republic of the Philippines, in order to make of the latter an alternate of the state counsel. As thus worded, what the law allows is merely the physical substitution of the Solicitor General in such Proceedings. Consequently, notwithstanding the delegation to the City Attorney of the duty to appear at and attend the hearing in this case, the Solicitor General remained the counsel of record for the oppositor. This is not a case where a party litigant is represented by two lawyers, notice to one of whom is notice to the client. Here, the City Attorney did not appear as counsel for the Republic, but merely as representative of the Solicitor General who, as stated, remained the counsel of record for the Republic."

In the present case, the Solicitor General was not furnished copy of the order of the lower court of December 22, 1962, allowing petitioner to take the required oath of allegiance. Strictly speaking, therefore, no proper service of said order was ever made on the oppositor. However, considering that oppositor-appellant admits that copy of the disputed order was received by the Solicitor General on March 13, 1963, it is this date, not the date of receipt thereof by the Provincial Fiscal, that should be considered in determining the timeliness or untimeliness of the motion for reconsideration filed by the former.

On the merits, of said motion for reconsideration, it is there maintained that the 2-year period within which the decision of December 22, 1960 becomes executory, pursuant to Republic Act 530, should be computed from January 21, 1961 or upon expiration of the 30-day period to appeal. For his part, petitioner-appellee argues that the said 2-year period should be computed from the date of the rendition or promulgation of the decision of December 22, 1960. In support of their respective allegations, both parties cite the case of Republic vs. Makalintal,[2] wherein this Court said:

"The only issue to be determined in this case hinges on the interpretation of the word promulgation employed in section 1 of Republic Act No. 530.

"Said section 1 reads:

'SECTION 1. The provisions of existing laws notwithstanding, no petition for Philippine citizenship shall be heard by courts until after six months from the publication of the application required by law, nor shall any decision granting the application become executory until after two years from its promulgation and after the court, on proper hearing, with the attendant the Solicitor General or his representative, is satisfied, and so finds, that during the intervening time the applicant has (1) 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, (4) or committed any act prejudicial to the interest of the nation or contrary to any Government announced policies.' "It appears from the above legal provision that no decision granting the application for naturalization can become executory until after two years from its promulgation. We take it that the word executory has been used in the law advisedly. The use of said word is very significant. Its' real import cannot be mistaken. It can only mean that no decision can be executed until after two years from the date said decision has become final. When, therefore, the law said that a decision cannot be executed until after two years from its promulgation, it can only refer to the decision of the Supreme Court if the case has been appealed. Of course, when the case is decided in favor of the applicant and the Government does not appeal, that decision should be reckoned with in the computation of the period contemplated by law. And this is so because when a case is appealed, the decision may be changed, modified or reversed in its entirety, which means that during the pendency of the appeal the original decision has no legal force and effect. * * *."

"We believe that the above interpretation is the most logical and consistent in the light of the intendment of the law. It should be noted that Republic Act No. 530 is but an amendment to our naturalization law. The purpose of this amendment is undoubtedly to give to the Government a two-year period more within which to test the sincerity of an applicant to become a Philippine citizen." (*Italics supplied.*)

For the purposes, therefore, of determining the 2-year period when the decision in a naturalization proceeding shall become executory, the date of the finality of the said decision of the lower court, should there be no appeal therefrom to this Court, is the one to be considered. If there has been an appeal, then the 2-year period shall be computed from the date of promulgation of the decision of this Court. This is so because, as stated in the forequoted pronouncement of the Court, the 2-year period is an additional requirement imposed by the law to further test the sincerity of the applicant to acquire Philippine citizenship. And, as the rule deals with the execution of a decision, it must be construed as referring to a final and executory judgment. It is true that the legal provision used the term "promulgation". It must be realized, however, that as ordinarily used in this jurisdiction, only a decision in an appeal is "promulgated." A lower court either "renders" or "hands" or "pens" a decision, or "issues" an order or a ruling; it does not promulgate a decision.

In view of the foregoing, considerations, the order appealed from is hereby set aside, and the case is remanded to the court of origin for further proceedings. No costs.

So ordered.

Bautista Angelo, Concepcion, Reyes, J. B. L., Dizon, Regala, Makalintal, Bengzon, J. P. and Zaldivar, JJ., concur.

Order set aside, case remanded for further proceedings.

[1] Republic vs. Chiu, G. R. No. L-20846, Oct. 31, 1964.

[2] G.R. No. L-5424, Oct. 24 1952; 48 Off. Gaz; No. 10,43

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