

IN THE MATTER OF THE PETITION FOR ADMISSION TO PHILIPPINE CITIZENSHIP. ZACARIAS G. TAN, PETITIONER AND APPELLEE VS. REPUBLIC OF THE PHILIPPINES, OPPOSITOR AND APPELLANT.

G.R. No. L-14860. May 30, 1961

Ponente: LABRADOR, J.

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LABRADOR, J.:

Appeal from a decision of the Court of First Instance of Leyte, Hon. Gaudencio Cloribel, presiding, finding Zacarias G. Tan, a Chinese citizen, qualified for admission as citizen of the Philippines.

The facts necessary for the resolution of the appeal are briefly as follows: On May 31, 1956, Zacarias G. Tan filed a petition for naturalization, alleging, among other things, that he is an employee, in a business concern at Maasin, Leyte, since May 15, 1956, with a monthly salary of P120.00; that he was born on November 5, 1933 in Maasin and is a citizen of Nationalist China; that he is not suffering from any incurable contagious disease; 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, and particularly to the Republic of China; that he has all the qualifications and none of the disqualifications which bar him from becoming a citizen of the Philippines; that Miguel Orito, Sr. and Pedro M. Flores, both of Maasin, Leyte and Filipino citizens, are his witnesses. He prays that he be admitted a citizen of the Philippines. No declaration of intention was submitted by the petitioner with his application.

The Republic filed a motion to dismiss the petition for failure to allege therein such of petitioner's educational qualifications as would exempt him from filing a declaration of intention. Acting upon the motion the lower court on May 8, 1957, ordered the amendment of the petition to include the necessary allegations. In compliance with the order, petitioner on May 20, 1957 filed his amended petition, incorporating in paragraph 4 thereof the phrase "and I have completed my elementary and secondary education in schools recognized by the Philippine Government". This amended petition was admitted by the lower court. A motion for reconsideration of the order, on the ground that a republication of the amended petition is necessary before the Court proceed with the trial, was denied, and so the hearing on the case was continued.

On November 18, 1957, the lower court, rendered the decision appealed from. In said decision, the court found that petitioner has completed his elementary education in the public schools duly recognized by the Government; that he is not afflicted with any contagious and incurable disease; that he will renounce allegiance and loyalty to the Republic of Nationalist China of which he is a citizen; that he is employed by Tan Yu Chin at the rate of P120.00 a month; that he possesses all the qualifications to become a citizen of the Philippines and none of the disqualifications. The court granted the petition and directed the Clerk of Court to forward "as soon as possible" copies of the decision and all pertinent papers in connection with the case to the Solicitor General, the National Bureau of Investigation, Philippine Constabulary, the Commissioner of Immigration and the Local Civil Registrar of Maasin, Leyte.

Against the above decision, the Solicitor General has prosecuted this appeal before this Court.

The first ground for assailing the correctness and validity of the decision is that the lower court had no jurisdiction to try the naturalization case because the amended petition was not republished. An examination of the record discloses that although the original petition for naturalization was published in the Official Gazette and in a newspaper of general circulation, the amended petition was not. The amendment, i. e., that applicant completed his elementary and secondary education in schools recognized by the Government, is a material fact which entitles petitioner to exemption from filing a declaration of intention. The fact alleged in the amendment should be made known to the public to enable the latter to furnish the material evidence and information to the Government regarding such qualification of the petitioner. Inasmuch as the amended petition was not published in accordance with law and Section 1 of Republic Act No. 530 provides that no petition for naturalization should be heard until after six months from the date of the last publication, the court below did not have jurisdiction to hear the amended petition and grant the same. (*Kiat Chun Tan vs. Republic*, 92 Phil., 987)

As to the merits of the petition, upon consideration of the evidence at the trial, we find no credible proof to sustain the lower court's finding that the petitioner has a lucrative profession or occupation. Except for the unsworn certification of Tan Yu Chin, petitioner's father, and petitioner's own testimony, no other evidence was presented to prove petitioner's alleged income of P120.00 a month. This Court is not bound by a mere statement of the petitioner. The certification issued by petitioner's own father is incompetent, not only because it is hearsay but also because it is not sworn to. Moreover, the fact that his own father is his employer and that he is still living with him makes doubtful the truth of petitioner's employment and gives rise to the suspicion that he was employed by his father, if it were true that he was, only for the purpose of this petition.

But even if we concede that petitioner has an occupation because of his supposed monthly income of P120.00, still his occupation cannot be considered as sufficiently lucrative because of the high cost of living now prevailing (*Swee Din Tan vs. Republic* 109 Phil., 287; *Republic vs. Lim*, L-3030, January 31, 1951; *Pang Kok Hua vs. Republic*, 91 Phil., 254). The second ground of the Republic in assailing the decision of the lower court is therefore meritorious.

The third ground of the Solicitor General's appeal is that the decision is contrary to the provisions of Republic Act No. 530, in that it allows the petitioner to be naturalized 30 days after the promulgation of the decision. This argument is also well founded. The dispositive part of the decision gives the impression that the petitioner can take his oath without waiting for the two-year period provided for by law because it directs the clerk of court to forward the papers to the different government offices as soon as possible. The decision is apparently objectionable on this ground.

In view of the foregoing considerations, we find that the court below exceeded its jurisdiction in hearing the petition as amended; and that petitioner is not qualified for admission for naturalization because of lack of a lucrative occupation. The decision is hereby reversed and the petition dismissed, with costs against the petitioner.

Bengzon, C.J., Padilla, Bautista Angelo, Concepcion, Reyes, J.B.L., Paredes, Dizon, De Leon, and Natividad, JJ., concur.

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