

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. DIONISIO CHIU, AND HON. MACAPANTON ABBAS, PRESIDING JUDGE, COURT OF FIRST INSTANCE OF DAVAO, RESPONDENTS.*G.R. No. L-20846. October 31, 1964*

Ponente: BARRERA, J.

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After due hearing of the petition for naturalization filed by Dionisio Chiu in the Court of First Instance of Davao (Nat. Case No. 175), said court rendered a decision on July 31, 1962, finding that petitioner possesses all the qualifications and none of the disqualifications to become a Filipino citizen. Consequently, the petition was granted and Chiu was admitted as a citizen of the Philippines. The City Attorney of Davao, who was designated by the Solicitor General to appear during the trial and represent his office as attorney of record for the government, received copy of this decision on July 31, 1962, while the Solicitor General himself was duly notified thereof on August 17, 1962.

Having received instructions from the Solicitor General to appeal from the aforesaid ruling, the City Attorney of Davao, likewise in representation of the Solicitor General, filed with the lower court the necessary notice of appeal and record on appeal on September 4 and September 6, 1962, respectively. Petitioner Chiu, however, opposed the approval of the record on appeal, on the ground that the same was filed beyond the reglementary 30-day period, computed from receipt of the decision by the City Attorney. As the lower court sustained his contention and ordered the dismissal of the appeal for being late, the oppositor Republic of the Philippines filed the instant petition for certiorari and mandamus, alleging that in the computation of the period within which to perfect an appeal, it is the date of receipt of the decision by the Solicitor General that should be considered.

Section 10 of the Revised Naturalization Law, reads:

"SEC. 10. Hearing of the petition.—No petition shall be heard within the thirty days preceding any election. The hearing shall be public, and the Solicitor General, either himself or through his delegate or the provincial fiscal concerned, shall appear on behalf of the Commonwealth (now Republic) of the Philippines at all the proceedings and at the hearing. , If after the hearing, the court believes, in view of the evidence taken, that the petitioner has all the qualifications required by, and none of the disqualifications specified in this Act, and has complied with all requisites herein established, it shall order the proper naturalization certificate to be issued and the registration of the said naturalization certificate in the proper civil registry as required in section ten of Act Numbered Three thousand seven hundred and fifty-three." (Italics supplied.)

It is in pursuance therewith that the City Attorney of Davao, representing the Solicitor General, appeared at the hearing of the petition for naturalization of Dionisio Chiu.

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 his 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 fche 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 trtie 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.

As the Solicitor General received copy of the decision of the lower court on August 17, 1962, the period to appeal would have expired on September 16, 1962. The filing of the notice of appeal and record on appeal on September 4 and 6, 1962, respectively, were therefore made on time.

Wherefore, the order of the lower court dismissing the appeal is hereby set aside, and the said court In directed to approve the record on appeal filed therein. No costs.

So ordered.

Bengzon, C. J., Bautista Angelo, Concepcion, Reyes, J.B.L., Paredes, Bengzon, J. P., and Zaldivar, JJ., concur.

Makalintal concurs in the result.

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