

IN THE MATTER OF THE PETITION FOR ADMISSION AS CITIZEN OF THE PHILIPPINES. COSME GO TIAN AN ALIAS ANA, PETITIONER AND APPELLEE, VS. REPUBLIC OF THE PHILIPPINES, OPPOSITOR AND AP...

G.R. No. L-19833. August 31, 1966

Ponente: RUIZ CASTRO, J.

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RUIZ CASTRO, J.:

Before us is the appeal interposed by the Provincial Fiscal of Cebu, in representation of the Solicitor General, from the order of September 18, 1961 of the Court of First Instance of Cebu in civil case 395, authorizing the petitioner Cosme Go Tian An alias Ana to take his oath of allegiance as a Filipino citizen and ordering the issuance to him of a certificate of naturalization.

The antecedent facts are not disputed. On November 13, 1958 the petitioner filed a petition for naturalization with the Court of First Instance of Cebu. After appropriate proceedings, the court rendered a decision on August 12, 1959, granting him Philippine citizenship. More than two years later he filed a motion for final proceedings as required by law. [1] Thereafter the court issued the questioned order of September 18, 1961, allowing the petitioner to take the oath of allegiance and ordering the issuance to him of a certificate of naturalization. On the same day the petitioner took his oath and received his certificate of naturalization.

On November 7, 1961, the Provincial Fiscal filed a motion for reconsideration of the order of September 18, 1961, to secure the cancellation of the certificate of naturalization issued to the petitioner on the ground that the latter had illegally used alias names in violation of the Anti-Alias Law. [2] This motion was opposed by the petitioner, who challenged the Fiscal's right to raise this question after he had taken his oath of allegiance and a certificate of naturalization had been issued to him.

The motion was set for hearing, and evidence was received. The court a quo thereafter overruled the motion on the ground that the Fiscal had failed to interpose the matter of aliases at the original hearing on the petition nor yet at the final proceedings had pursuant to Republic Act 530, at the same time declaring that the petitioner's actuations do not violate Commonwealth Act 142.

Hence this appeal by the Republic.

May the petitioner's certificate of naturalization be cancelled?

The appellee's main argument, advanced with some vehemence, is that the matter of his citizenship is *res judicata* and that the Government is estopped to question his status as a citizen upon any issue which could have been raised prior to the issuance to him of a certificate of naturalization. This argument has before been ventilated in this highest judicial forum of the land, and has been rejected without hesitation. For indeed the doctrine of estoppel or of laches does not apply when the government sues as Sovereign or asserts governmental rights. Nor can estoppel validate an act that contravenes law or public policy. Moreover a naturalization proceeding is not a

judicial adversary proceeding; the decision rendered therein is not *res judicata* as to any matter that would support a judgment cancelling a certificate of naturalization on the ground of illegal or fraudulent procurement thereof. [3] A certificate of naturalization may be cancelled if it is discovered subsequently that the applicant therefor obtained it by misleading the court upon any material fact. [4] Law and jurisprudence even authorize the cancellation of a certificate of naturalization upon grounds or conditions arising subsequent to the granting of the certificate. [5]

We are asked by the Solicitor General to direct the cancellation of the appellee's certificate of naturalization, because the latter (1) has used alias names without judicial authority, in violation of Commonwealth Act 142, and (2) has really never had any lucrative employment.

Upon the first point, the petitioner adduced proof that he was named Cosme Go Tian An alias Ana at birth by his parents; that when he started schooling he was enrolled as Cosme D. Go by his parents; that he has never used his name and alias interchangeably in his business and social dealings; and that his use of such alias has not in any way caused confusion among his friends and associates. The record conclusively proves, however, that the appellee has been using at least three names; Cosme Go Tian An alias Ana, Go Tian An, and Cosme Go or Cosme D. Go (the letter "D" represents the surname "Dy" of his mother). He was known as Go Tian An during his entire schooling at the Cebu Chinese High School (exh. L); he used the name Cosme D. Go at the University of San Carlos (exh. M) and later at the University of the East (exh. N). His 1950 alien certificate of registration (exh. F) shows his name as Cosme Go Tian An; the name Cosme Go Tian An and Ana appears in his 1948 immigrant certificate of residence (exh. G). He used the name Cosme Go in the "record of annual report in person of alien" (exh. F-2). To blunt the force of the Government's contention that in using three different names, he has thus infringed on section 1 of Commonwealth Act 142 which provides, "Except as a pseudonym for literary purposes, no person shall use any name different from the one with which he was christened or by which he has been known since childhood, or such substitute name as may have been authorized by a competent court," the appellee avers that he was baptized Cosme Go before he attained the "age of reason", and has used this name since then in his business and social dealings. The record, however, does not disclose any baptismal certificate or other satisfactory secondary evidence to support his claim that he was baptized Cosme Go. And if it is true that he has used this name from the day of his alleged baptism, why did he enroll in the Cebu Chinese High School and complete his elementary education thereat under the name of Go Tian An (Cosme)? Under the environmental circumstances, there can be no dispute that he has, by omission, likewise violated section 2 of Commonwealth Act 142 which requires a person "desiring to use an alias or aliases" "to obtain judicial authority" therefor. Appellee's conduct in contravention of law as described above hardly speaks well of his character or of his fitness to become a Filipino citizen.

We now address ourselves briefly to the Government's insistence that the evidence of record does not prove that the appellee had or has a lucrative employment. We have painstakingly read the entire record, and we are of the considered view that the Government's position is correct. True that Go Siong Mit, manager of the Go Occo & Company in Cebu City, certified under oath that the appellee had been a purchasing agent of the said establishment from 1956 to 1959 at an annual salary of P3,600 (exh. H), and that the appellee himself testified at the final proceedings held on September 18, 1961 that his employment thereat had been uninterrupted, but we cannot accord any provative value to the said certification of Go Siong Mit and the testimony of the appellee because they are bare assertions uncorroborated by any supporting payroll, time record or book of account of the company, nor by a single copy of any income tax return which should have been filed each year by the appellee from 1956 to 1961, inclusive, as required by law. We are thus persuaded that the evidence presented by the appellee proves at best only a token compliance with the legal requirements on the matter of lucrative employment.

ACCORDINGLY, the order appealed from is set aside, and the certificate of naturalization issued to the petitioner-appellee is hereby ordered cancelled, at petitioner-appellee's cost.

Concepcion, C.J., Reyes, JBL, Barrera, Dizon, Makalintal, Bengzon, JP, Zaldivar, and Sanchez, JJ., concur.
Regala, J., no part.

[1] Republic Act 530.

[2] Commonwealth Act 142 entitled "An Act To Regulate The Use of Aliases", approved on November 7, 1936 .

[3] Republic vs. Go, L-11499, April 29, 1961; sec. 18(a), Commonwealth Act 473.

[4] Bell vs. Attorney General, 56 Phil. 667.

[5] Pars. (b), (d) and (e) of Sec. 18 of Commonwealth Act 473; Republic vs. Go, supra.

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