

THE REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. QUERUBE C. MAKALINTAL, JUDGE OF THE COURT OF FIRST INSTANCE OF ILOILO, AND UY CHIONG, AS AN INTERESTED PARTY, RESPONDENTS.

G.R. No. L-5424. October 24, 1952

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

This is a petition for certiorari seeking to set aside the order of the Court of First Instance of Iloilo dated January 3, 1952, which sets the case for hearing so that Uy Chiong may present the additional evidence required by Republic Act No. 530. The writ of preliminary injunction request was granted.

This case stems from the petition for naturalization filed by Uy Chiong in the Court of First Instance of Iloilo on May 13, 1948. That case was decided favorably on January 21, 1949, the court ordering that Uy Chiong be granted certificate of naturalization. From this decision the Government appealed.

On July 23, 1951, the Supreme Court affirmed the decision. On December 13, 1951, or barely five months after the decision of the latter court became final, Uy Chiong filed a petition in the court of origin asking that he be allowed to present evidence to show that he has complied with the additional requirements of Republic Act No. 530 alleging that the period of two years prescribed therein had already elapsed. To this petition the Government filed an opposition contending that the petition was premature. This opposition was overruled and on January 3, 1952, the court set a date for the reception of the additional evidence. Hence this petition for certiorari.

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 the 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 attendance of 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 says 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 of two years 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. The decision of this court, in case of appeal, is the law of the case (*Posas vs. Toledo Transportation Co., Inc.*, 58 Phil., 390). This decision has no retroactive effect.

We believe that the above interpretation is the most logical and consistent in the light of the incendment 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. This purpose would certainly be defeated were we to hold that the decision of this court should be given a retroactive effect whenever it is confirmatory of the decision of the lower court.

This court had already occasion to act on a similar case recently wherein it reached the same conclusion (*Chua-sintek vs. Barcelona*, G. R. No. L-5124, October 8, 1951). In that case, the applicant obtained a favorable decision on November 12, 1948, which was affirmed on appeal on May 18, 1951, but on July 7, 1951, he moved that he be allowed to prove the additional requirements of the law because the two-year period counted from the original decision had already elapsed. The court denied the petition saying:

"After a careful study of the aforesaid legal question, it is the considered opinion of this court that the period of two years provided for in the above quoted section 1 of Republic Act No. 530 should be computed from the promulgation of the decision of the Supreme Court on May 18, 1951, confirming the decision of this Court, because from the time the appeal was taken from the said decision of this court, the same was without force and effect and gave no right whatsoever to the petitioner pending appeal. The court believes that the intention of the law quoted above is to place an applicant for Philippine citizenship on probation for two years from the date of the promulgation of a final decision."

When the applicant brought the case before this court on a petition for certiorari, this court, in a minute resolution, denied the petition for lack of merit. Evidently, this denial implies an affirmance of the above interpretation of the law by the lower court.

Wherefore, the court hereby sets aside the order of the lower court of January 3, 1952, with costs against respondent Uy Chiong.

The writ of injunction issued by this Court is hereby declared final.

Paras, C. J., Pablo, Bengzon, Padilla, Montemayor, Jugo, and Labrador, JJ., concur.

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