

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. HON. GAUDENCIO CLORIBEL, AS JUDGE OF THE COURT OF FIRST INSTANCE OF MANILA, BRANCH VI, AND CHUA TEE, ALSO KNOWN AS DY KANG LING, RES...*G.R. No. L-27751. August 31, 1970*

Ponente: FERNANDO, J.

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Petitioner Republic of the Philippines filed this special proceeding for certiorari and mandamus against respondent Judge Gaudencio Cloribel complaining of the snail's pace at which its action for denaturalization of the other respondent Chua Tee was being acted upon, eleven of his motions for postponement being granted by the court although no opposition to the move to denaturalize was filed. There was more than just a hint in the petition before us of respondent Judge's evident bias in favor of the other respondent, the most conspicuous instance of which was his being allowed to take the oath of citizenship without hearing any objection that the then Solicitor General could have interposed. There was an admission in the main of the crucial facts alleged although coupled with an attempt, none-too-successful, to divest them of their decisive significance. Under the circumstances, we find for petitioner Republic of the Philippines.

It was stated in the petition filed with this Court on July 7, 1967 that respondent's naturalization application[1] before the Court of First Instance of Manila was marred by such defects as failure to state all the former places of residence of the petitioner, absence of any allegation as to compliance with the educational requirement by enrollment in local schools of applicant's children although they were past school age, lack of showing as to whether petitioner filed a declaration of intention, and if not, the reasons therefor. Nor was a certificate of arrival attached to the petition. It was likewise defective on the score of insufficient data as to the date and place of birth of his wife or her present residence as well as that of the children born out of such union. Nonetheless, so it was averred in this certiorari proceeding before us, on July 25, 1960, the lower court rendered a decision granting the petition finding that now respondent Chua Tee was possessed of all the qualifications required by law and none of the disqualifications and ordered that a proper naturalization certificate be issued to him.

On July 31, 1962, respondent Chua Tee filed with the lower court a petition to take his oath of allegiance. The notification to the Office of the Solicitor General on the same date, July 31, 1962, was insufficient to justify a hearing preparatory to oath-taking to be conducted on the date set in said notice, limited as it was to asking the lower court for a date for the reception of evidence on oath-taking. Then on August 4, 1962, after the aforesaid motion was heard and granted, the respondent Judge received with undue haste respondent Chua Tee's evidence in the absence of the Solicitor General or his authorized representative, and thereafter allowed respondent Chua Tee to take the oath of allegiance. On August 10, 1962, the Republic filed with the respondent Judge an urgent motion for reconsideration praying the lower court to reopen the case to enable the Solicitor General to cross-examine the respondent Chua Tee and to present evidence for the Government. On the same date, August 10, 1962, respondent Chua Tee filed with respondent Judge an opposition to said motion. On August 11, 1962, the respondent Judge

denied the petitioner's motion for reconsideration and allowed the petitioner to take his oath with the condition that if within 30 days the Office of the Solicitor General should receive any evidence against the applicant, now respondent Chua Tee, from the National Bureau of Investigation, the court would reconsider and give the Solicitor General an opportunity to cross-examine him based on said report. On that very day, respondent Chua Tee, not losing any time, subscribed to an oath of allegiance before respondent Judge, who, two days thereafter, on September 13, 1962, directed the clerk of court to issue a certificate of naturalization to respondent.[2]

On May 14, 1966, petitioners filed a motion for cancellation of certificate of naturalization based on the ground that the same was fraudulently and illegally obtained. The motion for cancellation was initially set for hearing on May 21, 1966 at 8:30 a. m. but it was postponed *motu proprio* by respondent Judge to June 18, 1966 at 8:30 a. m. Although no opposition to said motion has been filed, respondent Chua Tee filed eleven successive motions for postponement, all of which were granted by respondent Judge, the last, to July 8, 1967 at 8:30 a. m. This course of conduct of respondent Judge was characterized as "dragging his feet", the postponements being allowed for the flimsiest of reasons. With petitioner Republic being convinced that there was no end in sight to such dilatory moves sanctioned by the respondent Judge and there being no appeal nor any plain, speedy and any other adequate remedy in the ordinary course of law, this action for certiorari and mandamus was filed.

The prayer was for a writ of preliminary injunction restraining respondent Chua Tee from representing himself to be a Filipino citizen or exercising any of the rights and privileges of such citizenship, and requiring him to surrender the original Certificate of Naturalization No. 3226 to the clerk of this Court as well as for a judgment declaring null and void the entire proceedings before respondent Judge, ordering him at the same time to dismiss the original petition for naturalization and to cancel the aforesaid certificate of citizenship issued to respondent Chua Tee. The petition was filed by the then Solicitor General, now a member of this Court, the Honorable Antonio P. Barredo.

On July 18, 1967, this Court adopted a resolution giving due course to the above petition ordering respondents to file their answer and issuing a writ of preliminary mandatory injunction to respondent Chua Tee to surrender to the clerk of this Court the original Certificate of Naturalization No. 3226 issued to him by the clerk of the Court of First Instance of Manila as well as a writ of preliminary prohibitory injunction restraining him from representing himself to be a Filipino citizen or exercising any of the rights and privileges of such citizenship until further orders of this Court.

In the answer of August 14, 1967, there was a denial by respondent Chua Tee that his application for naturalization was patently defective or that there was a failure of the lower court to acquire jurisdiction. He likewise asserted that there was no insufficiency in law in his motion for a hearing preparatory to his oath-taking, petitioner Republic having received the notice of hearing on July 31, 1962 in advance of the date of the actual presentation of evidence on August 4, 1962. On the question of postponements, he admitted that his motions to that effect were granted by respondent Judge, but alleged in justification that the then Solicitor General did not oppose such motions. There was a denial that respondent Judge was dragging his feet. Stress was laid, in the affirmative and special defenses, on the failure of petitioner to appeal the decision of July 25, 1960 granting the petition for naturalization. It was respondent Chua Tee's contention, therefore, that two years having elapsed and the Solicitor General having been notified of the hearing for his petition for oath-taking with the result that he was allowed to do so without the necessary appeal again having been interposed, his right to such status was then beyond question. He prayed for the lifting of the preliminary injunction and the dismissal of this special civil action for certiorari and mandamus.

Crucial to the solution of the controversy before us was the failure of the government to be represented at the hearing on the evidence required to be received by the lower court after the two-year period from the

promulgation of the decision granting the application as required by Republic Act No. 530.[3] Why the Solicitor General was unable to do so was explained by him in the petition before us.[4] It turned out that while his office did receive, on July 31, 1962, a copy of the motion to take the oath filed by respondent Chua Tee, the hearing thereon, not the introduction of evidence, being set for August 4, 1962, it was not until August 6 of that year that he received the same, unfortunately not accompanied by the records of the petition which could not be found in the office files despite diligent search. One of the Solicitors then went to the sala of respondent Judge to check the records, and he found out that on August 4, 1962, the date when such motion to take the oath was heard, respondent Chua Tee was permitted to present his evidence ex parte, and on the very same day respondent Judge issued an order allowing him to take the oath of allegiance. Then came, on August 10, 1962, an urgent motion for reconsideration specifically calling the attention of respondent Judge to the indispensability of the attendance of the Solicitor General or his representative as required by the express language of the law. The then Solicitor General sought the setting aside of the order of August 4, 1962 so that the case could be reopened and the opportunity to cross-examine respondent Chua Tee be afforded him. Respondent Judge, in his order of August 11, 1962, was deaf to such a plea. He refused to reconsider his order.

The failure of respondent Judge to reconsider such order to enable the Solicitor General or his representative to present the evidence against the proposed oath-taking, considering that there was a justification for his non-appearance on August 4, 1962 and that, furthermore, what was supposed to have been taken up on that day before respondent Judge was merely the hearing as to when the evidence would be received, infected all subsequent proceedings with a fatal infirmity. Compliance with the literal language of the law requires that such order allowing the oath taking be set aside.

The doctrines previously announced by us leave no other conclusion. In *Go Im Ty v. Republic*,^[5] there is a recognition by us of the broad sweep implicit in the language of Republic Act No. 530. In the language of Justice Zaldivar, who spoke for the Court: "While it is true that no appeal was taken from the decision of the lower court granting Philippine citizenship to the original petitioner, Lim Quico, the fact that said decision had not yet become final in accordance with the provisions of Section 1 of Republic Act 530 and the case came up to this Court on appeal by the Government in connection with the proceedings required under said Section 1 of Republic Act 530, this case is open for review in its entirety by this Court regardless of whether or not objection had been made in connection with a particular point during the proceedings in the court below."^[6]

That has been the prevailing view since then. Only on June 30 of this year, in *Republic v. Cloribel*,^[7] we had occasion to state: "There should be no retract, to quote from *Republic v. Santos*, from 'the firm and unwavering adherence, so manifest in the decisions of this Court, to the concept that Filipino citizenship being an inestimable boon and a priceless acquisition, one who seeks to enjoy its rights and privileges must not shirk the most exacting scrutiny as to his fulfilling the qualifications required by law, which must be fully met and could be inquired into at any stage of the proceeding, whether it be in the course of the original petition or during the stage leading to his oath-taking pursuant to Republic Act No. 530.' * * *."

The order granting the oath-taking being thus void on its face, the steps subsequently taken were likewise equally bereft of any legal force and effect. Under the view we take of the case then, there is no need to pass upon the question of whether or not respondent Judge was guilty of a grave abuse of discretion in allowing the dilatory action taken in connection with petitioner's motion for denaturalization. Since there was in legal contemplation no naturalization as yet of respondent Chua Tee, it would be premature, at this stage, to go into any further discussion of such aspect of this litigation.

WHEREFORE, the writ of certiorari prayed for is granted, and the judge assigned to the sala of respondent Judge directed to set anew the hearing of the evidence under Republic Act No. 530 to enable respondent Chua Tee to

prove his right to a certificate of naturalization, at which hearing the presence of the Solicitor General or his representative is indispensable. Our writ of preliminary mandatory injunction requiring respondent Chua Tee to surrender to the Clerk of this Court the original certificate of naturalization No. 3226 issued to him by the Clerk of the Court of First Instance of Manila is hereby made permanent, and such certificate of naturalization No. 3226 declared cancelled, void and of no effect. In the meanwhile, respondent Chua Tee continues to be enjoined from representing himself to be a Filipino citizen or exercising any of the rights and privileges of such citizenship until the matter in issue has been finally decided. Without pronouncement as to costs.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Castro, Villamor, and Makasiar, JJ., concur.
Teehankee, J., in the result.
Barredo, J., did not take part.

[1] Case No. 41379 of the Court of First Instance of Manila.

[2] Certificate of Naturalization No. 3226.

[3] According to Section 1 of Republic Act No. 530: "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." (1950).

[4] Urgent Motion for Reconsideration, Annex E, Petition.

[5] L-17919, July 30, 1966, 17 SCRA 797.

[6] Ibid., at p. 805.

[7] L-27281. Republic v. Santos, L-23919, July 22, 1968, 24 SCRA 314, cited: Yong Sai v. Rep., L-20483, Sept. 30, 1966; Lim v. Rep., L-21193, Sept. 30, 1966; Ching Leng v. Rep., L-6268, May 10, 1954; Tan Hoi v. Rep., L-15266, Sept. 30, 1960; Go Kay See v. Rep. L-17318, Dec. 27, 1962; Ong So v. Rep., L-20145, June 30, 1965; Pe v. Rep., L-20375, Jan. 31, 1966; Go Im Ty v. Rep., L-17919, July 30, 1966 and Chua Tiong Seng v. Rep., L-21422, Dec. 18, 1967.

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