

IN THE MATTER OF THE PETITION OF FRANCISCO CO KENG TO BE ADMITTED A CITIZEN OF THE PHILIPPINES: REPUBLIC OF THE PHILIPPINES, MOVANT-APPELLANT, VS. FRANCISCO CO KENG, RESPONDENT-...

G.R. No. L-19829. August 31, 1970

Ponente: MAKALINTAL, J.

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MAKALINTAL, J.:

Before this Court for resolution is respondent-appellee's supplementary second motion for reconsideration dated June 27, 1968.

It may be recalled that the instant proceeding started when the Solicitor General, in behalf of the Republic of the Philippines, filed in the Court of First Instance of Manila on March 7, 1961 a petition for denaturalization of respondent-appellee, who had taken his oath of allegiance as a Filipino citizen on December 29, 1958 pursuant to the decision of the said court dated October 31, 1956, granting his petition for naturalization. One of the grounds alleged by the Solicitor General was that respondent had obtained his certificate of naturalization fraudulently by stating in his application that he was a resident of Manila when actually he was residing at No. 28, 12th Street (Broadway), Quezon City. In essence this ground questioned the jurisdiction of the Court of First Instance of Manila in the naturalization proceeding. Another ground was that respondent had been guilty of tax evasion and habitual concealment of his taxable income.

The petition for denaturalization was denied by the Court of First Instance, and petitioner appealed to this Court. On July 30, 1966 this Court reversed the said decision and ordered respondent's certificate of naturalization revoked. Upon motion for reconsideration this Court, in its resolution dated May 4, 1968, found that in the light of a memorandum submitted by the Commissioner of Internal Revenue to the Solicitor General and presented to this Court in connection with said motion, "the second charge of underdeclarations of his (respondent's) income has not been clearly established, and therefore, his denaturalization cannot be predicated upon said charge." However, by a divided vote of five to four, with one abstention, this Court denied the motion for reconsideration on the ground that respondent-appellee's naturalization had been illegally obtained because his application therefor failed to state one of his places of residence, namely, No. 28 12th street (Broadway), Quezon City, contrary to the requirements of Section 7 of the Naturalization Law. It is this resolution of denial promulgated May 4, 1968, reiterated in another resolution of June 25, 1968, which in effect is the subject of respondent-appellee's supplementary second motion for reconsideration of June 27, 1968.

In his motion respondent-appellee raises a constitutional question and claims that to denaturalize him for violation of section 7 of the Naturalization Law would be a denial of due process inasmuch as the petition for that purpose filed in the Court of First Instance did not allege such ground, but rather that he had no residence in the City of Manila at all, his residence being in Quezon City, at the address aforementioned, at the time of his application. In other words, his position is that since the petition for denaturalization was based on non-compliance with section

8 of the Naturalization Law, according to which an application for naturalization must be filed in the Court of First Instance of the place of the applicant's residence for at least one year preceding the filing of such application, and since the charge of non-compliance was not true, he having been found to be really a resident of Manila, precisely at the address stated by him, he should not be denaturalized on another ground neither alleged nor the subject of evidence at the trial, namely, failure to state any other places of residence, past and present, as required by Section 7.

Required to comment on the point thus raised by respondent-appellee, the Solicitor General expressed his concurrence from the standpoint of the due process clause of the Constitution, and submitted respondent-appellee's supplementary second motion for reconsideration to the sound discretion of this Court.

On November 15, 1968 this Court issued the following resolution:

"In L-19829 (Republic of the Philippines vs. Francisco Co Keng), acting on the supplementary second motion for reconsideration of respondent-appellee dated June 27, 1968 and on the Solicitor General's answer thereto dated October 4, 1968; considering the argument of said respondent-appellee, concurred in by the Solicitor-General, that to denaturalize him for lack of compliance with Section 7 of the Naturalization Law would constitute a denial of due process, since the petition for that purpose is based solely on Section 8 of the same law; considering further that the purpose of Section 7, which requires that an application for naturalization must state the present and former places of residence of the applicant to enable the public and the investigating agencies of the government to gather all information available as to the conduct of an applicant and thus determine whether his behavior at all times has been irreproachable as required by law; and considering finally that the said purpose of the law would be sub served in this case by affording the Solicitor General opportunity to make the necessary investigation on the point and submit his findings to the court, with notice to and hearing of the respondent-appellee: as alternatively prayed for in the aforesaid supplementary second motion for reconsideration, this case is remanded to the Court of origin, with instructions to the Solicitor General to make the necessary investigation regarding the conduct and behavior of said respondent-appellee in Quezon City, particularly in the vicinity of No. 28, 12th street, Broadway, before and after the grant of citizenship to him on December 29, 1958, and in the event such investigation should yield derogatory information which would render him unfit for citizenship, to file the corresponding amended petition for denaturalization on that ground, otherwise to file with this Court, within a reasonable time, a manifestation that no such information is available, so that the proper action may be taken."

On December 16, 1968 the Solicitor General filed a Manifestation as follows:

"The undersigned Solicitor General hereby respectfully manifests that he has complied with the resolution of this Honorable Court of November 15, 1968 in this case in the following manner:

1. Shortly after being notified of said resolution, a panel composed of Assistant Solicitor General Isidro Borromeo, Solicitors Sumilang Bernardo, Dominador Quiroz, Salvador Jacob and Adolfo Diaz, the panel in the Office of the Solicitor General to which the Cokeng case was assigned under the particular care of Solicitor Sumilang Bernardo, was instructed to set the investigation of the moral character and conduct of respondent-appellee required by this Honorable Court with notice to said party and to have said notice published in a newspaper of general circulation;
2. Letters were also addressed to the National Bureau of Investigation and the Chief of Police of Quezon City requesting investigation of the same matter;
3. In the meanwhile, information was secured as to who have been residing in the neighborhood of 28 12th Street, Quezon City during the material time involved in this case and from whom the investigating panel could make inquiries about the said moral character and conduct of respondent-appellee and three persons who could serve the purpose were requested to make affidavits and to testify at the hearing for which they were

duly served with subpoena;

4. The above-mentioned panel set the hearing on December 12, 1968 at 10:00 o'clock in the morning and actually held it as scheduled;

5. The notice of hearing was actually published in the Philippines Herald on December 8, 10 and 11, 1968;

6. At said hearing, the respondent-appellee presented clearances from the Quezon City Fiscal's office, Office of the City Court of Quezon City, Court of First Instance, Quezon City Branch and the National Bureau of Investigation;

7. That the following prominent persons testified at said hearing in answer to the subpoena served on each of them: Atty. Rosario L. Planas, of 42 (old number 22), 12th Street, Quezon City; former Congressman Lucas P. Paredes, of 43 (old number 23) 12th Street, Quezon City and former Vice-President of the Philippine National Bank, Mr. Carlos Sobreviñas of No. 3 Eight Street, Quezon City;

8. The report of the panel to the undersigned Solicitor General shows that no one has appeared with derogatory information about the respondent-appellee, the said report being hereto attached as Annex A of this manifestation;

9. That subsequent to the hearing, the respondent-appellee submitted the clearance of the police department of Quezon City, which is hereto attached as Annex B;

10. Also subsequent to the hearing, the undersigned received a handwritten letter from Mayor Norberto Amoranto of Quezon City pertinent to the matter under inquiry, which letter is attached hereto as Annex C of this manifestation;

11. From all the foregoing, it appears that no derogatory information against the respondent-appellee during the period of his residence or stay, material to this case, at No. 28 12th Street, Quezon City is available;

WHEREFORE, the above manifestation is respectfully submitted to this Honorable Court for its consideration in relation to the resolution of November 15, 1968."

In view of the foregoing report of the Solicitor General it has become unnecessary to remand this case to the court of origin for the purpose contemplated in the resolution of this Court of November 15, 1968, namely, for the Solicitor General to file the corresponding amended petition for naturalization against respondent-appellee in the event the investigation regarding his conduct and behavior in Quezon City, before and after the grant of citizenship to him on December 29, 1958, should yield derogatory information which would render him unfit for citizenship. The reason behind the requirement in Section 7 of the Naturalization Law concerning the inclusion of an applicant's present and former places of residence in his petition for naturalization has been satisfied in this particular case, and consequently the filing of an amended petition for denaturalization expressly alleging failure to comply with such requirement would serve no practical purpose, nor may the Solicitor General be expected to file such petition after the investigation conducted by him had yielded negative results.

Wherefore respondent-appellee's supplementary second motion for reconsideration is granted; the decision of this Court of July 20, 1966, and the resolution of May 4, 1968 insofar as it denies respondent-appellee's first motion for reconsideration, and the resolution of June 25, 1968, denying his second motion for reconsideration, are set aside; and the judgment of the Court a quo denying appellant's petition for cancellation of respondent-appellee's certificate of naturalization is affirmed, without pronouncement as to costs.

Dizon, Zaldivar, Castro, Teehankee, and Villamor, JJ., concur.

Concepcion, C.J., took no part.

Reyes, J.B.L., Fernando, Barredo, and Makasiar, JJ., did not take part.

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