

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. HON. SANTIAGO O. TAÑADA, AS JUDGE OF THE COURT OF FIRST INSTANCE OF CEBU, BRANCH V, AND FRANCISCO YU, RESPONDENTS.

G.R. No. L-30927. April 30, 1971

Ponente: MAKALINTAL, J.

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MAKALINTAL, J.:

The Solicitor General filed this petition for mandamus to compel respondent Judge to approve the appeal of the Republic from the decision in Civil Case No. 831 of this Court of First Instance of Cebu granting the application of respondent Francisco Yu for naturalization as a Filipino citizen.

It appears that the said decision was rendered on December 19, 1968; that notice thereof was sent to the City Fiscal of Cebu, who filed a motion for reconsideration, which was denied; that notice to the Solicitor General was received by the latter only on February 3, 1969; that he filed a notice of appeal on February 18 and the corresponding record on appeal on February 28, 1969; and that on March 4, 1969 respondent Judge dismissed the appeal on the ground that it was filed out of time.

This Court has held in several cases that the timeliness of an appeal by the Republic in a naturalization case is computed from receipt of notice of the decision by the Solicitor General, as counsel for the appellant, regardless of previous notice to the City or Provincial Fiscal. (Republic vs. Chiu, L-20846, Oct. 31, 1964; Qua vs. Republic, L-21418, Dec. 31, 1965.) Under this ruling the subject appeal here was timely.

In a pleading dated February 19, 1970 and filed April 19, 1971, entitled "Confession of Judgment," respondent Francisco Yu, through counsel, manifested his conformity with the stand taken by the Solicitor General and prayed that "judgment be rendered declaring that the decision of the court a quo in this case has not yet become final and returning this case to the trial court in order that said court may act on the petitioner's record on appeal."

Wherefore, the writ prayed for is hereby granted and this case is remanded to the court below as above indicated. No pronouncement as to costs.

Concepcion, C.J., Reyes, J.B.L., Dizon, Zaldivar, Castro, Fernando, Teehankee, Villamor, and Makasiar, JJ., concur.

Barredo, J., did not take part.

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