

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. HON. MANUEL P. BARCELONA, AS JUDGE OF THE COURT OF FIRST INSTANCE OF MANILA, BRANCH VIII, AND GO GUAN, RESPONDENTS.

G.R. No. L-23579. August 30, 1974

Ponente: ZALDIVAR. J.

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ZALDIVAR. J.:

A special civil action for certiorari and prohibition with preliminary injunction, under Rule 65 of the Rules of Court, to annul and set aside the order of the respondent Hon. Manuel P. Barcelona, Judge of the Court of First Instance of Manila, dated September 26, 1964 (Annex "T", Petition), overruling the State's opposition and setting a date for another hearing for the reception of evidence prior to oath-taking in Civil Case No. 39586 of the Court of First Instance of Manila, Branch VIII, entitled "IN THE MATTER OF THE PETITION TO BE ADMITTED A CITIZEN OF THE PHILIPPINES, GO GUAN, PETITIONER," which petition to take oath had been previously dismissed in an order issued by the same court dated April 18, 1964, without prejudice.

On October 1, 1964, this Court issued a writ of preliminary injunction against the respondent judge enjoining him from acting and proceeding with the hearing of said case and from otherwise taking cognizance of, or assuming jurisdiction over, the said case.

On March 13, 1959, respondent Go Guan filed a petition for naturalization before the Court of First Instance of Manila, which was docketed as Civil Case No. 39588.

After due hearing, on January 31, 1961, the lower court, presided over by the Hon. Juan P. Enriquez, rendered a decision finding that herein respondent possessed all the qualifications and none of the disqualifications to become a citizen of the Philippines and, accordingly, granting his petition for Philippine citizenship.

No appeal having been taken from the lower court's decision, on February 20, 1963, counsel for respondent Go Guan filed with the court a Motion to Set Case for Hearing After the Two-Year Period.

On February 21, 1963, the trial court, presided over by the respondent Judge Manuel P. Barcelona, issued an order setting the hearing of the case for purposes of oath-taking, pursuant to Republic Act No. 530, on April 6, 1963 at 8:00 o'clock in the morning.

On April 6, 1963, respondent Judge issued an order dismissing the case for failure of respondent Go Guan and his counsel to appear at the hearing.

On April 17, 1963, counsel for respondent Go Guan filed; with the trial court a motion for reconsideration of the order dismissing the case.

On April 20, 1963, respondent judge issued an order setting aside the order dismissing the case for lack of interest, and re-setting the hearing on the reception of evidence for purposes of oath-taking in the month of July, 1963.

On August 1, 1963, the Solicitor General, in behalf of the State, filed an opposition to the oath-taking and/or motion to vacate decision and to dismiss the petition for naturalization. In the opposition, it was alleged that the petition was fatally defective and void for failure to state all of petitioner's former places of residence and for failure to allege that petitioner was of good moral character. It was likewise alleged in the same pleading that the trial court was without jurisdiction to hear and decide the case from the very beginning since petitioner had not filed, and was not exempt from filing, a declaration of intention with the Office of the Solicitor General at least one (1) year prior to the filing of the petition; that respondent Go Guan was not exempt from the requirement of filing a declaration of intention because he failed to give the required primary and secondary education to all his children in the public schools, or in private schools recognized by the Government and not limited to any race or nationality, during the entire period of his residence in this country; that the petition was not published in a newspaper of general circulation; that petitioner was not qualified to become a citizen of the Philippines, since he was not sincere in his desire to embrace and adopt the customs, ideals and traditions of the Filipinos; that he was not of good moral character nor had he conducted himself in a proper and irreproachable manner in his dealing with the duly constituted Government of the Philippines; that the applicant cannot read and write English or Spanish nor any one of the principal Philippine dialects; and, finally, that the character witnesses who testified in the hearing were not credible persons within the meaning of the provisions of the Revised Naturalization Law. The Solicitor General, in this motion, specifically prayed that the decision of the lower court dated January 31, 1961 granting citizenship to respondent Go Guan be vacated, the final oath-taking of said respondent as a citizen of the Philippines be denied, and the petition for naturalization be dismissed, with prejudice to refiling.

On August 10, 1963, the respondent judge issued an order giving counsel for respondent two (2) days within which to file his answer to the motion to vacate decision, and in the meanwhile the hearing on the motion to take oath as well as the opposition interposed thereto by the State and the motion to vacate decision was reset for November 23, 1963 at 8:00 o'clock in the morning.

After some delay, in view of several petitions for extensions of time to file respondent's answer, on September 23, 1963 counsel for respondent finally filed an answer to opposition to oath-taking and/or to vacate decision and to dismiss petition.

On December 21, 1963, the respondent judge issued an order to the effect that the "Opposition to Oath-Taking and/or Motion to Vacate Decision and to Dismiss Petition" filed by the Solicitor General, as well as the answer thereto filed by respondent Go Guan, would be heard jointly with the hearing of the respondent's petition to take oath, on January 18, 1964, at 8:00 o'clock in the morning.

On January 14, 1964, counsel for respondent Go Guan filed a motion for postponement of the hearing prior to oath-taking, for the reason that the fiscal investigating the criminal case filed by the Anti-Dummy Board against respondent Go Guan had not yet decided on whether to dismiss the case or to file the case in court, and that with the pendency of the criminal case, respondent Go Guan could not secure a clearance from the Anti-Dummy Board. Accordingly, a postponement until new assignment was sought by respondent Go Guan.

The hearing set for January 14, 1964 was postponed to March 21, 1964. At the hearing set on that day, counsel for respondent Go Guan verbally moved for another postponement, which was opposed by the representative of the Solicitor General. Nevertheless, the respondent judge, in open court, issued an order granting the postponement and ordering that the hearing of the case for purposes of oath-taking be postponed to April 18, 1964, at 9:00 o'clock in the morning, which hearing would be of "intransferable character."

On April 18, 1964, when the case was called for hearing, counsel for respondent Go Guan presented a verbal motion for another postponement, which was opposed by the solicitor assigned to the case. The respondent judge,

in an order issued on the same day, denied the motion for postponement, and since respondent failed to appear, the petition to take the oath was dismissed.

On May 4, 1964, counsel for respondent Go Guan filed a motion for reconsideration, praying, among other things, that the order of April 18, 1964 be amended so that the dismissal of the petition for oath-taking be without prejudice.

On May 9, 1964, the trial court issued an order granting the motion for reconsideration, and, accordingly, the order of dismissal to take the oath of allegiance as a Filipino citizen was amended so that the same be made "without prejudice.

On August 26, 1964, almost three (3) months after the order of dismissal had become final, respondent Go Guan, through counsel, filed another motion for hearing prior to oath-taking in accordance with Republic Act No. 530.

On August 28, 1964, the State filed an opposition to said motion (of August 26) upon the same grounds recited in its "Opposition to Oath-Taking and/or Motion to Vacate Decision and to Dismiss Petition," dated July 31, 1963, and on the further ground that by the plain terms of the order of dismissal, the case was ended, although the respondent Go Guan might file a new petition for naturalization, but not another motion for hearing prior to oath-taking, since the dismissal had the effect of rendering the decision granting the petition for naturalization *functus officio*, and to revive the same would require a new petition for naturalization. The Government also asserted that since the order of dismissal had long become final and was beyond the reach of respondent Go Guan, the trial court could no longer alter or modify the same. Moreover, a new hearing on oath-taking by motion in effect would nullify the order of dismissal and would in consequence be a mere postponement, not a dismissal, which could not have been the intent of the order of dismissal.

On September 26, 1964, the respondent judge, insisting on his jurisdiction to revive the proceedings, issued an order overruling the opposition presented by the State and set the hearing for the reception of evidence prior to oath-taking on October 3, 1964 at 9:00 a.m.

From this order of September 26, 1964, the Government elevated the case to this Court in a petition for writs of certiorari and prohibition with preliminary injunction. As aforesaid, this Court on October 1, 1964, issued a writ of preliminary injunction against the respondent judge.

Respondent Go Guan's counsel, in his answer to the present petition, contends that the principal question to be decided in this case is whether or not the Court *a quo* was without jurisdiction in granting respondent Go Guan's second motion for hearing prior to oath-taking, dated August 21, 1964. We find, however, that there are matters brought out by the State during the proceedings held below, which would affect the jurisdiction of the lower court to hear and decide this case, from the very beginning.

In its present petition, the Government maintains that the respondent judge is without jurisdiction, or had exceeded his jurisdiction, and acted with grave abuse of discretion, in assuming jurisdiction to proceed with the case by granting respondent Go Guan's latest motion for reception of evidence prior to oath-taking, after the latter's previous motion for oath-taking had been dismissed and the order of dismissal had become final. It is the Government's stand that the previous decision granting respondent Go Guan's petition for citizenship was nullified by the dismissal of the petition to take oath and that petition for citizenship could no longer be revived. The trial court had thereby lost its authority over the case and, therefore, the respondent judge was without jurisdiction to proceed with another hearing for oath-taking. In support of its contention, petitioner cites the decisions of this Court in the case of *Isasi vs. Republic*, G.R. No. L-9823, April 30, 1957, 101 Phil. 405, 408, and in the case of *Republic vs. Hon. Enrique Maglanoc*, G.R. No. L-16848, February 27, 1963, 7 SCRA 268.

Upon the other hand, respondent Go Guan contends that in order to be able to arrive at a fair conclusion, it is important to examine the orders of the respondent court which dismissed the first motion for hearing prior to oath-taking, because the orders of April 18, 1964 and of May 9, 1964 clearly state that what was dismissed was the "Motion to Set Case for Hearing After the Two-Year Period," dated February 16, 1963, and that the dismissal thereof was "without prejudice." Respondent Go Guan asserts that nowhere in these two orders was it stated that the dismissal of the said motion necessarily included the dismissal of the entire naturalization case.

We find the merit in the present petition of the Republic of the Philippines.

The dismissal of the petition to take oath in a naturalization case pursuant to the provisions of Republic Act 530, certainly affects the entire proceedings, since in naturalization cases the judgment does not become final until after the certificate of naturalization is issued and after compliance with the requirements of Section 1, Republic Act No. 530.[1] This is in line with the previous decisions of this Court in the cases of *Isasi vs. Republic*, and *Republic vs. Hon. Enrique Maglanoc*, *supra*, which in a sense brought out, by implication, that a denial of the oath-taking in a citizenship case is tantamount to a nullification of the entire naturalization proceedings.

Moreover, the record in the present case shows, before the court below, that the State had impugned the validity of the petition for citizenship, the decision, and the jurisdiction of the said court. Indeed, the "Opposition To Oath-Taking and/ or Motion to Vacate Decision and to Dismiss Petition" dated July 31, 1963, filed by the Government, contained fundamental grounds against the grant of Philippine citizenship to respondent Go Guan. So serious are the grounds raised by the State that anyone of which is fatal to the validity of the petition, the decision, and the very jurisdiction of the said lower court to hear and decide this case from the very beginning.

In the discussion of the numerous grounds recited by the Government in its pleading mentioned in the preceding paragraph, it seems enough to mention only those whose existence are admitted[2] by the respondent Go Guan in its "Answer to Opposition to Oath-Taking and/or to Vacate Decision and to Dismiss Petition" dated September 24, 1963, which are: failure to state all former places of residence in the petition; failure to allege in the petition that applicant is a person of good moral character; and (c) failure to file declaration of intention.

It is not denied by respondent Go Guan that he really failed to state in his petition for citizenship all his former places of residence. However, said respondent explains that this failure was due to the fact that his petition for citizenship was copied from Form No. 41 prescribed by the Bureau of Justice (now Office of the Solicitor General) at the time he filed said petition. Said Respondent also asserts that if this is considered a mistake, it should not be taken against him because the Government form above mentioned had misled him and caused him to commit the error.

The explanation of respondent Go Guan is untenable. Even granting for the sake of argument that there existed such Government Form No. 41, at the time respondent Go Guan filed his application for citizenship, the law is, nevertheless, clear that respondent should state in his petition all his "former places of residence." [3] This requirement of the law already existed when he filed his petition for naturalization on March 13, 1959. The Government can not be estopped for the error or omissions committed by its agents.

The supposed good faith of respondent Go Guan in omitting one or more of his present and past places of residence in his application is irrelevant for the purposes of the law. Whether the omission was in good faith or in bad faith, the fact was that full inquiry as to the irreproachability of applicant's character and behaviour was thereby prevented, and the law's intent was not complied with. This Court, in a long line of decisions, has invariably held that such omission is fatal to the application for naturalization.[4] This violation of the mandatory provision of the Revised Naturalization Law[5] is a fatal defect that warrants dismissal of the petition, and also affects the jurisdiction of the court to hear and decide the case.[6]

Respondent Go Guan admits his failure to allege in his petition for citizenship his being "a person of good moral character," but explains that "while there is no specific allegation in the petition to this effect, nevertheless, the other allegations in the petition supply the missing allegation of good moral character of the petitioner. Furthermore, the evidence presented shows that the petitioner is a person of good moral character. In other words, the government is now estopped from raising this objection because it did not object on time when the question about moral character of the petitioner was profounded (sic)." This explication of respondent does not constitute a valid excuse for his non-compliance with the law.

Granting, that it is true, that the evidence introduced in the hearing of the case in the court below may have shown that respondent Go Guan is a person of good moral character, still, the fact remains that respondent had failed to comply with the requirements of Section 2, paragraph 3, in relation to Section 7 of the Revised Naturalization Law and, therefore, his petition aside from being defective did not confer jurisdiction upon the trial court to hear and decide the same, since strict compliance with the conditions in the Naturalization Law is required.[7]

Respondent's assertion to the effect that "the government is now estopped from raising this objection because it did not object on time when the question of moral character was profounded (sic)" cannot be sustained because it is contrary to the rulings of this Court, in numerous decisions, that matters covered by the decision granting citizenship may still be taken up in the course of subsequent proceedings and decided accordingly.[8]

On the third count against the granting of respondent Guan's petition for naturalization, said respondent, likewise, does not deny the fact that he did not file a declaration of intention at least one year prior to the filing of his petition for naturalization. The respondent claims that he is exempted from doing so on two grounds: (a) that he has resided[9] in the Philippines for more than 30 years immediately preceding the date when he filed his petition on March 12, 1959, and (b) that he had enrolled his minor children of school age in schools recognized by the government where Philippine history, Philippine government and civics are taught as part of the school curriculum, namely, the Paco Chinese School and the Grace Christian High School. Respondent Go Guan's first ground appears to be undebatable. In support of his second ground, respondent Go Guan stresses the fact that "the record also shows that he has given the required primary and secondary education to all his children of school age by enrolling them in private schools recognized by the government and not limited to any race or nationality." Further, said respondent argues that: "The fact that his children of school age have attended Paco Chinese School and Grace Christian High School which are considered mostly attended by Chinese students or pupils is no ground to oppose his oath taking, because the said schools are not only recognized by the government but also was not limited to any race and nationality. In other words, the said schools are not exclusively for Chinese children. Any pupil or student of any other nationality are allowed in them."

Respondent Go Guan's contentions cannot be sustained. From the above-quoted averments and arguments advanced by respondent it can be clearly concluded that the schools in which respondent Go Guan enrolled his children are schools predominantly attended by Chinese students. In fact, respondent himself admits that said schools are "considered mostly attended by Chinese students or pupils". This being the case, it follows that respondent was not in any way exempted from filing his declaration of intention, which he failed to do, which failure he now tries to justify. Aside from the noncompliance with this requirement which by itself is fatal to the grant of citizenship, for the very same reason, respondent Go Guan's enrollment of his children in the said schools, instead of schools which are attended by Filipino students and pupils and not Chinese or any particular race or nationality, is likewise a sufficient ground for not granting Philippine citizenship to said respondent because enrollment of respondent Go Guan's children in these schools that were attended predominantly by Chinese students indicated that he did not have a sincere desire to embrace the customs, traditions and ideals of the Filipino people.[10]

IN VIEW OF THE FOREGOING, the Order, dated September 26, 1964, appealed from, should be, as it is hereby, annulled and set aside; the decision rendered in Civil Case No. 39586 of the Court of First Instance of Manila granting the petition for Philippine citizenship of respondent Go Guan is revoked and set aside; the petition for Philippine citizenship of respondent Go Guan in said Civil Case No. 39586 is dismissed; and the writ of preliminary injunction issued by this Court in this case on October 1, 1964 is made permanent. Costs against respondent Go Guan.

IT IS SO ORDERED.

Fernando, Fernandez, and Aquino, JJ., concur.

Barredo, J., concurs in a separate opinion.

Antonio, J., concurs in the result.

[1] Tan Lin vs. Republic, L-13786, May 31, 1961; 2 SCRA 383, 386.

[2] But, allegedly justified (by respondent Go Guan).

[3] Section 7, Revised Naturalization Law (Commonwealth Act No. 473, Approved and Took Effect on June 17, 1939).

[4] Republic vs. Cokeng, L-19829, Resolution on Motion to Reconsider, May 4, 1968, 23 SCRA 559, 563; See also Lim Tan vs. Republic, L-22192, April 30, 1966, 16 SCRA 948, 949; Ong Ping Seng vs. Republic, L-19575, February 26, 1965, 12 SCRA 249, 250, and numerous decisions cited therein; Tan vs. Republic, L-22077, February 18, 1967, 19 SCRA 367, 370; O Ku Phuan vs. Republic, L-23406, August 31, 1967, 20 SCRA 1219, 1223, and cases cited.

[5] Section 7.

[6] Syson vs. Republic, L-21199, May 29, 1967, 20 SCRA 268, 278; Also Yap Puey Eng vs. Republic, L-24805, May 23, 1968, 23 SCRA 681, 682- 683. See also Go vs. Republic, L-20558, March 31, 1965, 13 SCRA 548, 549-550, and numerous cases cited therein.

[7] Tan Tiam vs. Republic, L-14802, May 30, 1961, 2 SCRA 192, 195.

[8] Ku Phuan vs. Republic, L-23406, August 31, 1967, 20 SCRA 1219, 1225, citing: Lim Chiao Cun v. Republic, L-21952, May 19, 1966, 17 SCRA 144, 146; Cheng v. Republic, L-20013, March 30, 1965, 13 SCRA 437, 438-439; Republic v. Go Bon Lee, L-11499, April 29, 1961, 1 SCRA 1166, 1170; Ong Ching Guan v. Republic, L-15691, March 27, 1961, 1 SCRA 833, 835; Albano v. Republic, L-10912, Oct. 31, 1958; Yap Chin v. Republic, L-4177, May 20, 1953 and Lim Lian v. Republic, L-3575, December 26, 1950.

[9] continuously.

[10] Chan De vs. Republic, L-25551, 29 May 1968, 23 SCRA 943, 947, citing Li Tong Pek vs. Republic, L-20912, 29 November 1965, 15 SCRA 418, 422; Lim Yuen vs. Republic, L-21218, 24 December 1965, 15 SCRA 552, 553-554; Chan Kiat Huat vs. Republic, L-19579, 28 February 1966, 16 SCRA 243, 246; Tan Tian vs. Republic, L-19899, 18 March 1967, 19 SCRA 606, 607.

CONCURRING AND DISSENTING

BARREDO, J.,

In concur in the judgment annulling and setting aside the whole proceedings in the court below, but it is my considered view that the cause for nullity arose only from the moment it became evident in the original hearings before the decision . that the other places of residence of private respondent do not appear in his application for naturalization. I hold that as of that stage, the court was ousted of jurisdiction to proceed any . further. The disclosure of all such places of residence is required " by the Naturalization Act to be made in the application, and no court has any power to act on any such application unless it conforms with the requirements of the Act. Consequently, all proceedings subsequent to the time evidence was presented before the court showing that the appellee herein had resided in any place other than those listed in his application had no more reason for being, the whole proceeding being void, even without considering the other grounds alleged by the Republic in its opposition to respondent's oath-taking, on which I do not find it necessary to express any opinion at this time.

As regards the specific ground for certiorari invoked by the Republic relative to the order of respondent judge dismissing "without prejudice" the motion of private respondent to take the oath, I am inclined to agree with respondents that said order did not refer to the dismissal of the whole case. Assuming the validity of a decision granting naturalization to an applicant, I cannot agree that a dismissal without prejudice of a motion to take the oath amounts to the setting aside of the original proceeding. It is, of course, different when the order of dismissal clearly says that the main proceedings are also included. Considering that the said proceedings are complete with the trial and the final decision on the merits of the petition already finished, and rendered, it is but proper that the same are not set aside by mere implication. Again, for obvious reasons, it is different if the court finds during the hearing on the oath-taking that the main proceedings are void because of jurisdictional deficiencies and dismisses the motion for oath-taking on such ground. In this particular case at bar, taking the extant attendant circumstances into account, I am of the opinion that respondent judge did not mean to require the applicant to start his quest for citizenship all over again.

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