

IN THE MATTER OF THE PETITION FOR ADMISSION AS CITIZEN OF THE PHILIPPINES, VICTOR NGO, PETITIONER-APPELLEE, VS. REPUBLIC OF THE PHILIPPINES, OPPOSITOR-APPELLANT.

G.R. No. L-25805. February 27, 1969

Ponente: CONCEPCION, C.J.

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CONCEPCION, C.J.:

Appeal from a decision of the Court of First Instance of Cebu granting the petition of Victor Ngo to be naturalized as citizen of the Philippines. The Solicitor General maintains that the lower court erred in:

1. "x x x taking cognizance of the proceedings despite lack of publication of the petition as required by law.
2. "x x x finding that petitioner has a lucrative income.
3. "x x x finding that the character witnesses are credible persons.
4. " x x x granting the petition."

The first assignment of error is predicated upon the undisputed fact that, in violation of Section 9 of Commonwealth Act No. 473, which provides that -

"Immediately upon the filing of a petition, it shall be the duty of the clerk of the court to publish the same at petitioner's expense, once a week for three consecutive weeks, in the Official Gazette, and in one of the newspapers of general circulation in the province where the petitioner resides x x x."

the petition herein has not been so published. Although a notice of the filing of said petition, making reference to some data therein contained, and stating the date and place of the hearing thereof was published, this is not sufficient compliance with said legal provision. As a consequence, the lower court acquired no jurisdiction to hear this case and the decision appealed from is null and void. As early as November 29, 1958, this Court had already held that:

" x x x in order that a court could validly try and decide any case, 'it must have jurisdiction both over the subject-matter and over the persons of the parties' (Comments on the Rules of Court, by Moran, Vol. I [1957 ed.] p. 128). Jurisdiction over the plain-tiff or petitioner is acquired by his voluntary submission to the authority of the Court, resulting from the filing of the complaint or petition. Jurisdiction over other parties may be obtained, either by their voluntary appearance or by service of summons (42 Am. Jur. p. 7). In a proceeding in rem, which binds the 'whole world', the latter is, in legal contemplation, a party therein, for, otherwise, it could not be bound by the result thereof. It being impossible to serve summons personally upon every human being in this world, the summons must be published as provided by law. Otherwise, the court would have no jurisdiction over all parties concerned and, as a consequence, any decision rendered in the case would be a nullity (42 Am. Jur. 8; Scott vs. McNeal, 154 U.S. 34, 38 L. ed. 896, 14 S. Ct. 1108; Pennoyer vs. Neff, 95 U.S. 714, 24 L. ed. 565; Earle vs. McVeigh, 91 U.S. 503, 23 L. ed. 398; Hobby vs. Bunch, 83 Ga. 1, 10 S.E. 113, 20 Am. St. Rep. 301; Davies vs. Thompson, 61 Okla. 21, 160 P. 75, LRA 1917-B 395; Greenwood vs. Fur [Tex Civ. App.] 251 S. W. 332; 44 Am. Jur. 98). For this reason, it is well settled that the

procedure prescribed by law for the naturalization of an alien 'should be strictly followed' (2 C.J. 1120, citing *In re Hollo*, 206 Fed. 852; *Ex parte Lange*, 197 Fed. 769; *In re Liberman*, 193 Fed. 301; *State vs. King County Superior Ct.*, 75 Wash. 239, 134 P. 916; see, also, 3 C.J.S. 844). In the language of *Corpus Juris Secundum*, naturalization laws 'should be rigidly enforced and strictly construed in favor of the government and against applicant for citizenship' (3 C.J.S. 833). And such, accordingly, has been the criterion adopted by this Court in the interpretation and application of our naturalization laws. (*Pardo vs. Republic*, 85 Phil., 323; 47 Off. Gaz., 3447-3450; *Ng vs. Republic*, 94 Phil., 366; 50 Off. Gaz., 1599; *Yu vs. Republic*, G.R. No. L-3808, July 29, 1952; *Bautista vs. Republic*, 87 Phil., 818; *De la Cruz vs. Republic*, 49 Off. Gaz., [3] 958; *Tiao vs. Republic*, 95 Phil., 709; *Sam vs. Republic*, 98 Phil., 592; 53 Off. Gaz., [1] 145; *Ong Son Cui vs. Republic*, 101 Phil., 649; 55 Off. Gaz. [22] 4044.)

x. x x x x x

"In short, non-compliance with the requirements thereof, relative to the publication of the petition, affects the jurisdiction of the court. It constitutes a fatal defect, for it impairs the very root or foundation of the authority to decide the case, x x x ".[1]

Moreover, petitioner testified that he had a yearly income of P4,200 as salesman of the Botica Nueva, in Cebu City, since 1955. This evidence is, however, unworthy of credence for: (1) he was born in 1942, so that he was only thirteen years of age in 1955, and it is inconceivable that he then had a salary of P350 a month; (2) the Botica Nueva is owned by his brother-in-law, and it has been repeatedly held that salaries allegedly earned in business establishments belonging to a close relative of an applicant for naturalization should be regarded with grave doubts;[2] (3) as late as 1965, when this case was heard and decided, petitioner was merely a commerce student, so that, in all probability, he could not have devoted full time to his alleged employment; and (4) it does not appear that he is a member of the Social Security System, thus rendering his alleged employment in the Botica Nueva "extremely doubtful".[3]

The first and second assignments of error are, accordingly, well taken, in view of which it is unnecessary to take up the other assignments of error.

WHEREFORE, the decision appealed from should be, as it is hereby reversed, and the petition herein dismissed, with costs against the petitioner-appellee.

IT IS SO ORDERED.

Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Sanchez, Castro, Fernando, Capistrano, Teehankee, and Barredo, JJ., concur.

[1] 104 Phils., 894-895, 896.

[2] *Velasco v. Republic*, G.R. No. L-14214, May 25, 1960; *Tan v. Republic*, G.R. No. L-14861, March 17, 1961; *Sy Ang Hoc v. Republic*, G.R. No. L-12400, March 29, 1961; *Tan v. Republic*, G.R. No. L-14860, May 30, 1961; *Que Choc Gui v. Republic*, G.R. No. L-16184, Sept. 30, 1961; *Uy v. Republic*, G.R. No. L-17622, May 29, 1962; *Go A. Leng v. Republic*, G.R. No. L-19836, June 21, 1965.

[3] *Uy v. Republic*, G.R. No. L-20799, Nov. 29, 1965.

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