

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. HON. ENRIQUE MAGLANOC, JUDGE OF THE COURT OF FIRST INSTANCE OF QUEZON AND TIU SAN ALIAS ANGEL GOMEZ, RESPONDENTS.*G.R. No. L-16848. February 27, 1963*

Ponente: REGALA, J.

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After appropriate proceedings, the Court of First Instance of Quezon rendered a decision on 13 July 1950 authorizing Tiu San's naturalization as a Filipino citizen. Upon the lapse of the 2-year probationary period, or, on July 24, 1952, he petitioned the same court, under Republic Act No. 530, to be allowed to take the oath of allegiance as a citizen of the Republic. On June 3, 1953, however, the petition was denied since at the hearing thereon, it was found that in the intervening probationary period, Tiu San alias Angel Gomez, had been convicted of a violation of Municipal Ordinance No. 14, Series of 1946 of Lucena, Quezon, and for which he was fined P50.00.

Subsequently, Tiu San appealed to this Court the order which denied his oath taking. On April 20, 1955, this Court dismissed the appeal and affirmed the order of denial (G.R. No. L-7301).

Some three years later, or, on January 27, 1958, Tiu San alias Gomez filed another petition with the Court of First Instance of Quezon praying for the issuance in his favor of the corresponding certificate of naturalization after due hearing pursuant to Republic Act No. 530. As a ground therefor, he alleged that on December 23, 1957, he was granted absolute and unconditional pardon by the President of the Philippines for his conviction of the aforesated municipal ordinance of Lucena, Quezon. The trial court, however, after the pleadings in support of and in opposition to the new petition had been filed by the respective parties the Provincial Fiscal and Solicitor General on one hand and the herein respondent Tiu San on the other in an order dated February 5, 1958, denied once more herein respondent's oath-taking. Besides, a motion for a reconsideration of this order was likewise denied in an order dated March 13, 1958.

About 9 months later—January 30, 1959—respondent Tiu San filed another petition to take his oath of allegiance, which, naturally, was opposed anew by the Government. For one reason or another, this last petition remained unresolved by the trial court for over a year so that on February 22, 1960, respondent Tiu San petitioned the said lower court to set a date for the hearing of his aforesaid petition dated January 30, 1959. Upon this latest pleading, herein respondent Judge Enrique Maglanoc issued an order setting a date for the hearing of the latter's petition.

Thus, the present petition for certiorari and prohibition with preliminary injunction.

The Government maintains that respondent Tiu San's last petition for the issuance of a certificate of naturalization, after similar petitions have been denied by the lower court and affirmed by the Supreme Court, amounts to, and is in effect a petition for relief from judgment or order under Rule 38 of the Rules of Court. Consequently, it should not be made to prosper for the reason that the legal period within which the same may be

filed has long elapsed.

On the other hand, Tiu San disavows the charge that he seeks to be relieved from the previous orders denying the issuance of a certificate of naturalization in his favor. He maintains that the original decision of July 13, 1950 of the trial court admitting him as a citizen of the Philippines, the dispositive portion of which reads of follows:

"In View Whereof, let the proper naturalization certificate be issued in his favor and the registration of the same in the proper civil register as required by Sec. 10 of Act 375 upon qualifying himself by taking the required oath of office, once this decision becomes final and executory."

is still executory. He vigorously asserts that the same petition to be allowed to qualify for Filipino citizenship is merely "a sequence to the aforesaid decision" of the lower court admitting him a citizen of the Philippines. Furthermore, he alleged that "there is no law, nor does R.A. 530 limit the period of time after 2 years to file a petition for the issuance of a naturalization certificate in conjunction with the basic decision; nor is there any limitation on the number of petitions to be filed, especially so when the ground for the denial in the previous petitions exists no longer."

The arguments of the parties herein, in the final analysis, result from the only issue of this case, which is, We hold, as follows:

What is the effect of the previous denials of Tiu San's petition for the issuance of a certificate of naturalization upon the basic decision granting him Filipino citizenship?

We find for the Government.

In the case of Tiu San, alias Angel Gomez vs. Republic of the Philippines, 96 Phil., 817, promulgated April 20, 1955, this Court has already ruled that when the petitioner, herein respondent, violated Lucena Municipal Ordinance No. 41, series of 1946, for which he was convicted on April 25, 1952, he became barred from securing the corresponding certificate of naturalization despite the decision granting his petition for naturalization, thus in fact nullifying the basic decision. In other words, as of the time that the order denying the issuance of a certificate of naturalization became final, that particular naturalization proceeding ended and terminated. And still more recently, in the case of Isasi y Larrabide vs. Republic of the Philippines, 101 Phil., 405, We have likewise laid down the rule that the failure of an applicant for naturalization to pass the 2-year probationary period results in the loss of whatever rights he may have acquired under the decision authorizing his naturalization inasmuch as the same decision is rendered nullified. Furthermore, in the same case, We held that the case cannot be revived and declared to be still valid and executory.

It is of no moment whether an absolute and unconditional pardon has been granted to the herein respondent Tiu San. Whatever be its nature, whether it removes the moral stain of the conviction or not, the fact still remains that it was granted subsequent to the denial of his first petition for the issuance of a certificate of naturalization. It is well settled that a pardon has no retrospective operation (67 C.J.S. Section 11, page 578). It can have no effect upon judicial proceedings already terminated.

Respondent Tiu San also filed an amended answer to the instant petition and claims that the failure of the State to file a motion for reconsideration with the lower court renders this same petition fatally defective.

A, a general rule, a writ of prohibition will not be issued to an inferior court unless the attention of the court whose proceedings is sought to be arrested has been called to the alleged lack or excess of jurisdiction. However, a number of exceptions to that rule are judicially recognized. Thus, the aforesaid rule has been held inapplicable to ex-parte proceedings; or to proceedings in which the applicant for the writ had no opportunity to object; or where it is apparent that an objection to the lower court would have been unavailing and futile, or would result in

unnecessary or hurtful delay; or where to make objection in the inferior court would be to destroy its very purpose; or where a want of jurisdiction is apparent on the face of the record (50 C.J.S., 697-698, cited in III Francisco, Rules of Court, p. 170-171.)

In view of all the foregoing, judgment is hereby rendered annulling the order of the herein respondent Judge setting the date for the hearing of the petition dated Jan. 30, 1959, and, enjoining him or his successor to refrain from acting further on the matter, With costs against respondent Tiu San.

Bengzon, C. J., Padilla, Bautista Angelo, Labrador, Concepcion, Reyes, J.B.L., Barrera, Paredes, Dizon, and Makalintal, JJ., concur.

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