

IN RE: PETITION FOR CANCELLATION OF CERTIFICATE OF NATURALIZATION. REPUBLIC OF THE PHILIPPINES, PETITIONER AND APPELLANT, VS. GO BON LEE, RESPONDENT AND APPELLEE.*G.R. No. L-11499. April 29, 1961*

Ponente: DIZON, J.

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Appeal from the decision of the Court of First Instance of Cebu denying the petition filed by the Government, through the Solicitor General, for the cancellation of the certificate of naturalization issued to Go Bon Lee—hereinafter referred to as Go.

Go was granted Philippine citizenship by the Court of First Instance of Cebu on November 26, 1941 and on February 11, 1942 he took his oath of allegiance, and naturalization certificate No. 4 was issued to him thereafter.

On August 15, 1951 the Solicitor General filed a petition for the cancellation of Go's certificate of naturalization on the following grounds: (1) that the same was obtained illegally or contrary to law because Go did not then have all the necessary qualifications to become a citizen of the Philippines; (2) that at the time he was granted Philippine citizenship, he had not enrolled all his minor children of school age in any public or private school recognized by the Office of Private Education where Philippine history, government and civics are taught or prescribed as part of the school curriculum; (3) that he did not reside continuously in the Philippines for ten years; (4) and finally, that he filed his petition for naturalization on April 18, 1941 in violation of Section 5 of the Revised Naturalization Law, because at that time one year had not yet elapsed since he filed with the Bureau of Justice a sworn declaration of his intention to become a citizen of the Philippines.

It is not denied that Go, bound as he was by the law requiring the filing of a declaration of intention to become a citizen of the Philippines, complied with said requirement on May 23, 1940 (Exh. C). Neither is it disputed that his petition for naturalization was filed with the Court of First Instance of Cebu on April 18, 1941 (Exh. C)—clearly in violation of the provision of Section 5 of the Revised Naturalization Law to the effect that the petition for naturalization must be filed after one year from the filing of the aforesaid declaration of intention.

The lower court, however, held the view that Go had substantially complied with this requirement because, after all, the hearing of his petition was held more than one year after the filing of his declaration of intention to become a citizen. We disagree with this view. The language of the law on the matter being express and explicit, it is beyond the province of the courts to take into account questions of expediency, good faith and other similar reasons in the construction of its provisions (*De los Santos vs. Mallare*, 87 Phil, 289; 48 Off. Gaz., 1787). Were we to accept the view of the lower court on this matter, there would be no good reason why a petition for naturalization cannot be filed one week after or simultaneously with the filing of the required declaration of intention as long as the hearing is delayed to a date after the expiration of the period of one year. The ruling of the lower court amounts, in our opinion, to a substantial change in the law, something which courts can not do, their duty being to apply the law and not tamper with it (*Uy Chin Hua vs. Dinglasan*, 86 Phil., 617; 47 Off. Gaz. 12

Supp. p. 233; *Orestoff vs. Government etc.*, 71 Phil., 240). In *U. S. vs. Ginsberg*, 243 U. S. 472, 475; 61 L. Ed. 853, 856, cited in *Bautista vs. Republic, etc.*, 87 Phil., 818; it was held:

"An alien who seeks political rights as a member of this nation can rightly obtain them only upon terms and conditions specified by Congress. Courts are without authority to sanction changes or modifications; their duty is rigidly to enforce the legislative will in respect of the matter so vital to the public, welfare."

In connection with the question of appellee's failure to enroll all his minor children of school age in a public or private school recognized by the Office of Private Education of the Philippines, etc.—which is mandatory, failure to comply with it constituting a valid ground for the denial of the petition for citizenship (*Tan vs. Republic, etc.* 92 Phil., 915; 49 Off. Gaz., p. 1409) or for the cancellation of a certificate of naturalization already issued—it appears that when Go filed his petition for naturalization in 1941 he had five minor children of school age, four of whom were then living in China, where they were born, and had never been enrolled in any recognized public or private school in the Philippines. It has been held in this connection that the fact that applicant's minor children were born and have lived since infancy in China does not excuse him from complying with this particular requirement of the law (*Lim vs. Republic etc.*, G. R. No. L-3575, Dec. 26, 1950; *Hao Lian Chu vs. Republic etc.*, 87 Phil., 668; 48 Off. Gaz., p. 1780). Go's claim that his failure to comply with this legal requirement was due to different factors beyond his control, such as the unsettled conditions in China and the strictness of Philippine Immigration Laws, do not constitute valid excuses for non-compliance (*Hao Lian Chu vs. Republic etc.*, supra). Moreover, according to appellee's own testimony, in 1930 he took his daughter Juanita—who was born in Cebu—to China where she remained until she was brought back to the Philippines in 1938. No satisfactory proof has been presented to show that Go had exerted efforts at that time to bring to the Philippines his other four minor children.

In denying the petition of the Government the lower court expressed the view that the matter of Go's citizenship was already *res judicata* and that the Government was in estoppel to question his status as a citizen upon any ground which could have been raised before or during the hearing of the petition for naturalization. This we find to be untenable.

It is settled that the doctrine of estoppel or of laches does not apply against the Government suing in its capacity as Sovereign or asserting governmental rights. It has been held that the Government is never estopped by mistakes or errors on the part of its agents (*Pineda vs. Court of First Instance of Tayabas*, 52 Phil., 803, 807), and that estoppel cannot give validity to an act that is prohibited by law or is against public policy (*Benguet Consolidated etc. vs. Pineda etc.*, 96 Phil., 711; 52 Off. Gaz., [4] 1961; *Eugenio vs. Perdido*, 97 Phil., 41).

Furthermore, unlike final decisions in actions and other proceedings in court, a decision or order granting citizenship to the applicant does not really become executory, and a naturalization proceeding not being a judicial adversary proceeding, the decision rendered therein is not *res judicata* as to any of the reasons or matters which would support a judgment cancelling the certificate of naturalization for illegal or fraudulent procurement. As a matter of fact, it is settled in this jurisdiction that a certificate of naturalization may be cancelled upon grounds or conditions subsequent to the granting of the certificate of naturalization. Thus in *Bell vs. Attorney General*, 56 Phil., 667, it was held that a certificate of naturalization may be cancelled if it is found subsequently that the applicant for citizenship secured the same by misleading the Courts on any material fact. Finally, the following was said in *U. S. vs. Spohrer*, 175 Fed. 440:

"An alien is offered under certain conditions the privilege of citizenship. He may accept the offer and become a citizen upon compliance with the prescribed conditions, but not otherwise. His claim is of favor, not of right. He can only become a citizen upon and after a strict compliance with the acts of Congress. An applicant for this high privilege is bound, therefore, to conform to the terms upon which alone the right he seeks can be conferred. It is his province, and he is bound, to see that the jurisdictional facts upon which the

grant is predicated actually exist, and if they do not he takes nothing by this paper grant.

* * * * *

"Congress having limited, this privilege to a specified class of persons, no other person is entitled to such privilege, nor to a certificate purporting to grant it, and any such certificate issued to a person not so entitled to receive it must be treated as a mere nullity, which confers no legal rights as against the government, from which it has been obtained without warrant of law."

In view of the foregoing, the decision appealed from is hereby reversed and another is rendered cancelling. Certificate of Naturalization No. 4 heretofore issued to appellee Go Bon Lee, with costs.

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

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