

PETITION TO BE ADMITTED A CITIZEN OF THE PHILIPPINES, PO SOON TEK, PETITIONER AND APPELLEE, VS. REPUBLIC OF THE PHILIPPINES, OPPOSITOR AND APPELLANT.

G.R. No. L-32408. September 30, 1974

Ponente: AQUINO, J.

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AQUINO, J.:

This is a denaturalization proceeding. The Republic of the Philippines appealed from the order of Judge Guardson R. Lood of the Court of First Instance of Rizal, Pasig Branch, dated December 19, 1969, denying its motion for the cancellation of the naturalization certificate which was issued to Po Soon Tek (Naturalization Case No. 327). The record discloses the following facts.

Po Soon Tek was born on January 10, 1911 in Lamo, China. He arrived in Manila on board the SS Java Line on December 29, 1929. He returned to China in 1936, 1941, 1946 and 1948. He married Go Pek Giok in China. They have two children born in Lamo on June 11, 1947 and November 10, 1949. The children studied in the Philippine Chinese Jin Nam Institute in Manila. Since January 4, 1956 Po Soon Tek had allegedly resided at 1051 Rizal Avenue Extension, Grace Park Caloocan, Rizal.

He filed his petition for naturalization on January 10, 1958. At the hearing, his counsel was Laura Poblete. After hearing, the lower court rendered a decision dated September 11, 1958, admitting him as a citizen of the Philippines. No appeal was taken from that decision.

On October 19, 1960, the lower court, after hearing, issued an order allowing Po Soon Tek to take his oath of allegiance. On the following day, he subscribed to an oath of allegiance. The Clerk of Court forthwith issued to him a certificate of naturalization.

Seven years later, or on October 27, 1967, the Solicitor General filed a motion to cancel his certificate of naturalization on the ground that it was fraudulently and illegally obtained for the following reasons: (1) that the petitioner never resided at 1051 Rizal Avenue, Grace Park, Caloocan and he did not allege in his petition his former places of residence; (2) that in his declaration of intention dated January 4, 1956 he stated that his children were residing at Caloocan and were enrolled at the Philippine Chinese Jin Nam Institute when in truth the two children were still in China, having arrived here only on December 26, 1957; (3) that it was not alleged in the petition that he was not suffering from mental alienation; (4) that his character witnesses, who came to know him only in 1946, were incompetent to testify on his behavior and reputation from the year 1929 when he arrived in the Philippines, and (5) that he took his oath of allegiance before the order allowing him to do so had become final.

Po Soon Tek opposed that motion. On June 5, 1969 Judge Andres Reyes, the same Judge who granted the petition for naturalization, issued an order (a) setting aside his decision and his order allowing Po Soon Tek to take the oath of allegiance, (b) cancelling the certificate of naturalization, and (c) directing Po Soon Tek to surrender the certificate to the Clerk of Court, who was

required to annotate thereon the words "null and void".

Po Soon Tek filed a motion for the reconsideration of the order of cancellation. Judge Reyes, in his order of June 30, 1969, set aside that order and designated the Special Deputy Clerk of Court to hear petitioner's evidence. As already stated, after hearing, Judge Guardson R. Lood denied the Solicitor General's motion.

In this appeal the Solicitor General argues that the trial court erred in not cancelling Po Soon Tek's certificate of naturalization on the grounds inter alia, (1) that he failed to comply with the school or education requirement and (2) that he failed to state in his petition his former places of residence.

A naturalization certificate may be cancelled upon motion by the Solicitor General or his representative or by the proper provincial fiscal "if it is shown that said naturalization certificate was obtained fraudulently or illegally" (Sec. 18, Com. Act No. 473).

Po Soon Tek alleged in his petition that his "present place of residence is No. 1051 Rizal Avenue, Grace Park, Caloocan, Rizal and that his "former place of residence was the same". The pivotal issue is whether that allegation is false. Its falsity would amount to fraud. It is interwoven with his suppression of information as to his former places of residence. That suppression might amount to a fraudulent omission and not a "pure error of his counsel", as claimed by him.

The State's evidence shows that the house and lot at 1051 Rizal Avenue Extension, Grace Park, Caloocan was purchased by Geronimo P. Jimeno, Sr. on April 10, 1957. At that time the upper floor was occupied by the family of Jose Pineda. The ground floor was occupied by a machine shop. After Pineda left the place, the upper portion was used as a Chinese chapel for about six or eight months.

The machine shop was operated by Pablo Paredes. Geronimo Jimeno, Jr., the son of the owner of the house and a nephew of Paredes, worked in the machine shop from 1958 to 1967. During that period, he went daily to the machine shop. He used to collect from Pineda or his wife the monthly rental of one hundred pesos. During that period, he never saw Po Soon Tek, his wife and two children at 1051 Rizal Avenue Extension.

The record does not show where Po Soon Tek resided soon after his arrival in this country in 1929. According to his evidence, in 1950 he was residing at 550 Reina Regente Street, Manila (Exh. 5-Respondent). The alien certificates of registration of his children in 1955 show that in that year Po Soon Tek was residing at 906 Alvarado Street, Binondo, Manila (Exh. 6 and F-Respondent). On January 4, 1956 he notified the Bureau of Immigration that he had changed his residence from 906 Interior D "Alvarez" (should be Alvarado), Manila to "1051 Rizal Avenue Extension, Grace Park, Caloocan, Rizal" (Exh. 2-Respondent). That latter address was indicated by him as his residence in his declaration of intention also dated January 4, 1956 (Exh. 1-A-Respondent).

According to Po Soon Tek's evidence, from January 4, 1956 it should be assumed that he was already residing at 1051 Rizal Avenue Extension, Grace Park, Caloocan. Yet, on April 4, 1956, when he and his wife Go Pek Giok were married before Judge Bienvenido Tan in Manila (the marriage was a confirmation of their marriage in China), they indicated in their marriage contract that their residence was 906-E Alvarado Street. Ambrosio D. Go, the lawyer of Po Soon Tek, was a witness or sponsor in that marriage (Exh. F-Motion). Ambrosio D. Go, the lawyer of Po Soon Tek, was a witness or sponsor in that marriage (Exh. F-Motion).

That is not all. On January 8, 1958, when Po Soon Tek and his family were supposed to be residing at 1051 Rizal Avenue Extension, Grace Park, his wife, Go Pek Giok obtained from the Bureau of Immigration an alien certificate of registration (ACR) wherein it was stated that Po Soon Tek's residence was 906 Interior E-Alvarado, Manila (Exh. I-Motion).

His 1958 and 1959 income tax returns, his 1960 tax clearance certificate, the 1960 certification that no criminal nor civil case had been filed against him, issued by the Clerk of Court of the Court of First Instance of Manila (not Rizal) and the 1960 certificate as to the issuance to him of certain immigration documents (Exh. N to R-Motion) show that his residence or address was 906 Interior D. Alvarado Street, Manila where his shirt factory was located.

It is not surprising that his naturalization certificate dated October 20, 1960, issued by the Clerk of Court of the Court of First Instance of Rizal, indicates 906 Interior D Alvarado Street, Manila as his residence (Exh. E-Motion). The record does not show when he transferred his residence from 1051 Rizal Avenue Extension, Grace Park, Caloocan to his former residence at 906 Interior D Alvarado Street, Manila.

To rebut the State's evidence in support of its claim that Po Soon Tek never resided at 1051 Rizal Avenue Extension, he presented the affidavits and testimony of Arsenio G. Enriquez, the head of a detective and security agency, and the latter's security guard, Jose M. de Jesus. Enriquez, in his 1967 affidavit, declared that Po Soon Tek "used to reside" at 1051 Rizal Avenue Extension, Caloocan, that his shirt factory was located at 906 Interior Alvarado, Manila, and that he had furnished a security guard for that factory since 1955. He affirmed that "many times in the morning" in 1956 he would pass by Po Soon Tek's supposed Caloocan residence, give him a ride in his jeep in the course of his inspection trips in Caloocan and bring him to his factory in Manila (Exh. 3-Respondent).

De Jesus in his 1967 affidavit declared that he knew Po Soon Tek resided at Caloocan in 1956 because, as a security guard in Po Soon Tek's Alvarado factory, De Jesus used to go to Po Soon Tek's house at Grace Park, Caloocan, "in order to fetch somebody or bring something and do other similar errands" (Exh. 4- Respondent).

Morales, who ratified his affidavit in court, testified that in 1969 (when the fifty six-year old Morales testified) Po Soon Tek might have had the same age as he (Morales) or Po Soon Tek "may be younger" (Po Soon Tek was already fifty-eight years old in 1969). Morales further testified that he had resided at 723 Reina Regente, Manila since 1945 and that if he would ever change residence, he would transfer to a house within the same vicinity. However, his 1967 affidavit showed that he was a resident of 61 12th Street, New, Manila, Quezon City. He said that up to 1957 Po Soon Tek used to hitchhike in his jeep at around seven o'clock in the morning.

Po Soon Tek, his wife and children did not take the witness stand to affirm that they resided at 1051 Rizal Avenue Extension, Grace Park, Caloocan. He did not offer in evidence any receipts for the rentals which he paid for the occupation of the Caloocan residence if in truth he resided therein. Appellee's counsel explained that Po Soon Tek used the Alvarado Street address in some documents because, should a government agent conduct an investigation, Po Soon Tek would be in his factory and he would not want the agent to embarrass and disturb his wife and children by talking with them in Tagalog, a dialect which they did not understand.

A conscientious evaluation of the evidence leads to the conclusion that Po Soon Tek and his family never resided at 1051 Rizal Avenue Extension, Grace Park, Caloocan. He fraudulently misrepresented in his petition and declaration of intention that he was a Caloocan resident.

The firm impression conveyed by the documentary evidence, by Jimeno's testimony and by the naturalization certificate is that Po Soon Tek pretended to be a Caloocan resident so that, in consonance with an ulterior purpose, the venue of his petition for naturalization would be Rizal and not Manila. He was apparently adverse to filing his petition in Manila. When his naturalization certificate was issued, he forgot his supposed Caloocan residence and he reverted to his residence at 906 Alvarado Street, Manila. For him that was a moment of truth.

Po Soon Tek's willful misstatement as to his residence is a sufficient ground for his denaturalization on the ground

of fraud. The falsity of the allegation in his petition that his residence had always been at Caloocan, when in fact he had resided for a long time in Manila, cannot be characterized as a mere error of his counsel. It was a glaring falsehood.

Even if the suppression or concealment of prior residence was not intentional, such omission was a violation of section 7 of the Revised Naturalization Law and, therefore, the naturalization certificate was illegally obtained because of noncompliance with a mandatory legal requirement (U. S. vs. Beda, 118 Fed. 2nd 458, 459 cited in Republic vs. Cokeng, L-19829, Res. of May 4, 1968, 23 SCRA 559, 564).

A naturalization certificate may be revoked on the ground that the applicant fraudulently secured it by misleading the court on a material fact (Go Tian vs. Republic, L-19833, August 31, 1966, 17 SCRA 1053; Ting vs. Republic, L-13896, August 10, 1966, 17 SCRA 909; Republic vs. Cokeng, L-19892, May 4, 1968, 23 SCRA 559; 17 SCRA 853). Republic L-13896, August 10, 1966, 17 SCRA 909; Republic vs. Cokeng, L-19892, May 4, 1968, 23 SCRA 559; 17 SCRA 853).

The instant case in principle is similar to a case where the naturalization certificate was cancelled because the alien testified that he had resided in the Philippines for more than five years when the truth was that his residence here was only for a little over four years. His alleged good faith and poor memory were not regarded as sufficient to exculpate him from the charge of misrepresentation (Bell vs. Attorney General, 56 Phil, 667).

In view of our finding that Po Soon Tek acted fraudulently in deceiving the lower court that he was a resident of Caloocan, it is not necessary to resolve his contention that no retroactive effect should be given to the ruling in Keng Giok vs. Republic, 112 Phil. 986 that failure to state the former places of residence is a ground for denying the petition for citizenship.*

It is likewise unnecessary to pass upon the other contentions of the Solicitor General that Po Soon Tek's naturalization certificate should be cancelled on the grounds that he did not comply with the school or education requirement; that his character witnesses were incompetent; that his oath was premature; that the filing fees for his declaration of intention were paid after the petition was filed, and that he failed to allege specifically that he was a person of good moral character.

It suffices to state that irregularities and defects which affect the court's jurisdiction in a naturalization case may invalidate the decision admitting the applicant to Philippine citizenship and justify the cancellation of the naturalization certificate on the ground of illegality in obtaining it (Govs. Republic, L-20558, March 31, 1965).

WHEREFORE, the lower court's order dated December 19, 1969 is reversed and its order of June 5, 1969, canceling petitioner's naturalization certificate for having been fraudulently and illegally obtained, is affirmed with costs against the appellee.

In connection with appellant Republic's prayer that Po Soon Tek and the members of his family be ordered to register as aliens, let a copy of this decision be furnished the Commissioner of Immigration for appropriate action.

SO ORDERED.

Makalintal, C.J., Fernando, Esguerra, and Fernandez, JJ., concur.
Barredo and Antonio, JJ., took no part.

* It is not true that that ruling was first announced on August 31, 1961 in the Keng Giok case. That ruling was announced on May 19, 1961 in Lo vs. Republic, 111 Phil. 1030.

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