

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. HON. GAUDENCIO CLORIBEL, AS JUDGE OF THE COURT OF FIRST INSTANCE OF MANILA, BRANCH VI AND JUANITO SY, RESPONDENTS.*G.R. No. L-27281. June 30, 1970*

Ponente: FERNANDO, J.

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The dismissal by the then respondent Judge of an appeal of petitioner Republic of the Philippines from his order allowing the private respondent Juanito Sy to take his oath of allegiance as a Filipino citizen is challenged in this certiorari and mandamus proceeding. It would thus appear that on its face it cannot be said that the petition lacks legal support. Nor is there anything in the answer filed by private respondent that would in any wise justify the failure of the then respondent Judge to comply with his duty to allow the appeal. The petition should be granted.

In the order of dismissal dated September 30, 1966, although copy thereof was served on the then. Solicitor General only on January 7, 1967, it was stated that there was an opposition on behalf of the private respondent to the motion for the approval of the record on appeal submitted by the Office of the Solicitor General on behalf of now petitioner Republic of the Philippines against the order of respondent Judge of October 23, 1965 finding that private respondent Juanito Sy had satisfactorily shown that he had complied with all the requirements specified in Republic Act No. 530 and that he be allowed to take his oath of allegiance as a Filipino citizen after which the corresponding certificate of naturalization should be issued in his favor. The opposition was based on the ground of the appeal being frivolous and intended for the purposes of harassment and revenge in view of a criminal case filed against the relative of the then occupant of the Solicitor General's chair. The order went on to recite facts which it believed would tend to show that there was really such a case of harassment.

After which came this portion thereof: "It is only a continuation of vengeful acts after the petitioner has fallen out of graces because of his sin in criminally charging a relative of the powers that be. The Court cannot simply fold its arms and close its eyes in silence to this system of embarrassment and harassment to the petitioner. For the sake of justice and equity, the Court cannot allow the appeal as clearly revenge is its sole motivation." [1] Hence its order dismissing such appeal by petitioner Republic of the Philippines.

The order of October 23, 1965, which was sought to be appealed was based on what the then respondent Judge considered as being satisfactorily established on evidence both oral and documentary, "that since the promulgation of the decision granting the application of Juanito Sy for naturalization on December 11, 1961, up to the present, said petitioner has not left the Philippines; that he has dedicated himself continuously to a lawful and lucrative occupation, being an employee of the Liong Hong Trading with a net income of P5,400.00 for 1964; that he has not committed any act prejudicial to the interest of the nation or contrary to any government-announced policies." [2] It overruled the opposition filed by the Office of the Solicitor General, its dispositive portion reading: " * * * finding that petitioner Juanito Sy has satisfactorily shown that he had complied with all the requirements specified in Republic Act No. 530, the Court hereby allows said petitioner to take his

oath of allegiance as a Filipino citizen, and upon the taking of said oath, let the corresponding certificate of naturalization be issued in his favor which shall be registered with the Office of the Local Civil Registrar for the City of Manila in accordance with Section 10 of Act 3753." [3] The notice of appeal filed by the Office of the Solicitor General on December 29, 1965, the aforesaid order of October 23 having been received only the day before, was based on its being contrary to law and the evidence, the matter thus being sought to be elevated to this Court.

This petition for certiorari and mandamus was filed on March 2, 1967 and, in a resolution eight days later, this Court required respondents to file an answer, at the same time issuing a writ of preliminary injunction restraining private respondent Juanito Sy from representing himself as a Filipino citizen or from exercising any of the rights and privileges of a Filipino, and requiring him to surrender the original Certificate of Naturalization No. 3926 to the Clerk of this Court. In the answer filed by private respondent Juanito Sy himself, the facts were not controverted. He did attempt to explain, however, that it took him sometime before he filed his petition for oath-taking after the lapse of the two-year probationary period in January, 1963 as "he was in constant fear of reprisal from the Office of the then Hon. Solicitor General, said Juanito Sy being the complaining witness in an information for robbery and extortion against three employees of said Office, one of them, Salvador Alafritz, Jr." [4] He would stress further that the petition for naturalization in this case having been terminated without any appeal on the part of the government, this special civil action would not lie, as all acts sought to be restrained had been executed, the only remedy in his opinion being a petition for cancellation of the certificate of naturalization. The petition was submitted for decision with a memorandum of private respondent Juanito Sy stressing anew that harassment was the motive thereof and seeking that it be dismissed. As noted at the outset, the law requires that this petition should prosper.

What is readily discernible from the appealed order itself as well as from the answer of private respondent is the absence of any defense to this petition that would suffice in law. Both the then respondent Judge and private respondent would rely instead on the fanciful notion that the alleged harassment or revenge imputed to the Office of the then Solicitor General would defeat the right of the petitioner Republic to interpose this appeal. There is no foundation for such an unorthodox view. Moreover, respondents cannot ignore that it was another Solicitor General, now a member of this Court, the Honorable Antonio P. Barredo, who filed this petition with us. What is even more indicative of the utter lack of merit of such dismissal of petitioner's appeal is the underlying assumption that a naturalization proceeding could be looked upon as a private contest between the applicant and whoever would be the occupant of the Office of the Solicitor General rather than as a matter impressed with the highest public interest, involving as it does an inquiry as to when our law on naturalization, necessarily of the most exacting kind because of the consequences of a favorable action, has been satisfied.

There should be no retreat, to quote from *Republic v. Santos*, [5] from "the firm and unwavering, adherence, so manifest in the decisions of this Court, to the concept that Filipino citizenship being an inestimable boon and a priceless acquisition, one who seeks to enjoy its rights and privileges must not shirk the most exacting scrutiny as to his fulfilling the qualifications required by law, which must be fully met and could be inquired into at any stage of the proceeding, whether it be in the course of the original petition or during the stage leading to his oath-taking pursuant to Republic Act No. 530." [6] The then respondent Judge therefore cannot be indulged in his unaccountable failure to allow the appeal in this case.

Further citation from the above *Republic v. Santos* decision is equally relevant: "It would follow then that the mere failure on the part of this petitioner in this case to file an opposition to the motion for oath-taking cannot and does not constitute a waiver precluding an appeal. That has been the settled law as far back as 1950. What was said by Justice Tuason in *Yay Chin v. Republic*, possesses relevance. Thus: 'It was not the duty of the

Government to specify the grounds of its opposition. It is not bound in naturalization proceedings by the pleadings relative to the presence or absence of qualifications. Without objection by the Government, it is the duty of an applicant for citizenship affirmatively to establish all the legal requirements, and the court motu proprio may and should deny his application if from his evidence he is found lacking in any of those requirements. This is so in all stages of the proceeding. For the government, it is almost never too late."[7]

Its concluding portion deserves to be quoted likewise: "It is thus undeniable that the right of the government to appeal is deemed of such importance and is impressed with such significance that the 'attempt to render [it] nugatory' has invariably met with the condemnation that it so richly deserves. So this Court has consistently and invariably ruled. We do so again."[8]

WHEREFORE, this petition for certiorari and mandamus is granted rendering judgment declaring null and void the order dated September 30, 1966 dismissing the appeal perfected by the petitioner Republic of the Philippines, and commanding the judge now occupant of the Sala, Branch VI of the Court of First Instance of Manila, then presided by respondent Judge Gaudencio Cloribel, to approve petitioner's record on appeal and to elevate the same together with all the oral and documentary evidence adduced before such lower court for review by this Court. The preliminary injunction issued by virtue of the resolution of March 10, 1967 is hereby made permanent. With costs against private respondent Juanito Sy.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Castro, and Teehankee, JJ., concur.
Barredo and Villamor, JJ., did not take part.

[1] Order of September 30, 1966, Petition, Annex H.

[2] Order of October 23, 1965.

[3] Ibid.

[4] Answer, par. 4

[5] L-23919, July 22, 1968, 24 SCRA 314 citing Yong Sai v. Rep., L-20483, Sept. 30, 1966; Lim v. Rep., L-21193, Sept. 30, 1966; Ching Leng v. Rep., L-6268, May 10, 1954; Tan Hoi v. Rep., L-15266, Sept. 30, 1960; Go Kay See v. Rep., L-17318, Dec. 27, 1962; Ong So v. Rep., L-20145, June 30, 1965; Pe v. Rep., L-20375, Jan. 31, 1966; Go Im Ty v. Rep., L-17919, July 30, 1966 and Chua Tiong. Seng v. Rep., L-21422, Dec. 18, 1967.

[6] Ibid, p. 316.

[7] Ibid, p. 320.

[8] Ibid.

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