

IN THE MATTER OF THE PETITION OF BENJAMIN ANG @ BEN ANGLIAN TO BE ADMITTED A CITIZEN OF THE PHILIPPINES, BENJAMIN ANG @ BEN ANGLIAN, PETITIONER-APPELLEE, VS. REPUBLIC OF THE P...

G.R. No. L-22216. January 30, 1970

Ponente: DIZON, J.

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DIZON, J.:

Appeal taken by the Republic of the Philippines from an order issued by the trial court on November 4, 1963, allowing the withdrawal, without prejudice, of the petition for naturalization filed by appellee.

On July 22, 1960 appellee filed his petition for naturalization with the Court of First Instance of Manila. After the required publication, the court set the petition for hearing and appellee started presenting his evidence. His witnesses Marcial Valenzuela, Manuel Paloma and Eliseo Vivar testified on July 13, 1961, December 6, 1961 and on May 3 and June 25, 1962, respectively. Thereafter appellee himself took the witness stand and after his testimony had been taken, he rested his case.

On March 14, 1963 NBI senior agent, Cornelio Nicolas, took the witness stand on behalf of the State. At the next hearing held on May 24, 1963, the representative of the Solicitor General filed a motion to recall Manuel Paloma, one of appellee's character witnesses. This motion was granted and the Court directed Paloma to appear before it on June 14, 1963 for additional cross-examination. Because Paloma was not duly notified of this hearing, the same was transferred to July 19, 1963. This hearing was likewise cancelled because of Paloma's illness, so the trial court set the hearing anew on September 20 of the same year.

On September 12, 1963, however, appellee filed a motion to withdraw his petition for naturalization, without prejudice on his part to file a new one subsequently, on the ground that the character witnesses he had presented failed to vouch for his character and attest to the merits of his petition. The Solicitor General objected to his motion contending that the hearing should be completed and final judgment on the merits rendered, or if the petition was to be dismissed, the dismissal should be with prejudice. Notwithstanding this opposition, the trial court granted the motion for the withdrawal of the petition. Hence the present appeal, it being claimed by the State that the lower court erred in allowing the withdrawal of appellee's petition for naturalization without prejudice.

We disagree. Whether to allow the withdrawal or not, and, in the affirmative, to allow the withdrawal, with or without prejudice, was a matter addressed to the sound discretion of the trial court. Such being the case, and considering that, even if the case was terminated with a final judgment denying the petition for naturalization, such final judgment would not constitute a bar to the renewal of the petition provided appellee had in the meantime acquired all the qualifications and did not have anyone of the disqualifications provided by law (*Yu Lo vs. Republic*, G. R. No. L-4725, October 5, 1952; *Sy Kiam vs. Republic*, G. R. No. L-18008, December 18, 1957; *Ng vs. Republic*, G. R. L-14146, April 29, 1961, and *Sy Chut vs. Republic* G. R. L-17960, September 30, 1964), it is clear that the trial court committed no reversible error in issuing the order appealed from.

WHEREFORE, the order aforesaid is hereby affirmed. Without costs.

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

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