

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. HON. GUILLERMO S. SANTOS, AS JUDGE OF THE COURT OF FIRST INSTANCE OF MANILA, BRANCH XI, AND CHUA SIU TING, RESPONDENTS.*G.R. No. L-23919. July 29, 1968*

Ponente: FERNANDO, J.

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FERNANDO, J.:

The question at issue, squarely raised for the first time, in this certiorari and mandamus proceeding, is whether or not the refusal of the respondent Judge, the Honorable Guillermo S. Santos, of the Court of First Instance of Manila, to give due course to the appeal of the petitioner, Republic of the Philippines, from his order allowing the other respondent, Chua Sin Ting, to take his oath as a Filipino pursuant to Republic Act No. 530, a refusal based on the failure of the petitioner to "file an opposition to the oath-taking" is justified. Petitioner Republic of the Philippines assails it as constituting a grave abuse of discretion, and excluding the government from the exercise of its right to appeal, respondent Judge neglecting to perform the performance of a duty enjoined by law entitling petitioner to the remedy of mandamus. We agree with petitioner.

The basic facts are not in dispute. In a naturalization proceeding,[1] respondent Chua Siu Ting obtained a decision in his favor rendered on September 16, 1961.[2] Thereafter, a petition was filed by him on July 8, 1964 for final hearing preparatory to oath-taking.[3] On November 4, 1964, respondent Judge issued an order allowing his oath-taking.[4] A copy of such order was received by the Solicitor General on November 6, 1964 and within the reglementary period, petitioner filed a notice of appeal as well as a record on appeal.[5] Then on December 12, 1964, at the hearing for the approval of petitioner's record on appeal, respondent Judge sustained the verbal opposition of the other respondent and dictated an order refusing to give due course to the appeal in view of the government's failure to file an opposition. That action of respondent Judge is the basis for this certiorari and mandamus proceeding.

In the resolution of the novel issue thus presented, what cannot be ignored is 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.

Tested by such a criterion, whatever could be said in favor of the action taken by respondent Judge, viewed solely from a procedural angle, cannot justify his refusal to allow the appeal in this case. In that sense, what was done by him constituted a grave abuse of discretion correctible by certiorari, and mandamus lies. While there is no case precisely in point, two 1966 decisions, both rendered on the same day, are of a persuasive character.

In the first case, *Yong Sai v. Republic*,^[6] an appeal was taken by the Republic from an order of the Court of First Instance of Tacloban, allowing petitioner Yong Sai to take his oath as a naturalized Filipino citizen. His

application for citizenship was favorably acted upon earlier in a decision by the lower court dated March 31, 1960. No appeal having been taken from that decision, petitioner Yong Sai, on May 21, 1962, filed a petition to take his oath. Again, he was successful. Not only was an order to that effect granted, but he took his oath the same day. Hence the appeal in that case.

His counsel filed a motion to dismiss such appeal, contending that the two-year period having elapsed and he having taken the oath, the original decision was no longer appealable. Such a contention was rejected by this Court, the opinion being penned by Justice Zaldivar. Thus: "It is a settled rule that the decision of the court of first instance in naturalization cases does not become final until after the expiration of the period to appeal from the order of the court authorizing the taking of the oath of allegiance as provided in Section 1 of Republic Act No. 530 and this, notwithstanding that the applicant for citizenship had already taken his oath of allegiance. Likewise, it is a settled rule that an appeal from the order of the court of first instance authorizing the taking of the oath of allegiance, under Section 1 of Republic Act 530, subjects the entire naturalization proceedings to scrutiny by the Supreme Court, so that any matter pertinent to the determination of whether or not the applicant for naturalization is really qualified to become a Filipino citizen, whether or not the original petition had complied with all the requirements of the law, and whether or not the procedural requirements in the lower court had been complied with, may be reviewed on appeal by this Court if those matters are not touched in the briefs or pleadings of the parties."

In the other case, *Lim v. Republic*,^[7] an appeal was likewise taken by the Republic from a lower court order allowing petitioner Anacleto Lim to take his oath of allegiance as a naturalized citizen. In this case, the judgment on his petition for naturalization was rendered on November 30, 1960. A little over two years later, on December 7, 1962, he filed a motion to introduce evidence in accordance with Republic Act No. 530 to enable him to take the oath of allegiance. He was heard and the appealed order was rendered on January 19, 1963, petitioner taking the oath the same day. The appeal of the government was duly perfected. The lower court, while on the belief that it was frivolous, nevertheless, approved the record on appeal. The lower court likewise expressed surprise considering that the Solicitor General failed to make any showing that petitioner did not comply with the legal requirement as to naturalization that such an appeal would be interposed.

This Court sustained the government in an opinion by Justice J. B. L. Reyes. It stated that no surprise should have been caused the lower court as time and time again, it has been repeatedly ruled "that the applicant's qualifications may be questioned at the proceedings for his authorization to take the oath of allegiance * * *." It also considered the appeal meritorious as petitioner could not show that his occupation was lucrative.

How meaningful has been the right to appeal from lower court orders allowing oath-taking in assuring full compliance with all the requisites of the law to warrant naturalization is evident from other decisions of this Court. Thereby it has enabled the government to scrutinize most carefully on appeal the crucial question of whether or not petitioner had shown to its satisfaction his claim to be enrolled in the ranks of citizens even if such an inquiry is pursued only at this late stage.

Ching Leng v. Republic,^[8] dealt with an appeal by the state against an order of the lower court allowing after hearing applicant to take the oath of citizenship. As pointed out in the opinion, it suffices to defeat the oath-taking that applicant has "committed any act prejudicial to the interest of the nation or contrary to any government announced policies no conviction being deemed necessary.

In *Tan Hoi v. Republic*,^[9] an appeal was taken from the order permitting petitioner to take his oath, opposition being based on his committing an act prejudicial, to the interest of the nation which was overruled, notwithstanding evidence that during the hearing, one of his children was in Hongkong and had never been in the

Philippines The appeal was successful as the "in-escapable conclusion is that petitioner has failed to comply with all the requirements to entitle him to take the oath of allegiance."

In *Go Kay See v. Republic*,^[10] an appeal was taken by the provincial fiscal of Isabela against an order of the Court of First Instance of Isabela, ordering the issuance of a certificate of naturalization. The opposition was based on the applicant failing to pay the annual registration fee during the two year period contrary to act requiring aliens to register annually with Bureau of Immigration. The order was set aside.

In *Ong So v. Republic*,^[11] no opposition was interposed at the hearing for naturalization, but while petitioner was presenting his evidence under Republic Act No. 530, the government filed an opposition on the ground that petitioner (1) had not enrolled all his children of school age in qualified schools and (2) he did not have a lucrative employment. An order was issued allowing him to take the oath, and on the same afternoon of its issuance, he did so. The government appealed and was sustained by this Court: t on both grounds of its opposition.

In *Pe v. Republic*,^[12] the appeal by the Republic of the Philippines covered not only two orders of the Court of First Instance of Manila denying its opposition to a motion of petitioner to take his oath of allegiance as well as another order authorizing his oath-taking, but likewise sought the reversal, of the decision granting the petition for naturalization as well as the nullification of the oath of allegiance taken by petitioner. The appeal prospered on all counts.

In *Go Im Ty v. Republic*,^[13] an appeal was taken from an order allowing petitioner to take her oath of allegiance. In the original petition for naturalization, the government did not appeal. That was held immaterial, as the case "is open for review, in its entirety by this Court regardless of whether or not objection had been made in connection with a particular point during the proceedings in the court below." The certificate of naturalization granted to her was cancelled.

In the last case, *Chua Tiong Seng v. Republic*,^[14] the government appealed an order allowing petitioner to take his oath of allegiance. It was sustained notwithstanding the fact, as did happen in the other cases earlier cited, that there was no previous appeal from the decision granting the petition for naturalization, on a showing that petitioner did not have a lucrative occupation.

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.^[15] What was said by Justice Tuason in *Yay Chin v. Republic*,^[16] 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.

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.^[17] So this Court has consistently and invariably ruled. We do so again.

WHEREFORE, the petition for certiorari is granted setting aside the order of respondent Judge refusing to give due course by the appeal of the Republic of the Philippines and respondent Judge is directed to approve petitioner's record on appeal and to elevate the said record together with the oral and documentary evidence presented before him for review by this Court in the due course of such appeal. Without pronouncement as costs.

Concepcion, CJ., Reyes, JBL, Dizon, Makalintal, Zaldivar, Sanchez, Ruiz Castro, and Angeles, JJ., concur.

[1] Case No. 40209, Court of First Instance of Manila.

[2] Petition, paragraph 6.

[3] Ibid, paragraph 7.

[4] Ibid, paragraph 8.

[5] Ibid, paragraphs 9 and 10.

[6] L-20483, September 30, 1966.

[7] L-21193, September 30, 1966.

[8] L-6268, May 10, 1954.

[9] L-15266, September 30, 1960.

[10] L-17318 December 27, 1962.

[11] L-20145, June 30, 1965.

[12] L-20375, January 31, 1966.

[13] L-17919, July 30, 1966.

[14] L-21422, December 18, 1967.

[15] Lim Lian Hong v. Republic, L-3575, December 26, 1950 and Jesus Uy Yap v. Republic, L-4270, May 8, 1952.

[16] 93 Phil. 215, 217 (1953).

[17] Ong So v. Republic, 20415, June 30, 1965; Lim v. Republic, L-20149, September 29, 1966 and Lim v. Republic, L-21193, September 30, 1966.

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