

**IN THE MATTER OF THE PETITION OF LEE BING HOO TO BE
ADMITTED A CITIZEN OF THE PHILIPPINES. LEE BING HOO,
PETITIONER-APPELLANT, VS. REPUBLIC OF THE PHILIPPINES,
OPPOSITOR-APPELLEE.**

G.R. No. L-22147. May 16, 1967

Ponente: REGALA, J.

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REGALA, J.:

Petitioner appeals from a decision of the Court of First Instance of Manila denying his petition for naturalization.

On July 19, 1957, petitioner Lee Bing Hoo, a Chinese citizen, filed a petition for naturalization in the Court of First Instance of Manila, Branch XVI, then presided over by the Hon. Carmelino Alvendia, Judge. The petition alleges, among other things, that his residence is Suit 286, Wellington Building, Oriente St., Manila and his former residence was Roxas City; that his trade or profession is that of a businessman from which he derives an annual income of more than P6, 000.00; that he was born on September 25, 1925, in Capiz, Capiz (now Roxas City); that he is married to Elizabeth (Isabel) Manuel by whom he has six (6) child-ren; that he resided continuously in the Philippines for more than 31 years immediately preceding the date of the petition; that he knows how to speak and write English, Visayan, Ilongo and Tagalog languages; that he is one of three co-heirs of real estate, including improvement, situated in Roxas City, worth about P40,000.00; that he has enrolled two of his children at the Parochial Crusaders Academy, Manila; that he is entitled to the benefits of Section 3 of Commonwealth Act No. 473; that he believes in the principles under-lying the Philippine Constitution; that he has conducted himself in a proper and irreproachable manner during his entire period of residence in the Philippines in his re-lation with the constituted government as well as with the community in which he lives; that he has mingled socially with the Filipinos and evinced a sincere desire to learn and embrace the customs, traditions, and ideals of the Filipinos; and that he has all the qualifications and none of the disqualifications under Commonwealth Act 473.

After hearing the testimony of two character wit-nesses and partly that of the petitioner himself, Judge Alvendia was designated vacation judge for Baguio in May 1961. On April 26, 1961, petitioner thru a new counsel, retired Judge Froilan Bayona, filed an urgent motion praying that the case be set for hearing before any branch of the court, for the taking of the testimony of the last witness. This motion was not presented to Judge Alvendia for resolution, although he was still holding sessions in Manila at the time, and, as a matter of fact, the case was scheduled for hearing the day following the filing of the above motion. The motion was approved by the Executive Judge Jesus Y Perez and the case was assigned to Judge Agustin P. Montesa, who continued the hearing. After the presentation of testimonial and doc-umentary evidence, decision was rendered on June 3, 1961, by Judge Montesa granting the petition to declare petitioner a Filipino citizen. Copy of this decision was received by the Solicitor General on June 8, 1961. No appeal was taken from the decision.

On June 18, 1962, or one year and ten days after the Promulgation of the decision, the Solicitor General filed a

motion to reopen the case on the ground that the applicant had committed acts which clearly demonstrates that he is a person of reproachable and reprehensible character. Acting on said motion, Judge Montesa issued on June 23, 1962, the following order:

"x x x there being no objection thereto on the part of the petitioner, who failed to file his opposition thereto notwithstanding due notice, the Court finds the motion to be well-founded, and so hereby grants the same. The order of this Court granting this petition is hereby set aside and let this petition be tried anew."

On July 20, 1962, petitioner filed a motion for reconsideration of and/or to set aside the above order, but the same was denied by the trial court, this time presided over by Judge Alvendia.

On motion of petitioner, Judge Alvendia set the trial of the case anew for July 9, 1963, on which date Atty. Jose Omega moved to withdraw the petition for naturalization.

On August 22, 1963, the trial court denied the petition for naturalization. Hence the instant appeal.

Petitioner argues (1) that the lower court has no authority to order the reopening of the case inasmuch as the judgment had become final; (2) that the finality of the judgment precludes authority to render a second judgment; and (3) the lower court erred in denying petitioner's application for naturalization.

With regard to the first procedural question, it may be stated that judgment in naturalization cases will not become final until after the certificate of naturalization is issued and after compliance with the requirements of Section 1 of Republic Act No. 530. Thus, in the case of *Rafael Pe v. Republic*, G. R. No. L-20375, January 31, 1966, We held that "under the law, a decision granting an application for naturalization shall not become final and executory until after two years from the promulgation of the decision and after another hearing is conducted to determine whether or not the applicant has complied with the requirements of Section 1 of said law." (See also *Gan Tsitung v. Republic*, G. R. No. L-20819, February 21, 1967) We find no error committed by the lower court in ordering the reopening of the case.

With respect to the second question, suffice it so say that it is a well settled rule that 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 should support a judgment canceling the certificate of naturalization for illegal or fraudulent procurement. (*Republic v. Bon Lee*, G. R. No. L-11499, April 29, 1961)

Against the petition, the office of the Solicitor General presented Exhibit 2 containing the complaints filed against petitioner in the office of the city fiscal of Manila, in the Court of First Instance of Manila, and in the Manila Police Department. Thus, in the fiscal's office of Manila, the petitioner has two cases of falsification of public and commercial document, violation of the Bulk Sales Law and estafa. Two of these criminal cases were dropped provisionally and the other two were definitely dropped by the investigating fiscals. In the Manila Police Department, the petitioner has the following records: driving against one way and disregarding traffic signs. In both cases, he was warned by the authorities.

Moreover, during the pendency of this appeal, the government gave information that the petitioner maintained a paramour by whom he had six (6) children. It is submitted certified photostatic copies of the birth certificates of the children, which, notwithstanding due notice to him, the petitioner failed to explain. We have repeatedly held that by such conduct, petitioner shows lack of good moral character. (*Sy Kian v. Republic*, G. R. No. 102 Phil., 575; *Tan v. Republic*, G. R. No. L-14861, March 17, 1961; *Manuel Lao v. Republic*, G. R. No. L-17055, October 27, 1961; *Francisco Lao @ Meo v. Republic*, G. R. No. L-17054, November 23, 1962)

WHEREFORE, the decision appealed from is affirmed with costs against the appellant.

Concepcion, C.J., Reyes, Dizon, Makalintal, Bengzon, J.P., Zaldivar, Sanchez, and Castro, JJ., concur.

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