

IN THE MATTER OF THE PETITION OF VICTOR TE TEK LAY TO BE ADMITTED A CITIZEN OF THE PHILIPPINES. VICTOR TE TEK LAY, PETITIONER AND APPELLEE, VS. REPUBLIC OF THE PHILIPPINES, OPPO...*G.R. No. L-7412. September 27, 1955*

Ponente: CONCEPCION, J.

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A decision having been rendered on May 26, 1950, granting his petition for naturalization as citizen of the Philippines, Victor Te Tek Lay filed a motion, dated July 21, 1953, praying that he be allowed to take the requisite oath. Although the Office of the Solicitor General objected thereto, upon the ground that petitioner had "left the Philippines" within two years from the promulgation of said decision, the Court of First Instance of Manila, by an order, dated December 4, 1953, granted said motion. The case is before us on appeal, taken by the Government, from this order.

It is not disputed that, prior to and after the promulgation of said decision, dated May 26, 1950, petitioner was a flight purser of the Philippine Air Lines—hereinafter referred to, for the sake of brevity, as PAL—an enterprise engaged in the operation of airway services in the Philippines and (then) abroad; that, after the rendition of said decision and prior to the hearing of the aforementioned motion, dated July 21, 1953, petitioner had left the Philippines many times, as such flight purser of the PAL; and that, in April, 1951, he went to Hongkong and stayed there, on vacation, for eight (8) days, during which time he did not discharge the duties of his aforementioned employment as flight purser. The issue boils down to whether or not his absence from the Philippines, in connection with said vacation in Hongkong, bars the taking of his oath of allegiance to the Republic of the Philippines, and the issuance in his favor of the corresponding certificate of naturalization, as citizen thereof. Contrary to the opinion of His Honor the trial Judge, who decided this question in the negative, we hold that an affirmative answer is imposed by section 1 of Republic Act No. 530, the pertinent part of which provides that:

"The provisions of existing laws notwithstanding, no petition for Philippine citizenship shall be heard by the courts until after six months from the publication of the application required by law, nor shall any decision granting an application become executory until after two years from its promulgation and after the court, on proper hearing, with the attendance of the Solicitor General or his representative, is satisfied, and so finds, that during the intervening time the applicant has (1) not left the Philippines, * * *."

It is urged by petitioner-appellee that the injunction, in this provision, against leaving the Philippines "must be related to departure, which is intended to change domicile or the stay abroad of longer than one year duration" (*italics ours*). This pretense finds no support, either in the spirit, or in the letter, of the law. Indeed, referring to the conditions essential to naturalization, Commonwealth Act No. 473, as amended, invariably requires "residence** in the Philippines (sections 2, 3, 4, 6, 7, 15 and 18), whereas Republic Act No. 530 forbids positively the execution of a decision in favor of an applicant for naturalization who has "left the Philippines" within two years

from the promulgation of said decision. The word "left" used in Republic Act No. 530, connoting material absence, when contrasted with "residence," which depends, to a substantial degree, upon intent, leaves no room for doubt that physical presence in the Philippines, during said period, is a condition without which said decision cannot become executory. If departure from the Philippines, for purposes of vacation, were permissible under said Republic Act No. 530, so would absence for business or educational purposes, which generally are more meritorious and, often, imperative, apart from entailing, in the case of education, a comparatively, longer sojourn abroad. Hence, the effect of petitioner's contention, if followed to its logical consequences, would be to defeat completely the purpose of Republic Act No. 530, by depriving the Government of the opportunity to observe the behaviour of an applicant for naturalization for two years after the promulgation of the decision in his favor.

In this connection, the case of *Uy vs. Republic of the Philippines*[*] (L-7054) decided on April 29, 1955, is squarely in point. Petitioner therein had, within two years from the promulgation of the decision in favor of his application for naturalization, "left the Philippines for the United States on a dual purpose, namely: (1) to submit himself to a medical check-up; and (2) to strengthen the business ties of the Associated Trading Corporation, of which he was then, and still is the general manager, with various suppliers in the United States." After quoting section 1 of Republic Act No. 530, we said that;

"The purpose is that during that period of probation the Government and the community wherein an applicant for Philippine citizenship lives, be given an opportunity to observe his conduct and behaviour and see whether or not he has complied with the other requirements contained in section 1 of Republic Act 530. Moreover, if he is absent from this jurisdiction, how could he comply with requirement No. 2 to the effect that he has dedicated himself continuously to a lawful calling or profession? Besides, as well observed by the Solicitor General on page 7 of his brief:

"* * * It is also the intention of Congress that the applicant be physically present in the country during that period to see if he complies with the other requirements of the statute, otherwise, if he were allowed to leave the country, he may, while abroad commit acts inimical to the Philippines without the Government, knowing anything about the matter."

* * * * *

"* * * "We believe that by applicant's failure to comply with the requirements of Republic Act No. 530, particularly by absenting himself from the Philippines during the two years period, he had forfeited his right to citizenship as granted by the decision of the trial court." (*Uy vs. Republic of the Philippines*, supra.)

Petitioner-appellee has not given any cogent reason, and we find none, to warrant either a reconsideration or a reversal of this view. Accordingly, the order appealed from is hereby reversed, with costs against the petitioner. It is so ordered.

Bengzon, Acting C. J., Montemayor, Reyes, A., Jugo, Bautista Angelo, Labrador, and Reyes, J. B. L., JJ., concur.
Order reversed.

[*] 96 Phil., 866.

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