

LIM CHIAO CUN, PETITIONER AND APPELLEE, VS. REPUBLIC OF THE PHILIPPINES, OPPOSITOR AND APPELLANT.

G.R. No. L-21952. May 19, 1966

Ponente: REGALA, J.

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REGALA, J.:

The government appeals from an order of the Court of First Instance of Manila allowing the oath-taking of Lim Chiao Cun as a citizen of the Philippines.

In a decision dated June 9, 1961, Lim Chiao Cun was granted Philippine citizenship by the lower court, subject to the provisions of Republic Act No. 530 which states that any decision granting naturalization shall not become final and executory until after two years from its promulgation.

Two years thereafter, or on June 10, 1963, petitioner filed petition to take his oath. The government, however, opposed the petition and moved to set aside the decision granting naturalization to petitioner on several grounds, among which are that the petitioner is not a legal resident of the Philippines for a period of at least 10 years prior to the filing of the petition; that he did not evince a sincere desire to embrace Filipino customs and traditions for he maintained his family in Hongkong under the care of his mother-in-law; and that his motive in applying for Philippine citizenship is only to secure the permanent admission of his wife and children into this country. The lower court, nevertheless, granted the petition for oath-taking, holding that the grounds of the opposition would be proper only in the hearing of the main petition as they challenge the qualifications of the petitioner to become a citizen. The lower court further held that the only matters to be considered in the petition for oath-taking are those stated in Republic Act No. 530, namely: (1) that from the time of the rendition of said decision up to the time of the petition for oath-taking, the period of two years had already elapsed; (2) that during said period the petitioner did not leave the Philippines for a foreign country; (3) that he dedicated himself to a lawful calling or profession; and (4) that during the same period, the petitioner has not been convicted of any offense or violation of the Government promulgated rules, regulations or laws, or he has committed any act prejudicial to the interest of this country or contrary to any government announced policies.

The first question we have to decide in this appeal is whether or not the grounds of the government's opposition, which are not among those stated in Republic Act 530, are proper only in the original hearing of the petition for naturalization. This question has been settled in the case of *Dalmacio Cheng alias Benito Lim vs. Republic*, G. R. No. L-20013, March 30, 1965, where it was held:

" * * that a petition for naturalization is of a special nature necessarily involving public interest. Thus, in case of appeal, the entire record of the case is opened for scrutiny whether an objection has been submitted in the lower court or not (Kwan Kwock How vs. Republic, L-18521, January 30, 1964). As a matter of fact, it may not only interpose an appeal from; the decision granting the petition, but the State is not even precluded from objecting to petitioner's qualification during the hearing of the tatter's petition to take oath (Republic vs. Go Bon Lee, L-11499, April 21), 1901; Ong Ching Guan vs. Republic, L-15691, March 27, 1961; Lim Hok Albano vs. Republic, 104 Phil. 795)." (Italics supplied.)*

Going now into the substance of the case, the record shows that in 1953, before the petitioner filed his application for naturalization, he left the Philippines for Hongkong to get married. After his marriage he went to Hongkong several times during which he sired three children. This took place, apparently, within the ten year period required of him to reside in the Philippines. The Jaw requires that any applicant for naturalization should not leave the country during the said period of residence. Besides, petitioner's conduct of keeping- his wife and children in a neighboring country and merely visiting them shows lack of sincere desire to establish himself as a Filipino citizen and to embrace the customs and traditions of the Filipinos. (Sy See vs. Republic, L-17025, May 30, 1962.)

The above circumstances being sufficient to disqualify the applicant from becoming a citizen of the Philippines, there is no necessity of passing upon the other issues raised.

Wherefore, the order appealed from is hereby reversed, with costs against the petitioner-appellee.

Bengzon, C.J., Bautista Angelo, Concepcion, Reyes, J.B.L., Barrera, Dizon, Bengzon, J.P., and Sanchez, JJ., concur.

Order reversed.

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