

IN THE MATTER OF THE PETITION OF YONG SAI TO BE ADMITTED A CITIZEN OF THE PHILIPPINES. YONG SAI, PETITIONER AND APPELLEE, VS. REPUBLIC OF THE PHILIPPINES, OPPOSITOR AND APPELLANT.

G.R. No. L-20483. September 30, 1966

Ponente: ZALDIVAR. J.

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ZALDIVAR. J.:

This is an appeal by the Republic of the Philippines from the order of the Court of First Instance of Tacloban City allowing the petitioner, Yong Sai, to take his oath as a naturalized Filipino citizen.

On August 10, 1959, Yong Sai, a Chinese citizen, filed a petition for naturalization in the Court of First Instance of Tacloban City. The lower court, being satisfied that the petition was in order and the requirements that conferred jurisdiction upon the court to hear and decide the case had been complied with, heard the case. After hearing, the lower court, on March 31, 1960, rendered a decision declaring that the petitioner had all the qualifications, and none of the disqualifications, to be a Filipino citizen, as provided by law, thereby granting the petition for naturalization, subject to the compliance with the requirements as provided in Republic Act No. 530.

No appeal having been taken from the decision, on May 21, 1962, petitioner filed with the lower court a petition to take his oath. The petition was heard on the same day, and satisfied that petitioner had complied with the requirements provided in Section 1 of Republic Act 530, the court a quo issued an order granting the petition. Petitioner took his oath of allegiance on the same date, May 21, 1962, and, accordingly, a certificate of naturalization was issued in his favor on the same day.

Within the reglementary period the Solicitor General filed a notice of appeal from the order of the lower court allowing the petitioner to take his oath as a Filipino citizen.

In the present appeal the stand of the Solicitor General may be stated, as follows: That the decision of the lower court granting the petition for citizenship, and its order allowing the petitioner to take his oath as a Filipino citizen, are not in accordance with law. The Solicitor General specifically points out: (1) that petitioner does not have a lucrative trade or occupation;(2) that petitioner failed to establish by competent and satisfactory evidence his compliance with the requirements of Section 1, Republic Act 530; and (3) that petitioner failed to attach to his petition for naturalization his certificate of arrival in the Philippines as required by law.

On April 4, 1963, counsel for petitioner filed with this Court a motion to dismiss the appeal, contending that since the two-year period provided in Republic Act 530 had elapsed and that petitioner had already taken his oath, the original decision was no longer appealable. Nevertheless, in a later motion dated February 2, 1964, petitioner intimated that should he be allowed to present additional evidence to prove his compliance with Section 1 of Republic Act 530, and to present another copy of his landing certificate in lieu of the first which he allegedly submitted to the late Judge Segundo C. Moscoso but which might have been lost or misplaced by said Judge, he

"is willing to conditionally waive any and all rights accruing to him as a Filipino by virtue of his oath taking and the issuance of the Certificate of Naturalization for purposes of this motion and if the same is granted but reserves the right to raise this question if the case is tried on the merits." [1] This Court, however, deferred action on these motions until the time when the case is decided on the merits.

These motions to dismiss the appeal of the Government have no merit. 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. [2] 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 even if those matters are not touched in the briefs or pleadings of the parties. [3]

Scrutinizing the pleadings and the evidence in the present case, We find that the appeal is well taken. As admitted by petitioner himself in his petition, as well as in his testimony, his average annual salary as employee of the La Fortuna Trading Company was only P3,000.00. Considering that he has a wife and three children to support, [4] and that all the children were still studying, such income would not be sufficient to qualify him for Philippine citizenship. This is in line with the standard set by this Court in a number of cases, wherein We held as not having a lucrative trade or profession an applicant for citizenship: who has a yearly income of P4,800 but with a wife to support (*Chie v. Republic*, L-20169, February 26, 1965); or who has a yearly income of P6,300 but with a wife and one child to support (*Tan v. Republic*, L-16013, March 30, 1963); or who has a yearly income of P6,680 but with a wife and two children to support (*Ng v. Republic*, L-21179, January 22, 1966); or who has a yearly income of P4,200, or P5,000, or P5,980, but with a wife and three children to support (*Uy v. Republic*, L-19578, October 27, 1964; *Chai v. Republic*, L-19112, October 30, 1964; and *Gui v. Republic*, L-13717, July 31, 1962). And even if we assume as true what petitioner alleges in his brief that in the years 1962 and 1963 his incomes were P6,389.51 and P5,844.50, respectively, or an average of P6,117 annually, and that all of his children, except one, were already of legal age and, therefore, he has only one dependent child left, this circumstance would not improve petitioner's situation: first, "because income for the purposes of the Naturalization Law must be reckoned as of the date of application;" [5] and second, because even if his income for the succeeding year, or during the hearing of the oath taking, may be considered, the same is still below the level of what We termed "lucrative." In the case of *Tan v. Republic*, L-16013, March 30, 1963, this Court held that an applicant who has an annual income of P6,300 with a wife and one child to support, cannot be considered as having a lucrative trade or profession as to render him eligible for naturalization.

Aside from the contention of the Government that petitioner has no lucrative trade or employment, the record reveals matters which constitute sufficient grounds to reverse the decision of the lower court granting the petition for naturalization, and to set aside the order allowing the petitioner to take the oath of allegiance. We have noted that petitioner failed to state all his former places of residence in his application for naturalization. Thus, in his petition, petitioner averred: "My present place of residence is 107 Pres. Wilson Street, Tacloban City, Leyte, Philippines, and my former residence was Poblacion, Municipality of Maasin, province of Leyte, Philippines." During the hearing, however, he testified, on cross-examination, as follows:

"Q Before you came to Tacloban to reside, where did you reside?

A In Sogod and Maasin, Leyte."

And in the decision rendered on April 2, 1960, the lower court found: "Since his arrival in the Philippines he has been residing in Dumaguete for about 4 years, later he transferred to Sogod for another four years, then Maasin during 13 years and lastly in Tacloban City, where he is now a resident."

From what are stated in the foregoing paragraph, it is clear that petitioner did not state in his petition, and so the publication of his application did not contain, his former residences, Dumaguete and Sogod. As held by this Court, such failure "is a fatal defect that, not only warrants dismissal of the petition,[6] but, also, affects the jurisdiction of the court to hear and decide the case." [7]

Another circumstance which would warrant the denial of petitioner's application for naturalization is his failure to disclose in his petition all the names by which he had been known. The petitioner presented as evidence in his own behalf certifications by the local civil registrar, Flaviano S. Angub, and of Mayor Jovencio M. Caday, of Sogod, Leyte, regarding the birth of his four children, Lourdes Yong, Juanilio Yong, Gonzalo Yong, Jr., and Anastacio Yong (Exhibits I, J-1, K and L). In all those certifications it is stated that those four are the children of "Gonzalo Yong" and Leonila Dublado. The certificates do not even state that Gonzalo Yong is also known as Yong Sai, or vice versa. Having failed to state in his petition that he was also known as Gonzalo Yong, so that in the publication of his petition for naturalization there is no statement that he is known as Gonzalo Yong besides the name Yong Sai, his petition suffered from a fatal defect which is a sufficient ground to deny the petition.

"We believe that it has been shown that the appellee Alexander Lim Uy in the present case is also known by the name of Alejandro Lim Uy. It appearing that in the petition for naturalization as well as in the notice of hearing it was not stated that the petitioner Alexander Lim Uy is also known as Alejandro Lim Uy alias Alexander Lim Uy x x x We believe that one vital requirement of the law had not been complied with, and this circumstance has rendered invalid the proceedings had in the court below. This Court in a long line of decisions ruled that the failure on the part of the petitioner to state in his petition for naturalization all the names by which he is known constitutes a fatal defect of the petition and is a sufficient ground to deny the petition. (Yu Seco vs. Republic, G. R. No. L-13441, June 30, 1960; Kwan Kwock How vs. Republic, G. R. No. L-18521, Jan. 30, 1964; Ong Khan vs. Republic, G. R. No. L-19709, Sept. 30, 1964; Go vs. Republic, G. R. No. L-20558, March 31, 1965." (Alexander Lim Uy v. Republic, L-19916, June 23, 1965)[8]

We believe that enough grounds have been discussed to warrant the reversal of the decision of the lower court granting the petition for naturalization and the setting aside of the order authorizing the taking of the oath of allegiance of the petitioner, and We do not consider it necessary to discuss the other points raised by the Government in this appeal.

In this connection, We wish to reiterate what this Court said, speaking through Mr. Justice J.B.L. Reyes, expressing Our disapproval of the practice of the trial courts of allowing applicants for naturalization to take their oaths of allegiance even before the expiration of the period for the Government to appeal from the order authorizing the taking of the oath of allegiance:

"Finally, we must agree with the Government's stand that the act of the court of first instance in allowing this applicant to take the oath of allegiance even before the expiration of the Government's period to appeal from the order overruling its objections thereto, and, in fact, three (3) days before the Solicitor General received copy of the appealed order, is highly irregular, to say the least. Republic Act No. 530 contemplates that the applicant for naturalization becomes entitled to all the privileges of citizenship upon taking the oath of allegiance, and the precipitate administration of the oath in the present case appears to be an attempt to render nugatory the Government's appeal. The record is devoid of any justification for such unseemly haste in conferring the privileges of citizenship before any and all doubts about applicant's right thereto are finally settled, and we must make of record our disapproval of the practice." (So v. Republic, L-20145, June 30, 1965)

WHEREFORE, the decision of the court a quo dated March 31, 1960, granting the petition for naturalization is reversed and the petition for naturalization is denied; and the order of May 21, 1962, appealed from, is set aside. The oath of allegiance taken by petitioner, Yong Sai, is declared without force and legal effect, and the certificate of naturalization issued to him is ordered cancelled; with costs against petitioner-appellee.

IT IS SO ORDERED.

Concepcion, C.J., Reyes, J.B.L., Dizon, Regala, Makalintal, Bengzon, J.P., Sanchez, and Ruiz Castro, JJ., concur.
Barrera, J., no part.

[1] As quoted from the motion.

[2] So v. Republic, L-20145, June 30, 1965; Pe v. Republic, L-20375, January 31, 1966; Co Im Ty v. Republic, L-17919, July 30, 1966.

[3] How v. Republic, L-18521, January 30, 1964; Guan v. Republic, L-15691, March 27, 1961; Liong v. Republic, L-21671, February 28, 1966; Co Im Ty v. Republic, *supra*; Lim Eng Yu v. Republic, L-20809, August 31, 1966.

[4] Assuming that his daughter, Mrs. Lourdes Yong Cajoles who is married, is not being supported by petitioner.

[5] Tai v. Republic, L-19418, December 23, 1964; Yu Ti v. Republic, L-19913, June 23, 1965; Uy v. Republic, L-19916, June 23, 1965; Hok v. Republic, L-20479, October 29, 1965; Ng v. Republic, L-21179, January 22, 1966; Pe v. Republic, L-20375, January 31, 1966; Kong v. Republic, L-20503, February 28, 1966; Heng v. Republic, L-21079, February 28, 1966.

[6] Keng v. Republic, L-13139, May 24, 1961; Co v. Republic, L-15794, December 29, 1962; Serwani v. Republic, L-18219, December 27, 1963; Qua v. Republic, L-19814, October 27, 1964; Tan v. Republic, L-19694, March 30, 1965; Kok v. Republic, L-16767, June 30, 1965; Republic v. Reyes, et al., L-20602, December 24, 1965; Liong v. Republic, L-21671, February 28, 1966.

[7] Go v. Republic, L-20558, March 31, 1965; Tan Cona v. Republic, L-13224, April 24, 1960; Kui v. Republic, L-11172, December 22, 1958; Cui v. Republic, L-9858, May 27, 1957.

[8] See also Le Ng Len v. Republic, G. R. No. L-20151, March 31, 1965.

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