

IN THE MATTER OF THE PETITION OF TIU SAN ALIAS ANGEL GOMEZ TO BE ADMITTED A CITIZEN OF THE PHILIPPINES, TIU SAN, ALIAS ANGEL GOMEZ, PETITIONER AND APPELLANT, VS. REPUBLIC OF THE...

G.R. No. L-7301. April 20, 1955

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

After appropriate proceedings, the Court of First Instance of Quezon Province rendered a decision, on July 13, 1950, authorizing the naturalization of Tiu San, alias Angel Gomez. Over two years later, or on or about May 25, 1953, Tiu San filed a petition praying that, after due hearing, pursuant to Republic Act No. 530, the corresponding certificate of naturalization in his favor be issued. After said hearing, the court issued an order, dated June 3, 1953 denying this petition, Tiu San having been convicted on April 25, 1952 of a violation of Municipal Ordinance No. 14, series of 1946, of the Municipality of Lucena, Province of Quezon—on account of his failure to remove and transfer his lumber yard from a prohibited zone, in said municipality—and sentenced to pay a fine of P50.00. The case is now before us on appeal taken by petitioner, from said order of June 3, 1953.

Section 1 of Republic Act No. 530 reads:

"The provisions of existing laws notwithstanding, no petition for Inilippine 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 the 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, (2) has dedicated himself continuously to a lawful calling or profession, (3) has not been convicted of any offense or violation of Government promulgated rules, (4) or committed any act prejudicial to the interest of the nation or contrary to any Government announced policies."

By this provision a special procedure has been established in naturalization cases. Unlike decisions in ordinary cases, which may be executed as soon as the same become final, those rendered in naturalization cases, granting the petition for naturalization, are not executory until after the following conditions have been complied with, namely:

First, two years must have elapsed from the promulgation of the decision, and

Second, after due hearing, the court must find that, during the intervening time, petitioner

- "Has not left the Philippines";
- "Has dedicated himself Continuously to a lawful calling or profession";
- "Has not been convicted of any offense or violation of Government promulgated rules";

- "Has not committed any act prejudicial to the interest of the nation or contrary to any Government announced policies".

The only question for determination in this appeal is whether appellant's conviction for violation of municipal ordinance No. 14, series of 1946, of Lucena, Quezon, is an infringement of the third clause of section 1 of Republic Act No. 530. Appellant maintains the negative, upon the ground (1) that a municipal ordinance is not a "government promulgated rule", as contemplated in said legal provision, (2) that the third clause thereof is inapplicable to the case at bar, the violation of the aforementioned ordinance having taken place prior to the enactment of Republic Act No. 530; and (3) that the offense in question is not *malum in se*, but *malum prohibitum*.

The first argument is untenable, for municipal corporations perform dual functions, one governmental and another corporate. In the exercise of its governmental powers and duties, municipal corporations are agencies of the national government. When engaged in corporate activities, municipal corporations are on the same plane as any private corporation. The regulation violated by petitioner was a zoning ordinance, which seeks to protect the people and their property and to promote their well being. It was enacted in the exercise of the police power, which, essentially, is political and governmental in nature. (*Vilas vs. City of Manila*, 42 Phil., 953, 220 U. S., 545; *Mendoza vs. De Leon*, 33 Phil., 508; *People vs. Cruz*, 54 Phil., 24; *Seng Kee & Co. vs. Earnshaw*, 56 Phil., 204.) In other words, it was promulgated by the municipal government of Lucena acting as an agent of the national government. Hence, it partakes of the nature of a "government promulgated rule", although limited in its application to said locality. .

The second pretense is clearly without merit, for the third clause in question applies whenever, "within two years" from the promulgation of the decision granting an application for naturalization, the applicant is "convicted of any offense". Its "commission" need not take place within said period. The word "convicted", used in the law, has a well settled meaning, clear and distinct from that of "committed". Indeed, pursuant to the fourth clause of section 1 of Republic Act No. 530, one who has "committed any act prejudicial to the interest of the nation or contrary to any Government announced policies", is barred from securing the corresponding certificate of naturalization, despite the final decision granting his petition for naturalization, thus, in effect, nullifying the same. The use of the word "committed" in clause (4), when contrasted with the word "convicted" used in clause (3), leaves no room for doubt that the lawmaker had in mind the aforementioned distinction between said words and pretense.

Lastly, section, 4 of Republic Act No. 530 provides:

"This Act shall take effect upon its approval, and shall apply to cases pending in court and to those where the applicant has not yet taken the oath of citizenship; Provided, however, that in pending cases where the requisite of publication under the old law had already been complied with, the publication herein required shall not apply."

It is thus apparent that, except with reference to the date of the hearing of the petition for naturalization, said Act was meant to have a retrospective operation.

The last contention is devoid of legal foundation, for Republic Act No. 530 makes no distinction between acts *mala in se*, and those which are *mala prohibita*. What is more, the expression "convicted of any offense", used in clause (3) of section 1, indicates clearly that both classes are included within the purview thereof. It may not be amiss to add that the good faith with which appellant claims to have violated municipal ordinance No. 14 of Lucena is refuted by his plea of guilt to the complaint filed against him, alleging:

"That on or about the date comprising April 30, 1950 till the present time, in the municipality of Lucena, province of Quezon, Philippines, and within the jurisdiction of this Honorable Court, the said Accused, being

then the owner and proprietor of a lumber yard (Tableria) located inside the prohibited zone of said municipality, with the deliberate intent of disobeying the permit given him by the Local Authority for a temporary lumber establishment in the restricted area and the provisions prescribed in the Municipal Ordinance, did then and there willfully, unlawfully and feloniously fail to remove and transfer his lumber establishments within the time granted him to do so." (Exhibit M, p. 39, Record of Exhibits)

The deliberate intent" with which he disobeyed "the permit given him by the Local Authority for a temporary lumber establishment in the restricted area," and the fact that he had "wilfully, unlawfully and feloniously failed to remove and transfer his lumber establishment within the time granted him to do so" negate his alleged good faith.

Lastly, it is alleged in said complaint that the offense therein charged was committed "on or about the date comprising April 30, 1950, till the present time" referring to July 6, 1950, the date of said complaint. Although the decision granting petitioner's application for naturalization was promulgated on July 13, 1950, it appears from Exhibit 2, an order issued in the criminal case against petitioner herein, dated January 7, 1952, that, as of this date, his lumber yard was still in the prohibited zone. The offense in question was therefore, committed continuously from April 30, 1950 up to, at least, January 7, 1952, or within two years after the rendition of said decision. In other words, the theory of the defense has no factual basis.

Wherefore, the order appealed from is hereby affirmed, with costs against petitioner-appellant. So ordered.

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

Order affirmed.

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