

PETITION FOR THE REISSUANCE OF A CERTIFICATE OF NATURALIZATION AS FILIPINO CITIZEN. PROCOPY MOSCAL, PETITIONER AND APPELLANT VS. REPUBLIC OF THE PHILIPPINES, OPPOSITOR AND APPEL...

G.R. No. L-10836. November 29, 1960

Ponente: DIZON, J.

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DIZON, J.:

On February 12, 1953, Procopy Moscal filed a petition in the lower court "for the reissuance of a certificate of naturalization as Filipino citizen" to him, upon the ground that his certificate of naturalization was lost during the last world war. The Provincial Fiscal of Lanao objected to said petition upon the ground that there was no basis upon which the court could order the reissuance of the alleged certificate of naturalization. After due trial, the lower court denied the petition, without costs from which decision the present appeal was taken.

Appellant contends that the trial court erred firstly, in denying his petition due to his failure to produce the original or a copy of the judicial record in which he was granted letters of citizenship, and secondly, in holding that under the old naturalization law, Act No. 2927, he was not entitled to Philippine citizenship.

Appellant testified that he was formerly a Russian subject and came to the Philippines for the first time in 1923; that he established his residence in Lanao in 1928; that sometime in 1934 he filed in the Court of First Instance of Lanao a petition for naturalization and that, after due proceedings, the court granted his petition; that subsequently-sometime during the first week of March, 1935 -he took his oath of allegiance, and two weeks later the corresponding certificate of naturalization was issued to him by the then Clerk of Court Valentin Daligcon; that since then he had exercised some of the rights pertaining to Filipino citizens; that during the last war, he evacuated with his family to Jimenez, Misamis Occidental, where he lost his certificate of naturalization; that after the war his efforts to secure a copy thereof from the Court of First Instance of Lanao were in vain because the records of the latter were destroyed during said war; that the office of the Solicitor General also informed him that all the prewar records of said office had been lost, and that when he went to see Justice Felix Martinez of the Court of Appeals, who had heard and decided his petition for citizenship, the latter failed to recognize him and told him that he had no recollection regarding his application for naturalization'.

Appellant's testimony was corroborated by that of Atty. Pablo Padilla, who claimed to have been his counsel in the proceedings for naturalization, and by Valentin Daligcon, the Acting Clerk of Court of Lanao at the time of the alleged hearing and adjudication thereof.

While the testimonial evidence referred to above seems to be impressive, it must be noted that appellant was not able to produce any reliable document in support of his contention other than a copy of the publication of the notice of hearing now marked Exhibit "C".

The lower court, in our opinion, correctly considered appellant's petition as one for the reconstitution of the record

of the naturalization proceedings and of the certificate of naturalization allegedly issued to him as a result thereof. It appears in this connection that the period for the reconstitution of judicial records expired on June 30 1947(42 Off. Gaz. No. 10, 2446)-long before the petition before us was filed.

Upon the other hand, if appellant's petition is to be considered not as one for the reconstitution of a judicial record but only for the reissuance of his alleged lost certificate of naturalization, it seems clear that the evidence presented by him in support thereof is utterly insufficient and unsatisfactory. To order the issuance of another certificate of naturalization to appellant on the basis of almost exclusively oral evidence of the nature of what we have before us, would establish a dangerous precedent and would throw the door wide open for the commission of fraud against the State. At any rate, His Honor, the trial judge-who heard the petition and the testimony of witnesses who testified in support thereof-found their collective testimony as insufficient for the granting of the relief sought by appellant. A careful review of the record has not disclosed any fact or circumstance of sufficient weight and importance to justify a reversal of such finding.

The question of whether or not under the old naturalization law applicant was eligible for Philippine citizenship is not directly involved in the present petition; hence, we pass it now sub silentio.

Wherefore, the decision appealed from is affirmed, with costs.

Paras, C.J., Bengzon., Padilla, Bautista Angela, Labrador, Concepcion, Reyes, J.B.L., Barrera, Gutierrez David and Paredes, JJ., concur.

Judgment affirmed.

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