

**IN THE MATTERS OF THE PETITION OF CESAR GUY TO BE
ADMITTED A CITIZEN OF THE PHILIPPINES, REPUBLIC OF THE
PHILIPPINES, MOVANT-APPELLEE, VS. CESAR GUY,
RESPONDENT-APPELLANT.**

G.R. No. L-41399. July 20, 1982

Ponente: CONCEPCION, JR., J.

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CONCEPCION, JR., J.:

Appeal from the Order dated May 28, 1974 of the Court of First Instance of Quezon, Gumaca Branch, in Naturalization Case No. 11-G, which ordered the cancellation of Certificate of Naturalization No. 27, previously issued to Cesar guy, as well as from the Orders dated August 26, and October 14, 1974, which denied the appellant's motions for the cancellation of the said order.

The record shows that on August 18, 1956, Cesar Guy, then residing at Barrio Sumulong, Calauag, Quezon, filed with the Court of First Instance of Quezon, Gumaca Branch, a petition to be admitted as a citizen of the Philippines. The petition was given due course and after hearing, the Court of First Instance of Quezon issued an order on June 19, 1957, granting the application for citizenship of Cesar Guy. Two years later, or on December 22, 1959, the trial court issued an order allowing Cesar Guy to take his oath of allegiance as citizen of the Philippines. He took his oath of allegiance the same day and was then issued Certificate of Naturalization No. 27.

On September 23, 1964, the Solicitor General filed a petition with the court for the cancellation of the Certificate of Naturalization issued to Cesar Guy on the ground that the same was obtained fraudulently or illegally, in that during the pendency of his petition for naturalization, or more specifically on June 7, 1957, Cesar Guy filed with the Bureau of Forestry, a sworn application for the issuance of an ordinary timber license wherein he stated that he was a Filipino citizen although he was not, for which he was charged with, and subsequently found guilty of, the crime of Perjury by the Court of First Instance of Manila, an indication that he is not of good moral character and has not conducted himself in a proper and irreproachable manner during his stay in the Philippines, as claimed by him in his petition for naturalization; and that on December 12, 1963, he was found guilty of raping Antonieta Cabahug, which resulted in the death of the said Antonieta Cabahug, thus demonstrating an utter lack of good moral character and has ceased to possess all the qualifications and none of the disqualifications to be a naturalized citizen of the Philippines.[1]

Answering, Cesar Guy claimed that he acted in good faith in applying for an ordinary timber license, believing that he was already a citizen of the Philippines for all legal purposes when he filed the said application for a timber license because of the favorable decision on his naturalization case; and that he was not the one who personally wrote that he was a citizen of the Philippines on his application for said forestry license.[2]

The case was, thereafter, set for hearing. But, when Cesar Guy failed to appear during the scheduled hearings, notwithstanding notice to his attorney, the trial court appointed its Clerk of Court as commissioner to receive the evidence in support of the petition to cancel the certificate of naturalization.[3]

On October 31, 1968, the Solicitor General filed a motion to be allowed to adduce additional grounds in support of his motion to cancel the certificate of naturalization, more particularly, that the administration of the oath of allegiance to Cesar Guy before the expiration of the thirty-day period within which the Government may appeal from the order allowing him to take the oath, is null and void following the rule stated in the case of *Ong So vs. Republic* (121 Phil. 1381).[4]

On September 13, 1972, the Solicitor General submitted his documentary evidence,[5] after which the trial court ordered him to submit a memorandum within 30 days.[6]

The Solicitor General filed his memorandum on December 9, 1972,[7] and counsel for Cesar Guy was given until January 15, 1973 within which to submit a counter-memorandum, after which the case would be deemed submitted for resolution with or without said memorandum.[8] Counsel, however, did not submit a memorandum, notwithstanding the various extensions given him.[9] Instead, he filed a motion to admit an Amended Answer on June 4, 1973,[10] which was granted by the court on August 7, 1973 "for the sake of equity and fair play." [11] Thereupon, the court directed Cesar Guy to present his evidence.[12] Cesar Guy, however, did not present any evidence despite the many postponements requested by him.[13] Instead, he filed a motion to submit written objections to the documentary evidence presented by the Solicitor General, and to hold in abeyance the reception of his evidence on the ground that no notice whatsoever was served or furnished to Cesar Guy or his counsel of the hearing scheduled for September 13, 1972.[14] The trial court, however, denied the motion on November 24, 1973 stating that Cesar Guy was notified every time the case was set for hearing but that his counsel failed to appear, thus constraining the court to permit the Solicitor General to present his evidence *ex parte*. Counsel was given a chance to present his evidence on January 16, and 17, 1974.[15] Counsel, however, failed to do so. Accordingly, the case was considered submitted for decision as stated in the Order of November 24, 1973.[16]

On May 28, 1974, the trial court ordered the cancellation of Certificate of Naturalization No. 27, previously issued to Cesar Guy, "in view of (his) conduct which resulted (in) his conviction for the crimes of perjury and rape with serious physical injuries, acts clearly indicative of his lack of one of the important qualifications, that is good moral character." [17]

Counsel for Cesar Guy filed a motion to set aside the above order on June 17, 1974,[18] but his motion was denied on August 26, 1974.[19] Thereafter, counsel filed another motion for reconsideration,[20] which was also denied by the trial court on October 14, 1974.[21]

Cesar Guy now appeals from these Orders issued on May 28, August 26, and October 14, 1974. He claims that he was deprived of his day in court. Counsel for the appellant argues that the appellant Cesar Guy was not given a chance to personally present himself in court to explain his side and to adduce documentary evidence to support his cause.

The contention is utterly devoid of merit. Counsel for the appellant had been given every opportunity to present evidence for the appellant Cesar Guy. But, he did not do so. Instead, he used all ways and means at his command to delay the resolution of this case. To be more specific, on January 30, 1973, counsel for the appellant filed a motion asking for leave to be allowed to present his evidence to support his defense.[22] The motion was granted by the court on March 29, 1973, over the objection of the Solicitor General, in order to afford the appellant his constitutional right of his day in court. The order reads, as follows:

"A TELEGRAM was received by this Court from the father of Atty. Domingo Lopez II, stating that said counsel for the respondent met accident and was hospitalized.

"The Provincial Fiscal appeared before this Court and manifested that the Motion for Leave to Present Evidence for Respondent and to hold in Abeyance Submission of Reply Memorandum dated January 30, 1973

filed by the counsel for the respondent; Opposition dated February 8, 1973 filed by the Assistant Solicitor General Bernardo P. Pardo; and the Reply to Movant's Opposition dated February 8, 1973 under date of February 21, 1973 filed by the counsel for the respondent, be considered submitted for resolution of this Court.

"After going over the records, respondent's motion dated January 30, 1973 is hereby granted to afford respondent his constitutional right of his day in court.

"WHEREFORE, in view, of the foregoing, the respondent's counsel is given a chance to present his evidence on May 10, 1973 at 8:30 o'clock in the morning." [23]

Counsel for the appellant, however, failed to present his evidence on May 10, 1973 or on the other dates set by the court upon his request. Instead, he filed several pleadings intended to delay the resolution of the case. Thus, in the order of March 29, 1973, the court directed counsel for the appellant to present his evidence on May 10, 1973. The hearing, however, was reset to June 14, 1973 at the instance of counsel for the appellant. [24] The order resetting the hearing of the case reads, as follows:

"FINDING the motion to reset dated April 30, 1973 filed by the respondent's counsel to be well taken the same is granted and let the hearing hereof set for May 10, 1973 at 8:30 o'clock in the morning."

Then on June 4, 1973, counsel for the appellant filed a motion to admit an attached Amended Answer, [25] and a motion to defer the hearing set for June 14, 1973. [26] The court admitted the Amended Answer on August 7, 1973, [27] and thereafter, directed counsel for the appellant to present his evidence on November 8, 1973. [28] Counsel for the appellant, however, asked that the hearing set for November 8, 1973, be transferred to November 23, 1973. [29] The court granted his motion, with a warning that failure of the appellant's counsel to appear would be sufficient cause to consider the case submitted for decision. [30] The order reads, as follows:

"AS prayed for by Atty. Domingo Lopez II, counsel for respondent Cesar Guy, the hearing of this case is scheduled for November 8, 1973 is hereby transferred to November 23, 1973, at eight-thirty o'clock in the morning which is intransferable in character. Failure of the respondent's counsel to appear will consider this case submitted."

Counsel for the respondent, however, disregarded the warning and in another dilatory move, he filed a motion on November 16, 1973, asking that he be allowed to interpose and submit written objections to the evidence presented by the Government and that the reception of the evidence for the appellant, set for November 23, 1973, be held in abeyance until the written objections of the appellant are ruled upon and the case for the Government properly rested. [31] The court denied the motion for lack of merit and directed the appellant to present his evidence on January 16 and 17, 1974, with another warning that failure to do so, the present case would be considered submitted for decision. [32] The order reads, as follows:

"A motion to allow submission of written objections to the documentary evidence presented by the petitioner and to hold in abeyance reception of respondent's evidence had been filed before this Court. The respondent was notified every time the above-entitled case was set for hearing, but the respondent's counsel failed to appear. This court was constrained to permit the petitioner's counsel to present their evidence ex-parte and all the evidence presented by the petitioners has been deemed admitted inasmuch as there was no objection and further, the said exhibits are all public records.

"WHEREFORE, in view of the foregoing, the motion is hereby DENIED for lack of merit and the respondent is given the last time to present their evidence on January 16 and 17, 1974, each session to start at 8:30 o'clock in the morning and at 2:30 o'clock in the afternoon and failure to do so, the present case will be considered submitted for decision."

But, on January 9, 1974, counsel for the appellant again asked that the hearing set for January 16 and 17, be reset

to February 7 and 8, 1974.[33] The motion, however, was denied for failure of the appellant to notify the other party and "there being already a complaint in the Supreme Court for the delay in the proceedings.[34]

On January 16, 1974, the court, upon failure of counsel for the appellant to appear at a scheduled hearing, considered the case submitted for decision.[35]

But, on January 22, 1974, counsel for the appellant filed a manifestation, explaining his failure to attend the hearing scheduled for January 16, 1974,[36] as well as a motion for reconsideration praying that "the order dated November 24, 1974 be held in abeyance pending hearing thereof, that the same be reconsidered to allow respondent to interpose written objections to the documentary evidence presented by petitioner, for the sake of justice and equity." [37] Counsel for the appellant, in another motion filed on the same day, also asked that the hearing set for February 14, 1974 be transferred to February 23, 1974.[38]

The court, however, denied the motion for lack of merit. The order reads, as follows:

"MOTION of respondent's counsel dated January 22, 1974 is hereby denied for lack of merit and the order dated January 16, 1974 stand as is." [39]

To delay the proceedings further and perhaps to create an issue where there is none, counsel for the appellant filed a motion seeking a clarification of the above order. He set the hearing of his motion to February 11, 1974.[40] Then, on March 1, 1974, counsel for the appellant asked that the hearing of his motion be set anew to March 28, 1974.[41] The Court granted the motion,[42] and after the hearing on March 28, 1974, an order was issued which reads, as follows:

"AFTER, presenting their oral arguments of the case, both parties had agreed in common to submit a simultaneous memorandum within 10 days from notice hereof. As prayed for, the same is GRANTED and with or without the said memorandum, the Court hereby reiterate its previous order that the instant proceeding is deemed submitted for resolution." [43]

Counsel for the appellant submitted his memorandum on April 9, 1974,[44] and on May 28, 1974, the court issued the controverted order canceling the certificate of naturalization previously issued to the appellant Cesar Guy. Under the circumstances, it cannot be said that the appellant had been deprived of his right to be heard and present his evidence. On the contrary, the court had been very lenient with him.

Counsel for the appellant also claims that the order, dated May 28, 1974, canceling Certificate of Naturalization No. 27, previously issued to the appellant Cesar Guy is unfair, unreasonable, unjust and erroneous and cannot be upheld because it would in effect nullify the initial decision promulgated on July 19, 1957, conferring Philippine citizenship on the appellant; his conviction for the crimes of Perjury and Rape with Serious Physical Injuries were not within the two-year probationary period provided by law, or more specifically, between the period from July 19, 1957 to December 22, 1959, the date of the decree allowing him to take the oath of allegiance, and the issuance of the certificate of naturalization, but was made after he was already a naturalized citizen by virtue of the final judgment of the court and, therefore, stands on equal footing with a native born citizen.

Counsel for the appellant further contends that the appellant Cesar Guy acted in good faith in filing his application for a timber license; that it was not he who filled in the blank spaces in the said application; and that the license was a weapon used to help in the campaign against dissidents, he being a military agent. He also stated that he is innocent of the crime of Rape with Serious Physical Injuries, citing in support thereof, the alleged findings of the Committee on Judiciary of the defunct House of Representatives which recommended the extension of an absolute pardon to him by the President.

The contention is utterly devoid of merit. The appellant's conviction for the crimes of Perjury and Rape with

Serious Physical Injuries is res adjudicata and his culpability for the said crimes can no longer be inquired into.

The fact that his convictions for the said crimes were made after the two-year probationary period and after the appellant had already been granted Philippine citizenship is of no moment. As stated by the Court in the case of Republic vs. Go Bon Lee,[45] "unlike final decisions in actions and other proceedings in court, a decision or order granting citizenship to the applicant does not really become executory, and a naturalization proceeding not being a judicial adversary proceeding, the decision rendered therein is not res judicata as to any of the reasons or matters which would support a judgment canceling the certificate of naturalization for illegal or fraudulent procurement. As a matter of fact, it is settled in this jurisdiction that a certificate of naturalization may be cancelled upon grounds or conditions subsequent to the granting of the certificate of naturalization."

The crime of perjury undisputedly involves moral turpitude. A person convicted of said offense cannot be said to be possessed of good moral character, an indispensable requirement for one applying for Philippine citizenship. Thus, having been convicted by final judgment of the crime of perjury, committed during the pendency of his petition for naturalization, appellant cannot now claim that he was of good moral character at the time his petition for naturalization was still pending adjudication by the court. Hence, his having been able to obtain Philippine citizenship despite this misconduct, rendered his acquisition thereof fraudulent or illegal. Consequently, the certificate of naturalization issued to him under these circumstances was properly cancelled by the court.

Besides, it appears that the appellant took his oath of allegiance on the same day the court issued the order allowing him to take the oath of allegiance without giving the Government a chance to appeal from the said order. In the case of Ong So vs. Republic of the Philippines,[46] the Court ruled that the administration of the oath of allegiance to an applicant for citizenship by the presiding judge on the day that the said judge ordered the allowance of the applicant's oath-taking is an attempt to render nugatory the government's right to appeal and, therefore, null and void. Said the Court:

"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 become 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 of our disapproval of the practice.

"It being unnecessary to discuss the other objections of the state's attorneys, the appealed order allowing the applicant-appellee, Ong So, to take the oath of allegiance, as well as the oath administered pursuant thereto and the corresponding certificate of citizenship issued, if any, are declared null and void. Costs against appellee Ong So."

WHEREFORE, the judgment appealed from should be, as it is hereby, **AFFIRMED**. With costs against the appellant Cesar Guy.

SO ORDERED.

Aquino, Guerrero, Abad Santos, Escolin, Vasquez and Relova, JJ., concur.

- [1] Record on Appeal, p. 27.
- [2] Id., p. 39.
- [3] Id., p. 52.
- [4] Id., p. 54
- [5] Id., p. 299.
- [6] Id., p. 68.
- [7] Id., p. 81.
- [8] Id., p. 99.
- [9] Id., pp. 111, 116, 136, 141, 146.
- [10] Id., p. 150.
- [11] Id., p. 176.
- [12] Id., p. 181.
- [13] Id., p. 183.
- [14] Id., p. 187.
- [15] Id., p. 192.
- [16] Id., p. 265.
- [17] Id., p. 294.
- [18] Id., p. 315.
- [19] Id., p. 346.
- [20] Id., p. 348.
- [21] Id., p. 364.
- [22] Id., p. 116.
- [23] Id., p. 138.
- [24] Id., pp. 141, 145.
- [25] Id., p. 150.
- [26] Id., p. 146.
- [27] Id., p. 176.
- [28] Id., p. 181.
- [29] Id., p. 182.
- [30] Id., p. 186.
- [31] Id., p. 188.

[32] Id., p. 192.

[33] Id., p. 194.

[34] Id., p. 198.

[35] Id., p. 200.

[36] Id., p. 201.

[37] Id., p. 206.

[38] Id., p. 217.

[39] Id., p. 225.

[40] Id., p. 248.

[41] Id., p. 257.

[42] Id., p. 261.

[43] Id., p. 265.

[44] Id., p. 267.

[45] 111 Phil. 805.

[46] 121 Phil. 1381.

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