

**IN THE MATTER OF THE PETITION OF ANACLETO LIM ALIAS LIM
ENG CHUAN, TO BE ADMITTED A CITIZEN OF THE PHILIPPINES
ANACLETO LIM ALIAS LIM ENG CHUAN, PETITIONER AND
APPELLEE, VS. REP...**

G.R. No. L-21193. September 30, 1966

Ponente: REYES, J.B.L., J.

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REYES, J.B.L., J.:

Appeal by the Government from the order of 19 January 1963 of the Court of First Instance of Cebu (Judge Amador E. Gomez, presiding) allowing the petitioner, Anacleto Lim, alias Lim Eng Chuan, to take his oath of allegiance as a naturalized citizen of the Philippines, from the oath itself and from the certificate of naturalization issued on 22 January 1963.

On the records elevated to this Court, there is nothing to show the date when petitioner Lim filed his petition for naturalization; but from the briefs it appears to be 15 June 1959. The records indicate that favorable judgment thereon was rendered on 30 November 1960.

On 7 December 1962, the said petitioner filed a motion to introduce evidence pursuant to Republic Act 530 and thereafter to take his oath of allegiance. After hearing, the court a quo issued the appealed order of 19 January 1963. The order declared petitioner Lim entitled to a grant of Philippine citizenship and that he "may now take his oath as a Filipino citizen, if he so chooses". Forthwith, or on the same day when the appealed order was issued, the petitioner took his oath of allegiance before the presiding judge; and on 22 January 1963, the clerk of court issued a certificate of naturalization to the petitioner (Certificate No. 359).

Notified on 7 February 1963 of the order, the Government appealed on 15 February 1963. The lower court, although of the belief that the appeal was frivolous, nevertheless, approved the record on appeal because it was aware that the Supreme Court had given course to a mandamus proceeding instituted by the Solicitor General in an appeal of a similar nature, but expressed surprise why an appeal was interposed, when the Solicitor General had not theretofore attempted to make any showing that the petitioner lacked any of the qualifications for naturalization. This Court, however, has repeatedly ruled that the applicant's qualifications may be questioned at the proceedings for his authorization to take the oath of allegiance (*Cheng alias Lim vs. Republic*, L-20013, March 30, 1965, and cases cited therein).

We find the appeal not frivolous but tenable and meritorious.

The petitioner claims co-ownership with his brothers and sister of a residential house valued at P13,000.00 and ownership of shares of stock in *Lim Bonfing y Hermanos*, valued also at P13,000.00, which were inherited from their deceased father. The claim is entitled to little consideration because no settlement of the estate has been shown and, therefore, it is not proved nor ascertained what share would the petitioner have in the inheritance. Moreover, the shares of stock have not been shown to be income-producing.

The petitioner, who is single, is employed in the Cebu Branch of the Philippine Bank of Communications, where he receives a salary, bonuses, allowances, overtime and vacation pay. In view of their contingent character, unsteadiness or instability as income, the bonuses, allowances, etc., cannot be included in the computation of his income (*Yu Kian Chio vs. Republic*, L-20169, 26 February 1965), thus leaving his salary as the only source. But since income, for purposes of naturalization, is taken as of the time of the filing of the petition (*Yu Ti vs. Republic*, L-19913, 23 June 1965; *Lee vs. Republic*, L-20148, 30 April 1965; *Ong Tai vs. Republic*, L-19148, 23 December 1964), which filing was in 1959 (but not later than 1960 because the petition was already heard in November 1960) when the petitioner's annual salary amounted to only P1,620.00 (1959) and P2,280.00 (1960), respectively, the petitioner's occupation is far from lucrative (*Lim vs. Republic*, L-20149, 30 September 1966, and cases cited therein).

The administration of the oath of allegiance to the petitioner by the presiding judge, on the same day that the said Judge ordered the allowance of the petitioner's oath-taking, was an attempt to render nugatory the government's right to appeal (*Ong So vs. Republic*, L-20145, 30 June 1965). No justification having been indicated, this Court, as it did in the case of *Lim vs. Republic*, L-20149, promulgated on 30 September 1966, once again has occasion to deplore the precipitate administration of oath to herein applicant Anacleto Lim by the judge who heard and approved the motion to take oath and who ought to have known the non-finality of his order.

For the foregoing reasons, the appealed order allowing the applicant-appellee to take the oath of allegiance, the oath administered pursuant thereto, Certificate of Naturalization No. 359 issued to him, and the registration of naturalization, if made, are hereby declared null and void.

Appellee Anacleto Lim is hereby ordered to immediately surrender Certificate of Naturalization No. 359 to the Clerk of Court of the Court of First Instance of Cebu, who is hereby directed to mark the same, or stamp thereon in bold letters the words "NULL AND VOID"; to attach the same to the expediente of Naturalization Case No. 473; and to inform the Civil Registry of Cebu of the nullity of the Certificate aforesaid.

Costs against petitioner-appellee Anacleto Lim.

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

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