

IN THE MATTER OF THE PETITION OF EDUARDO TAN (SEE LIN) TO BE ADMITTED A CITIZEN OF THE PHILIPPINES, EDUARDO TAN (SEE LIN), PETITIONER AND APPELLEE, VS. REPUBLIC OF THE PHILIPPIN...

G.R. No. L-20604. May 29, 1970

Ponente: DIZON, J.

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DIZON, J.:

On November 6, 1959 petitioner Eduardo Tan @ See Lin filed with the Court of First Instance of Manila a petition for naturalization to which was attached the joint affidavit of his two character witnesses.

After publication of the petition in the *Voz de Manila*, a newspaper of general circulation in said City, the hearing was held on September 21, 1960, with Solicitor Pedro Ocampo appearing on behalf of the State. On September 21, 1960 the trial court rendered its decision granting the petition for naturalization. On September 8, 1962 petitioner filed with the trial court a petition that he be allowed to take his oath of allegiance as a Filipino citizen on the 28th of the same month. At the hearing thereof held on that date, at which, according to the appealed order, "the office of the Solicitor General was duly notified of this petition and has signified its conformity", the trial court found that petitioner had complied with the provisions of Republic Act No. 530, and was allowed to take his oath of allegiance as a Filipino citizen. On the same date, however, upon motion of Solicitor Ylagan, who had appeared for the State at the hearing of the motion for authority to take the oath of allegiance, the court deferred the oath taking of petitioner for thirty days, and on October 17 of the same year the office of the Solicitor General filed with the court the following manifestation:

"COMES NOW the Republic of the Philippines, by undersigned counsel, and to this Honorable Court respectfully makes the following manifestation:

1. That this proceedings preparatory to oath taking was finished last September 28, 1962;
2. That, during the hearing, the under-signed, Solicitor in charge, in his cross-examination, raised the question that petitioner failed to enroll his minor child of school age in any of the public or private schools recognized by the Office of Private Education (Sec. 2, par. 6, Revised Naturalization Law), to which counsel for petitioner objected; and this Honorable Court, in ruling on the matter, sustained the objection;
3. That, in its order dated September 28, 1962, the Court has stated in the dispositive portion thereof: 'x x x it appearing that the Solicitor General has no objection to the same (petition to take oath), the Court finds that the petitioner has complied with the provisions of Republic Act No. 530, and he is hereby allowed to take his oath of allegiance as a Filipino citizen x x x';
4. That, in deference to this Court, it must be stated that such statement is inaccurate, the fact being that in his cross-examination the Solicitor in charge raised the issue of petitioner's failure to comply with Sec. 2, paragraph 6 of the Revised Naturalization Law, with the view to invoking such non-compliance by petitioner as ground, among others, for appeal;

5. That, in another order dated September 28, 1962, the Court said:

'ORDER

Upon Motion of Solicitor Celso Ylagan, let the oathtaking of the herein petitioner be deferred thirty (30) days from today.'

6. That, again, there is some in-accuracy in the above-quoted order of the Court, the fact being that it was the Court itself that, *motu proprio*, suggested that the oathtaking be deferred 30 days, upon hearing undersigned Solicitor in charge manifest that he would study the case and the evidence for the purpose of filing the Government's *oppositio*n.

WHEREFORE, it is respectfully prayed that this manifestation be incorporated in, and made part of, the records of this case."

After the filing of the manifestation quoted above, the Government perfected its appeal from the trial court's order of September 28, 1962 allowing petitioner to take his oath of allegiance as a Filipino citizen. In the brief submitted on its behalf, the following questions are raised:

"I

THE COURT A QUO ERRED IN GRANTING PETITIONER OATHTAKING, AFTER THE EXPIRATION OF THE REGLEMENTARY 2-YEAR PROBATION PERIOD, PURSUANT TO REPUBLIC ACT 530, SAID PETITIONER HAVING FAILED TO SEND HIS ONLY CHILD TO A PHILIPPINE SCHOOL.

II

THE COURT A QUO ERRED, LIKEWISE, IN ALLOWING OATHTAKING TO PETITIONER, CONSIDERING HIS UNAUTHORIZED USE OF ALIASES."

According to the record, petitioner had an only child named See Ko Piao born in Amoy, China in May 1942. This son lived in Hongkong with his mother, petitioner's wife, named Ng Hui Chu, and had never been brought to the Philippines. Thus, it is beyond question that petitioner had failed to send his only son to a Philippine school, in violation of our laws requiring him to enroll his children of school age in schools recognized by the Government of the Philippines and open to all races or nationalities and where Philippine History, Government and Civics are taught and form part of the school curriculum. The fact that Ko Piao had been living in Hongkong did not excuse his father from complying with our law, for it was his duty to make every effort possible to bring him to the Philippines so that he could be given the required education (*Dy Chuan Tiao vs. Republic*, G. R. No. L-6430, August 31, 1954; *Tan Hoi vs. Republic*, G. R. No. L-15266, September 30, 1960; *Ko Sengkee vs. Republic etc.*, G. R. L-3863, December 27, 1951; *Tan Hi vs. Republic etc.*, G. R. L-3354, January 25, 1951).

In connection with the second assignment of error, the record likewise shows that petitioner's name given in his petition for naturalization is EDUARDO TAN (See Lin). This notwithstanding, he admitted during the hearing that he has an alias, namely, TAN BON HUA. In the notice published in the Official Gazette and in a newspaper of general circulation in connection with his petition for naturalization, his name was stated as SEE LIN @ EDUARDO TAN BON HUA and EDUARDO SEE TAN. In Exhibits AA, BB, CC, DD, EE and others, his only name appears as See Lin, while in his residence certificate, Exhibit FF, and Land Registration Commission clearance Exhibit FF, his name appears as SEE LIN @ TAN BON HUA.

No argument need be adduced to show that the unauthorized use of the foregoing names by petitioner was, to say

the least, confusing and might have caused substantial prejudice to the right of the Government to investigate his background.

Petitioner claims that the issues raised by the Government in this appeal are barred, the decision of the trial court granting petitioner's petition for naturalization having become executory. This is untenable. We have repeatedly held that at the hearing of a petition for authority to take the oath of allegiance as a Filipino citizen, the State is not precluded from objecting thereto upon any legal ground that would show fraud, or error committed in the previous decision granting the petition for naturalization.

WHEREFORE, the appealed decision is reversed and set aside, with costs.

Concepcion, C.J., Reyes, J.B.L., Makalintal, Zaldivar, Fernando, Barredo, and Villamor, JJ., concur.

Teehankee, J., in the result.

Castro, J., on official leave.

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