

**IN THE MATTER OF THE PETITION OF FRANCISCO SIM TO BE ADMITTED A CITIZEN OF THE PHILIPPINES. FRANCISCO SIM, PETITIONER-APPELLEE, VS. REPUBLIC OF THE PHILIPPINES, OPPOSITOR-APPELL...**

*G.R. No. L-39507. September 28, 1989*

Ponente: SARMIENTO, J.

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**SARMIENTO, J.:**

This is an appeal from an order of the Court of First Instance (now Regional Trial Court) of Pangasinan by the Office of the Solicitor General, on behalf of the oppositor-appellant in this case, against petitioner-appellee Francisco Sim. The dispositive portion of the assailed order, dated February 19, 1973, reads as follows:

WHEREFORE, the Court reiterates that it grants partly the Omnibus Motion and the Motion for Reconsideration by declaring that the original motion to allow the petitioner to take his oath of allegiance dated July 16, 1959, the notice of hearing and the hearing of the same, the order approving the same and allowing the petitioner to take his oath, the oath taken pursuant thereto and the Certificate of Naturalization issued on July 16, 1959 are all null and void. However, the Motion to take oath dated August 10, 1972, the notice of hearing and notices of postponements thereof, the hearing had therein, and the order dated November 16, 1972 granting the same, remain but with the added injunction that the petitioner may take his Oath of Allegiance only after the lapse of the thirty (30) days from the time that a copy of the Order is received by the Office of Solicitor General.

SO ORDERED.[1]

The case before us emanated from the following facts:

Francisco Sim's application for naturalization was granted by the then Court of First Instance of Pangasinan, in Dagupan, on January 30, 1957. On July 6, 1959, his motion to take the oath of allegiance was granted and on July 16, 1959, he took his oath as a naturalized Philippine citizen. Consequently, the corresponding Certificate Of Naturalization was issued to him.

On July 27, 1972, Francisco Sim prayed in an ex-parte motion before the then Court of First Instance of Pangasinan to be allowed to take his oath anew. Francisco Sim wanted to abide with the decision of the Supreme Court in a case of similar nature to his, and with a circular of the Solicitor General implementing the said decision, holding that successful petitioners in naturalization cases should take the oath of allegiance thirty (30) days after the order of the court allowing the taking of the oath of allegiance. Since petitioner Francisco Sim had taken his oath on July 16, 1959, less than thirty (30) days after his motion to take his oath was granted on July 6, 1959, he petitioned that he be allowed to take his oath again.

The Office of the Solicitor General, in an omnibus motion dated August 22, 1972, opposed the motion of Mr. Sim, averring that it was not furnished with a copy of the first motion to take the oath, dated July 6, 1959, nor with a copy of the notice of hearing of the same, pursuant to Republic Act No. 530, as amended. Moreover, it

claimed that it was not served with a copy of the order of the Court of First Instance permitting Mr. Sim to take his oath of allegiance. Thus the Solicitor General's office prayed before the lower court:

- a) to declare null and void all proceedings already taken, consonant to Republic Act No. 530 as amended;
- b) to issue an order dismissing the instant naturalization case; and
- c) to deny the ex-parte petition of July 27, 1972.

The Court of First Instance, finding the said petition to be sufficient in form and substance, set the same for hearing on November 15, 1972. The petitioner, accompanied by counsel, appeared and testified at the hearing. The City Fiscal also attended, appearing for the Government.[2]

On November 27, 1972, the lower court granted the petitioner's motion, allowing him to take anew his oath of allegiance to the Republic of the Philippines, in effect denying the Solicitor General's prayer to declare null and void all proceedings with reference to Francisco Sim's application for naturalization.

Barely two weeks later, on December 8, 1972, the Office of the Solicitor General filed a motion for reconsideration of the court's order allowing the petitioner to take his oath anew. After considering the arguments raised in the motion for reconsideration, the trial court modified its decision and promulgated a new order, dated February 19, 1973, adverted to at the outset, which compelled the Office of the Solicitor General to come to us.

The Republic of the Philippines, oppositor-appellant, assigns the following errors:

## I

THE LOWER COURT ERRED IN NOT DECLARING AS NULL AND VOID THE PROCEEDINGS HELD ON NOVEMBER 15, 1972, INCLUDING THE ORDER OF NOVEMBER 27, 1972.

## II

THE LOWER COURT ERRED IN NOT DECLARING ALL PROCEEDINGS AS NULLITY.

## III

THE LOWER COURT ERRED IN ALLOWING PETITIONER TO TAKE OATH ANEW.[3]

In sum, the Solicitor General's office pleads that all the proceedings with regard to the naturalization of petitioner-appellee Francisco Sim since January 30, 1957 when he first submitted his application for naturalization to the court, be declared null and void.

The contention of the Office of the Solicitor General that it must be provided with notice and the opportunity to determine if the applicant for naturalization has complied with the requisites, as provided for in Section 1 of Republic Act No. 530,[4] as amended, is indeed meritorious.

The pertinent section states:

Section 1. The provisions of existing laws notwithstanding, no petition for Philippine 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 representatives, 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.

The lower court is correct in ruling "that the original motion to allow the petitioner to take his oath of allegiance dated July 16, 1959, the notice of hearing and the hearing of the same, the order approving the same and allowing the petitioner to take his oath, the oath taken pursuant thereto and, the Certificate of Naturalization issued on July 16, 1959 are all null and void,"[5] in view of the fact that the Office of the Solicitor General had not been duly notified of the petition and the proceedings thereafter.

In its brief, the Office of the Solicitor General invokes the case of *Lu Luan Co. vs. Hon. Hilario Jarencio*.<sup>[6]</sup> In that case, we declared null and void the applicant's petition to take the oath of allegiance, as well as the oath taken and the Certificate of Naturalization, on the following grounds: (1) the petition of the petitioner to take his oath of allegiance had been filed less than two years from receipt of the copy of the decision approving his naturalization; (2) the Solicitor General's office had not been served with either a copy of the applicant's petition to take his oath or a copy of the court's order setting the petition for hearing; (3) and that upon the approval of said petition on the very day it was filed, the applicant was allowed to take his oath.

We affirm the decision of the court a quo, dated February 19, 1973, as challenged in this appeal. We find that the Solicitor General's office had been duly notified of all proceedings leading to the issuance by the trial court of this crucial order.

As can be seen from the records of the case, the Office of the Solicitor General was indeed served with a copy of the July 27, 1972 petition to take another oath of allegiance. As stated by the lower court:

As page 3 of the records of this case shows that the office of the Solicitor General was in fact served with a copy of the present petition on August 10, 1972, at 11:33 o'clock in the morning and was likewise served with copies of the notice of hearing together with the postponement which give the said office ample time to study and oppose the same, and that said office in fact filed a timely opposition and the court heard the present petition only on November 15, 1972 -- well over 3 months after it was filed, the Court thinks that the office of the Solicitor General cannot say that the present petition and the proceedings taken by this Court were not in accordance with law.<sup>[7]</sup>

Thus, we find the allegations of the office of the Solicitor General that "the ex parte petition, the apparent rush to hear the same on November 15, 1972 and the short hearing so held, failed to afford the government time to make confidential investigations of the petitioner"<sup>[8]</sup> are not supported by the records of this case. The period from August 10, 1972 up to November 15, 1972 is sufficient to conduct inquiries into the life and activities in the interim of petitioner.

The oppositor-appellant also argues that the proceedings held on November 15, 1972 (as shown by the transcript of stenographic notes later furnished the Solicitor General) failed to indicate that the petitioner had proved his case consonant to Rep. Act 530, as amended with supporting documents, as devolved upon him, such as proofs that:

- a) he had not been convicted of any crime;
- b) he had not violated any government rules;
- c) he had not left the Philippines;
- d) he had devoted himself to a lawful calling.<sup>[9]</sup>

On the contrary, the records show that when the hearing came up on November 15, 1972, the petitioner, accompanied by his counsel, and in the presence of the City Fiscal of Dagupan who appeared for the Government,

testified:

x x x that on January 30, 1957, this Court allowed the petitioner to be naturalized Filipino citizen (Exh. "A" - of the petition); that the Court likewise allowed said petitioner to take his Oath of Allegiance as a Naturalized Filipino citizen (Exh. "A-1" - of the petition); that he took his Oath before the Presiding Judge, Hon. Lourdes P. San Diego, on July 16, 1959 (Exh. "A-2" of the petition); that he does not have any outstanding internal revenue obligation due the government (Exhs. "B" and "B-1", of the petition); that he has been religiously paying the Municipal License due the Government (Exh. "C" of the petition); that he has never been charged nor convicted of any crime whatsoever nor is there any pending case against him (Exhs. "D", "E", "F" -- of the petition); that he has been exercising all rights and privileges of a citizen of the Philippines since he took his oath of allegiance on July 16, 1959; and finally, he stated that he never left the Philippines since he took his said Oath of Allegiance in 1959. He also declared that he is not suffering from any of the disqualifications mentioned in the law; and that since his last Oath, he has comported himself as any good citizen is expected to do.[10]

The aforecited portion of the records of the case clearly shows that petitioner-appellee strived to prove that he has complied with the requirements of Section 1 of Republic Act No. 530, as amended. Thus, the burden at proving otherwise shifted to the oppositor-appellant if he was dissatisfied with the evidence adduced by the petitioner. Given sufficient time to make a confidential investigation of the applicant, it should have then and there made its timely objections to the petitioner's application or dispute the petitioner's evidence that he had complied with all the legal requirements for taking the required oath of allegiance.

The lower court, finding that there was no defect in Francisco Sim's Motion to Take Oath anew, and satisfied that he had complied with the requirements, granted the same.

We agree with the lower court's ruling that ample time was given to the oppositor-appellant to investigate and that the Solicitor General had the opportunity on November 15, 1972 to contest the evidence presented by herein petitioner-appellee.

WHEREFORE, finding no reversible error committed by the lower court, we AFFIRM the appealed decision in toto.

**SO ORDERED.**

Melencio-Herrera, (Chairman), Paras, Padilla, and Regalado, JJ., concur.

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[1] Rollo, 11; Record on Appeal, 32.

[2] Id., 11, Record on Appeal, 12.

[3] Id., 39, Brief for the Appellant, 5-9.

[4] Approved on June 16, 1950.

[5] Rollo, 11; Record on Appeal, 32.

[6] G.R. No. L-21521, October 29, 1965, 15 SCRA 190.

[7] Rollo, 11; Record on Appeal, 30.

[8] Id., 40; Brief for the Appellant, p. 6, last paragraph.

[9] Id., Brief for the Appellant, p. 7.

[10] Id., 11; Record on Appeal, 13.

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