

IN THE MATTER OF THE PETITION FOR ADMISSION AS CITIZEN OF THE PHILIPPINES. AO SAN, PETITIONER-APPELLANT, VS. REPUBLIC OF THE PHILIPPINES, OPPOSITOR-APPELLEE.

G.R. No. L-21128. August 19, 1967

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

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REYES, J.B.L., Acting C.J.:

On 12 May 1960, the Court of First Instance of Manila, in its Civil Case No. 38451, granted the petition for naturalization of the above-named appellant, Ao San. However, on motion of the Solicitor General, the court, on 11 January 1963, issued an order, the dis-positive portion of which is as follows:

"In view of the foregoing, the decision is hereby set aside, and the petition to allow the petitioner to take his oath as citizen of the Philippines is here-by DENIED and the petition DISMISSED. However, in view of the fact that the evidence does not show that the petitioner suffers from any disqualification and on the other hand, the deficiency in the petition and in the evidence may be remedied, the DISMISSAL is hereby declared to be WITHOUT PREJUDICE."

The present case is an appeal from the foregoing order.

The original decision granting the appellant's petition for naturalization was promulgated on 16 May 1960. After a period of two (2) years, appellant filed a petition alleging compliance with the requirements of Republic Act 530 and praying that after hearing, he be admitted to Philippine citizenship upon taking the oath of allegiance. Before this petition could be heard, however, the Solicitor General filed a motion to vacate the decision and opposition to oath-taking, alleging defects in the amended petition for naturalization, lack of jurisdiction of the trial court, lack of qualification of the applicant to become a citizen of the Philippines and unreliability of the vouching witnesses. Acting there-upon, the court issued the appealed order.

The assigned error that the lower court erred in setting aside the decision because it had become final, is without merit. The established doctrine in naturalization proceedings is that the decision rendered therein does not become final until after the issuance of the naturalization certificate and compliance with Republic Act No. 530 (*Pe vs. Republic*, G.R. No. L-20375, 31 Jan. 1966; *Gan Tsitung vs. Republic*, G.R. No. L-20819, 21 Feb. 1967). Until then, the only vested right is that of the Republic to see to it that only applicants fully qualified should be admitted to membership in the body politic.

In his petition, appellant gave his address as 1001 Interior 9, Felipe II, Binondo, Manila, but according to his alien certificate of residence, he resides at 742 Alvarado and in his immigrant certificate of residence, at 546 Azcarraga, Manila. The latter two were not mentioned in his petition. This failure is fatal to the petition and Affects the jurisdiction of the court. (*Keng Giok vs. Republic*, G.R. No. L-13347, 31 Aug. 1961; *Uy vs. Republic*, G.R. No. L-20208, 30 June 1965; *Yao Long vs. Republic*, G.R. No. L-20910, 27 Nov. 1965). This defect in petitioner's application is all the more serious on account of his not having filed a notice of intention to apply for citizenship.

In his petition for naturalization, dated 19 June 1958, the appellant stated that he had five (5) children. He

amended this petition on 15 December 1958 stating he had eight (8) children, but has given no explanation for this startling difference.

This applicant's supposed children are Vicente, Alejandra, Gloria, Elisa, Mary, Edita, William and Henry. They bear different surnames, either "Ao" or "San". Some of them have "Ang Yie" as their mother; the others, "Ang Yee". They use names in school entirely different from their registered names; thus, Alejan-dro Ao is known in school as "Uy Lian Hui"; Vicente Ao uses "Uy Lian Hong"; Mary Ao as "Mary Uy"; Gloria Ao as "Uy Siok Be"; and Edita Ao, as "Elisa Uy". The birth certificates of Vicente and Gloria show that they were born on 3 January 1938 and 9 July 1937, respectively.

The foregoing circumstances throw a grave doubt that these are all the petitioner's children. Parenthetically, they make out an attempt, reflective of a reproachable character, to turn all these children into Filipino citizens, should the petition be successful. It is a poor excuse that the petitioner simply made a mistake in his original petition when he stated that he had five (5) children, instead of eight (8). Add this to the confusion of given names and surnames, registered names and school names. The interval of the dates of birth between Vicente and Gloria, is five (5) months and twenty-five (25) days only. While a utero-gestation period like this is possible, it is so rare an oddity (Herzog, Medical Jurisprudence, Sec. 973-975) that the doubt becomes graver still that all these children are those of the petitioner. In itself, this aspect of petitioner's case betrays lack of good moral character.

The dismissal of the petition as "without prejudice" by the lower court because it found that petitioner not suffering from any disqualification, is not justified. Instead of welcoming the opportunity to submit frank and credible explanation for the discrepancies pointed out by the Government counsel, as applicant should have done, had he the true interest of the country at heart, applicant has sought refuge in technicalities.

The preceding discussion makes it unnecessary to discuss the other objections raised by the Government.

For the foregoing reasons, the appealed order is hereby affirmed, with the modification that the dismissal shall be with prejudice. Costs against appellant Ao San.

Makalintal, Bengzon, Zaldivar, Sanchez, Castro, Angeles, and Fernando, JJ., concur.
Concepcion, C.J., and Dizon, J., on leave.

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