

**IN THE MATTER OF THE PETITION OF ONG SO TO BE ADMITTED AS
CITIZEN OF THE PHILIPPINES, ONG SO, PETITIONER AND APPELLEE,
VS. REPUBLIC OF THE PHILIPPINES, OPPOSITOR AND APPELLANT.**

G.R. No. L-20145. June 30, 1965

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

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

On 27 January 1960, the Court of First Instance of Manila, after a hearing wherein the government counsel interposed no opposition and introduced no evidence, granted the petition for naturalization of the petitioner-appellee, Ong So. The statement of the case and of the facts, as narrated in the brief of the oppositor-appellant Republic, was adopted by the said appellee. Briefly, it is as follows:

On 17 February 1962, two years after the decision was rendered, Ong So presented his evidence under Section 1 of Republic Act No. 530. On 20 February 1962, the government filed an opposition to the petitioner's oath-taking as a citizen of this country, averring that (a) petitioner had not enrolled all his children of school age in schools qualified under the Act; and (b) that he did not have lucrative employment, as required by law.

The court a quo, on 27 February 1962, *motu proprio* reopened the case, as to the oath-taking, and the petitioner adduced additional evidence. On 2 March 1962, the said court issued an order allowing the petitioner to take his oath, and in that same afternoon administered the oath to the applicant.

On 29 March 1962, the government moved for the reconsideration of the order of 2, March 1962, to set aside the oath, to nullify the decision of 27 January 1960', or, if not nullified, to have the case reopened and the government to be given time to present evidence.

Without setting aside the order of 2 March 1962 or the oath theretofore administered, the court reopened the case, and the petitioner and the oppositor government adduced evidence.

On 12 May 1962, the lower court, in an order, denied the opposition of the government and maintained its order of 2 March 1962.

The case before us is an appeal from these two orders, as well as from the oath-taking, with the following assignment of errors:

- (1) The lower court erred in issuing the order allowing petitioner to take his oath of allegiance as a citizen of the Philippines notwithstanding that he does not possess all the qualifications required by law to be admissible for naturalization and that he has not complied with the provisions of Section 1 of Republic Act No. 530.
- (2) The lower court erred in precipitately and prematurely administering the oath of allegiance to the petitioner during the period when an appeal from the order allowing oath-taking could be perfected or during the pendency of such appeal.
- (3) The lower court erred in not dismissing the petition."

We find merit in the appeal.

In the first place, it positively appears from the records that the original petition for naturalization actually showed that applicant Ong So had not enrolled all his minor children of school age in qualified schools in the Philippines, as required by law. In truth, paragraphs 3 and 4 of the original application (Rec. App., pp. 2 and 3) recites as follows:

"3. That I am lawfully married to Po Siok Tuan alias Siok Tuan by and with whom I have three children, namely, Ong Hu, male, Ong Tiak, male, and Peter Ong, male; that my wife Po Siok Tuan alias Siok Tuan was born in Amoy, China on September 29, 1931, and that she is a citizen or subject of the Republic of China, otherwise known as Nationalist China, and except for occasional visits to the Philippines, she is a resident of 171 Kingsroad, Hongkong; that my son Ong Hu was born in Amoy, China, on January 21, 1948, my son Ong Tiak was born in Amoy, China, on February 16, 1949, and my son Peter Ong was born at the Chinese General Hospital, City of Manila, on January 14, 1959; that my two sons, Ong Hu and Ong Tiak are presently residing at 171 Kingsroad, Hongkong, while my third son, Peter Ong, is presently living with me and my wife, who is now in the City of Manila on a temporary visit, at 1045 (formerly 53) Blumentritt, City of Manila;

"4. That I have not enrolled my minor children in a private or public school in the Philippines, but that as soon as they could be brought to the Philippines, I will enroll them in a public or private school recognized by the Government of the Philippines, where such subjects as History, Government and civics are taught as part of the curriculum of studies, and that it is my desire to let them pursue such and similar studies until they shall have attained and obtained their respective profession;"

Since two of the applicant's minor children, Ong Hu and Ong Tiak, were in 1959 still out of the Philippines, and they were born in 1948 and 1919, they were not yet enrolled in Philippine schools when they attained the school age (7) prescribed by our law; wherefore, the condition imposed by the statute was not complied with. The enrollment in our schools of naturalization applicant's children upon their attaining school age is of strict compliance, since the law clearly intended that these children should be made to absorb our customs, traditions, and ideals as early as possible, and the first formative years are the most important for the purpose; hence enrollment at a later age does not satisfy the statute. It is difficult to understand how, in view of the allegations of the petition, the same was granted by the court below. Fortunately, it has been the consistent doctrine of this Court that the right or qualifications of an applicant to become a Philippine citizen may be inquired into at any stage of the proceedings (*Ong Ching Guan vs. Republic*, L-15961, March 27, 1961; *Lim Lian vs. Republic*, L-3575, Dec. 16, 1950; *Yap Chin vs. Republic*, 93 Phil., 215; *Anselmo Lim Ilok vs. Republic*, 101 Phil., 795).

Neither the strictness of our immigration laws nor the unsettled conditions in China are a valid excuse for non-compliance with the statutory requirements for education of the children of an applicant for naturalization (*Republic vs. Go Bon Lee*, L-11499, Apr. 29, 1961; *Chan Lai vs. Republic*, 106 Phil. 210., *Lian Chua vs. Republic*, 48 Off. Gaz., No. 5, p. 1780). Nor is it an excuse that the objection was not interposed at the hearing of the application. It has been already ruled by this Court that—

"In naturalization cases it is not the duty of the Government to specify the grounds for its opposition. It is not bound in naturalization proceedings by the pleadings relative to the presence or absence of qualifications. Without objection by the Government, it is the duty of an applicant for citizenship affirmatively to establish all the legal requirements, and the Court *motu proprio* may and should deny his application if from his evidence he is found lacking in any of those requirements." (*Yay Chin vs. Republic*, 93 Phil. 215, 217).

The Solicitor General correctly points out, likewise, that this applicant has not shown that he possessed a lucrative trade, profession, or occupation at the time he applied for admission to citizenship in 1959. His tax returns show an income of P4,800.00 for that year (being his salary from the Chua Hong Bio Grocery), which is obviously

insufficient considering that applicant had a wife and five (5) children of school age to support. In *Keng Giok vs. Republic*, L-13347, Aug. 31, 1961, we held that an income of P9,074.50 per annum was insufficient for a married applicant who had a wife and five children to support. Hence, even if we accept respondent's claim that he was allowed free board and lodging privileges valued at P150.00 to P200.00 a month, he would remain disqualified for lack of income adequate to decently support him and his family (cf. *Tan vs. Republic*, L-19580, and *Yap vs. Republic*, L-19649, both promulgated on April 30, 1965).

For the year 1960 and 1961, petitioner reported an augmentation of his regular income through a yearly bonus of P2,000.00 and commissions amounting to P4,000.00 per annum (Exhibits B-1 and B-2). Granting these additions, his case is not improved: first, because the applicant's earnings must logically be determined as of the time of his applying for naturalization; and second, because contingent income, like bonuses and commissions, do not constitute dependable remuneration entitled to consideration in determining lucrative trade or work for the purposes of the Naturalization Law (*Yu Kian Chie vs. Republic*, L-20169, 26 February 1965).

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 applicants 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.

Bengzon, C.J., Bautista Angelo, Concepcion, Paredes, Dizon, Regala, Makalintal, Bengzon, J.P., and Zaldivar, JJ., concur.

Orders declared null and void.

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