

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. HON. JOSE BORROMEJO, AS JUDGE OF THE COURT OF FIRST INSTANCE OF CEBU, BRANCH IV, CEBU CITY, AND VIDASTO TIU, RESPONDENTS.*G.R. No. L-26870. May 29, 1970*

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

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Once more in this petition for certiorari filed by the Republic of the Philippines against the orders of the Court of First Instance of Cebu (in Nat. Case No. 752), dated 15 June 1966[1] and 27 October 1966,[2] we find occasion to reemphasize the need for close and jealous scrutiny by trial courts of aliens' petitions for the privilege of naturalization as Filipino citizens, as well as of the evidence sub-mitted to support the same even in the absence of opposition thereto.

On 9 July 1962, Vidasto Tiu, a Chinese citizen, filed in the Cebu Court of First Instance a petition for citizenship (Nat. Case No. 752) stating, inter alia, that he was single, born in Cebu City on 2 February 1939; that he was a salesman and insurance underwriter, with an annual income of P4,200.00; that he did not file a declaration of intention because he was born in the Philippines. The petition was duly published, and later on heard by the court. On 30 September 1963, upon the evidence received, the court rendered judgment, granting the petition and admitting applicant Tiu to Philippine citizenship. No appeal from the said decision was taken by the State.

On 8 November 1965, the applicant moved to set the case for final hearing preparatory to his taking the corresponding oath. The Republic of the Philippines, represented by the Solicitor General's office, then opposed the motion and prayed for the setting aside of the decision of 30 September 1963. It was alleged that the petition was fatally defective, because applicant was not exempt from filing a declaration of intention, and that he had also used the name Tiu Yee Sing, which did not appear in the published petition. When this opposition as well as the subsequent motion for reconsideration filed by the oppositor were denied by the lower court, in its orders of 15 June 1966 and 27 October 1966, the Republic of the Philippines resorted to the present proceeding, raising the same issue of the defective petition and inadequacy of the publication rendering the respondent court without jurisdiction to entertain the applicant's motion for final hearing and to allow the latter to take the oath.

We find the petition meritorious.

It is not denied that when applicant Tiu was studying in the Cebu Chinese High School, he had been using also the name Yee Sing, which did not appear in the petition or in its publication. The explanation of applicant is that said name was only used in his Chinese class, whereas he was known in his English class as Vidasto Tiu; that after he had left the Cebu Chinese High School he had consistently used Vidasto Tiu in school (University of San Carlos and Cebu Institute of Technology) and in his business dealings; that Tiu Yee Sing was not included in the published petition because he had long ago dropped and abandoned that name. All that, even if true, does not obviate the fact that, by such omission in the publication, people who might have known him as Tiu Yee Sing were deprived of the opportunity to come to court and testify on what they knew and could say of him.[3] Thus, in

Wong Chui vs. Republic, L-23855, 24 April 1967, 19 SCRA 805, we overruled a similar explanation that the omitted name was only given to the applicant by his father when he first entered school, following the Chinese custom of choosing for a child an appropriate name on such an important occasion as the start of schooling. There we held that the use of such other name constituted a violation of the Anti-Alias Law (Com. Act 142) and warrants the denial of the application for admission to Philippine citizenship.[4] We declare, therefore, that the non-inclusion in the petition, as published, of the other name, Tiu Yee Sing, by which herein applicant was known at one time or another, made the publication of his application for citizenship defective, a deficiency that practically deprived the court of jurisdiction over the case.[5]

Besides, there is non-compliance with Section 5 of the Revised Naturalization Law that requires of every applicant the filing in the office of the Solicitor General, one year prior to the presentation of the petition in court, of a declaration of his bona fide intention to become a citizen of the Philippines, unless such applicant is by law exempted from the requirement. Such exemption is only granted to aliens that were born in the Philippines and who have received their primary and secondary education in Philippine public schools or recognized private educational institutions not limited to any race or nationality. Applicant herein is not within the exempted class.

While the applicant's birth in the Philippines, in the absence of record in the civil registry which was destroyed (Exhibit I), may be considered to have been established by the affidavit and testimony in court of Dr. Gil Ramas, the physician who attended the delivery of the applicant, there is lack of proof that the educational requirement has been satisfied. It appears that applicant Tiu completed primary and secondary education, in the Cebu Chinese High School during the school years 1953-54 and 1957-58, respectively.[6] There is, to be sure, a certification by the Regional Superintendent of the Bureau of Private Schools, Central Visayas Districts dated 4 March 1966,[7] that the Cebu Eastern Institute (formerly the Cebu Chinese High School) has been admitting Filipino students and employing Filipino teachers; and applicant has likewise submitted an unverified statement by the director of the said school which indicates the number of Filipino and Chinese students enrolled therein from the school year 1958-1959 to 1965-1966. But it is to be noted that these certifications do not cover the period when applicant was taking his primary and secondary courses, up to 1958 (Exhibit T), and, therefore, there is no proof that the applicant received primary and secondary schooling in an educational institution regularly attended by a sizeable number of Filipino students from whom he could have imbibed or assimilated Filipino customs and traditions, in addition to learning the basic courses in Philippine history and civics.[8] Moreover, the same unverified statements or certifications alone would be insufficient to establish the percentages of Filipinos and Chinese in the student population; not having been presented in court to stand the cross examination of the counsel for the State, and the scrutiny and observation of the trial court, the certification of officials of the school under consideration amounts to nothing more than self-serving or hearsay evidence.[9] Considering the mandatory character of the requirement on the filing of a declaration of intention, applicant's failure to comply with it is fatal to his petition,[10] since he was not legally exempt from that requirement of the law.

The court below having been duly apprised by the oppositor, Republic of the Philippines, of the foregoing jurisdictional defects, its issuance of the disputed orders suffers from infirmity, making it a proper subject of certiorari proceeding. And where, as in this case, the incorrectness and invalidity of the lower court's decision granting Philippine citizenship to an alien is evident from the papers available to us, even without the elevation of the records of the original proceeding, it becomes immaterial whether the issue of the qualifications of the applicant have been brought to this Court by means of a special civil action or an ordinary appeal.

WHEREFORE, the petition is granted; the orders of the lower court of 15 June 1966 and 27 October 1966 are hereby reversed and set aside, and the application of Vidasto Tiu to be admitted to Philippine citizenship is ordered disapproved. No costs.

Concepcion, C.J., Dizon, Makalintal, Zaldivar, Fernando, Teehankee, and Villamor, JJ., concur.
Castro, J., on leave.
Barredo, J., no part.

[1] Denying the motion of the Republic of the Philippines to set aside the court's decision of 30 September 1963, granting the application for natu-ralization of Vidasto Tiu and opposing his oath-taking as citizen of the Philippines.

[2] Denying the State's motion for reconsideration of the aforemen-tioned order of 15 June 1966.

[3] Chuah Tak Seng vs. Republic, G.R. No. L-21599, 29 October 1966, 18 SCRA 595, and cases therein cited.

[4] See also Chan vs. Republic, G.R. No. L-22352, 30 June 1966, 17 SCRA 474; Go Tian An vs. Republic, G.R. No. L-19833, 31 August 1966, 17 SCRA 1053.

[5] Yu Nam vs. Republic, G.R. No. L-20016, 29 April 1966, 16 SCRA 733. Also, Yu Seco vs. Republic, G.R. No. L-13441, 30 June 1960.

[6] Exhibit "T".

[7] Annex "A", page 138, CFI Record.

[8] Lee Ng Len vs. Republic G.R. No. L-20151, 31 March 1965, 13 SCRA 532; Te Poot vs. Republic, G.R. No. L-20017, 28 March 1969, 27 SCRA 644.

[9] Te Poot vs. Republic, *supra*.

[10] Uy Boco vs. Republic, 85 Phil. 320; Son vs. Republic, 87 Phil. 666. Uy Yap vs. Republic, 91 Phil. 914; Dy vs. Republic, 92 Phil. 278; Yu vs. Republic, 92 Phil. 804; De la Cruz vs. Republic, 92 Phil. 714; Tan vs. Republic, 94 Phil. 582; Ong Khan vs. Republic, G.R. No. L-14866, 28 October 1960 Yap vs. Republic, G.R. No. L-12938, 31 July 1961; Lim Cho Kuan vs. Republic G.R. No. L-21198, 22 January 1966, 16 SCRA 25; Lim vs. Republic, G.R. No. L-20804, 22 January 1966, 16 SCRA 12.

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