

DIMITRY SUGANOFF, PETITIONER AND APPELLEE, VS. REPUBLIC OF THE PHILIPPINES, OPPOSITOR AND APPELLANT.

G.R. No. L-16301. August 31, 1961

Ponente: BARRERA, J.

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BARRERA, J.:

From the decision of the Court of First Instance of Camarines Sur granting petitioner Dimitry Suganoff's petition for reconstitution of records in Naturalization Case No. 9 of the same court, the Solicitor General took this present appeal.

On July 30, 1959, petitioner Dimitry Suganoff filed with the above-mentioned court a petition for reconstitution of citizenship papers alleging, inter alia, that on January 16, 1930, he was issued a certificate of Naturalization (Certificate No. 7, File No. 9) by clerk of Court Manuel Flores of the Court of First Instance of Camarines Sur; that on May 4, 1932, he took his oath of allegiance before the Deputy Clerk of Court of the Court of First Instance of Nueva Ecija; that as a result of the last war, all his papers in connection with his citizenship, as well as all other records were lost in his possession, and in spite of diligent efforts to locate them, they could not be found; and that it is to the best interests of petitioner that said records be reconstituted in the very court which tried and approved his application for Filipino citizenship, as according to reliable information all the papers and documents of the Court of First Instance of Camarines Sur have also been lost during the last war.

To this petition, the Provincial Fiscal of Camarines Sur, on September 18, 1959, filed an objection on the grounds that (1) the petition was filed out of time; and (2) the attached exhibits supporting said petition are not authentic copy of a decision.

Issues having been joined, the case was duly tried and, on September 30, 1959, the court granted petitioner's petition for reconstitution, in an order which reads:

"ORDER

"This is a petition for reconstitution of records in Naturalization Case No. 9 of this court. Copy of the petition and notice of the hearing were served upon the Provincial Fiscal of Camarines Sur and the Solicitor General.

"The Provincial Fiscal opposed the petition on the ground that it is filed out of time and that the documents supporting the petition are not authentic copies of their original.

"Petitioner submitted Exh. A-1. This is a copy of the notice of hearing of his original petition duly certified by the librarian of the Department of Justice. The notice appeared in Volume XXVII, No. 116, page 3241 of the Official Gazette for the year 1929. He also presented Exh. B-2 which is a copy of his certificate of naturalization which was recorded as Certificate No. 7, File No. 9, by the Clerk of this Court. He further presented Exh. B-4 which is an application for passport containing his oath of allegiance duly sworn to before the Clerk of Court of Nueva Ecija on May 4, 1932. Exhs. B-2 and B-4 are duly certified by the American Consul from the records of the State Department of the United States of America which has their originals in its files as they have been attached to petitioner's application for passport in the year 1932 (Exh. B)

"From the said documents, it is clear that the petitioner filed an application for naturalization in Civil Case No. 9 of this Court; that notice of its hearing was duly published in the Official Gazette; that after hearing of the application, the Court found that the petitioner possesses all the qualifications necessary to become a citizen of the Philippines, and that in view of said finding the Court issued Certificate of Naturalization No. 7, File No. 9, on January 16, 1930. It is also clear that the petitioner took his oath of allegiance before the Clerk of Court of Nueva Ecija on May 4, 1932.

"Republic Act 441 cited by the Provincial Fiscal in support of his contention that the petition was filed out of time is not applicable. The case for naturalization was not a pending case but one totally finished and finally decided. Accordingly, the law applicable is Act No. 3110 under which this petition may yet be filed.

"The second ground for objection is, likewise, not meritorious because the documents which are the basis for reconstitution are copies duly certified by the legal custodian of said record.

"Wherefore, the records of Naturalization Case No. 9 is hereby ordered reconstituted with Exh. A-1, B-2, and B-4, among others, as basis for said reconstitution.

"SO ORDERED."

From this decision, the present appeal was taken.

The decision appealed from must be reversed. At the outset, it may be pointed out that petitioner was not reconstituting the decision in the alleged Naturalization Case No. 7 of the Court of First Instance of Camarines Norte, but only the Certificate of Naturalization allegedly issued by the Clerk of said court after said decision. Exhibit A-1 (p. 2, folio of exhibits) merely shows that in the September 26, 1929 issue of the official Gazette, the notice of petitioner's petition for naturalization was published therein. Exhibit B-2 (p. 6, id.) is a photostat of an unsigned copy of petitioner's Certificate of Naturalization. Exhibit B-4 (p. 8, id.), likewise mentioned as a basis for reconstitution, is a photostatic copy of the duplicate of application for passport at the bottom of which appears an "Oath of Allegiance", but this oath does not purport to be the one taken upon assumption of the duties of citizenship, but merely a requirement in connection with his application for passport. It is important to note that no one testified to identify the signature appearing in said Exhibit B-4. In overruling the State's objection that the exhibits presented by petitioner are not authentic copies of their originals, the trial judge held that said documents are "copies duly certified by the legal custodian of said record." He was evidently referring to Exhibit B which is a certification that the attached copy of a letter (Exh. B-1 and no other), is a true copy of the duplicate on file at said office (Consular Section, U.S. Embassy, Manila). But this certification Exhibit B covers only Exhibit B-1 (letter dated Aug. 30, 1950 addressed to petitioner Suganoff by American Vice Consul, E. C. Ross), which reads:

"With reference to your letter of May 26, 1950, to the Department of State relating to your desire to establish the basis of your claim to Philippine citizenship, you are informed that the Embassy has received from the Department of State photostatic copies of an application for passport executed by you upon which passport No. 30180 as a Philippine citizen was issued to you on May 4, 1932 by the Governor General of the Philippines and also copy of Certificate of Naturalization No. 7 issued to you by the Clerk of Court of Camarines Sur on January 16, 1930. These documents will be delivered to you when you call at this Office."

Petitioner would have the court infer that the "application for passport" referred to in said letter Exhibit B-1 is Exhibit B-4 and the copy of "certificate of naturalization No. 7" is Exhibit B-2. No witness was presented to testify as to this fact. Be that as it may, we find that Exhibit B-2 is a mere photostatic copy of an unsigned copy of certificate of naturalization, allegedly issued by the Clerk of Court of the court of First Instance of Camarines Norte on January 16, 1930. As regards Exhibit B-4, we find it to be a mere photostatic copy of a duplicate of application for passport bearing signature at the bottom thereof which remain unidentified. In the circumstances, we are of the opinion that none of the documents submitted by petitioner, especially Exhibit B-2 purporting to be

a certificate of naturalization issued on January 16, 1930 is an "authentic" copy of a document required by Section 7 of Act No. 3110. In such case, the remedy of petitioner seems to be that pointed out by Section 30 of Act No. 3110,[1] which in part provides:

"Sec. 30. When it shall not be possible to reconstitute a destroyed judicial record by means of the procedure established in this Act or for any reason not herein provided for, the interested party may file his action anew. *

* *.

With the above conclusion, the Court finds it unnecessary to pass upon the other issue raised by the Solicitor General.

Wherefore, the decision of the trial court is hereby reversed and set aside, without costs. So ordered.

Bengzon, C. J., Padilla, Concepcion, Reyes, J.B.L., Paredes, Dizon, De Leon, and Natividad, JJ., concur.
Bautista Angelo, J., on leave, took no part.

[1]See Sec. 51, Rules of Court, re-secondary evidence.

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