

**IN THE MATTER OF THE PETITION OF LIM SIONG TO BE ADMITTED
A CITIZEN OF THE PHILIPPINES. LIM SIONG,
PETITIONER-APPELLEE, VS. REPUBLIC OF THE PHILIPPINES,
OPPOSITOR-APPELLANT.**

G.R. No. L-26601. June 30, 1969

Ponente: SANCHEZ, J.

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SANCHEZ, J.:

In this appeal in a denaturalization case, the State seeks to set aside the proceedings for the naturalization of Lim Siong and to cancel the certificate of naturalization issued in his favor.

Upon petition of Lim Siong filed on June 8, 1960, judgment was rendered on October 14, 1961 declaring him entitled to naturalization.[1] On January 9, 1964, petitioner moved to set his oath-taking for hearing. On February 11, the Republic opposed. On February 21, the lower court allowed the petitioner to take his oath of allegiance as a Filipino citizen. On February 24, three days after the last mentioned order was issued and before it had become final, the lower court administered the oath of allegiance to petitioner. On March 30, the Clerk of Court issued Naturalization Certificate No. 3602 in petitioner's favor.

On August 3, 1965, the Republic moved to denaturalize petitioner. Main ground was lack of jurisdiction to hear and decide the case.

For the reasons that follow, judgment should go for the State.

First. The application for naturalization recites that petitioner's residence was 755 Soler Street, Manila. But at the hearing of the petition, petitioner's character witness, Nestor Tejada, declared that in 1949 petitioner resided in Quezon Boulevard. Then, the record discloses that he also resided at 214 Escolta.[2] Also from the record, we gather that he resided at 1457 Soler Street.[3]

Failure in good faith or otherwise to state the former places of residence is fatal; it affects the jurisdiction of the court "to hear and decide the case." [4] That defect is not cured by supplying data at the hearing of the petition for naturalization.[5] Very recently, in *Chua Lian Yan vs. Republic*, L-26416, April 26, 1969, we said: "This non-disclosure is fatal. Section 7 of the Revised Naturalization Law requires that a petition for naturalization should state petitioner's 'present and former places of residence.' We have said that 'residence' encompasses all places where petitioner 'actually and physically resided.' Tondo, and T. Earnshaw Street, Manila, where he resided, and Goa, where he studied, certainly come within the term 'residence'. The legal requirement of recital in the petition of present and former places of residence is not without reason: First, 'information regarding petitioner and objection to his application are apt to be provided by people in his actual, physical surrounding;' and second, failure to allege the former places of residence 'deprives both public and government of a fair opportunity to check up petitioner's activities material to the proceeding and of registering their objection to his application.'"

Second. Petitioner's failure to file a declaration of intention without being exempted from that requirement is as fatal. By Section 6 of the Revised Naturalization Law, as amended by Commonwealth Act 535, petitioner, to be exempted from the requirement of making a declaration of intention, must have resided "continuously in the Philippines for a period of thirty years or more before filing their application." [6]

We now go to the facts.

Petitioner arrived in the Philippines in 1926. He left for China in 1931, returned to Manila on January 15, 1933. He again went to China in 1937 and came back to Manila on September 16, 1939. The third trip to China was in 1940; he was back in Manila on February 15, 1941. Another visit to China was in 1946, which lasted up to April 16, 1949. Unquestionably, petitioner's residence in this country was not actual, substantial and continuous for a period of thirty years. On the contrary, it was punctured with interruptions that cannot be categorized as short visits to China. By the standard in *Sy See vs. Republic*, supra, at page 192, these absences bar him from claiming continuous residence.

The filing of a declaration of intention is mandatory. [7] Without the required declaration of intention, the court below did not acquire jurisdiction to entertain the petition for naturalization herein. [8] Such failure to file the declaration of intention indeed "rendered the entire proceeding null and void." [9]

Third. Petitioner is guilty of misrepresentation. His application states that his only children are Lim Ichi and Lim Ute, respectively born in Ching kang, China in 1948 and 1949. The fact, however, is that he had two other children, Lim Chay Te, female, and Lim I Tack, male, both residing in China, respectively 23 years and 22 years of age in 1960. The fact that these two are also children of the petitioner Lim Siong is borne not only by the record of this case but also the record of another case, L-24946 (*Vivo vs. Cloribel, et al.*), decided by this Court on January 18, 1968. Petitioner now says that the two children (Lim Chay Te and Lim I Tack) are merely "adopted" children. Such circumstance, however, would not change the situation. Independent of his intentions for adopting them, the fact is that he has concealed in his application the truth that he has two other children. This, in our opinion, is sufficient to throw his case out of court.

Fourth. Petitioner's two younger children mentioned in his petition, Lim Ichi and Lim Ute, arrived in the Philippines with their mother on December 13, 1960. At that time, they were only 12 and 11 years, respectively. They were here enrolled in a Chinese school, The Philippine Chinese Educational School. Even the principal of this school is a Chinese.

Section 6 of the Revised Naturalization Law, as amended by Commonwealth Act 535, requires, amongst others, that a person who is exempt from making a declaration of intention must give "primary and secondary education to all his children in the public schools or in private schools recognized by the Government and not limited to any race or nationality."

It is at this point that we must stress the fact that by the enrollment of petitioner's children in the Chinese school, petitioner has evinced a purpose to instill in his children a Chinese upbringing and has demonstrated his "lack of earnest intention to identify" himself and his children "with the Filipino community." [10]

The educational requirement just adverted to is one of the avowed policies of our Government. [11] As we have emphasized in *Ang Yee Koe Sengkee vs. Republic*, 90 Phil. 594, 596-597, and in *Ong So vs. Republic*, L-20145, June 30, 1965: "It is the policy of the Philippine Government to have prospective citizens, children of applicants for naturalization, learn and imbibe the customs, traditions and ideals of the Filipinos as well as their democratic forms of government." Indeed, the learning process should start "as early as possible, and the first formative years are the most important for the purpose." [12]

Nor will the transfer of petitioner's two children to the Mapua Institute of Technology and the University of the East after the decision has been rendered below and after the oath-taking improve petitioner's case. We have said in *Chua Lian Yan vs. Republic*, supra, that: "Petitioner may not make a point by saying that after the Philippine Sun Yat Sen schooling, the child was transferred, as aforesaid, to the Paco Catholic School, and then to the Far Eastern University. This change of attitude came too late. It was subsequent to the filing of the petition for naturalization. He is still short of the requirement in Section 2, paragraph Sixth of the Revised Naturalization Law. For, that schooling was not 'during the entire period' of petitioner's residence in the Philippines 'required of him prior to the hearing of his petition for naturalization as Philippine citizen.'" Compliance with the educational requirement is mandatory,[13] and an absolute prerequisite to naturalization.[14] Non-compliance with this statutory requirement is fatal to the application for naturalization.[15] It is a valid ground "for the cancellation of a certificate of naturalization already issued." [16]

Fifth. Apparent is the haste with which the oath was taken. The order granting oath-taking was issued on February 21, 1964. Three days thereafter, on February 24, the court administered the oath of allegiance. This renders the oath null and void. Controlling here is our pronouncement in *Ong So vs. Republic*, supra, Mr. Justice J.B.L. Reyes delivering the opinion of the Court, thus:

"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 becomes 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 applicant's right thereto are finally settled, and we must make of record our disapproval of the practice." [17]

For the reasons given, JUDGMENT is hereby rendered:

- (1) Declaring all the proceedings for naturalization in Naturalization Case 43341 of the Court of First Instance of Manila, entitled "In the Matter of the Petition to be Admitted a Citizen of the Philippines, Lim Siong, Petitioner", null and void;
- (2) Ordering the cancellation of petitioner's naturalization certificate as well as the identification certificates, if any, issued to him and his children as Filipinos by the Commissioner of Immigration; and
- (3) For the purposes of this decision, ordering petitioner forth-with to surrender to the Clerk of the Court of First Instance of Manila said certificate of naturalization.

Pursuant to Section 18(d) of the Revised Naturalization Law, let copies of this decision be forwarded to the Department of Justice and to the Executive Secretary.

Costs against petitioner.

SO ORDERED.

Concepcion, C.J., Reyes, Makalintal, Zaldivar, Ruiz Castro, Fernando, Capistrano, and Teehankee, JJ., concur. Dizon and Barredo, JJ., did not take part.

[1] Naturalization Case 43341, Court of First Instance of Manila, entitled "In the Matter of the Petition to be

Admitted a Citizen of the Philippines, Lim Siong, Petitioner."

[2] Exhibits E, F, H, N, O-4, O-6 and Q.

[3] Exhibit G.

[4] Go vs. Republic, L-20558, March 31, 1965, citing cases; Yao Long vs. Republic, L-20910, November 27, 1965.

[5] Chi vs. Republic, 17 SCRA 388, 389-390; Yap vs. Republic, 17 SCRA 956, 960.

[6] See: Chua Lian Yan vs. Republic, supra, citing Sy See vs. Republic, 5 SCRA 189, 191-192.

[7] Bhrojjraj vs. Republic, L-24023, May 8, 1969, citing Ong Khan vs. Republic, L-14866, October 28, 1960; Yap vs. Republic, 2 SCRA 856, 859; Lim vs. Republic, 16 SCRA 12, 14; Lim Cho Kuan vs. Republic, 16 SCRA 25, 27; Chua Lian Yan vs. Republic, supra.

[8] Id. citing Law Tai vs. Republic, 19 SCRA 852, 855, citing Ong Khan vs. Republic, supra, and Sy Ang Hoc vs. Republic, 1 SCRA 886, 889-890.

[9] Id., citing Sio Kim vs. Republic, L-20415, December 29, 1965.

[10] Dy vs. Republic, 18 SCRA 858, 860.

[11] Tan Hoi vs. Republic, L-15266, September 30, 1960.

[12] Ong So vs. Republic, supra, cited in Chua Lian Yan vs. Republic, supra.

[13] Republic vs. Go Bon Lee, 1 SCRA 1166, 1169, citing Tan vs. Republic, 49 O.G. p. 1409; Chan Lai vs. Republic, 106 Phil. 210, 215.

[14] Yap vs. Republic, 2 SCRA 856, 860.

[15] Yap Chun vs. Republic, L-18516, January 30, 1964.

[16] Republic vs. Go Bon Lee, supra, at p. 1169.

[17] See also: Lim vs. Republic, 18 SCRA 228, 231; Yong Sai vs. Republic, 18 SCRA 264, 271; Lim vs. Republic, 18 SCRA 276, 279.

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