

ANTI-CHINESE LEAGUE OF THE PHILIPPINES, PETITIONER, VS. ALFONSO FELIX, JUDGE OF FIRST INSTANCE OF MANILA, AND TEODORO LIM, RESPONDENTS.

G.R. No. L-998. February 20, 1947

Ponente: FERIA, J.

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FERIA, J.:

This is a petition for mandamus instituted by the "Anti-Chinese League of the Philippines" against the respondents on the ground that the respondent Judge has refused and refuses to allow the petitioner to appear and oppose the petition for naturalization filed by the other respondent Teodoro Lim pending in the Court of First Instance of Manila.

Section 3, Rule 67 of the Rules of Court provides:

"SEC. 3. Petition for mandamus.—When any tribunal, corporation, board, or person unlawfully neglects the performance of an act which the law specifically enjoins as a duty resulting from an office, trust, or station, or unlawfully excludes another from the use and enjoyment of a right or office to which such other is entitled, and there is no other plain, speedy, and adequate remedy in the ordinary course of law, the person aggrieved thereby may file a verified petition in the proper court alleging the fact with certainty and praying that judgment be rendered commanding the defendant, immediately or at some other specified time, to do the act required to be done to protect the rights of the petitioner, and to pay the damages sustained by the petitioner by reason of the wrongful acts of the defendant, with costs."

From the foregoing provisions it clearly appears that a special civil action of mandamus may be instituted only by the "person aggrieved" by the act of a tribunal that unlawfully excludes said person from the use and enjoyment of a right to which he is legally entitled, and there is no other plain, speedy and adequate remedy in the ordinary course of law. There is no doubt that if the petitioner herein were a person and has the legal right to intervene as party in the naturalization proceeding above mentioned, and the respondent judge excluded him from the use and enjoyment of his said right by refusing to allow him to intervene therein as oppositor, mandamus would lie for there would be no other plain, speedy and adequate remedy.

The questions for us to determine in this case are, therefore, (1) whether the petitioner is a person either natural or juridical, and (2) assuming that it is a person, whether petitioner has the legal right to appear as oppositor in the naturalization proceeding instituted by Teodoro Lim, the other respondent.

(1) From the pleadings and memoranda of the parties it appears evident that the petitioner is a civic organization or association representing a group of Filipino citizens, but it does not constitute a juridical person or entity; and since only natural or juridical persons may be parties, either in civil actions or special proceedings, according to section 2, Rule 73, in connection with section 1, Rule 3, of the Rules of Court, the petitioner cannot be a party in the said naturalization proceeding nor institute the present action of mandamus in this Court. In case of association of natural persons not legally organized as a juridical entity, each and every one of the members

thereof must be made parties, and the only exceptions are, first, when the parties are so numerous that it is impracticable to bring all of them in court, in which case one or more may be made parties if they represent sufficiently the interest of all (section 12, Rule 3), and, second, when two or more persons associated in any business transact such business under a common name, in which case they may be sued by such common name, whether it comprises the names of such persons or not (section 15, Rule 3). And the petitioner does not fall under these two exceptions.

(2) But, assuming that the petitioner is a natural or juridical person, it is plain that it has no right of action against the respondents, for the simple reason that it is not aggrieved by the act of the respondent judge that refused to allow him to intervene as a party in the naturalization proceeding, because there is no law granting the petitioner such right. In other words, because the petitioner has no legal interest in opposing the application of the respondent Teodoro Lim for naturalization. The Solicitor General, personally or through his delegate, and the provincial fiscal, are the only officers or persons authorized by law to appear on behalf of the government and oppose an application for naturalization or move for the cancellation of a naturalization certificate already issued (sections 10, 18, Commonwealth Act No. 473). The government as an agency of the people represents the public, and therefore the Solicitor-General who appears on behalf of the government represents the public.

It is true that a court proceeding for naturalization of an alien is of public interest or may affect the Filipino people, because a foreigner would thereby be adopted and clothed with the privileges of citizenship; but in all such proceedings the right to represent and protect the interest of the people is vested by law in some public officer or the Solicitor General, and private citizens can not, unless they have special legal interest, be allowed to take part therein for the regular and orderly conduct of court proceeding. Criminal actions for violation of public offenses and special civil action of quo warranto against a person that illegally holds or usurps a public office are of more transcendental effect, because disturbance of public order by the commission of a crime and the exercise of governmental powers by a usurper affect more vitally the well-being of the citizens or inhabitants of a country; and yet the law does not confer the right to institute such actions upon any private individual. If a public-spirited citizen believes that a petitioner for naturalization is unworthy or does not have all the requirements of the law to become a citizen, the proper step for him to take is to so inform the Solicitor General or the provincial fiscal, and furnish them with such information and evidence as he may have against the petitioner, in order to enable said officers to perform their duties.

The purpose of the law in providing that "immediately upon the filing of a petition for naturalization it shall be the duty of the clerk to publish the same, at petitioner's expense, once a week for three consecutive weeks, in the Official Gazette and in one of the newspapers of general circulation in the province where the petitioner resides, and to have copies of said petition and a general notice of the hearing posted in a public and conspicuous place in his office or in the building where said office is located, * * *" and forward copies of the petition "to the Bureau of Justice, the Department of the Interior, the Provincial Inspector of the Philippine Constabulary and the Justice of the Peace of the municipality wherein the petitioner resides," is to inform those officers and the public in general of the filing of such a petition in order that the public officers and private citizens supposed to be acquainted with the petitioner may furnish the Solicitor General or the provincial fiscal with such necessary information and evidence as there may be against the petitioner. The legal provisions on publication and posting of petition for naturalization is not, as the petitioner for mandamus in this case contends, "tantamount to an invitation afforded to civic-spirited citizens to come forward and oppose;" for just as in probate as well as in land registration proceedings in which publication of the filing of the corresponding petition is also required by law, only persons having legal interest in the proceeding, are permitted by law to appear and oppose to the petition, so in naturalization proceeding only the Solicitor General and the provincial fiscals, and not everybody, are allowed to intervene on behalf of the Government or the people. To allow any private individual or citizen to appear and

side with or oppose a petitioner for naturalization would or might render a naturalization proceeding chaotic and long if not interminable; because if any private individual or citizen may appear and oppose a petition for naturalization, he may also, for one reason or another, move for the cancellation of the naturalization certificate at any time thereafter under section 18 of Act No. 473.

In view of all the foregoing, the petition is denied with costs against the petitioner. So ordered.

Moran, C.J., Paras, Pablo, Hilado, Bengzon, Briones, Padilla, Hontiveros, and Tuason, JJ., concur.

TUTOL

PERFECTO, M.:

Sa aming palagay ang tagapagdulong ay mayroong karapatan na igawad ng Kataastaasang Hukuman ang isang pasiya na magbibigay sa kanya ng pagkakataon upang makialam sa usaping ukol sa kahilingan ng isang intsik na nagngangalang Teodoro Lim, upang ito'y pahintulutan kumamit ng mga karapatan ng isang mamamayang Pilipino.

Ang tagapagdulong ay isang samahan na binubuo ng mga Pilipino na may pakay na ipagtanggol ang mga karapatan ng bayang Pilipino.

Ang suliranin na dapat litisin ay kung ang mga bumubuo ng nabanggit na samahan ay mayroong dapat pagmalasakitan sa nabanggit na usapin. Sa aming palagay ito'y isang bagay na hindi dapat pagalinglanganan. Samantalang ang mga dayuhang mabubuti na naghahangad na maging Pilipino, kung sila'y may karapatan at matanggap, walang sala na sila'y magdudulot ng mga kabutihan sa ating bayan, sa kabilang dako, kung ang mga dayuhan na gawing Pilipino ay mga masasamang tao at mga walang karapatang bigyan ng biyayang maging kapwa Pilipino natin, walang sala na iyang mga dayuhang iyan ay maghahandog ng hindi masukat na kapinsalaan. Sa bandang huli ay magiging sanhi ng dalamhatian ng lahat at bawa't isa sa ating mga mamamayan.

Ipalagay natin na ang dayuhang naghahangad maging Pilipino ay isang tiktik lamang na kinakasangkapan ng isang dayuhang bansa na mayroong masasamang hangarin laban sa ating bayan. Kung ang mga pakana niyang tiktik na iyan ay umiral, maaaring ang ating baya'y mapasubo na naman sa isang napakarimarim na digmaan at tayo'y gapiin ng mga mababangis na manglulusob, katulad ng mga Hapones, kagaya ng nangyari ng hindi pa malaon. Samakatuwid, kung ang mga bumubuo ng samahang tagapagdulong ay mga Pilipino, walang sala na sila'y may pagmamalasakit na makialam sa usaping kung dapat na si Teodoro Lim ay payagang kanyang kamtam ang lahat na biyaya ng isang tunay na Pilipino.

Dahil dito iniutos sa batas bilang Adanpipulo (473) ng Commonwealth na ang mga kahilingan ng mga dayuhang magpi-Pilipino ay dapat ilathala sa Gaseta Opisyal at sa mga pahayagan, upang ang sino man may sapat na kaalaman ng mga pangyayari maaring makialam sa usapin at makatulong sa hukuman sa paggagawad ng isang mahusay at makatarungang pasiya.

Sa mga katuwiran naisaad sa itaas, aming ipinapasiya na pagkalooban ang tagapagdulong ng karapatan na makialam sa usapin ng kahilingan ni Teodoro Lim na maging Pilipino.

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