

IN THE MATTER OF THE PETITION OF ERNESTO TING TO BE ADMITTED A CITIZEN OF THE PHILIPPINES. MOTION TO CANCEL CERTIFICATE OF NATURALIZATION OF ERNESTO TING. ERNESTO TING, PETITION...

G.R. No. L-13896. August 10, 1966

Ponente: CONCEPCION, C.J.

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CONCEPCION, C.J.:

Pursuant to a decision rendered by the Court of First Instance of Manila on August 8, 1949, granting the petition for naturalization of Ernesto Ting, the corresponding certificate of naturalization was, on March 10, 1950, issued in his favor. However, on January 18, 1954, the Solicitor General filed a motion, followed, three (3) days later, by a supplemental motion, for the cancellation of said certificate. The two (2) motions were consolidated into one on January 26, 1954. After protracted hearings, lasting several years, said court rendered a "decision" denying the cancellation of the aforementioned certificate of naturalization. The case is now before us on appeal, taken by the Solicitor General, from this "decision".

Appellant alleges that the lower court erred in not ordering the cancellation of appellee's certificate of naturalization, despite the fact: (1) that notice of the filing of his petition for naturalization had been published once only; (2) that, after such publication, one of appellee's attesting witnesses had been changed and no publication of such fact was made; (3) that appellee had been involved in an illegal importation of gold; (4) that he had untruthfully alleged and testified that he was born in Cavite, Cavite, and introduced in evidence a falsified copy of his alleged birth certificate in said locality; (5) that he had contracted a bigamous marriage with one Sy Hua; (6) that he had violated Section 56 of the Revised Election Code; (7) that he had committed the crime of concubinage, if not another bigamy, with one Ng Kim Lan; (8) that he had been engaged in the traffic of women and drugs, as well as maintained a gambling house; and (9) that he had abetted or facilitated the illegal entry of aliens into the Philippines.

We will limit ourselves to a consideration of the fourth ground - which, in effect, is that appellee's certificate of naturalization had been secured illegally or fraudulently - not only because he claims that the other grounds could have been raised at the hearing of his petition for naturalization, and are barred by the first decision therein rendered - although we do not express any view on the validity of this objection - but, also, because we feel it unnecessary to pass upon said other grounds in order to dispose of the appeal.

The facts pertinent to said fourth ground are: In his petition for naturalization, dated February 5, 1949, and filed on February 7, 1949, appellee alleged that he had been born in Cavite, Cavite, on March 10, 1911, and had resided continuously in the Philippines for at least 38 years, and he so testified at the hearing of said petition, in corroboration of this testimony, appellee, likewise, introduced in evidence a document marked Exhibit H, purporting to be a certified true copy of his birth certificate in the office of the Local Civil Registrar in Cavite, Cavite, signed by one A. C. Zapanta, civil registrar clerk therein, on June 15, 1949, "for and in the absence of the

local civil registrar".

However, at the hearings in connection with the motion for cancellation of appellee's certificate of naturalization, it was positively established that his (appellee's) name does not appear in the Registry of Births on file in said office. No less than the aforementioned A.C. Zapanta issued, on January 30, 1952, a certificate to that effect. Testifying for appellee herein, Zapanta declared, in said hearings, that the name of the person who appears in the civil registry as the child of Maria Co and Ting Po - appellee's alleged parents - born in San Roque, Cavite, on March 10, 1911, is not Ernesto Ting, but Ernesto Po, which appellee herein says is his other name.

In this connection, photostatic copies of two pages containing the registry list of births recorded in said office in March, 1911, have been introduced in evidence as Exh. 4-A. It is interesting to note that there are now 34 entries for said month and that entries Nos. 1 to 32 are in consecutive order of dates, from March 1 to March 29, 1911. However, entry No. 32, dated March 29, is followed by entry No. 33, which is dated March 23, whereas entry No. 34, corresponding to said Ernesto Po - son of Ting Po and Maria Co - bears the date of March 10. Then too, whereas the entries for the month of March appear to have began about four (4) spaces after the last entry for February, the entries for April appear to have been commenced in the space immediately following that of Ernesto Po, as if entries Nos. 33 and 34 had been inserted after March 29, 1911, and even after April, 1911.

This circumstance, and the fact that the date of the last entry for March does not follow the order of the dates of the 32 preceding entries for said month, induced the Government to cause said entries to be examined by Felipe Logan, the handwriting expert of the National Bureau of Investigation, who, after analyzing the writings of the aforementioned A.C. Zapanta for a number of years, concluded positively that said entry No. 34, as regards Ernesto Po, must have been made between 1943 and 1946 (See, Exhibit 149-A).

At any rate, appellee's own witness, A.C. Zapanta declared that he had made said entry in 1941 (p. 7, t.s.n., Feb. 3, 1954), or thirty years after the alleged birth of Ernesto Po in Cavite, Cavite. When we consider this rather unusual testimony, in relation to the fact that, based upon said entry made by Zapanta, he had no compunction in issuing a certified "true" copy of the birth certificate of Ernesto Ting, despite the fact that the family name entered by him (Zapanta) in the Registry was Po, it becomes apparent, not only that Zapanta's testimony merits no credence whatsoever, but, also, that Exhibit H is patently a falsified document.

And this is borne out by documentary evidence, the authenticity of which is not questioned. Thus, for instance, in the birth certificate (Exhibit 6) of appellee's son, Ernesto Ting, Jr., dated October 19, 1942, and admittedly signed by appellee, his birth place appears to be "Emuy, China". Similarly, in his application for immigration clearance, Exhibit 8, dated January 23, 1948, likewise, signed by appellee, the following appears written on the space for the date and place of his birth: "1911 - March 10 - Amoy, China".

Appellee would have Us believe that the data pertinent to his birth appearing on Exhibits 6 and 8, were written by other persons, not by himself, he having signed both documents before the corresponding blank spaces therein had been filled. We find it difficult, however, to believe such testimony. Besides, in the normal course of events - and there is nothing in the record before Us to show otherwise - it is only natural for the person who filled the blanks, on behalf of appellee herein, to have secured the pertinent information from him (appellee).

In fact, Ignacio Garcia, Secretary of the Board of Special Inquiry, in the Immigration Office, testified that the data appearing in Exhibit 8 was written thereon by him upon appellee's request and on the basis of information supplied by appellee (p. 34, t.s.n., January 30, 1954). Appellee has not suggested any reason why Garcia or the persons who filled Exhibits 6 and 8 should depart from the normal procedure and even go to the extent of imputing to him (appellee), in said documents, statements he had not made or contrary to those made by him. What is more, appellee appears to have subscribed and sworn to the truth of the contents of Exhibit 8 before an

officer authorized by law therefor, so that the former must have been aware of said contents and found the same to be true.

We are fully satisfied, therefore, that appellee was not born in the Philippines ; that his testimony, and the documentary evidence introduced by him to this effect are false and falsified, respectively; and that, accordingly, his certificate of naturalization had been obtained illegally and fraudulently.

It may not be amiss to note that he has not filed the requisite declaration of intention, despite the fact that he was not exempt therefrom. Although he claimed to have resided in the Philippines continuously for "38 years at least" - which is not and cannot be true, even if he had been born in the Philippines, for he was less than 38 years of age when his application was filed on February 7, 1949 - it appears from said application that two (2) of his five (5) children had been born in Chinkian, China, on May 15, 1931 and December 5, 1932, respectively, and were enrolled in the Quiapo Chinese Anglo School in 1947. Under our laws, the exemption from said declaration does not attach unless the applicant has given 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 (Section 6 of Commonwealth Act No. 473, as amended by Commonwealth Act No. 535). Said Chinese Anglo institution is primarily for children of Chinese descent.[1] Besides, appellee's application for naturalization does not show that, prior to its filing, he had given all of his five (5) children said primary and secondary education. In other words, he had not satisfactorily shown that he was exempt from filing the aforementioned declaration of intention.[2] As a consequence, the entire proceedings for his naturalization, including the decision and the certificate of naturalization, were null and void ab initio.

WHEREFORE, the decision appealed from should be, as it is, hereby reversed and the certificate of naturalization issued in favor of herein petitioner-appellee cancelled, accordingly, with costs against him.

IT IS SO ORDERED.

Reyes, JBL, Barrera, Bengzon, JP, Zaldivar, Sanchez, and Ruiz Castro, JJ., concur.
Dizon, and Makalintal, JJ., no part.
Regala, J., on leave.

[1] Lee Ng Len vs. Republic, L-20151, March 31, 1965; Wang I. Fu vs. Republic, L-15819, September 29, 1962; Hao Hu Siong vs. Republic, L-13045, July 30, 1962; Sy See vs. Republic, L-17025, May 30, 1962.

[2] Republic vs. Hon. Andres Reyes, L-20602, December 24, 1965; Yu Ti vs. Republic, L-19913, June 23, 1965; Tan Ten Hoc vs. Republic, L-18344, February 28, 1964; Lu Beng Ga vs. Republic, L-18005, November 29, 1963; Republic vs. Go Bon Lee, L-11499, April 29, 1961; Lee Choo vs. Republic, L-12408, December 28, 1959, Chan Lai vs. Republic, L-11803, September 23, 1959; Yu Soon Seng vs. Republic, L-11426, April 29, 1959; Dy Chan Tiao vs. Republic, 95 Phil., 709.

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