

IN THE MATTER OF THE PETITION OF LUIS UY TO BE ADMITTED AS CITIZEN OF THE PHILIPPINES. LUIS UY, PETITIONER AND APPELLANT, VS. REPUBLIC OF THE PHILIPPINES, OPPOSITOR AND APPELLEE.

G.R. No. L-7054. April 29, 1955

Ponente: MONTEMAYOR, J.

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MONTEMAYOR, J.:

This is a case of naturalization. A little after two years from the promulgation of the decision granting Philippines citizenship to appellant Luis Uy, he petitioned the trial court to allow him to take his oath of allegiance as a Filipino citizen. He is now appealing from the order of said court dated August 14, 1953, denying his petition. We are reproducing the said order which contains not only the issue involved but also the facts of the case.

"This is an alternative petition filed by the applicant in the above-entitled case, praying: (1) that an. order be issued by this court allowing him to take his oath of allegiance as a Filipino citizen and ordering the issuance of the corresponding certificate of naturalization in his favor; and (2) that in the event his first prayer is denied, he be permitted to take his oath of allegiance after the lapse of two years counted from the date of his return to the Philippines from abroad, upon proper showing that he has complied with the requirements of Republic Act No. 530.

"To this petition, the representative of the Government vigorously interposed an objection for the reasons stated in the opposition filed on June 6 and July 29, 1953.

"It appears that on February 21, 1951 this court rendered the decision in the above-entitled case granting Philippine citizenship to the herein movant, subject, however, to the provisions of Republic Act No. 530. No appeal was taken by the office of the Solicitor General from this decision. However, on April 6, 1952, the herein petitioner, without advising the court and the office of the Solicitor General, left the Philippines for the United States on a dual purpose, namely: (1) to submit himself to a medical check-up; and (2) to strengthen the business ties of the Associated Trading Corporation, of which he was then, and still is the general manager, with various suppliers in the United States. According to the petitioner, his departure from the Philippines for abroad on the date in question was vital and necessary as it concerned his life and health. It was not for vacation or pleasure, he added. He had to submit himself to a physical check-up in the hands of Dr. Frank Co Tui, world renowned gastric ulcer specialist, as he was then suffering from a recurrent attack of stomach ulcer, which at one time or another his doctors strongly suspected may be cancer, and while there in the United States he availed himself of the opportunity of looking into the welfare and interest of the corporation of which he is the general manager.

"The evidence introduced by the petitioner shows that he was suffering from peptic ulcer, and that his personal physicians, Drs. Liboro and Rivera, had advised him to make a trip to the United States for a thorough medical check-up. In the early part of 1952, the Board of Directors of the Associated Trading Corporation, of which he was the general manager, decided to send him to the United States on a business trip. The evidence shows that the petitioner herein grasped the opportunity to go to the United States; and while in New York submitted

himself to treatment under Dr. Frank Co Tui.

"The only question to be resolved by this court, therefore, is whether, notwithstanding the fact that the petitioner has left the Philippines for the United States on April 6, 1952, without having waited for the expiration of the two-year period as required by Republic Act No. 530, he should be allowed to take his oath of allegiance as a Filipino citizen.

"It is the opinion of this court that the herein applicant has not complied with section 1 of Republic Act No. 530. This court agrees with the contention of the Solicitor General that section 1 of said Act requires no other interpretation. It lays down categorically that within the intervening period of two years from the promulgation of the decision granting the applicant's petition for citizenship, said applicant should not leave the Philippines. It is, therefore, the duty of the court to enforce this law to the latter however seemingly hard its effect may be.

"As to the second prayer of the petitioner, the court sees no justification in granting the same, for the intention of the Legislature in passing Republic Act No. 530 is clear and explicit and the court, therefore, cannot give any other interpretation.

"In view of the foregoing considerations, the petition to take the oath of allegiance as a Filipino citizen by the herein applicant is hereby denied.

"So ordered.

"Manila, Philippines, August 14, 1953.

(Sgd.) Julio Villamor
Judge"

Being a case of first impression, we have given the same very careful study and consideration. We agree with the trial court that because of his absence from the Philippines during the period of two years after the promulgation of the decision granting him citizenship, petitioner has not complied with section 1 of Republic Act 530. For purposes of reference we are reproducing said section 1 of Republic Act 530, to wit:

"Section 1. The provisions of existing laws notwithstanding, no petition for Philippine citizenship shall be heard by the courts until after six months from the publication of the application required by law, nor shall any decision granting the application become executory until after two years from its promulgation and after the court, on proper hearing, with the attendance of the Solicitor General or his representative, is satisfied, and so finds that during the intervening time the applicant has (1) not left the Philippines, (2) has dedicated himself continuously to a lawful calling or profession, (3) has not been convicted of any offense or violation of Government promulgated rules, (4) or committed any act prejudicial to the interests of the nation or contrary to any Government announced policies."

Interpreting the above reproduced legal provisions, we held in the case of Johnny Chuasintek vs. Barcelona, G. R. No. L-5124, October 8, 1951, that:

"The court believes that the intention of the law quoted above is to place an applicant for Philippine citizenship on probation for two years from the date of the promulgation of a final decision."

The purpose is that during that period of probation the Government and the community wherein an applicant for Philippine citizenship lives, be given an opportunity to observe his conduct and behaviour and see whether or not he has complied with the other requirements contained in section 1 of Republic Act 530. Moreover, if he is absent from this jurisdiction, how could he comply with requirement No. 2 to the effect that he has dedicated himself continuously to a lawful calling or profession? Besides, as well observed by the Solicitor General on page 7 of his

brief:

"* * *. It is also the intention of Congress that the applicant be physically present in the country during that period to see if he complies with the other requirements of the statute, otherwise, if he were allowed to leave the country, he may, while abroad commit acts inimical to the Philippines without the Government knowing anything about the matter."

It may be that this requirement of non-absence from the Philippines for a period of two years does involve some sacrifice on the part of an applicant for naturalization but one sincerely and earnestly interested in becoming a Filipino citizen and enjoy its benefits should be ready to undergo said sacrifice for a period which after all is not too long.

This requirement of non-absence for two years might possibly admit of some exceptions. Like the case of John Doe Kwong Ng, case No. 10223 of the Court of First Instance of Manila, cited by counsel where petitioner therein was allowed to take the oath of allegiance although during the two-year period he had gone to Hongkong for an intelligence mission for the Government of the Republic of the Philippines, it might well be that during those two years, an applicant's absence is not on his own initiative but rather at the instance of the Government in which case said Government may and should in justice and fairness, waive strict compliance with the law about continuous presence in the country for two years. We can also imagine a case where an applicant may have been kidnapped or otherwise forcibly removed from the country for a short period, or where an applicant is obliged to go and stay abroad, for sometime not too long, to undergo an operation to save his life.

In the present case, however, there is reason to believe that petitioner's absence from the Philippines for about three months was not necessary to save his life. He was never in a critical condition. As a matter of fact, he left the Islands only about nine months after he had been advised by his doctors to go to the United States for medical check-up and treatment, and during his stay in New York City, according to the evidence, he saw Dr. Co Tui, the medical expert whom he had gone to consult, only twice. According to the Solicitor General, before and after his illness was diagnosed by Dr. Co Tui in July, 1951, appellant was never bed-ridden, and he used to go to his office in the mornings and took a rest in the afternoon. According to appellant himself, he had been sent by his company to America in order to strengthen the ties between his company and some business firms in the United States, and he merely grasped this opportunity to have a check-up in America. In other words, business was the primary object of his trip to the United States; medical check-up was only secondary.

We also agree with the trial court in its denial of the second prayer in the appellant's petition that in the event his prayer be denied, that he be permitted to take his oath of allegiance after the lapse of two years from his return to the Philippines upon proper showing that he had complied with the provisions of Republic Act 530. We believe that by applicant's failure to comply with the requirements of Republic Act 530, particularly by absenting himself from the Philippines during the two-year period, he had forfeited his right to citizenship as granted by the decision of the trial court.

In answer to petitioner's contention that to require him to file another petition for naturalization and to undergo another trial, would be unfair and unjust to him and on top of this, if he were to file another petition for naturalization, an anomalous situation would be created whereby a judgment which has long become final cannot be executed due to a technicality, it may be said that as we have already stated, although a judgment granting naturalization may have become final, nevertheless, appellant has forfeited his right to the benefits under the same. In the second place, should the courts allow him to file a new petition for naturalization, the same may not be a mere formality wherein he would be required to again establish his right to naturalization because in the meantime, he may have committed acts disqualifying him from naturalization or the Government thru the Solicitor General may file opposition to his application on the basis of evidence which were not available to him

when the first application for naturalization was filed, all this on the supposition that the petitioner is entitled to file and prosecute a second application for naturalization, a question which we do not deem necessary or proper now to decide.

In view of the foregoing, the order appealed from is hereby affirmed, with costs.

Pablo, Bengzon, Padilla, Reyes, A., Bautista Angelo, Labrador, Concepcion, and Reyes, J. B. L., JJ., concur.

Order affirmed.

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