

**IN THE MATTER OF THE PETITION OF LIM QUICO TO BE ADMITTED
A CITIZEN OF THE PHILIPPINES. GO IM TY, PETITIONER AND
APPELLEE, VS. REPUBLIC OF THE PHILIPPINES, OPPOSITOR AND
APPELLANT.**

G.R. No. L-17919. July 30, 1966

Ponente: ZALDIVAR. J.

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ZALDIVAR. J.:

Lim Quico filed a petition for naturalization on August 6 1956 before the Court of First Instance of Cebu. After hearing, the court, on February 20, 1958, rendered its decision finding petitioner possessed of all the qualifications, and none of the disqualifications, prescribed by law, and granted the petition, subject, however, to the subsequent compliance with the requirements provided for in Republic Act No. 530. No appeal was interposed from said decision.

On November 13, 1959, before the expiration of the reglementary two-year period as provided in Republic Act No. 530, Lim Quico died. On July 9, 1960, his widow, Go Im Ty, filed a motion praying that she and her minor children be allowed to continue the proceedings pursuant to Section 16 of Commonwealth Act No. 473, the Revised Naturalization Law. The Assistant City Fiscal of Cebu, for and in behalf of the Solicitor General, filed an opposition to the motion, claiming that Commonwealth Act No. 473 was no longer operative, the same having been repealed by Section 1 in relation to Section 3 of Republic Act No. 530. The court below, however, overruled the opposition and allowed the proceedings to continue as prayed for by the widow. On September 14, 1960, evidence, testimonial and documentary, was presented by the widow, and the lower court found "that during the intervening period of two years from February 20, 1958, when the decision granting the petition of Lim Quico was rendered, until his death in the City of Cebu on November 13, 1959, said petitioner had not left the Philippines; that he had continuously dedicated himself to a lawful calling as sole owner and proprietor of Hap Heng Hardware; that he had not been convicted of any offense or violation of any law, rules or regulations promulgated by the government and that he had not committed any act prejudicial to the interest of the nation or contrary to any of its announced policies (Exhibits 'B', 'C, and 'D'); it was likewise established by the evidence that from February 20, 1958, petitioner's widow, Go Im Ty, has not left the Philippines; she having continuously resided in the City of Cebu; that she has not been convicted of any offense or violations of any law, rules or regulations promulgated by the government and that during her stay in this country she has invariably conducted herself in a proper and irreproachable manner (Exhibits 'E', 'F', 'G', and 'H'). * * *." [1]

We have examined the transcript of the evidence taken during the hearing of September 14, 1960 and We noted that the evidence then presented was intended principally to prove compliance with the requirements of Section 1 of Republic Act No. 530. No evidence was presented tending to prove that the widow, Go Im Ty, possessed all the qualifications, and none of the disqualifications, to be a Filipino citizen, as provided in Commonwealth Act No. 473.

On October 14, 1960, the Court of First Instance of Cebu issued an order, the pertinent portion of which reads as follows:

"This Court is convinced that there is nothing to show that petitioner's widow and her above-named minor children are in any way disqualified under Section 4 of the Revised Naturalization Law to become citizens of the Philippines.

"WHEREFORE, this Court hereby orders the registration of the granting of Philippine citizenship to petitioner's widow who will take her corresponding Oath of Allegiance which will entitle her and her eight minor children to all the rights and privileges of naturalized Filipino citizens."

The following day, October 15, 1960, Go Im Ty, widow of petitioner Lim Quico, took her oath of allegiance pursuant to the order of October 14, 1960.

From the order above-mentioned the Government appealed, and the Solicitor General contends that the lower court committed the following errors:

- I. The trial court erred in holding that an alien woman married to a naturalized citizen is deemed a Filipino citizen if she has none of the disqualifications of an applicant for Philippine citizenship.
- II. The court erred in finding that Go Im Ty, petitioner's widow, is not disqualified under section 4 of the Revised Naturalization Law;
- III. The trial court erred in granting Philippine citizenship to Go Im Ty, the widow of Lim Quico, and in allowing her to take the corresponding oath of allegiance.

The stand of the Government must be sustained. The ruling of the lower court that Go Im Ty, the widow of original petitioner for naturalization, Lim Quico, may be granted Philippine citizenship is not in accordance with law.

It is recognized that, as provided in Section 16 of Commonwealth Act No. 473, in case the petitioner for naturalization dies before the final decision has been rendered his widow and minor children may continue the proceedings. But the final decision granting Philippine citizenship to the deceased petitioner does not automatically result in the grant of Philippine citizenship to the widow and minor children of the petitioner. The provisions of Section 15 of Commonwealth Act 473 must be complied with by the widow. Said section provides as follows:

"SEC. 15. Effect of the naturalization on wife and children.—Any woman who is now or may hereafter be married to a citizen of the Philippines, and who might herself be lawfully naturalized shall be deemed a citizen of the Philippines."

Thus, the alien woman must be one "who might herself be lawfully naturalized," in order that her marriage to a Filipino citizen might confer on her the citizenship of the latter. In order that an alien woman may be lawfully naturalized, she must not be disqualified under Section 4, and she must likewise possess all the qualifications enumerated under Section 2, of Commonwealth Act No. 478. Such has been the ruling of this Court in a long line of decisions. In the case of *Lo San Tuang vs. Emilio L. Galang*, G. R. No. L-18775, November 30, 1963, this Court said:

"In the case of *Ly Giok Ha, etc. vs. Galang*, 54 Off. Gaz., 356, this Court speaking through Justice Concepcion, held:

'Pursuant thereto (Sec. 15), marriage to a male Filipino does not vest Philippine citizenship to his foreign wife, unless she "herself may be lawfully naturalized." As correctly held in an opinion of the Secretary of Justice (Op. No. 52, series of 1950), this limitation of section 15 excludes, from the benefits of naturalization by

marriage, those disqualified from being naturalized as citizens of the Philippines under section 4 of said Commonwealth Act No. 473, namely: * * *

"Then, in *Cua vs. Board of Immigration Commissioners*, 53 Off. Gaz., 8567, this Court, through Justice J.B.L. Reyes, stated:

'The appeal cannot be sustained. Granting the validity of marriage, this Court has ruled in the recent case of *Ly Giok Ha vs. Galang*, 101 Phil., 459, that the bare fact of a valid marriage to a citizen does not suffice to confer his citizenship upon the wife. Sec. 15 of the Naturalization Law requires that the alien woman who marries a Filipino must show, in addition, that she "might herself be lawfully naturalized" as a Filipino citizen. As construed in the decision cited, this last condition requires proof that the woman who married a Filipino is herself not disqualified under section 4 of the Naturalization Law.'

"Much later, in *Lee Suan Ay, et al. vs. Galang, et al.*, G. R. No. L-11856, Dec. 23, 1959, this Court this time through Justice Padilla, stated:

'* * * Moreover, the marriage of a Filipino citizen to an alien does not automatically confer Philippine citizenship upon the latter. She must possess the qualifications required by law to become a Filipino citizen by naturalization. (Section 15, Commonwealth Act No. 473; *Ly Giok Ha alias Wy Giok Ha vs. Galang*, 54 Off. Gaz. 356). There is no showing that the appellant *Lee Suan Ay* possesses all the qualifications and none of the disqualifications provided by law to become a Filipino citizen by naturalization.'

In a much later case, *Lao Chay, et al. vs. Emilio L. Galang*, G. R. No. L-19977, October 30, 1964, this Court, through Justice Regala, ruled again that:

"It is now settled that under this provision (Section 15 of Com. Act No. 473 as amended), an alien woman, who is married to a citizen of the Philippines acquires the citizenship of her husband only if she has all the qualifications prescribed in Section 2 and none of the disqualifications in Section 4 of the law. Since *Ng Siu Luan* admittedly does not possess the qualifications for naturalization, her marriage to *Lao Chay* cannot be deemed as vesting in her Filipino citizenship."

Recently, in *Ly Giok Ha, et al. vs. Emilio Galang*, G. R. No. L-21332, March 18, 1966, this Court, through Justice J. B. L. Reyes, held that:

"* * * a long line of decisions of this Court has firmly established the rule that the requirement of section 15 of Commonwealth Act 473 (the Naturalization Act); that an alien woman married to a citizen should be one who 'might herself be lawfully naturalized, means not only woman free from the disqualifications enumerated in section 4 of the Act but also one who possesses the qualifications prescribed by section 2 of C. A. 473 (*San Tuan. vs. Galang*, L-18775, Nov. 30, 1963; *Sun Pek Young vs. Commissioner of Immigration*, L-20784, Dec. 27, 1963; *Ton Siok Sy vs. Vivo*, L-21136, Dec. 27, 1963; *Austria vs. Conchu*, L-20716, June 22, 1965; *Choy King Tee vs. Galang*, L-18351, March 26, 1965; *Brito vs. Commissioner of Immigration* L-16829, June 30, 1965)."

It is also settled that it is the alien woman, wife of a Filipino citizen, who should prove that she is possessed of all the qualifications and none of the disqualifications for Filipino citizenship. On this point the ruling of this Court in *Choy King Tee alias Chua, King Tee vs. Emilio L. Galang*, G. R. No. L-18351, March 26, 1965 precisely applies, to wit:

"The question has been settled by the uniform ruling of this Court in a number of cases. The alien wife of a Filipino citizen must first prove that she has all the qualifications required by Section 2 and none of the disqualifications enumerated in Section 4 of the Naturalization Law before she may be deemed a Philippine citizen * * *.

"Appellee here having failed to prove that she has all the qualifications for naturalization, even, indeed, that she has none of the disqualifications, she is not entitled to recognition as a Philippine citizen."

Again in *Brito, et al. vs. Commissioner of Immigration*, G. R. No. L-16829, June 30, 1965, this Court said:

"* * * in plain words the ruling means that the marriage of an alien woman to a Philippine citizen does not automatically make her a Philippine citizen entitled to enjoy all the rights and privileges of citizenship. She must, as a pre-requisite, establish satisfactorily in appropriate proceedings that she has all the qualifications and none of the disqualifications required by law. The privilege of citizenship is granted only to those found worthy of it and not indiscriminately to anybody at all solely on the ground of marriage to a man who is or has already become a citizen of the Philippines, irrespective of moral character, ideological beliefs and identification with Filipino ideals, customs and traditions."

It was incumbent, therefore, on the widow, Go Im Ty, to present evidence that like her deceased husband she is also possessed of all the qualifications, and none of the disqualifications, to become a Philippine citizen, as required by the existing laws. This, she did not do. During the hearing held on September 20, 1960, the evidence presented was more intended to prove that the requirements of Section 1 of Republic Act 530 were complied with in so far as the deceased petitioner, Lim Quico, was concerned. In that hearing Go Im Ty, the widow, testified, but her testimony simply established that she is 47 years old; a housekeeper by occupation; was a resident of Cebu City; that she is the widow of the deceased Lim Quico who married her in Amoy, China, in 1931; that her husband continued to be the sole owner of the Hap Heng Hardware in Cebu City until his death on November 13, 1959; that she had ten children with her deceased husband, eight of whom are minors; that said children were living in Cebu City when their father filed the petition for naturalization, and had not left the Philippines since then; that the children were studying at the Sacred Heart, a school not limited to any particular race, creed or nationality, and where Philippine history, civics and government were taught. No evidence was presented, nor did she testify, to prove: that she resided in the Philippines continuously for ten years; that she is of good moral character and believes in the principles underlying the Philippine Constitution and that she had conducted herself in a proper and irreproachable manner during the entire period of her residence in the Philippines in her dealings with the constituted government and the community where she lives. No evidence was presented to show that she had taken over the business left by her deceased husband, or that she had a lucrative trade or profession. It was even shown during her testimony that she did not speak, much less write, either the English or Spanish language, and she testified in the Cebu-Visayan dialect which was translated by the court interpreter. No evidence was presented to show that she was not laboring under any of the disqualifications enumerated in Section 4 of Commonwealth Act 473.

We declare, therefore, that Go Im Ty, the widow of the original petitioner Lim Quico, had not shown that she "might herself be lawfully naturalized" and the lower court erred in ordering "the registration of the granting of Philippine citizenship" to her and in allowing her to take her oath of allegiance "which will entitle her and her eight minor children to all the rights and privileges of naturalized Filipino citizens." [2]

We noted that even the original petition of Lim Quico suffers from a fatal defect. The petition shows that Lim Quico was a resident of Cebu City when he filed his petition for naturalization, and that one of the former places of Ms residence was Manila. The petition, however, does not show the street and the house number where he resided in Manila. The records show that he resided in Manila from December, 1920 up to 1939, [3] or a period of nineteen years. This Court has ruled that failure of the petitioner to state in his petition for naturalization the street and number of his former place of residence in the City of Manila is non-compliance with one of the requirements provided for in Section 7 of Commonwealth Act No. 473 and is a sufficient ground for the denial of the petition for naturalization. [4] While it is true that no appeal was taken from the decision of the lower court granting Philippine citizenship to the original petitioner, Lim Quico, the fact that said decision had not yet become final in

accordance with the provisions of Section 1 of Republic Act 580 and the case came up to this Court on appeal by the Government in connection with the proceedings required under said Section 1 of Republic Act 530, this case is open for review in its entirety by this Court regardless of whether or not objection had been made in connection with a particular point during the proceedings in the court below.[5]

In view of the foregoing, the decision of the lower court of February 20, 1958 granting Philippine citizenship to Lim Quico is reversed and the subject petition for naturalization is hereby denied; the order of the lower court of October 14, 1960, appealed from, is likewise reversed and declared of no legal effect; the oath of allegiance taken by Go Im Ty on October 15, 1960 is declared of no legal force and effect; and the certificate of naturalization that had been issued to Go Im Ty, the widow of Lim Quico is hereby cancelled, with costs against appellee Go Im Ty. It is so ordered.

Concepción, C. J., Reyes, J. B. L., Barrera, Dizon Regala, Makalintal, Bengzon, J. P., Sanchez and Ruiz Castro, JJ., concur.

Judgment reversed.

[1] As quoted from the order (appealed from) of October 14, 1960.

[2] Words in quotation marks are as quoted from the appealed order.

[3] As stated in the decision of the lower court.

[4] *Gaw Ching vs. Republic*, G. R. No. L-19419, September 30, 1964.

[5] *Kwan Kwock How vs. Republic*, G.R. No. L-18521, January 30, 1964.

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