

IN THE MATTER OF THE PETITION OF LOU C. LIM (LIM CHAT) TO BE ADMITTED AS A CITIZEN OF THE PHILIPPINE ISLANDS LOU C. LIM (LIM CHAT), PETITIONER-APPELLEE, VS. REPUBLIC OF THE PHIL...*G.R. No. L-27126. May 29, 1970*

Ponente: FERNANDO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/ebb0acd0f8c0/>**FERNANDO, J.:**

This is an appeal from an order of the lower court denying a motion of the then Solicitor General, now Justice, Antonio P. Barredo, for the cancellation of the naturalization proceedings had the order allowing the oath-taking of applicant Lou C. Lim, the oath of allegiance subscribed to by him, the certificate of naturalization issued in his favor as well as a later order declaring his wife likewise a citizen, the motion[1] for cancellation being premised on the rather unique circumstance of the petition for naturalization filed on September 26, 1960 being based on the former Naturalization Act[2] when since June 17, 1939, the present Naturalization Law[3] has already come into full force and effect, with the expected consequence of such a petition showing on its face that certain mandatory requirements were not satisfied at all, the Solicitor General's office moreover having been notified only of the first hearing, thereafter to be completely ignored. The case as above set forth would thus seem to call for an affirmative response from us. We reverse the lower court.

To repeat, the petition was accomplished on the form prescribed under a law no longer in force. It thus failed to allege petitioner's good moral character, as well as his belief in the principles underlying the Philippine Constitution, both requisites not being found in the former act. Nor was there any allegation as to the education in local prescribed schools of petitioner's two elder children, namely: Helen and Ben, both surnamed Lou C. Lim, born on December 16, 1938 and June 12, 1936, notwithstanding their being of school age during the entire period of petitioner's residence in the country. A defect, grave and fundamental in character, was petitioner's failure to file a declaration of intention, a matter sufficient to call for a denial of his application, again understandable but certainly not excusable as there was no such requirement under the former law.

Hearings were had before the lower court in the absence of any further notice to the office of the Solicitor General, as was already made mention of. The patent defects of the petition, notwithstanding, sufficient to indicate the lack of all the qualifications of petitioner, the lower court, on September 18, 1961 rendered a decision in his favor. Again, the Solicitor General was not notified. Neither was he informed of the sub-sequent petition, filed on September 21, 1963, of appellant's proposed oath-taking.

On September 26, 1963, the lower court, "satisfied that the petitioner has complied with the requisites provided for in Section 1 of Republic Act 530," allowed him "to take his oath on any date from today." On the same day, he was allowed to do so, a certificate of naturalization being issued to him. Again, the Solicitor General was not notified. Then, on June 6, 1966, came an order declaring applicant's wife Tan Hiu Wan as a citizen of the Philippines, the pattern of ignoring the Solicitor General being adhered to, no copies of the petition and notices of hearing relative to said order being furnished him. Consequently, on August 25, 1966, the Republic filed with the

lower court a motion for cancellation of proceedings. This was followed by an opposition on the part of applicant and the denial of the lower court in an order of November 14, 1966. It is from this order that the present appeal is taken. As set forth at the opening of this opinion, we find the appeal meritorious.

1, In raising the objection that there was a grave error committed by the lower court in taking cognizance of the present naturalization proceedings, it is the contention of the Solicitor General that the petition is void on its face. This objection is well-grounded. It is an express requirement of the present naturalization law that the petition must declare that the applicant has "the qualifications required by [it]; specifying the same, and that he is not disqualified for naturalization under [its] provisions * * *." [4] Petitioner Lou C. Lim explicitly alleged that he was possessed of "the qualifications required by Act No. 2927 to become a citizen of the Philippine Islands." [5] He likewise expressly stated that he was "not disqualified for naturalization under Act No. 2927." [6] Even if the rather patent mistake of referring to this country as the Philippine Islands, when as far back as November 15, 1935 the appropriate name was first that of the Commonwealth of the Philippines and thereafter, on July 4, 1946, the Republic of the Philippines, be ignored, it is obvious that such a petition failed to satisfy the requirements of the present law. Insofar as qualifications are concerned, the present law requires a ten-year period of residence, not the former five-year period. [7] Likewise, there is the added requisite that the applicant must show that he possesses good moral character and that he believes in the principles underlying the Philippine Constitution. There was no Philippine Constitution as of the time Act No. 2927 took effect. [8]

An even more fatal omission was the failure of such a petition to show that he was possessed of one of the additional qualifications imposed by the present Naturalization Act. Thus: "He must have enrolled his minor children of school age, in any of the public schools or private schools recognized by the Office of Private Education, where Philippine history, government and civics are taught or prescribed as part of the school curriculum, during the entire period of the residence in the Philippines required of him prior to the hearing of his petition for naturalization as Philippine citizen. [9] It must be noted likewise that relying as he did on the former act, it was more than possible that he was not aware that another ground for disqualification was the failure of an applicant to have mingled socially with the Filipinos or to have evinced a sincere desire to learn and embrace the customs, traditions and ideals of our people. [10]

There is no resisting the conclusion, then, that on its face, the petition was fatally defective. It could not have been the basis of a favorable decree of naturalization. From *Orestoff v. Government of the Philippines*, [11] it has been our constant holding that for an applicant to be considered truly deserving of the privilege of Philippine citizenship, he must show strict compliance, with all the requirements of the Naturalization Act. [12] It goes without saying that the requisites to be satisfied must be those of the present law, not those of a former enactment, which as far back as 1939 had ceased to have any force and effect. .

2. Again no doubt misled by the inexplicable reliance on the former naturalization law, Act No. 2927, petitioner ignored the fundamental requirement that a declaration of intention had to be filed by him. [13] Such a requirement is mandatory. It is jurisdictional in character. An indispensable prerequisite to naturalization, it cannot be waived. Failure to file the same is thus fatal to the application. It is, to put it differently, a condition sine qua non to the consideration of the petition for naturalization. [14]

Nor may such a failure be condoned because petitioner was included among the persons exempt from such a requirement. [15] It is true that at the time of his application, he had resided in the Philippines for a period of more than thirty (30) years but it was not continuous as he did admit on the witness stand that he had gone back to China on at least two occasions. [16] Our ruling in *Law Tai v. Republic* [17] ought to have admonished him that he did not fall within the language of the law. Thus: "Petitioner did not file a declaration of intention as required by the Naturalization Law: He claims exemption thereof. The Solicitor General challenges this position, draws

attention to jurisprudential doctrine that residence, as here understood, contemplates 'actual and substantial,' not legal residence alone. Reason for this is that 'only by actual and substantial residence may the said qualification be acquired by an applicant.'"

An even more insurmountable obstacle to any claim for exemption from the filing of the declaration of intention was the fact manifest on the face of the petition that failed to comply with the mandatory requirement that all his children be educated in the public schools or private schools recognized by the Government and not limited to any race or nationality.[18] He mentioned six children[19] but he alleged only four of them as having been enrolled in a school duly recognized by the government, where Philippine history, government and civics are taught.[20] As stated earlier, there was no allegation as to the compliance with such requisite concerning the two elder children, Helen and Ben.

3. Another infirmity that vitiated the validity of the proceedings here had was the failure, other than the initial notice of hearing issued on October 3, 1960 by the clerk of court setting the initial hearing on July 27, 1961 which, incidentally was post-poned to later dates, to notify the Solicitor General. So the law requires. Instead, he was thereafter kept in the dark. Only much later did he come to know, and not through the formal notices required, that there was a decision favorable to petitioner, who thereafter took the oath of citizenship. Moreover, there was likewise a lower court order conferring such a boon on his wife. Again, the Solicitor General was ignored. Since it is a matter of jurisdictional requirement that notices a hearings and other proceedings be given to the Solicitor General, the fact that such notices were given to the Provincial Fiscal, even if the latter was duly authorized by the Solicitor General to appear in his behalf, not being a sufficient compliance with the statutory requirement, it was indeed error on the part of the lower court not to grant his motion for the nullity of the proceedings had.[21] Necessarily, the cancellation of the certificates of citizenship in favor of petitioner and his wife thus shown to be totally bereft of any justification in law was inescapable. The lower court order now challenged cannot stand.

WHEREFORE, the order of the lower court of November 14, 1966 denying the motion of the Solicitor General for the cancellation of the proceedings had in this petition for naturalization is reversed and set aside, and judgment is entered declaring void its decision dated September 18, 1961 granting the petition for naturalization, its order dated September 26, 1963 allowing petitioner's oath-taking, as well as the oath of allegiance subscribed to by him, and its order dated June 6, 1966 declaring Tan Hiu, Wan, the wife of petitioner, as citizen of the Philippines. The certificate of naturalization issued to petitioner and the certificate of naturalization issued to her, if any, are hereby cancelled and must be surrendered to the Clerk of Court of the Court of First Instance of Pangasinan. It is further ordered that the corresponding alien certificates of registration of petitioner Lou C. Lim, his wife Tan Hiu Wan, and their children with the Bureau of Immigration on the basis of the naturalization papers wrongfully acquired, be validated anew. Costs against petitioner.

Concepcion, C.J., Reyes, Dizon, Makalintal, Zaldivar, Teehankee, and Villamor, JJ., concur.

Barredo, J., did not take part.

Ruiz Castro, J., on leave.

[1] Brief for Appellant, pp.1-2.

[2] Act No. 2927 (1920).

[3] Commonwealth Act No. 473.

[4] Section 7 of the present Naturalization Act reads as follows: "Any person desiring to acquire Philippine

citizenship shall file with the competent court, a petition in triplicate, accompanied by two photographs of the petitioner, setting forth his name and surname; his present and former places of residence; his occupation; the place and date of his birth, whether single or married and if the father of children, the name, age, birthplace and residence of the wife and of each of the children; the approximate date of his or her arrival in the Philippines, the name of the port of debarkation, and, if he remembers it, the name of the ship on which he came; a declaration that he has the qualifications required by this Act, specifying the same, and that he is not disqualified for naturalization under the provisions of this Act; that he has complied with the requirements of section five, of this Act; and that he will reside continuously in the Philippines from the date of the filing of the petition up to the time of his admission to Philippine citizenship. The petition must be signed by the applicant in his own handwriting and be supported by the affidavit of at least two credible persons, stating that they are citizens of the Philippines and personally know the petitioner to be a resident of the Philippines for the period of time required by this Act and a person of good repute and morally irreproachable, and that said petitioner has in their opinion all the qualifications necessary to become a citizen of the Philippines and is not in any way disqualified under the provisions of this Act. The petition shall also set forth the names and post office addresses of such witnesses as the petitioner may desire to introduce at the hearing of the case. The certificates of arrival, and the declaration of intention must be made part of the petition."

[5] People, par. 8, Record on Appeal, p. 3.

[6] Ibid, par. 9, p. 4.

[7] Commonwealth Act No. 473, Sec. 2, par. 1.

[8] Ibid, Sec. 2, par. 3.

[9] Ibid, Sec. 2, par. 6.

[10] Sec. 4, par. (f) of the present law reads as follows: "Persons who, during the period of their residence in the Philippines, have not mingled socially with the Filipinos, or who have not evinced a sincere desire to learn and embrace the customs, traditions, and ideals of the Filipinos;"

[11] 71 Phil. 240 (1941).

[12] A by no means complete list of cases to which reference may be made follows: *Bautista v. Republic*, 87 Phil. 818 (1950); *Ang Yee v. Republic*, 90 Phil. 594 (1951); *Ong v. Republic*, 103 Phil. 964 (1958); *Co y Quing Reyes v. Republic*, 104 Phil. 889 (1958); *Lee Cho v. Republic*, 106 Phil. 755 (1959); *Deetuanka v. Republic*, 106 Phil. 916 (1960); *Tan Chu Keng v. Republic*, L-13139, May 24, 1961, 2 SCRA 74; *Tan Tiam v. Republic*, L-14802, May 30, 1961, 2 SCRA 192; *Pe v. Republic*, L-16980, Nov. 29, 1961, 3 SCRA 573; *Ng v. Republic*, L-16302, Feb. 28, 1962, 4 SCRA 563; *Mo Yuen Tsi v. Republic*, L-17137, June 29, 1962, 5 SCRA 407; *Cu v. Republic*, L-13341, July 21, 1962, 5 SCRA 613; *Hao Su Siang v. Republic*, L-13045, July 30, 1962, 5 SCRA 628; *Tan Ten Koc v. Republic*, L-18344, Feb. 28, 1964, 10 SCRA 286; *Qua v. Republic*, L-19834, Oct. 27, 1964, 12 SCRA 186; *Cheng v. Republic*, L-20013, March 30, 1965, 13 SCRA 437; *Lee Ng Len v. Republic*, L-20151, March 31, 1965, 13 SCRA 532; *Go v. Republic*, L-20558, Mar. 31, 1965, 13 SCRA 548; *Lee v. Republic*, L-20148, April 30, 1965, 13 SCRA 700; *Ly Hong v. Republic*, L-16999, June 22, 1965, 14 SCRA 320; *Bun Tho Khu v. Republic*, L-21828, Jan. 22, 1966, 16 SCRA 29; *Apacible v. Republic*, L-16987, June 21, 1966, 17 SCRA 411; *Go Tian An v. Republic*, L-19833, Aug. 31, 1966, 17 SCRA 1053; *Yap v. Republic*, L-23385, Feb. 27, 1968, 22 SCRA 844; *Republic v. Santos*, L-23919, July 29, 1968, 24 SCRA 314; *Fong Choy v. Republic*, L-24687, Sept. 21, 1968, 25 SCRA 24; *Yu Chuan v. Republic*, L-26706, June 1969, 28 SCRA 739.

[13] Section 5 of Commonwealth Act No. 473 provides: "Declaration of intention. One year prior to the filing of

his petition for admission to Philippine citizenship, the applicant for Philippine citizenship shall file with the Bureau of Justice a declaration under oath that it is bona fide his intention to become a citizen of the Philippines. Such declaration shall set forth the name, age, occupation, personal description, place of birth, last foreign residence and allegiance, the date of arrival, the name of the vessel or aircraft, if any, in which he came to the Philippines, and the place of residence in the Philippines at the time of making the declaration. No declaration shall be valid until lawful entry for permanent residence has been established and a certificate showing the date, place and manner of his arrival has been issued. The declarant must also state that he has enrolled his minor children, if any, in any of the public schools or private schools recognized by the Office of Private Education of the Philippines, where Philippine history, government and civics are taught or prescribed as part of the school-curriculum, during the entire period of the residence in the Philippines required of him prior to the hearing of his petition for naturalization as Philippine citizen. Each declarant must furnish two photographs of himself."

[14] Yu v. Republic, 92 Phil. 804 (1953) Tan v. Republic, 94 Phil. 882 (1954); Chin Hai. Republic, 106 Phil. 210 (1959), Sy Ang Hoc Republic, L-12400, March 29, 1961 886; Tan Chu Keng v. Republic May 24, 1961, 2 SCRA 74, Yap v: Republic, L-12938, July 31, 1961, 2 SCRA 854 Tan Ten Koc v. Republic, L-18344, Feb. 28, 144,-10 SCRA 256; Tan v. Republic, L-19897, 24, 1965, 14 SCRA 448; Ting Tong v. L-21138, Nov. 27, 1965, 15 SCRA 271; Republic v. Reyes, L-20602, Dec; 24, 1965, 15 SCRA 538; Sio, Kim V. Republic, L-20415, Dec. 29, 1965, 15 SCRA 635; , Lim v. Republic, L-20804, Jan. 22, 1966, 16 SCRA 12; Lim Cho Kuan v. Republic, L-21198, Jan. 22, 1966, 16 SCRA 25; Chin Hong v. Republic, L-21219, May 20, 1966, 17 SCRA 220; Apacible v. Republic, L-16987, June 21, 1966, 17 SCRA 411; Law Tai v. Republic, L-20623, April 27, 1967, 19 SCRA 852; Sia Faw v. Republic, L-24782, Nov. 17, 1967, 21 SCRA 893; Ng v. Republic, L-26242, Oct. 25, 1968, 25 SCRA 574; Te Poot v. Republic, L-20017, March 28, 1969, 27 SCRA. 644.

[15] Sec. 6. of the Naturalization Law provides: "Persons born in the Philippines and have received their primary and secondary education in public schools or those re-cognized by the Government and not limited to any race or nationality, and those who have resided continuously in the Philippines for a period of thirty years or more before filing their application, may be naturalized with- out having to make a declaration of intention upon com-plying with the other requirements of this Act. To such requirements shall be added that which establishes that 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. The same shall be understood applicable with respect to the widow and minor children of an alien who has declared his intention to become a citizen of the Philippines and dies before he is actually naturalized."

[16] Hearing of August 8, 1961, t. s.n., p.10.

[17] L-20623, April 27 1967, 19 SCRA 852 citing Dy Republic, 92 Phil. 278 (1952); Sy See v. Republic, L-17025, May 30, 1962, 5 SCRA 189; Tan v. Republic, L-16013, March 30, 1963, 7 SCRA 526; Guy Co Chia v. Republic, L-17917, April 30, 1964, 10 SCRA 745; See Yek Tek v. Republic, L-19898, June 28, 1965, 14 SCRA 457; Yao Long v. Republic, L-20910, Nov. 27, 19, 15 SCRA 266, Also: Pidel v. Republic, 97 Phil. 632 (1955); Pessumal Bhrojjraj v. Republic, L-24023, May 8, 1969, 28 SCRA 21.

[18] Cf. Hao Lian Chu v. Republic, 87 Phil. 668, (1950); Tan Hi v. Republic, 88 Phil. 117 (1951); Chan Su Hok v. Republic, 90 Phil. 415 (1951); Ang Yee Koe Sengkee v. Republic, 90 594 (1951); Sy Kiap v. Republic, 91 Phil. 784 (1952); Chua Pieng v. Republic, 92 Phil. 155 (1952); Bangon .Du v. Republic, 92 Phil. 519 (1953); Geronimo Yu v. Republic, 92 Phil. 804 (1953); Tan Kay Ko v. Republic, 92 Phil. 915 (1953); Anglo v. Republic, 92 Phil. 1006 (1953); Yay Chin v. Republic, 93 Phil. 215 (1953); Co Cal v. Republic, 94 Phil. 98 (1953); Chum v. Republic, 94 Phil. 700 (1954); Quing v. Republic, 94 Phil. 736 (1954); Dy Chan. Tiao v. Republic, 95 Phil. 709 (1954); Sy Chut v. Republic, 102 Phil. 839 (1958); Ku E v. Republic, 103 Phil. 1161 (1958); Yu Soon Seng v.

Republic, 105 Phil. 558 (1959); Lim Siong v. Republic, 105 Phil. 668 (1959); Chan. Lai v. Republic, 106 Phil. 210 (1959); Lo Kio v. Republic, 106 Phil. 224 (1959); Lee Cho v. Republic, 106 Phil. 755 (1959); Tan v. Republic, 107 Phil. 632 (1960); Ong Ching v. Republic, L-15691 March 27, 1961, 1 SCRA 833; Republic v. Go Bon Lee, L-11499, April 29, 1961, 1 SCRA 1166; Si Ne v. Republic, L-16828, May 30, 1962, 5 SCRA 170; Hao Su Siong v. Republic, L-13045, July 30, 1962, 5 SCRA 628; Lu Beng v. Republic, L-18005, Nov. 29, 1963, 9 SCRA 567; Yap Chun v. Republic, L-18516, Jan. 30, 1964, 10 SCRA 30; Yu Ti v. Republic, L-19913, June 23, 1965, 14 SCRA 382; Ong So v. Republic, L-20145, June 30, 1965, 14 SCRA 591; Go Bun Lee v. Republic, L-21981, May 19, 1966, 17 SCRA 181 Ang Pue v. Republic, L-16459, July 26, 1966, 17 SCRA 672; Ng v. Republic, L-26242, Oct. 25, 1968, 25 SCRA 574; Lim Chuy Tian v. Republic, L-26602, April 25, 1969, 27 SCRA 1019; Chua. Lian Yan v. Republic, L-26416, April 25, 1969, 27 SCRA 1024; Lim Siong v. Republic, L-26601, June 30, 1969, 28 SCRA 687; Republic v. Uy Piek Thy, L-27580, Aug. 27, 1969, 29 SCRA 75.

[19] Petition, par. 5, Record on Appeal, p. 2.

[20] Ibid, par. 6, Record on Appeal, p. 3.

[21] Cf. Republic v. Chin, L-20846, Oct. 31, 1964, 12 SCRA 352; Ong So v. Republic, L-20145, June 30, 1965, 14 SCRA 591; Lu Luan Co v. Hon. Jarencio, L-21521, Oct. 29, 1965, 15 SCRA 190; Qua @ Qua Kieng v. Republic, L-21418, Dec. 31, 1965, 15 SCRA. 698.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.