

IN THE MATTER OF THE PETITION OF NG BUI KUI TO BE ADMITTED A CITIZEN OF THE PHILIPPINES. NG BUI KUI, PETITIONER AND APPELLEE, VS. REPUBLIC OF THE PHILIPPINES, OPPOSITOR AND APPE...

G.R. No. 11172. December 22, 1958

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

The Solicitor General, in behalf of the Republic, comes before this Court seeking the review of the decision of the Court of First Instance of Rizal which grants appellee his petition for Philippine citizenship on the ground that he has substantially complied with the law and possesses all the qualifications and none of the disqualifications enumerated therein to become a Filipino citizen.

This appeal is predicated on the ground that appellee has not complied with Section 9 of the Revised Naturalization Law which requires that the petition should be published once a week for three consecutive weeks in the Official Gazette and in one of the newspapers of general circulation in the province where petitioner resides. It is contended that, while appellee has all the qualifications and none of the disqualifications required by law, however, the trial court has not acquired jurisdiction over the case for the reason that the petition in this case was published in the Official Gazette only in its June issue of 1955, and not once a week for three consecutive weeks, even if it was published in the *Voz de Manila* in the issues of June 3, 11 and 17 of the same year.

Section 9 of the Revised Naturalization Law provides as follows:

"Sec. 9. Notification and appearance. Immediately upon the filing of a petition, it shall be the duty of the clerk of the court to publish the same at petitioner's expense, once a week for three consecutive weeks, in the Official Gazette and in one of the news' papers 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, setting forth in such notice the name, birthplace and residence of the petitioner, the date of his arrival in the Philippines, the name of the witnesses whom the petitioner proposes to introduce in support of his petition, and the date of the hearing of the petition, which hearing shall not be held within ninety days from the date of the last publication of the notice. * * *"

It appears from the foregoing provisions that, immediately upon the filing of a petition for citizenship, the same shall be published once a week for three consecutive weeks in the Official Gazette and in one of the newspapers of general circulation in the province where petitioner resides, and to have copies of said petition and general notice of hearing posted in a public and conspicuous place in the building where the office of the clerk of court is located, which hearing shall not be held within ninety days from the date of the last publication of the notice. The law therefor requires that the petition be published once a week for three consecutive weeks in the Official Gazette as well as in any newspaper of general circulation, and inasmuch as the petition in this case was only

published once in the Official Gazette, the same is therefore insufficient to confer jurisdiction upon the court a quo to act on the case.

It is however contended that the publication of the petition as required by law could not be made because at the time of its filing the Official Gazette was published only once a month, and considering that the same was already published once a week for three consecutive weeks in the Voz de Manila, a newspaper of general circulation, and once in the Official Gazette, appellee shall be deemed to have substantially complied with the law regarding publication.

This contention is untenable considering the real purpose behind the requirement of the publication of the petition for naturalization in the official organ of the Government. As this Court has said, its purpose is to inform the officers of the Government and the public in general of the filing of the petition in order that said officers and the private citizens supposed to be acquainted with petitioner may furnish the Solicitor General or the provincial fiscal with such necessary information and evidence as there may be against the petitioner (*Baretto vs. Republic*, 87 Phil., 731). And this is so because, by the very nature of a naturalization proceeding, the court as well as the prosecution branch of the Government are to a certain extent at the mercy of what the petitioner and his witnesses will testify, and the provision regarding publication is designed to apprise the public of the pendency of the petition so that those who may know of any legal objection to it might come forward with the information in order to determine the fitness of petitioner for Philippine citizenship. The fulfillment of this laudable purpose acquires more significance at present in view of the nationalistic spirit of our Constitution and the several nationalization measures which are now considered by Congress in order to preserve for our citizens the patrimony of the nation.

In a recent case where the petition was also published once a week for three consecutive weeks in the Voz de Manila and only once in the Official Gazette because of the fact that this organ is only published once a month, this Court held that such publication was insufficient to confer jurisdiction upon the trial court. Said this Court, speaking through Mr. Justice Endencia:

"It could be seen that, under the aforequoted section of the Revised Naturalization Law, the notice of hearing of the application for citizenship should be published three times in the Official Gazette, or, in the language of the law, 'once a week for three consecutive weeks,' and so in the order of the publication of the notice of hearing of the present case it was enjoined that the same be made 'once a week for three consecutive weeks in the Official Gazette and in the Voz de Manila.' The notice of hearing of this case should therefore have been published three times not only in the Voz de Manila but in the Official Gazette as well. And there being only one publication of said notice of hearing in this case of the Official Gazette, the same is clearly incomplete and therefore insufficient to confer jurisdiction to the court a quo to try the case and grant the petition. It is argued, however, that there has been a substantial compliance with law because the notice of hearing in question was published three times in the Voz de Manila and once in the Official Gazette; but since the law expressly provides that the notice of hearing be published three times, this should be strictly observed, for, as correctly pointed out by the Solicitor General in his brief,

* * * * *

"Petitioner may contend, however, that the law provides that the publication of the notice of hearing should be made for three consecutive weeks and as the Official Gazette is now being published monthly, and not weekly as it was before, petitioner cannot actually comply with law; and because he had the notice of hearing in question published, once, in the Official Gazette, he should be given the benefit of having followed the law. This contention does not merit serious consideration. While it is true that the notice of hearing in question cannot actually be published for three consecutive weeks in the Official Gazette, it is no less true that said notice may be published three times consecutively, altho not weekly, in the Official Gazette, - and because the true intent of the law is that the said notice be published 3 times, it is our considered opinion that in the instant

case the single publication of the notice of hearing in question is not a sufficient compliance with law." (Ong Son Cui vs. Republic of the Philippines, 101 Phil., 649; 55 Off. Gaz. [22,] 4044.)[1]

Wherefore, the decision appealed from is hereby reversed and the petition dismissed without prejudice, with costs against the appellee.

Padilla, Reyes, A., Labrador, Concepcion, Reyes, J. B. L., and Endencia, JJ., concur.

Paras, C. J., and Montemayor, J., dissenting:

We dissent for the same reasons stated in our opinions in the case of Celestino Co vs. Republic, supra, p. 889.

Judgment reverse.

[1] See also Celestino Co y Quing Reyes vs. Republic of the Philippines, supra, 889

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