

IN THE MATTER OF THE PETITION OF LEE PA TO BE ADMITTED A CITIZEN OF THE PHILIPPINES.

G.R. No. 13786. May 31, 1961

Ponente: PAREDES, J.

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PAREDES, J.:

On April 6, 1952, Lee Pa filed a petition for naturalization. After due trial, the Court of First Instance of Manila, on March 31, 1953, rendered judgment, granting the petition. Pursuant to Republic Act No. 530, the decision did not become executory until March 31, 1955. Lee Pa did not ask for the execution of the judgment. On September 26, 1956, he died and left as heirs Tan Lin, his widow and 9 minor children, petitioners herein.

On March 6, 1958, Tan Lin, the widow, for herself and in behalf of her minor children, invoking Section 16 of Act 473, filed a petition in the same Court, with the following prayer:—

- "1. Allow petitioners to proceed with the proceedings;
2. After due hearing thereon, Lee Pa the original petitioner be declared, for all intents and purposes, a naturalized Filipino citizen;
3. The petitioner Tan Lin be allowed to take the oath of allegiance to the Republic of the Philippines and the proper certificate of naturalization be issued thereon; and
4. Grant to the petitioners all rights and privileges which the law confers on Filipino citizens pursuant to Section 15 of Comm. Act No. 473."

In the affidavit of Tan Lin, accompanying her petition, she states—

"* * * That the said petition (for naturalization) was favorably granted in favor of my husband;

That at the time the reglementary two-year period elapsed so that my husband can not take his oath as a Filipino citizen, he was very sick in bed;

That he never recovered from his sickness until he died on September 26, 1956, without being able to take his oath;

* * * * *

That after his death I was faced with the responsibilities and the enormity of his business and of taking care of my children; * * *

That for the above reasons I was unable to proceed with the naturalization proceedings filed by my husband; * * *".

The Solicitor General opposed the Petition on the following grounds:—

"(1) That evidently, Lee Pa was no longer interested in becoming a Filipino citizen since he did not ask to take

his oath of allegiance immediately after the two year period;

2. That it was Lee Pa's qualifications that were passed upon by the court in the hearing and not those of his widow Tan Lin;

3. That the taking of an oath is a personal undertaking and by its very nature cannot be done by one person for another; and

4. That although Sec. 16 of the Rev. Naturalization Law gives an applicant's widow and minor children the right to continue the proceedings for his naturalization, the same may be done only in case such applicant dies before final decision is rendered."

On March 15, 1958, the lower court denied the petition on the grounds contained in the opposition.

The appellants alleged that the lower court erred: (1) In holding that Sec. 16 of Act No. 473 applies only in case the petitioner dies before final decision is rendered and not to a case where he dies after the decision becomes final but before it becomes executory; (2) In applying to this case the ruling in Chua Chian vs. Hermogenes Concepcion, 99 Phil., 402; 54 Off. Gaz., [2] 345 and (3) In denying appellant's petition.

Section 16 of the Revised Naturalization Law (Comm. Act No. 473), provides as follows:—

"SEC. 16. Right of Widow and children of petitioners who have died.—In case a petitioner should die before the final decision has been rendered, his widow and minor children may continue the proceedings. The decision rendered in the case shall, so far as the widow and minor children are concerned, produce the same legal effect as if it had been rendered during the life of the petitioner."

Section 1 of Republic Act 530, states:

"The provisions of existing laws notwithstanding, no petition for Philippine citizenship shall be heard by the court until after * * * 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) he 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 interest of the nation or contrary to any Government announced policies."

Invoking the above provisions in their favor, petitioners-appellants argue (1) that under said Sec. 16, the widow and minor children are allowed to continue the same proceedings and are not substituted for the original petitioner; (2) that the qualifications of the original petitioner remain to be in issue and not those of the widow and minor children, and (3) that said Sec. 16 applies whether the petitioner dies before or after final decision is rendered, but before the judgment becomes executory.

There is force in the first and second arguments. Even the second sentence of said section 16 contemplates the fact that the qualifications of the original petitioner remain the subject of inquiry, for the simple reason that it states that "The decision rendered in the case shall, so far as the widow and minor children are concerned, produce the same legal effect as if it had been rendered during the life of the petitioner". This phraseology emphasizes the intent of the law to continue the proceedings with the deceased as the theoretical petitioner, for if it were otherwise, it would have been unnecessary to consider the decision rendered, as far as it affected the widow and the minor children.

Anent the third argument, it may be stated that the judgment in naturalization cases will not become final, in the strict sense of the word, until after the certificate of naturalization is issued and after compliance with the requirements of Sec. 1, of Act No. 530, aforequoted. It is true that Sec. 16 starts with the condition "In case a

petitioner should die before the final decision has been rendered * * *", thereby justifying the application of the familiar rule that if the provision of the law is clear construction becomes unnecessary and the literal meaning thereof should be followed (*Bilang vs. Erlanger, etc.* 66 Phil., 627). However, one must take into account the fact that when Sec. 16 was enacted, there was no need to provide for the situation where the death occurs after the decision is rendered, because Act No. 530 which presently establishes additional requisites before the decision shall become executory, had not then come into existence. And conceding for a moment that the decision has become final, still, there is no prohibition that the petition for continuation of the naturalization proceedings may also be presented after final decision is rendered, but before it becomes executory. Moreover, in cases other than naturalization, the Rules extend relief on grounds of excusable negligence, fraud, mistake, and accident. (Rule 38). No serious prejudice could be caused upon the Republic, if the same rule should be made available in the present case.

Indeed, the Solicitor General alleges that the deceased petitioner lacked interest in and had abandoned the prosecution of the case until its last stages, such as the taking of the oath of allegiance after the two years required by law, or to ask seasonably for its abatement or stay; and that the petitioning widow had filed her petition to continue the case only on March 6, 1958. The circumstances of the case, however, may give the excuse for such negligence. For, as the widow stated in her affidavit, her husband was then very ill and he could not have been expected to take his oath of allegiance, notwithstanding his desire to become a Filipino citizen. And she herself, after the death of her husband, was besieged with problems more pressing than the naturalization proceedings, such as the attention given to the big business left by her husband, and to her 9 minor children. It would seem that the negligence, is not an indication of abandonment; rather, it is, under the circumstances, excusable.

The Chua Chian case (*supra*), cited by the appellee, declared that a dead person can not be bound to do things stipulated in the oath of allegiance, because an oath is personal matter. Therein, the widow prayed that she be allowed to take the oath of allegiance for the deceased. In the case at bar, petitioner Tan Lin merely asked that she be allowed to take the oath of allegiance and the proper certificate of naturalization, once the naturalization proceedings of her deceased husband shall have been completed, not on behalf of the deceased, but on her own behalf and of her children, as recipients of the benefits of his naturalization. In other words, the herein petitioner proposed to take oath of allegiance, as a citizen of the Philippines, by virtue of the legal provision that "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. Minor children of persons naturalized under this law who have been born in the Philippines shall be considered citizens thereof" (Sec. 15, Comm. Act No. 473). The decision granting citizenship to Lee Pa and the record of the case at bar, do not show that the petitioning widow could not have been lawfully naturalized, at the time Lee Pa filed his petition, apart from the fact that his 9 minor children were all born in the Philippines. (Decision, In the matter of the petition of Lee Pa to be admitted a citizen of the Philippines, Civ. Case No. 16287 CFI, Manila, Annex A; Record on Appeal pp. 8-11). The reference to the Chua Chian case is, therefore, premature.

In view hereof, the order appealed from is set aside, and the case is remanded for further proceedings, with instructions to the trial court to allow the petitioners-appellants to continue with the naturalization proceedings of Lee Pa, and to adduce such proofs as might be required and permitted by law, in connection with their present petition. No costs.

Padilla, Bautista Angelo, Labrador, Concepcion, Dizon, De Leon, and Natividad, JJ., concur.

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