

ALFONSO C. CHOA, PETITIONER, VS. PEOPLE OF THE PHILIPPINES AND LENI CHOA, RESPONDENTS.

G.R. No. 142011. March 14, 2003

Ponente: SANDOVAL-GUTIERREZ, J.

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SANDOVAL-GUTIERREZ, J.:

Alfonso Chan Choa, petitioner, is a Chinese national. On April 25, 1989, he filed with the Regional Trial Court (RTC), Branch 41, Bacolod City, a verified petition for naturalization,[1] docketed as Special Proceeding No. 5395.

During the initial hearing of the case on August 27, 1990, petitioner testified on direct examination but he was not able to finish the same. On August 29, 1990, he filed a motion to withdraw his petition for naturalization.[2] The trial court granted the motion in its Resolution dated September 28, 1990,[3] which partly reads:

“The petitioner, Alfonso Chan Choa, has not yet finished testifying on direct-examination. Although the petitioner has not stated in his said ‘Motion To Withdraw Petition’ the reason why he is withdrawing his petition at this stage of the proceedings, the petitioner can not be compelled to continue with his petition for naturalization.

“In view thereof, the petitioner, Alfonso Chan Choa, is allowed to withdraw his petition for naturalization.

“SO ORDERED.”

Meanwhile, on August 5, 1992, State Prosecutor Pedro D. Delfin on detail at Bacolod City, acting upon the complaint of petitioner’s wife, Leni, filed an Information[4] with the Municipal Trial Court in Cities (MTCC), Branch 3, Bacolod City, charging petitioner with perjury under Article 183 of the Revised Penal Code, docketed as Criminal Case No. 50322. The Information reads:

“That on or about 30[th] day of March, 1989, in the City of Bacolod, Philippines, and within the jurisdiction of this Honorable Court, the herein accused did then and there, willfully, unlawfully, feloniously and knowingly made untruthful statements or falsehoods upon material matters required by the Revised Naturalization Law (C.A. No. 473) in his verified ‘Petition for Naturalization’ dated April 13, 1989 (sic),[5] subscribed and sworn to before Notary Public Felomino B. Tan, Jr., who is authorized to administer oath, which petition bears Doc. No. 140, Page No. 29, Book No. XXIII, series of 1989, in the Notarial Register of said Notary Public, by stating therein the following, to wit:

‘5.) I am married to a Filipino. My wife’s name is Leni Ong Choa and now resides at 46 Malaspina Street, Bacolod City. I have two (2) children whose names, dates and places of birth, and residence are as follows:

Name

Date of Birth

Place of Birth

Residence

ALBRYAN
ONG CHOA

July 19, 1981

Bacolod City

46 Malaspina St.,

Bacolod City

CHERYL
LYNNE ONG
CHOA

May 5, 1983

Bacolod City

46 Malaspina St.,

Bacolod City

x x x x x x x x

‘10) I am of good moral character, I believe in the principles underlying the Philippine Constitution. I have conducted myself in a proper and irreproachable manner during the entire period of my residence in the Philippines in my relations with the constituted government as well as with the community in which I am living.’

x x x x x x x x

when in truth and in fact, said accused knew that his wife Leni Ong Choa and their two (2) children were not then residing at said address at # 46 Malaspina Street, Villamonte, Bacolod City, having left the aforesaid residence in 1984, or about five (5) years earlier and were then residing at Hervias Subdivision, Bacolod City; that contrary to his aforesaid allegation in his verified Petition for Naturalization, accused, while residing at 211 106 Street, Greenplains Subdivision, Bacolod City, has been carrying on an immoral and illicit relationship with one Stella Flores Saludar, a woman not his wife since 1984, and begetting two (2) children with her as a consequence, as he and his wife, the private offended party herein, have long been separated from bed and board since 1984; which falsehoods and/or immoral and improper conduct are grounds for disqualification to become a citizen of the Philippines.

“Act contrary to law.”

Upon arraignment, petitioner entered a plea of not guilty. Trial ensued thereafter.

After trial, the MTCC rendered a Decision[6] dated February 21, 1995 finding petitioner guilty of perjury, as charged, thus:

“FOR ALL THE FOREGOING, this Court finds the accused guilty beyond reasonable doubt of the offense which he is presently charged, and there being no aggravating or mitigating circumstances that may be considered, the accused is sentenced to suffer the penalty of six (6) months and one (1) day of prison correccional and to pay the costs.”

Petitioner filed a motion for a reconsideration,[7] contending, among others, that there is no basis to convict him of perjury because almost two years prior to the filing of the Information, his motion to withdraw the petition for

naturalization containing the alleged false statements was granted by the MTCC, hence, the alleged false statements were no longer existing or had become functus officio.

The MTCC, in its Order[8] dated March 31, 1995, denied petitioner's motion for reconsideration.

On appeal, the Regional Trial Court (RTC), Branch 54, Bacolod City, in a Decision dated September 12, 1996, affirmed the MTCC judgment.[9]

Petitioner then filed with the Court of Appeals a petition for review, docketed as CA-G.R. CR No. 19968. In his comment, the Solicitor General recommended the acquittal of petitioner, contending that the withdrawal of his petition for naturalization rendered the same functus officio, thus making the questioned false statements nonexistent.

The Court of Appeals, in its Decision dated June 8, 1999,[10] affirmed the RTC Decision with modification, thus:

“WHEREFORE, finding the appealed decision of the Regional Trial Court to be in accordance with law and evidence, we AFFIRM the same with the modification that petitioner-accused-appellant Alfonso Choa is sentenced to suffer imprisonment, after applying the Indeterminate Sentence Law without any aggravating or mitigating circumstance, for a period of three (3) months of arresto mayor, to one (1) year and eight (8) months of prision correccional.

“SO ORDERED.”

In convicting petitioner, the Appellate Court adopted as its own the RTC's findings as follows:

“Evidence presented clearly proved that all the above-enumerated elements (of perjury) have been duly executed by the accused. His allegations in his petition regarding his, his wife's and children's residences and his positive averment of the fact that he is of good moral character and had conducted himself in an irreproachable manner during his stay in the Philippines are material matters in connection with his petition for naturalization as they are essential facts required by Sec. 7 of C.A. No. 473 for one to fulfill for the acquisition of Philippine citizenship. They are the very facts which would be the subject of inquiry by the court hearing the petition and the same would be the basis of the court's ruling whether one is qualified and granted Philippine citizenship.

“Paragraph 2 of Art. 183 of the Revised Penal Code provides that the statement or affidavit is to be made before a competent officer, authorized to receive and administer oath. The information shows that the statement was duly subscribed and sworn to before Notary Public Felomino B. Tan, Jr., a person competent and authorized by law to receive and administer oath and the same was entered in his notary register as Doc. No. 140, Page No. 29, Book No. XXIII, Series of 1989.

“That the accused made a willful and deliberate assertion of falsehood could be gleaned from the discrepancies in his given addresses. In his petition for naturalization he gave No. 46 Malaspina Street, Villamonte, Bacolod City as his and his wife's residence, while in the birth certificates and the affidavit of admission of paternity of both Fonsella Kae Saludar and Steve Albert Saludar, he gave No. 211, 106 Street, Greenplains Subdivision, Bacolod City as his address besides from the fact that while may have been residing in the above-stated addresses, his wife and children have been staying at Hervias Subdivision, Bacolod City since the latter part of 1984. Furthermore, cohabiting openly with another woman not his wife and siring (2) children with the same, in open defiance with the norm of morality of the community where monogamy is the accepted practice, is very inconsistent with his allegations of a moral life, proper and irreproachable, considering that the accused, by his own admission is a graduate of the University of St. La Salle, a school known for its high academic and moral standards. These assertions are not only willful and deliberate but a perversion of truth which the law is mandated to punish.

“Section 7 of C.A. 473 provides:

‘Any person desiring to acquire Philippine citizenship shall file with the competent Court, a petition in triplicate, accompanied by two (2) photographs of the petitioner, setting forth his name and surname; his present and former residence, his occupation; the place and date of his birth, whether single or married, the name, age, birthplace and residence of the wife and each of the children...x x x.’ (underscoring supplied)

“The above-cited provisions are the pertinent law which specifically requires any person desiring to acquire Philippine citizenship to accomplish, thus complying with the fourth element of the crime of perjury. (pp. 119-120, Original Records, Vol. II)”[11]

Petitioner filed a motion for reconsideration but it was denied by the Court of Appeals in a Resolution dated February 22, 2000.[12]

Hence, the present petition for review on certiorari.[13]

Both the petitioner and the Solicitor General in their respective pleadings contend that the challenged Decision of the Court of Appeals should be reversed because: (a) not all the elements of the crime of perjury are present; and (b) the withdrawal of the petition for naturalization which contains the alleged untruthful statements bars the prosecution of petitioner for perjury.

Thus, the issue here is whether petitioner may be convicted of perjury based on the alleged false statements he stated in his petition for naturalization withdrawn almost two years prior to the filing of the Information for perjury.

The petition is unmeritorious.

Article 183 of the Revised Penal Code under which petitioner has been charged and convicted, provides:

“Art. 183. False testimony in other cases and perjury in solemn affirmation. – The penalty of *arresto mayor* in its maximum period to *prision correccional* in its minimum period shall be imposed upon any person who, knowingly making untruthful statements and not being included in the provisions of the next preceding articles, shall testify under oath, or make an affidavit, upon any material matter before a competent person authorized to administer an oath in cases in which the law so requires.

“Any person who, in case of a solemn affirmation made in lieu of an oath, shall commit any of the falsehoods mentioned in this and the three preceding articles of this section, shall suffer the respective penalties provided therein.”

The elements of perjury are:

- The accused made a statement under oath or executed an affidavit upon a material matter;
- The statement or affidavit was made before a competent officer authorized to receive and administer oath;
- In that statement or affidavit, the accused made a willful and deliberate assertion of a falsehood; and
- The sworn statement or affidavit containing the falsity is required by law or made for a legal purpose.[14]

All these elements are present in the instant case. Petitioner willfully and deliberately alleged false statements concerning his "residence" and "moral character" in his petition for naturalization. This was sufficiently proven by the prosecution, as succinctly noted by the Court of Appeals in its assailed Decision.

The petition for naturalization was duly subscribed and sworn to by petitioner before Notary Public Filomino B. Tan, Jr., a person competent and authorized by law to receive and administer oath. Also, petitioner started testifying under oath on his false allegations before the trial court.

The allegations in the petition regarding "residence" and "moral character" are material matters because they are among the very facts in issue or the main facts which are the subject of inquiry^[15] and are the bases for the determination of petitioner's qualifications and fitness as a naturalized Filipino citizen. Thus, C.A. No. 473 provides:

"SEC. 2. Qualifications. – Subject to section four of this Act, any person having the following qualifications may become a citizen of the Philippines by naturalization:

x x x x x x x x

"Third. He must be of good moral character and believes in the principles underlying the Philippine Constitution, and must have conducted himself in a proper and irreproachable manner during the entire period of his residence in the Philippines in his relation with the constituted government as well as with the community in which he is living;

x x x x x x x x

"SEC. 7. Petition for citizenship. – 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 the children; x x x; 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; x x x." (Emphasis supplied)

The necessity of declaring a truthful and specific information on the "residence" and "moral character" in the petition for naturalization has been underscored by this Court in *Chua Kian Lai vs. Republic*,^[16] thus:

"One qualification for Philippine citizenship is that the petitioner 'must be of good moral character.' That circumstance should be specifically alleged in the petition.

x x x x x x x x

"The law explicitly requires that the applicant should indicate in his petition 'his present and former places of residence' (Sec. 7, Com. Act No. 473). That requirement is designed to facilitate the verification of petitioner's activities which have a bearing on his petition for naturalization, especially so as to his qualifications and moral character, either by private individuals or by investigative agencies of the government, by pointing to them the localities or places wherein appropriate inquiries may be made (*Keng Giok vs. Republic*, 112 Phil. 896). Moreover, the suppression of that information might constitute falsehood which signifies that the applicant lacks good moral character and is not, therefore, qualified to be admitted as a citizen of the Philippines." (Emphasis supplied)

Fully cognizant of the truth surrounding his moral character and residence, petitioner instead declared falsely in his verified petition for naturalization that "he has all the qualifications and none of the disqualification under C.A. No. 473."^[17] Clearly, he willfully asserted falsehood under oath on material matters required by law.

We cannot go along with the submission of the petitioner and the Solicitor General that petitioner could no longer be prosecuted for perjury in view of the withdrawal of the petition for naturalization containing his false material statements. In this jurisdiction, it is not necessary that the proceeding in which the perjury is alleged to have been committed be first terminated before a prosecution for the said crime is commenced.^[18] At the time he filed his petition for naturalization, he had committed perjury. As discussed earlier, all the elements of the crime were already present then. He knew all along that he wilfully stated material falsities in his verified petition. Surprisingly, he withdrew his petition without even stating any reason therefor.^[19] But such withdrawal only terminated the proceedings for naturalization. It did not extinguish his culpability for perjury he already

committed. Indeed, the fact of withdrawal alone cannot bar the State from prosecuting petitioner, an alien, who made a mockery not only of the Philippine naturalization law but the judicial proceedings as well. And the petition for naturalization tainted with material falsities can be used as evidence of his unlawful act.

Petitioner then claims that since the petition for naturalization is a pleading, the allegations therein are absolutely privileged and cannot be used for any criminal prosecution against him, citing *Sison vs. David*,^[20] *People vs. Aquino*^[21] and *Flordelis vs. Himalalaoan*.^[22]

The argument is unavailing. *Sison* and *Aquino* both involve libel cases. In *Sison*, this Court categorically stressed that the term "absolute privilege" (or "qualified privilege") has an "established technical meaning, in connection with civil actions for libel and slander." The purpose of the privilege is to ensure that "members of the legislature, judges of courts, jurors, lawyers, and witnesses may speak their minds freely and exercise their respective functions without incurring the risk of a criminal prosecution or an action for the recovery of damages. It is granted in aid and for the advantage of the administration of justice."^[23] Certainly, in the present case, petitioner cannot seek refuge under the absolutely privileged communication rule since the false statements he made in his petition for naturalization has instead made a mockery of the administration of justice.

The *Flordelis* case is likewise not in point. There, *Flordelis* was charged with perjury for having alleged false statements in his verified answer. This Court held that no perjury could be committed by *Flordelis* because "an answer to a complaint in an ordinary civil action need not be under oath," thus, "it is at once apparent that one element of the crime of perjury is absent x x x, namely, that the sworn statement complained of must be required by law."^[24]

Anent the alleged violation of petitioner's constitutional right to equal protection, suffice it to state that such right cannot be invoked to protect his criminal act.

In *People vs. Cainglet*,^[25] this Court emphatically stressed that "every interest of public policy demands that perjury be not shielded by artificial refinements and narrow technicalities. For perjury strikes at the administration of the laws. It is the policy of the law that judicial proceedings and judgments be fair and free from fraud, and that litigants and parties be encouraged to tell the truth, and that they be punished if they do not."

WHEREFORE, the instant petition for review on certiorari is hereby DENIED. The appealed Decision of the Court of Appeals is AFFIRMED.

SO ORDERED.

Puno, (Chairman), Panganiban, Corona, and Carpio-Morales, JJ., concur.

[1] Pursuant to Commonwealth Act No. 473 (An Act to Provide for the Acquisition of Philippine Citizenship by Naturalization).

[2] Records of the Municipal Trial Court in Cities (MTCC), Branch 3, Bacolod City, in Criminal Case No. 50322, at 313.

[3] *Id.* at 313-314.

[4] *Rollo* at 43-44.

[5] The Petition for Naturalization is actually dated March 30, 1989 but was filed on April 25, 1989.

[6] Records of the MTCC at 347-358; *Rollo* at 45-57.

[7] Id. at 359-368.

[8] Id. at 403-405.

[9] Rollo at 58-64.

[10] Penned by Justice Ma. Alicia Austria-Martinez, now a member of this Court, and concurred in by Justices Salvador J. Valdez, Jr. and Renato C. Dacudao; id. at 140-150.

[11] Id. at 145-146.

[12] Id. at 174.

[13] Filed pursuant to Rule 45 of the 1997 Rules of Civil Procedure, as amended.

[14] Saavedra, Jr. vs. Department of Justice, 226 SCRA 438, 445 (1993) citing Diaz vs. People, 191 SCRA 86, 93 (1990); see also Burgos vs. Aquino, 249 SCRA 504 (1995).

[15] United States vs. Estraña, 16 Phil. 520 (1910).

[16] 59 SCRA 40 (1974).

[17] Exhibit "J-3," MTCC Records at 105.

[18] United States vs. Estraña, supra.

[19] Exhibit "9," supra.

[20] 1 SCRA 60 (1961).

[21] 18 SCRA 555 (1966).

[22] 84 SCRA 477 (1978).

[23] People vs. Aquino, supra at 561.

[24] Flordelis vs. Himalaloan, supra at 481.

[25] 123 Phil. 568 (1966).

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