

JOHN TAN CHIN ENG ALIAS TAN, CHIN ENG, PETITIONER AND APPELLEE, VS. REPUBLIC OF THE PHILIPPINES, OPPOSITOR AND APPELLANT.

G.R. No. 14914. September 30, 1960

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

An appeal by the Government from an order of the Court of First Instance of Manila, the dispositive part of which reads:

"Wherefore, the Court hereby corrects Judge Castelo's order of July 10, 1950, so as to conform with the petition in the sense that the word 'Jose' in the caption as well as in the dispositive portion stands corrected to 'John.'"

On July 3, 1950, petitioner herein, naming himself as John Tan Chin Eng, alias Tan Chin Eng, filed, with the Court of First Instance of Manila, a petition, dated June 30, 1950, alleging that in 1932 he applied for naturalization, which was allegedly granted by said court on August 3 of the same year; that, accordingly, he took the requisite oath of allegiance and was issued a certificate of naturalization, copy of which was attached to his petition; and that the records of said case, as well as many other records of cases disposed of by the aforementioned court were lost and/or destroyed during the battle for the liberation of Manila, except the corresponding entry in the docket book of said court, and praying that, after due hearing, the original of the afore-mentioned certificate of naturalization be admitted, and that, thereafter, the case be deemed reconstituted. Under date of July 10, 1950, said court issued an order declaring "the certificate of naturalization of petitioner Jose Tan Chin Eng"; that petitioner's real name is not "Jose" reconstituted for all legal effects and purposes."

Over eight (8) years later; or on November 6, 1958, petitioner filed a motion alleging that said order of July 10, 1950 was entitled: "Jose Tan Chin Eng alias Tan Chin Eng; that the dispositive part of said order, likewise, refers to petitioner as "Jose Tan Eng alias Tan Chin Eng"; that petitioner's real name is not "Jose" but "John," as stated in his petition for reconstitution; that the name "Jose" appears in said order owing merely to a clerical error, to which petitioner's attention was called only recently; and that petitioner has always been known in the social and business community as "John Tan Chin Eng alias Tan Chin Eng," and praying that another order be, issued changing the name "Jose," appearing in the title of said order and in the dispositive part thereof, to "John".

Despite the opposition filed by the Government, said motion was granted by an order dated November 29, 1958. Hence, this appeal.

We agree with the Solicitor General that the lower court erred in issuing said order of November 29, 1958. The entry in the docket book of the Court of First Instance of Manila, pertinent to the aforementioned application for naturalization, states that the petitioner therein is "Tan Chin Eng," not "John Tan Chin Eng." Similarly, the certificate of naturalization presented by petitioner in this case was issued to "Tan Chin Eng". Accordingly, the order appealed from had the effect of reconstituting the certificate of naturalization of Tan Chin Eng, as one

issued to "John Tan Chin Eng," in whose favor no certificate of naturalization has ever been issued before. In other words, instead of reconstituting a certificate of naturalization, the order appealed from sought to amend it, over twenty-six (26) years after its issuance.

Then, too, as the Solicitor General has correctly observed, the Certificate of naturalization of Tan Chin Eng must be presumed to have been duly registered in the office of the local Civil Registry, as provided by law (Art. 408, Civ. Code of the Phil.). Thus, the order complained of would, also, affect the corresponding entry in the Civil Registry.

Lastly, said order amended another order that had become final and executory more than eight (8) years prior thereto. If the party concerned was erroneously named in the order of July 10, 1950 petitioner should have sought a reconsideration of said order and/or appealed therefrom. It is now too late to correct such mistake, considering that the same is, in the light of the aforementioned certificate of naturalization of Tan Chin Eng and the entry in the docket book of the Court of First Instance of Manila, substantial, not merely clerical.

Wherefore, the order appealed from is hereby reversed and the case dismissed, with costs against petitioner-appellee. It is so ordered.

Paras, C. J., Bengzon, Bautista Angelo, Labrador, Reyes, J. B. L., Barrera, Gutierrez David, Paredes, and Dizon, JJ., concur.

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