

TAN HOI, PETITIONER AND APPELLEE, VS. REPUBLIC OF THE PHILIPPINES, OPPOSITOR AND APPELLANT.

G.R. No. 15266. September 30, 1960

Ponente: BAUTISTA ANGELO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-15266/>

BAUTISTA ANGELO, J.:

On October 4, 1955, one Tan Hoi filed a petition for naturalization with the Court of First Instance of Manila alleging, among others, that one of his children named Tan Nam was born on October 10, 1949 and was residing at 117 Burnham St., Hongkong.

On December 28, 1956, the court, after hearing, granted the petition ordering that petitioner be admitted as citizen of the Philippines and that, upon prior compliance with the provisions of Republic Act No. 530, and after taking the required oath, a certificate of naturalization be issued to him which shall be registered in the civil registry as required by Act No. 3753.

On January 17, 1959, upon petitioner's request, a hearing was held before the same court preparatory to his oath taking in compliance with the provisions of said Act wherein he declared that during the two intervening years he had never left the Philippines; that he had continuously held the position of manager of the Panciteria Moderna; that he had never been convicted of any offense or violation of any government promulgated rules; that he had filed a statement of his assets and liabilities and paid his registration fee of P10.00; that he has four children, two with his first wife and two with the second; that his eldest child, William Tan, was 21 years and 3 months old, his second Tan Nam, 9 years old, his third Philip W. Tan, 4 years old, and the fourth Jimmy W. Tan, 1 year and 8 months old; and that Tan Nam was living in Hongkong with his godfather and has never been in the Philippines.

The Office of the Solicitor General opposed petitioner's petition to take the oath of allegiance on the ground that one of his children, Tan Nam, who was already of school age at the time of the hearing, was in Hongkong and had never been in the Philippines, which indicates that he has, failed to send him to a school recognized by the Office of Private Education. And so he has committed an act "prejudicial to the interest of the nation or contrary to any Government announced policies," as embodied in the Revised Naturalization Law.

Petitioner replied to his opposition with the explanation that his aforementioned son, since the death of his wife in China, was placed by him under the care and custody of his godfather who enrolled him in one of the schools in Hongkong and requested petitioner's consent to his adoption four years before. Having overruled the opposition of the government, the trial court on January 28, 1959 issued an order, allowing petitioner to take the oath of allegiance upon the theory that the question posed in the opposition is one which could not be entertained at that stage of the proceedings because, in its opinion, the only issue to be determined is whether petitioner has complied with the requirements of Republic Act No. 530.

On January 29, 1959, before the Office of the Solicitor General received copy of the order permitting petitioner to take the oath of allegiance, petitioner was allowed to take the oath by the trial court. The government moved for the reconsideration of the order as well as for the cancellation of the oath, but the motion was denied. Hence this

appeal.

Section 2, paragraph 6 of the Revised Naturalization Law requires as one of the qualifications of an applicant for naturalization that he must have enrolled his minor children of school age in any of the public 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. The importance of this requirement has been repeatedly emphasized by this Court in a number of cases wherein it was intimated that such requirement is mandatory. Thus, it was held that the fact that the children of an applicant when they left the Philippines for China in 1937 were not yet of school age and could not be brought back to the Philippines when they were already of school age due to the civil war in China, or that the applicant could not finance the return of his minor children to the Philippines in addition to the strictness of the Philippine immigration authorities, was no valid excuse for non-compliance with this requirement. (*Koe Sengkee vs. Republic*, 90 Phil., 595; *Tan Hi vs. Republic*, 88 Phil., 117). It was also held that the last world war was no reason to dispense with the compliance with such requirement as otherwise it would be to establish a dangerous precedent (*Uy Boco vs. Republic*, 85 Phil., 320; 47 Off. Gaz., 3442, 3445, 3447). Likewise, a petition for naturalization was denied where it was shown that one of the minor children of petitioner was in China since her infancy and was never given a chance to study in the Philippines (*Lian Chu vs. Republic*, 87 Phil., 668; 48 Off. Gaz., 1780). And since the effect of naturalization is to extend to the children of the applicant the privilege of citizenship, this Court has emphasized that "It is the policy of the Philippine Government to have prospective citizens, * * * learn and imbibe the customs, traditions and ideals of the Filipinos as well as their democratic form of government," as embodied in our Naturalization Law. (*Koe Sengkee vs. Republic*, supra; See also *Du vs. Republic*, 92 Phil., 519.)

Now there is no dispute that one of the children of petitioner, named Tan Nam, was born in Canton, China on October 10, 1949 and since then has never been in the Philippines which shows that at the time of the hearing of the petition for naturalization more than two years ago he was already seven years old. If petitioner had been sincere in complying with the requirement of the law relative to education, he should have taken steps to bring his child to the Philippines so that he may be enrolled in a school recognized by our government. But this he failed to do under the pretext that he was adopted by his godfather, which to us appears flimsy as we will later point out. It is true that this question should have been raised by the government when the hearing of the naturalization case came up and apparently it was passed up thru an oversight, but we disagree with the opinion that it can no longer be entertained at this stage of the proceeding for, as we have already pointed out, the educational requirement of the law is one of the avowed policies of our government. And since one of the requirements of Republic Act No. 530 is that the applicant should not commit, during the period of two years, any "act prejudicial to the interest of the nation or contrary to any Government announced policies" (Section 1), the inescapable conclusion is that petitioner has failed to comply with all the requirements to entitle him to take the oath of allegiance.

But it is contended that petitioner could not have brought his son Tan Nam to the Philippines for the reason that he has already been adopted by his godfather who was financially able to give him education and support with the logical result that his (petitioner's) naturalization will not benefit him (his son) because under the law he will follow the citizenship of his adopting father. In the first place, there is no sufficient evidence to show that the child was in effect adopted as claimed it appearing that the alleged adoption is merely supported by petitioner's affidavit. In the second place, this Court has already held that the rights of a legitimate child given to an adopted child, as stated in Article 341 of our Civil Code, do not include the acquisition of the citizenship of the adopter (*Cheng Ling vs. Galang*, L-11931, October 27, 1958). Even, therefore, if we assume that petitioner's son has been adopted as claimed, the fact remains that he would still retain the citizenship of his natural father with the result that he should eventually benefit from it should his father become a naturalized Filipino. Hence, the alleged

adoption cannot justify petitioner's failure to educate his son Tan Nam as required by law.

Wherefore, the decision appealed from is reversed. We hereby declare that the oath of allegiance taken by petitioner on January 29, 1959 has no legal force and effect. The naturalization certificate issued to petitioner, if any, is hereby cancelled. No costs.

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

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.