IN RE: PETITION FOR ADMISSION AS CITIZENS OF THE PHILIPPINES, SHEWAK A. KESWANI AND KAVITA S. KESWANI, PETITIONERS, VS. REPUBLIC OF THE PHILIPPINES, RESPONDENT.

G.R. No. 153986. June 08, 2007

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

Petitioners-spouses Shewak and Kavita Keswani (petitioners) are Indian nationals who filed a joint Amended Petition for naturalization, docketed as Naturalization Case No. M-68, with the Regional Trial Court (RTC) of Makati, Branch 60, sometime in 1998. As summed up by the Court of Appeals (CA), their amended petition contained the following allegations:

> x x x (1) petitioners are spouses of Indian nationality having been born in India on August 23, 1953 (Shewak) and September 1, 1957 (Kavita) with four (4) children who were all born in the Philippines and students at Brent School, an educational institution recognized by the Philippines Government where Philippine History, Government and Civics are taught; said children are residing at their parents' address at 2284 Magnolia St., Dasmariñas, Makati City; (2) petitioner Shewak Keswani arrived for the first time in the Philippines on March 24, 1976 via Qantas AirLines, joined later by his wife, and have since continuously resided in the Philippines in the various addresses in Quezon City, Manila, Pasig City, Mandaluyong City and Makati City; (2) they can speak Tagalog, English and Sindhi (Indian dialect); (3) they are persons of good moral character and believe in the principles underlying the Philippine Constitution; have conducted themselves in proper and irreproachable manner during the entire period of their residence in the Philippines up to the present in their relation with the constituted government as well as with the community in which they live; (4) more than a year prior to the filing of the present petition, they filed their Affidavit of Joint Declaration of Intention to become citizens of the Philippines; (5) they own real properties in the Philippines and are both stockholders of Glamour Garments, Inc. and Chitra Manufacturing, Inc., both primarily engaged in the manufacture and export of garments; as majority stockholders they both derive annual gross income of more than P2,000,000.00; (6) they have all the qualifications required under Sec. 2 and none of the disqualifications provided under Sec. 4 of C.A. No. 473, as amended - they have not opposed organized government or affiliated with any association who uphold and teach doctrines opposing all organized government; they do not defend or teach the necessity or propriety of violence, personal assault, or assassination for the success and predominance of these ideals; they are not polygamists or believers in polygamy; they have not been convicted of any crime involving moral turpitude nor suffering from any mental alienation or incurable contagious diseases; during the period of their residence in the Philippines up to the present, they continue to mingle socially with Filipinos and evince sincere desire to learn and embrace the customs, traditions and ideals of the Filipinos; and their country, India, is not at war with Philippines and likewise grants the right to become naturalized citizens of India; and (7) it is their intention in good faith to become citizens of the Philippines and to renounce absolutely and forever any allegiance and fidelity to India; they will reside continuously in the Philippines from the date of the filing of the petition up to the time of their admission to Philippine citizenship.[1]

Notices of hearing on the petition were posted on December 7, 1998, while publication was made on different

dates in 1999. Thereafter, an ex parte hearing was held on September 27 and October 11, 1999, where petitioners and two character witnesses were presented to prove the allegations in their petition.

On May 9, 2000, the RTC rendered its Decision granting the Amended Petition and admitting petitioners as Filipino citizens.[2]

After receiving a copy of the RTC Decision on May 12, 2000,[3] the Office of the Solicitor General (OSG) filed a Notice of Appeal on June 1, 2000, which was given due course by the RTC per Order dated June 14, 2000.[4]

Petitioners filed a Motion to Dismiss Appeal before the CA, alleging that the Notice of Appeal was filed by the OSG beyond the 15-day reglementary period. The CA, however, denied petitioners' motion in its Resolution dated April 3, 2001, taking note that the OSG had already filed an appellant's brief.[5]

After completion of the records, the CA[6] rendered on January 15, 2002 its Decision, which provides for the following dispositive portion:

> WHEREFORE, premises considered, the present appeal is hereby GRANTED and the decision appealed from in Naturalization Case No. M-68 is hereby ANNULLED and SET ASIDE. A new judgment is hereby rendered DISMISSING the joint petition for naturalization of Shewak A. Keswani and Kavita S. Keswani as Filipino citizens.
>
> No pronouncement as to costs.
>
> SO ORDERED.[7]

Petitioners now come before the Court on a petition for review on certiorari under Rule 45 of the Rules of Court, asserting the following reasons for its allowance:

> - IN GIVING DUE COURSE TO RESPONDENT'S APPEAL, WHICH IS CONTRARY TO THE PROVISIONS OF SECTION 11, COMMONWEALTH ACT NO. 473, AS AMENDED, THE COURT OF APPEALS ACTED WITHOUT JURISDICTION, CORRECTIBLE BY CERTIORARI.
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> - IN TAKING COGNIZANCE OF RESPONDENT'S APPEAL, FILED DIRECTLY TO THE COURT OF APPEALS, INSTEAD WITH THIS HONORABLE COURT, CONTRARY TO THE PROVISIONS OF SECTION 11 COMMONWEALTH ACT NO. 473, AS AMENDED, THE COURT OF APPEALS ACTED WITHOUT JURISDICTION, CORRECTIBLE BY CERTIORARI.
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> - IN GRANTING THE APPEAL OF RESPONDENT, FILED WITH THE COURT OF APPEALS, WHICH IS CONTRARY TO THE PROVISIONS OF SECTION 11, COMMONWEALTH ACT NO. 473, AS AMENDED, THE COURT OF APPEALS ACTED WITHOUT JURISDICTION, CORRECTIBLE BY CERTIORARI.
>
> - IN THE ALTERNATIVE, IN HOLDING THAT PETITIONERS-SPOUSE DO NOT POSSESS ALL THE QUALIFICATIONS AND NONE OF THE DISQUALIFICATIONS UNDER THE LAW, THE COURT OF APPEALS ACTED CONTRARY TO THE LAW OR IN EXCESS OR WITHOUT JURISDICTION, CORRECTIBLE BY CERTIORARI.[8]

Petitioners posit the argument that the applicable procedure with regard to appeals governing naturalization cases is that provided under Section 11 of Commonwealth Act (C.A.) No. 473 or the Revised Naturalization Law, as amended, which states that the appeal should be filed with the Supreme Court and not the CA. Petitioners also argue that their testimonies and the testimonies of their two witnesses are sufficient to establish that they have all the qualifications and none of the disqualifications to become naturalized citizens.

Indeed, Section 11 of C.A. No. 473 provides that "[T]he final sentence may, at the instance of either of the parties,

be appealed to the Supreme Court." Note, however, that said law is of 1939 vintage. As correctly reasoned out by the OSG, this provision of law has already been superseded by subsequent procedural laws, particularly Batas Pambansa Blg. (B.P. Blg.)129 or the Judiciary Reorganization Act of 1980, which vests in the Court of Appeals the appellate jurisdiction over all final judgments, decisions, resolutions, orders or awards of Regional Trial Courts and quasi-judicial agencies, instrumentalities, boards or commissions, among others.[9] This provision of B.P. Blg. 129, of course, has been further supplemented by the 1997 Rules of Civil Procedure, as amended, which provides for the remedy of an ordinary appeal to the Court of Appeals in cases decided by the Regional Trial Court in the exercise of its original jurisdiction.[10] The CA's power to review the assailed RTC Decision finds further reason as it involves factual findings, and it is beyond dispute that the CA is equipped to resolve factual issues because, unlike this Court, it is mandated to rule on questions of fact. The appeal filed by the OSG with the CA was therefore proper.

With regard to the sufficiency of petitioners' evidence, the Court sustains the findings of the CA on this score.

The Court went over the records of this case and indeed, as found by the CA, the evidence for petitioners consists mainly of their testimonies and the testimonies of their supporting witnesses, sans documentary evidence to back up their statements, thus:

> x x x In this case, appellant correctly pointed out that petitioners-appellees failed to prove by evidence the material allegations in their joint petition such as their alleged annual gross earnings and financial status, the conditions for the educational institution where their children are currently enrolled, and the absence of any conviction for offenses involving moral turpitude. Except for their bare and self-serving declarations in court, petitioners-appellees failed to adduce documentary and oral evidence showing that they indeed possess the statutory qualifications. Not even a single document concerning their ownership of the garment firms of which they allegedly control the majority interest, income tax returns filed showing their annual gross income claimed to be in the amount of P2 million, and those showing the enrollment of their children in the prescribed educational institution. There is absolutely no iota of evidence proving these allegations which constitute the very required qualifications and disqualifications under the law. x x x [11] (Emphasis supplied)

In Tiu v. Republic,[12] it was ruled that "it is the bounden and inescapable duty of anyone applying for naturalization to carry at all times the burden of proving his right thereto, not only by complying with all the substantive and procedural requirements and submitting proof thereof at the trial x x x."

Moreover, it is a settled rule that one who alleges a fact has the burden of proving it, and mere allegation is not evidence.[13] In the present case, aside from said testimonies, there is a dearth of competent evidence that will corroborate petitioners' alleged qualifications which will entitle them to be naturalized as Filipino citizens. Consequently, the CA was correct in dismissing the amended petition for naturalization as Filipino citizens filed by petitioners.

WHEREFORE, the petition is DENIED.

SO ORDERED.

Ynares-Santiago, (Chairperson), Chico-Nazario, and Nachura, JJ., concur.

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[1] CA rollo, pp. 85-86.

[2] Records, p. 70.

[3] Id. at 72.

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[4] Id. at 75.

[5] CA rollo, p. 65.

[6] Penned by Associate Justice Martin S. Villarama, Jr., with Associate Justices Conchita Carpio Morales (now a Member of this Court) and Sergio L. Pestaño (retired), concurring.

[7] CA rollo, p. 90.

[8] Rollo, pp. 11-12.

[9] As amended by Republic Act No. 7902, effective March 18, 1995.

[10] Rule 41, Section 2 (a).

[11] CA rollo, p. 89.

[12] 158 Phil. 1137, 1138 (1974).

[13] Republic v. Orbecido, III, G.R. No. 154380, October 5, 2005, 472 SCRA 114, 123.

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