

IN RE CANCELLATION OF THE CERTIFICATE OF NATURALIZATION OF PAUL A. BELL. PAUL A. BELL, PETITIONER AND APPELLANT, VS. THE ATTORNEY-GENERAL, OPPOSITOR AND APPELLEE.

G.R. No. 35587. March 23, 1932

Ponente: MALCOLM, J.

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MALCOLM, J.:

These are proceedings initiated by the Attorney-General to secure the cancellation of the certificate of Philippine citizenship of Paul A. Bell. Two questions are submitted on appeal, the first preliminary in nature, and the second going to the merits. The preliminary question arises out of a motion filed by the Attorney-General in the lower court and renewed in this court, which seeks a ruling to the effect that an appeal does not lie from an order setting aside a previous order granting a certificate of naturalization. The second question relates to the legal soundness of the decision appealed from.

On August 16, 1928, one, Paul A. Bell, a citizen of Russia, registered with the Court of First Instance of Manila his application for Philippine citizenship. The application was verified and contained the necessary averments as required by law. After due publication and hearing, Judge Del Rosario rendered a decision admitting the petitioner to Philippine citizenship. In due course, a naturalization certificate was issued to the petitioner. On February 7, 1931, the Attorney-General presented a motion in the Court of First Instance of Manila to secure the cancellation of the naturalization certificate issued in favor of Paul A. Bell. This motion was sworn to by the chief of the secret service of the police department of the City of Manila, and had attached to it two exhibits tending to show falsity in the application of the petitioner and intimating that the petitioner was "a Red agent of Russia, and that he keeps the Russian Government informed of all the Communistic movements in these Islands." Following a hearing, the same judge who had heard the original application ordered the cancellation of the certificate of citizenship of Paul A. Bell (alias) Paul A. Beliatzky. When the latter attempted to appeal from this decision, he was met by a motion, as before intimated, interposed by the Attorney-General challenging his right of appeal. But he judge then acting in Manila overruled the objection and approved the record on appeal.

A resolution of the preliminary question offers no difficulties. The Naturalization Law, Act No. 2927, gives to the Court of First Instance of the province or district in which the petitioner resides exclusive original jurisdiction, and to the Supreme Court "appellate jurisdiction, as to the hearing of petitions for naturalization" (sec. 6). The law further provides that "The final sentence may, at the request of either of the parties, be carried to the Supreme Court for revision in the form provided in section one hundred and forty-three and following sections of the Code of Civil Procedure" (sec. 9). Aside from the general provisions to be found in section 18 of the Judiciary Law, Act No. 136, which grant the Supreme Court "appellate jurisdiction of all actions and special proceedings properly brought to it from the courts of first instance," the special provisions to be found in the Naturalization Law are applicable. The phrase "petitions for naturalization" appearing in the statute should be given a liberal construction and should be taken as including not only the original petition for naturalization but also a motion to secure the annulment of an order allowing a petition for naturalization. We fully agree with Judge Goddard when, sitting in

first instance, he observed: "To say that the law provides an appeal where a petitioner is simply denied citizenship and does not provide such an appeal to the highest court in the land when his prized certificate of citizenship is taken away from him and cancelled, in the same proceeding, seems absurd. This court does not believe that the Legislature meant that sections 6 and 9 of Act No. 2927 should be so construed." The motion of the Attorney-General will be disallowed.

Coming now to the merits, it is to be observed that the original petition for naturalization and the testimony of the petitioner at the hearing were under oath. According to law the petition was required to set forth, and in fact did set forth, the name and surname of the applicant, his present and former places of residence, his occupation, the place and date of his birth, whether single or married, the approximate date of his arrival in the Islands, the name of the port of debarkation, the name of the ship on which he came, and the fact that he is not disqualified (sec. 5). It is noted that in the petition and at the trial, the applicant gave his name as Paul A. Bell, although it is admitted that his true name was Paul A. Beliatzky. The trial judge accepted the explanation offered that the petitioner was commonly known as Paul A. Bell, and we likewise are inclined to think this is a reasonable view. Further, it should be stated, in all fairness to the petitioner, that the intimation that he was a red agent was not supported by any competent evidence, and that the statement to this effect contained in the communication of the chief of the secret service of the police department amounted to no more than inadmissible hearsay evidence. But the application and the testimony alike contained explicit data regarding the date of arrival in the Philippines, which was fixed at April, 1923, and which; accordingly, on August 16, 1928, would have covered the necessary five years of residence as specifically required by section 3 of the Naturalization Law, whereas, as a matter of fact, it is now conceded that the applicant arrived in Manila on July 26, 1924, so that on August 16, 1928, he had only resided in the Philippines a little over four years. Petitioner explains that this was a mistake made in good faith, that unintentionally he misled his lawyer, that he suffers from a frail memory, and that he occupies a responsible position with the Radio Corporation. But again it is necessary to emphasize that these statements relative to residence in the Philippine Islands were twice made under oath, and had the effect of inducing the court to grant a certificate of naturalization when it should not have been granted.

The Naturalization Law of 1920 provides the disqualifications for Philippine citizenship and the qualifications for Philippine citizenship. Among other things, the law prescribes the possession of "all and each of the following qualifications: First. Residence in the Philippine Islands for a continuous period of not less than five years, * * *" (sec. 3). The law further provides the following: "Upon motion made in the proper proceedings by the Attorney-General or his representative, or by the proper provincial fiscal, the competent judge may cancel the naturalization certificate issued: (a) if it is shown that said naturalization certificate was obtained fraudulently; * * *" (sec. 14).

The question in its simplest terms then is, if a foreigner who has given wrong information in his application for Philippine citizenship as to the length of his residence in the Philippines, and who has taken the oath of a witness and given false testimony relative to the length of his residence in the Philippines, has obtained his naturalization certificate fraudulently, within the meaning of the law.

The United States naturalization law, as properly pointed out by counsel for the appellant, is phrased somewhat differently from the Philippine naturalization law. The American law empowers the proper court to cancel a certificate of citizenship on the ground of fraud or on the ground that such certificate of citizenship was illegally procured. But as will appear in a moment, the difference between the American and the Philippine statutes is not so mailed as to make inapplicable the pertinent American authorities.

One, K, deceived the court by false statements as to his age and length of residence in the United States, with the result that the court held that "the letters of naturalization were improvidently issued," and must, therefore, be

ordered cancelled. (U. S. vs. Kornmehl [1898], 89 Fed., 10.) One, S, obtained a certificate of naturalization; but it was later shown that he had not resided continuously in the United States for a period of five years immediately preceding the date of his petition for citizenship. The court said: "The petition does not allege Simon's fraud, but at the hearing it was assumed on both sides that this ground of illegality was open to the United States. So far as the United States relies upon fraud, it is bound to prove the fraud. * * * As Simon's naturalization in the state court was procured either fraudulently or otherwise illegally, cancellation of the certificate is ordered." (U. S. vs. Simon [1909], 170 Fed., 680.) One, A, procured a certificate of naturalization by reason of a petition in which it was stated that he was not a married man, whereas he had a family in Austria which he had abandoned. The court, in speaking of the phrase "illegally procured" said: "Neither the complaint nor the proof makes out a case of a certificate 'illegally procured,' in that the term as used in Act June 29, 1906, c. 3592, sec. 15, 34 Stat., 599 (U. S. Comp. St. Supp. [1911], p. 537), imports a certificate issued by a court without jurisdiction or in violation of the law's procedure— without a petition or witnesses, or notice, or hearing, for example." The court further said: "Aliens present themselves as friends, soliciting the boon of citizenship from the United States. It is their duty to make true and full disclosure of their qualifications, and honest answer to all questions prescribed. * * *. The fraud, however, in pleading and proof, must rise to the bad eminence of than any case—false representations or concealments of material facts, and without which the judgment would not have been rendered and the certificate of citizenship would not have been issued. * * *. Had the truth been disclosed at the hearing upon his petition, as it is disclosed here, the result would not have been what it was. * * *. It follows that the defendant's certificate of citizenship involved was procured by fraud and should be set aside and cancelled." (U. S. vs. Albertini [1913], 206 Fed., 133.) One, J, obtained a certificate of naturalization based upon the perjured testimony of two witnesses, to the effect that J had resided within the limits and under the jurisdiction of the United States for five years at least, then last past. In the United States Supreme Court, the decree cancelling¹ the naturalization certificate was affirmed, Mr. Justice Pitney stating: "An alien has no moral nor constitutional right to retain the privileges of citizenship if, by false evidence or the like, an imposition has been practised upon the court, without which the certificate of citizenship could not and would not have been issued." (Johannessen vs. U. S. [1912], 225 U. S., 227.) We consider the foregoing authorities applicable in principle.

For an alien to become a Philippine citizen is a privilege, not a right. The conditions under which that privilege may be granted have clearly and authoritatively been announced. To acquire Philippine citizenship, the alien must possess all the qualifications prescribed by law. In presenting his application to a court, it is presupposed that he is dealing fairly and honestly with the court, for if he imposes on the court his application will be rejected or cancelled. He is bound to see that the facts upon which the grant is predicated actually exist, for otherwise he takes nothing by his paper grant. Subsequently, when the error is discovered, it is too late for him to plead good faith and a bad memory to exculpate himself from the charge of misrepresentation of material facts. It must, therefore, be distinctly understood by aliens who desire to become Philippine citizens that to do so they must possess all and each of the qualifications named by law and none of the disqualifications, and that if an alien is able to secure a certificate of naturalization by misleading the court on any material fact, the courts possess jurisdiction to cancel the certificate of naturalization improvidently issued. We are forced to rule that the naturalization certificate of the appellant was obtained fraudulently. (Johannessen vs. U. S., *supra*.)

Sustaining the appellant in some points raised in his assignments of error, we yet reach the definite conclusion that the order approving the record on appeal, and the decision cancelling the certificate of naturalization of Paul A. Bell were basically correct, and so should be, as they are hereby, sustained and affirmed, with the costs of this instance to be paid by the appellant.

Avanceña, C. J., Johnson, Street, Villamor, Ostrand, Romualdez, Villa-Real, and Imperial, JJ., concur.

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