

NOTES ON NATURALIZATION *

Under the Constitution of the Philippines, there are two general ways by which Philippine citizenship may be acquired:

First: By parentage or blood relationship, with the father¹ or with the mother² who should be a Filipino citizen in either case; and

Second: By naturalization which is the act of adopting a foreigner and clothing him with the privileges of a natural-born citizen of the Philippines.

The naturalization of aliens is a matter of national interest in which the public is deeply concerned. Each state has the full power and unqualified right to determine whether its national interest will be promoted by conferring its citizenship on aliens. It can require of the applicant for citizenship such qualifications as it may deem proper and prescribe any procedure it sees fit by which citizenship may be acquired. It has even been said that the state may refuse to grant citizenship to foreigners. The naturalization of aliens, then, is an act of grace, not a right, and is purely statutory.³ It is a privilege to be given, qualified, or withheld, as the State may determine.

* All cases cited herein are from the decisions of the Supreme Court of the Philippines, October and November series, 1952.

¹ Art. IV, Sec. 1, par. 3.

² Art. IV, Sec. 1, par. 4. The law on this matter is not only uncertain, but confused. The dictum laid down in the case of Villahermosa vs. Com. of Immigration (G.R. No. L-1663) would seem to require that the mother must be a Filipino citizen at the time her child attains majority. At first, the Secretary of Justice refused to follow the Court's dictum and ruled that to entitle the children to elect Philippine citizenship, it is sufficient if the mother was a Filipina at the time of her marriage even if she lost her citizenship by such marriage. A later opinion of the Secretary of Justice adopted the Villahermosa rule. But, only recently, the Secretary of Justice issued another opinion repudiating the Villahermosa rule and reverting to his first opinion above-stated.

³ 2, Am. Jur. pg. 562.

In this country, it is Congress that determines whether or not foreigners should be allowed to become citizens of the Philippines, what qualifications they should possess, and the manner by which citizenship may be acquired. Accordingly, Congress passed Commonwealth Act No. 473 (The Revised Naturalization Law) later amended by Commonwealth Act No. 535 and, only recently, Republic Act No. 530. These Acts constitute our law on naturalization at present.

DURA LEX, SED LEX

At an early date in the history of Philippine Jurisprudence, our Supreme Court had occasion to say that laws regulating citizenship should be liberally construed in favor of the individual who claims citizenship.⁴ The rule is otherwise with respect to the naturalization laws cases, where full compliance with the statutory requirements is necessary.⁵ And, we may also add—*strict* compliance. From a study of the cases on naturalization decided by our Supreme Court, it would seem that the Supreme Court, perhaps merely echoing the will of the legislature and responding to public clamor, has shown a marked tendency to apply the naturalization law with rigor and firmness and to follow the American rule that the law should be strictly construed, in favor of the Government, and against the applicant. Thus, to cite a few instances, it has been ruled that, a deaf-mute, being unable to speak cannot be naturalized;⁶ that the failure of the applicant for citizenship to bring his children to this country to have the requisite education cannot be excused except on ground of *physical* impossibility;⁷ that a student does not have a lucrative trade, profession, or lawful occupation;⁸ and that mere failure to file a declaration of intention is fatal to the petition.⁹

QUALIFICATIONS

The Revised Naturalization Law has prescribed six qualifications for applicants for Philippine citizenship. Consistently with what we have stated above, the practice is to place the burden upon the applicant to show by satisfactory evidence that he has the

⁴ Roa vs. Collector of Customs, 23 Phil. 315.

⁵ Yu vs. Rep. of the Phil., G.R. No. L-3808, July 29, 1952.

⁶ Orestoff vs. Gov't., 71, Phil. 240.

⁷ Chua vs. Rep. of the Phil., G.R. No. L-3265, Nov. 29, 1950.

⁸ Lim vs. Republic, G.R. No. L-3920, Nov. 20, 1951.

⁹ Yap vs. Rep. of the Phil., G.R. No. L-4270, May 8, 1952.

specified qualifications. When, upon a fair consideration of the evidence adduced upon an application for citizenship, doubt remains in the mind of the court as to any essential matter of fact, the application is generally denied. The Government may also adduce proof that the applicant does not have the requisite qualifications.

AGE: At least 21 years of age.

RESIDENCE: In the Philippines for at least 10 years.

CHARACTER & CONDUCT: Must be of good moral character and must have conducted himself in proper and irreproachable manner.

With this qualification, the State passes beyond the realm of law and treads upon the ground of morality, and, perhaps, even propriety. The law does not only require that the applicant must be legally guiltless but that he also be morally blameless. Time and again, the Government has alleged violation of the law, whether the act be "malum in se" or merely "malum prohibitum," as a ground of bad moral character.

CASES:

FACTS: Appeal by YL from a decision of the trial court denying his petition for naturalization on the ground that he had not conducted himself in a proper and irreproachable manner as required by law because:

(1) When he gave his personal circumstances as a witness he said that he was married, but it turned out that he was not married to FA and so (the lower court concluded) he must have been married somewhere and to someone else, in which case, he must be living in concubinage with the mother (FA) of his six children;

(2) The evidence showed that the beauty parlor as well as the house from where his alleged income is derived are all registered in the name of FA and for this reason, (the trial court believed) he had utilized the Philippine citizenship of FA to acquire property contrary to the provisions of the Constitution.

HELD: (1) "The fact that appellant stated on the witness stand that he was married when as a matter of fact he was not married to FA does not necessarily prove concubinage with FA. He explained to the court in his testimony that he felt that he was married to

FA because they had been living as husband and wife for so many years and had raised a family of six children."

(2) As to the ownership of the property involved, namely, the beauty parlor and the houses for rent, the Supreme Court ruled that the trial court erred when it concluded that YL had utilized the citizenship of FA to illegally acquire said properties contrary to the provisions of the Constitution. In the first place, the date of acquisition of the properties was not specifically mentioned, whether before or after the approval of the Constitution. In the second place, said properties are not exactly lands mentioned in the Constitution. In the third place, before the promulgation of the Krivenko case by a divided court, many were not sure or did not know what real properties were covered by the constitutional prohibition regarding acquisition by aliens. So it is not exactly correct to conclude that YL acted in bad faith and "took advantage of the Philippine citizenship of his common law wife..."

However, the petition should be denied "on the ground that the conduct and behaviour of appellant in cohabiting with FA and begetting children by her without the benefit of marriage, from the standpoint of morality and decency, does not meet with the approval not only of this Court but of the community where he lives and the country whose citizenship he applied for, which country by the way is mostly Christian and of the Catholic faith. While there may be a few cases of concubinage or cohabitation without the sanction of marriage, by citizens of this country, nevertheless, before admitting an alien into its fold and giving him the rights and privileges of citizenship, this country by law requires of the applicant, among other things, proper and irreproachable conduct. Openly cohabiting with a woman and maintaining with her what the law considers illicit relations, can hardly be regarded proper and irreproachable conduct." Decision appealed from affirmed. (*YU LO, vs. REPUBLIC OF THE PHILIPPINES, G.R. No. L-4725, Oct. 15, 1952*)

FACTS: Appeal by the Government from a decision of the trial court granting the petition of YK for admission to Philippine citizenship. The Government opposes the petition on the ground that the petitioner had not observed proper and irreproachable conduct because he interfered with the elections of 1949 and that

he has had illicit relations with a woman other than his wife.

HELD: The grounds of opposition alleged by the Government have not been established by sufficient evidence. Decision affirmed. (*YU KENG alias YU KING vs. REPUBLIC OF THE PHILIPPINES, G.R. No. L-4747, Oct. 24, 1952.*)

FACTS: Appeal from a judgment of the lower court approving the petition for naturalization of FOS. The Government opposes this petition on the ground (among others) that the petitioner having failed to register his children in accordance with the Philippine Alien Registration Act of 1941 (C.A. No. 653), and because the failure to do so is punishable, applicant cannot be considered as a man of good moral character, nor may his conduct towards the government be considered as irreproachable.

HELD: "The evidence shows that of his seven children, the younger ones, numbering five were all born in the years of Japanese occupation and the first years of the liberation, viz., 1942, 1945, 1948, 1949. These five children were never registered under C.A. No. 653 because of the state of disorder and confusion at the time they were born. However, before the war, he registered his first two children. The applicant's failure to register his last five children does not necessarily indicate that he is not of good moral character." Furthermore, Congress enacted R.A. No. 562 fixing the period of registration of aliens up to September 15, 1950. Applicant registered his children on September 7, 1950, within the period provided by law. Thus, he cannot be said to have violated the law. (*FAUSTO ONG SANG vs. REPUBLIC OF THE PHILIPPINES, G.R. No. L-4609, Oct. 30, 1952*)

FINANCIAL STABILITY: *Must own real estate in the Philippines worth not less than five thousand pesos, Philippine currency or have some lucrative trade, profession, or lawful occupation.*

The obvious purpose of this requirement is to avoid the possibility of the state's admitting into the fold of its protection individuals who are or may become public charges. Thus, the naturalization law requires that the applicant for citizenship must satisfactorily show either of two cases:

(1) OWNERSHIP OF REAL ESTATE IN THE PHILIP-

PINES WORTH NOT LESS THAN FIVE THOUSAND PESOS, PHILIPPINE CURRENCY; OR,

(2) A LUCRATIVE TRADE, PROFESSION, OR LAWFUL OCCUPATION.

CASES:

FACTS: In the same case of Fausto Ong Sang (supra), the Government also contended that the applicant did not possess the above stated qualification as the evidence showed that the business and real estate he claims as his own are registered in the name of his wife.

HELD: "The objection is a technical one and may not be considered valid. It was shown that the applicant is a merchant and manages a store, and that he is one who buys the stock or goods that are sold therein. The law does not require that an applicant must register his business in his own name; all that is required is that he has a lucrative business, which applicant has." (*FAUSTO ONG SANG vs. REPUBLIC OF THE PHILIPPINES, supra*)

At one time, the Supreme Court ruled that an applicant for Philippine citizenship who is a student does not have any lucrative trade, profession, or lawful occupation. This decision has caused a lot of eyebrows to go up. But, the Supreme Court did not reverse itself. In the following case, the doctrine is implicitly followed.

FACTS: Appeal by the Government from a decision of the lower court granting the petition for naturalization of DL. The Solicitor-General contends that the petitioner lacks one of the qualifications prescribed by the naturalization law, viz., that "he must own real estate in the Philippines worth not less than five thousand pesos, Philippine Currency, or must have some lucrative trade, profession or some lawful occupation."

HELD: "This contention is well taken, it appearing that the appealed decision expressly finds that the appellee actually lives with his parents who supports him, that he does not own any property or business, and that he is a student in the Far Eastern University under the support of his parents. Counsel for appellee

argues that the latter helps in his father's grocery store, and that although the appellee does not receive any salary for his work, the support given by his father may well be considered as regular compensation. It is obvious that in the very nature of things, regardless of the help rendered by the appellee, his parents with whom he lives and who know that he has no independent income, are morally bound to support him; and there is no showing that, is the appellee does not help his father in the latter's grocery store, he would not be supported. Decision reversed and petition denied. (*DELFIN LIMTAO vs. REPUBLIC OF THE PHILIPPINES*, G.R. No. L-4397, Oct. 24, 1952)

LANGUAGE: Must be able to speak and write English or Spanish and any of the principal Philippine languages.

ENROLLMENT OF MINOR CHILDREN OF SCHOOL AGE:
In the schools prescribed by law.

The importance and purpose of this requirement may be gathered from the following excerpt of the decision of the Supreme Court in the case of *Hao Lian Chua vs. Republic of the Philippine* (G.R. No. L-3265, Nov. 29, 1950):

"This court believes that such requirement is important. The legislator evidently holds that all the minor children of an applicant for citizenship must learn Philippine history, government and civics, inasmuch as upon naturalization of their father they *ipso facto* acquire the privilege of Philippine citizenship. To excuse the applicant from this requirement it must be shown that there was physical impossibility for him to bring (his child here from China)..."

CASES:

FACTS: Appeal by the Government from a decision of the lower court granting the petition for naturalization filed by CP. The Government contends that petitioner cannot be naturalized because he has not enrolled all his minor children of school age in any of the schools required by law. Petitioner contends that his two sons could not return to the Philippines on account of war in China and due to lack of transportation facilities from Amoy to the Philippines.

Counsel for petitioner also presented a motion for new trial to admit as newly discovered evidence a letter of the father-in-law of petitioner, to the effect that the

above two children of petitioner died in China while said proceedings for naturalization were pending.

HELD: There is no explanation given by petitioner why his two children have been in China. The petitioner must have sent them there to study because when they went there, they were still of school age. One was in China since 1942 and the other in June 1948. And whether these children have gone there prior to December 1941 or after the outbreak of the war, the petitioner must have sent them to China for the same purpose. "The statement made in petitioner's brief that it was impossible for him to bring them back to the Philippines because of the war is not borne out by the evidence submitted. We can take judicial notice of the fact that after the surrender of Japan in 1945 some two or three years passed before China was occupied by the Communists. It was not impossible then for the petitioner to bring them back to the Philippines." He has also enrolled two of his other children in the Chinese Republican School in Manila, an exclusive Chinese school. From these we conclude that he has failed to comply with the requirement contained in Paragraph 6, sec. 2, of the Revised Naturalization Law.

The petition for new trial must also be denied. The subsequent death of petitioner's children at the time of the pendency of the proceedings for his naturalization can give no benefit nor serve any purpose to the petitioner. The requirement of the law is that he must send all his children to the prescribed schools. The petitioner undoubtedly failed to comply with this requirement while all his children were still living; the death of two of them, who were not in the Philippines, can not operate as an excuse for non-compliance with the requirements of the law.

Furthermore, petitioner has failed to file his declaration of intention and he does not fall within the exemption provided by Section 6 of the Revised Naturalization law. Decision reversed and petition denied. (*CHUA PIENG vs. REPUBLIC OF THE PHILIPPINES*, G.R. No. L-4032, Oct. 25, 1952)

FACTS: From a decision of the lower court granting the petition for naturalization of LM the Government appealed contending that petitioner has failed to prove that he possesses all the necessary qualifications to become a Philippine citizen in that he failed to enroll one of his minor children named Teofilo Tio in a school recognized by our Government

where Philippine history, government and civics are taught or prescribed as part of the school curriculum. The claim of the Government is predicated upon the fact that petitioner did not present any certificate showing that said Teofilo Tio has studied in a private school as alleged by petitioner.

HELD: In the petition filed by petitioner on May 3, 1946, in the lower court, it appears that Teofilo Tio was enrolled in Sta. Theresa's School, in Cebu City. On the witness stand petitioner testified that Teofilo Tio studied in said school. The government did not dispute this testimony. He was not even cross-examined on this matter. Considering that this testimony has not been disputed, nor overcome by any other evidence, we do not believe it necessary for petitioner to submit a certification on the part of the school evidencing the enrollment of his child Teofilo Tio to corroborate his testimony. Decision affirmed and petition granted. (*LEON MIRANDA TIO LIOK vs. REPUBLIC OF THE PHILIPPINES*, G.R. No. L-4545, Oct. 29, 1952)

Under the procedure established by the Revised Naturalization Law, the applicant for Philippine citizenship must file, one year prior to the filing of his petition for admission to Philippine citizenship, a declaration under oath that it is "bona fide" his intention to become a citizen of the Philippines. Such declaration must be filed with the Office of the Solicitor-General. This declaration is known as

THE DECLARATION OF INTENTION

While the obvious and principal purpose of this requirement is to give the government a reasonable time to screen and study the qualifications of an application for Philippine citizenship, such is not the only reason for the requirement. There are other reasons that may be invoked, one of them being necessity to test the sincerity of the intention of the applicant. It is a means by which his good intention and sincerity of purpose can be gauged.¹⁰ Consequently, the requirement of filing a declaration of intention is mandatory and an absolute prerequisite to naturalization.¹¹ A petition for naturalization shall be denied if the applicant for naturalization fails to file a declaration of intention, even though,

¹⁰ *Carlos Chua vs. Rep. of the Phil. G.R. No. L-4112, Aug. 28, 1952.*

¹¹ *Uy Boco vs. Rep. of the Phil. G.R. No. L-2247, Jan. 23, 1950.*

aside from such failure, he may be clearly entitled to naturalization.¹² The strictness of this requirement is such that an omission or neglect to file such declaration cannot be supplied or cured by filing such declaration during the pendency of the naturalization proceedings.¹³ It is a requirement that, to many, may appear as unreasonable adherence to formalism.

THE PROBATIONARY PERIOD

About two years ago, Congress passed Republic Act No. 530 which, among other things, provided that no decision granting an application for admission to Philippine citizenship shall become executory until after two years from its promulgation and after the proper judicial hearing required therein. The purpose of this requirement is to give the Government a two-year period more within which to test the sincerity of an applicant to become a Philippine citizen.¹⁴

CASES:

FACTS: UC filed a petition for naturalization with the CFI of Iloilo on May 13, 1948. On January 21, 1949, said court decided the case favorably and ordered that UC be granted a certificate of naturalization. The Government appealed. On July 23, 1951, the Supreme Court affirmed the decision. On December 13, 1951, or barely five months after the decision of the Supreme Court became final, UC filed a petition with the CFI of Iloilo asking that he be allowed to present evidence to show compliance with the additional requirements of R.A. No. 530, alleging that the period of two years prescribed therein had already elapsed. The Government filed opposition contending that the petition was premature. This opposition was overruled. Hence this petition for certiorari.

HELD: Section 1 of R.A. No. 530 provides; "...nor shall any decision granting application become executory until after two years from its promulgation..." This, undoubtedly, means "that no decision can be executed until after two years from the date said decision has become final. When, therefore, the law says that a decision cannot be executed until after two

¹² *Uy Yap vs. Rep. of the Phil. G.R. No. L-4270, May 8, 1952.*

¹³ *Tio Liok vs. Rep. of the Phil. G.R. No. L-4545, Oct. 29, 1952.*

¹⁴ *Rep. of the Phil. vs. Makalintal and Uy Chiong, G.R. No. L-5424, Oct. 24, 1952.*

years from its promulgation, it can only refer to the decision of the Supreme Court if the case has been appealed. Of course, when the case is decided in favor of the applicant and the Government does not appeal, that decision should be reckoned within the computation of the period of two years contemplated by law. And this is so because when a case is appealed, the decision may be changed, modified or reversed in its entirety, which means that during the pendency of the appeal the original decision has no legal force and effect."

The decision of the Supreme Court, in case of appeal, is the law of the case and such decision has no retroactive effect whenever it is confirmatory of the decision of the lower court. Writ granted. (*REPUBLIC OF THE PHILIPPINES vs. HON. QUERUBE MAKALINTAL, Judge of the CFI of Iloilo and UY CHIONG, as an interested party, G.R. No. L-5424, Oct. 24, 1952.*)

CASES NOTED

TENDER OF PAYMENT MADE IN CHECK, AND CONDITIONALLY, AND NOT FOLLOWED BY CONSIGNATION DOES NOT DISCHARGE THE DEBTOR.

FACTS: Defendant-appellant owed the plaintiff Bank the sum of P600 for which he executed a promissory note, jointly and severally, with two other persons.

In this suit by the Bank for collection, he asserted that the obligation has already been paid because, on June 23, 1949 "he presented himself at the Naga Agency of the plaintiff and tendered payment of the loan out of a check for P5,000.00 issued by the U. S. Treasury in favor B. Vda. de Rullas, who then accompanied said defendant, demanding that her check be cashed". Defendant identified her as the payee, but plaintiff's Asst. Agent Mr. M. Saludo of the Naga Agency, dishonored the check on the ground that the identification and guaranty offered by the defendant were not sound and not free from suspicion. The same check was, however, honored and cashed at a later date by the Legaspi Branch of the plaintiff.

ISSUE: Whether the tender of payment in the manner above-described resulted in the discharge of defendant-appellant's monetary undertaking.

HELD: It did not, for the following reasons.

First. The promissory note executed by appellant undertook to pay in the Philippine currency; and according to the trial judge,