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[G.R. No. L-29200. May 31, 1971]

IN THE MATTER OF THE PETITION OF CHUA BON CHIONG *alias* ANG BON CHIONG TO BE ADMITTED A CITIZEN OF THE PHILIPPINES. CHUA BON CHIONG *alias* ANG BON CHIONG, *petitioner-appellee*, *vs.* REPUBLIC OF THE PHILIPPINES, *oppositor-appellant*.

SYLLABUS

CONSTITUTIONAL LAW; CITIZENSHIP; NATURALIZATION; NATURE OF PROCEEDING; ISSUE OF NON-COMPLIANCE WITH REQUIREMENTS OF LAW; MAY BE RAISED BY GOVERNMENT AT ALL STAGES OF THE PROCEEDING; LEGAL EFFECTS THEREOF.— This High Tribunal never deviated from its ruling that a naturalization proceeding is not simply a private contest between the applicant and the Solicitor General but is a matter impressed with the highest public interest, involving as it does an inquiry as to when an alien should be allowed to enjoy the coveted boon of Filipino citizenship. It is for this reason that the burden of proof is upon the applicant to show full and complete compliance with the requirements of the law. The government can at all stages of the proceeding raise the issue of such non-compliance even without filing a formal opposition to the petition. For the government, it is never too late. The appeal from the order of the lower court authorizing the taking of the oath of allegiance subjects the *entire* naturalization proceedings to scrutiny by the Supreme Court to determine whether the applicant has all the qualifications and none of the disqualifications and whether he has complied with the procedural requirements of the law, even if those matters are not touched in the briefs or pleadings of the parties. And if the government files an opposition, it is not duty bound to specify the grounds therefor. If the applicant fails to establish by affirmative proof his compliance with the legal requirements, the court should deny his application.

APPEARANCES OF COUNSEL

Celso T. Gallego for petitioner-appellee.

Solicitor General Felix Q. Antonio and *Solicitor Bernardo P. Pardo* for oppositor-appellant.

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DECISION

MAKASIAR, *J.:*

After filing on May 9, 1961 with the Office of the Solicitor General his declaration of intention dated April 26, 1961 (Exh. H, p. 8, rec.), Chua Bon Chiong alias Ang Bon Chiong, filed on June 5, 1962 his petition for naturalization in the Court of First Instance of Cebu in Cebu City together with the joint affidavit of his three witnesses, namely, Romeo Viloria, Claro L. Jayme, Pedro T. Tisoy (pp. 1-5, rec.) as well as the photostat copies of his Immigrant Certificate of Residence issued on December 24, 1949, Alien Certificate of Registration issued on January 6, 1951 and certificate of arrival dated April 25, 1961 (pp. 6, 7, 9, rec.). The notice of the petition as well as the date of hearing of the same were accordingly posted on the bulletin board of the clerk of court's office on June 29, 1962 (Exh. A, p. 10, rec.) and published in the Official Gazette and in the La Prensa, a "newspaper of general circulation published in the City of Cebu" once a week for three consecutive weeks as required by law (Exhs. E, E-1, E-2, E-3, & F, pp. 15-19, rec.). No formal opposition was filed by the Solicitor General or the City Fiscal of Cebu City, although the latter, in behalf of the Solicitor General, cross-examined the applicant and his witnesses.

In a decision dated August 30, 1963, the trial court granted the petition after finding that petitioner was single at the time he filed the petition and a Chinese citizen duly registered in the Embassy of the Republic of Nationalist China and the Bureau of Immigration; that he was born on August 14, 1931 in Chingkang, Fookien, China and arrived in the Philippines on March 13, 1938 (p. 9, rec); that his address at the time of the filing of his application was Colon-Sudlon St., Cebu City; that his full name is Chua Bon Chiong alias Ang Bon Chiong, his alias having been given to him by his father since he was a child; that he finished his secondary course in the University of San Carlos, Cebu City and graduated with the degree of Bachelor of Science in Mechanical Engineering from the Cebu Institute of Technology, Cebu City; that he speaks and writes English and the Cebu Visayan dialect; that he is presently

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employed as a regular sales representative at the Erlanger and Galinger, Inc., Cebu branch, on commission basis plus bonus since January, 1961, from which he derived an income of P4,998.68 in 1961 and P9,691.02 in 1962, duly supported by his income tax returns; that he has no tax liability with the government; "that during the entire period of his residence in the Philippines from 1938," he has behaved himself properly; that his moral character is beyond reproach and he has conducted himself properly in relation to the community in which he lives as well as with the duly constituted authorities according to witnesses Romeo Viloria and Claro Jayme; that he is not suffering from any mental alienation or any communicable or contagious disease nor opposed to organized government, much less affiliated with groups of persons or associations who uphold and teach doctrines opposed to organized government; that he has not been convicted of any crime involving moral turpitude; that he is not a polygamist and he does not believe in the practice of polygamy nor defend or teach the necessity or propriety of violence, personal assault or assasination for the success and predominance of men's ideas; that he has not been accused of any crime; that he believes in the principles underlying the Philippine Constitution and demonstrated his knowledge of the same by reciting some provisions thereof; and that he mingles socially with the Filipinos and has embraced Filipino customs and traditions and after twenty-five years of residence in the Philippines, he has acquired the Filipino way of life and likes the democratic form of government.

A copy of the aforesaid decision (pp. 43-47, rec.) was received on September 13, 1963 (see bottom of p. 47, rec.) by the petitioner himself, on September 14, 1963 by his counsel (p. 49, rec.) and on September 26, 1963 by the Solicitor General (p. 6, Solicitor General's Brief), who did not appeal therefrom.

On November 13, 1965, petitioner filed a motion to set the case for final hearing (p. 1, rec. on appeal). The lower court set the final hearing on November 23, 1965 preparatory to oath-taking (pp. 3-4, rec. on appeal; p. 52, rec.) and reset the hearing to November 26, 1965 (p. 5, rec. on appeal).

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On February 10, 1966, after due hearing, the trial court after finding that the petitioner has complied with the requirements of Republic Act No. 530, issued an order allowing him to take his oath of allegiance as a Filipino citizen after the lapse of thirty days from from receipt by the Solicitor General of the copy of the order (pp. 75-77, rec.; pp. 6-8, rec. on appeal). On March 24, 1966, the Solicitor General appealed from said order (pp. 8-9, rec. on appeal) and the record on appeal was approved by the trial court on January 30, 1968 (p. 15, rec. on appeal).

The Solicitor General appealed on the ground that: (1) the petition was not published in full; (2) the character witnesses who testified for the petitioner were not credible persons; (3) the petitioner had not conducted himself in an irreproachable manner; (4) the petitioner lacked lucrative income; and (5) the petitioner failed to submit his permission to renounce Chinese citizenship from the Minister of Interior of the Republic of China.

This High Tribunal never deviated from its ruling that a naturalization proceeding is not simply a private constest between the applicant and the Solicitor General but is a matter impressed with the highest public interest, involving as it does an inquiry as to when an alien should be allowed to enjoy the coveted boon of Filipino citizenship. It is for this reason that the burden of proof is upon the applicant to show full and complete compliance with the requrements of the law. The government can at all stages of the proceeding raise the issue of such non-compliance even without filing a formal opposition to the petition. For the government, it is never too late. The appeal from the order of the lower court authorizing the taking of the oath of allegiance subjects the *entire* naturalization proceedings to scrutiny by the Supreme Court to determine whether the applicant has all the qualifications and none of the disqualifications and whether he has complied with the procedural requirements of the law, even if those matters are not touched in the briefs or pleadings of the parties. And if the government files an opposition, it is not duty bound to specify the grounds

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therefor. If the applicant fails to establish by affirmative proof his compliance with the legal requirements, the court should deny his application.[1]

Because petitioner herein failed to demonstrate by positive evidence his full and complete compliance with the requirements of the law, his petition for naturalization should have been denied and the decision granting his petition as well as the order allowing him to take his oath should be reversed and set aside.

1. The law requires that he should allege specifically each of the six qualifications for naturalization presribed under Sec. 2 of Com. Act No. 473 (Sec. 7 of Com. Act No. 473). The petition does not contain the specific averment that he is of good moral character, which omission inevitably nullifies his petition.[2]

2. The notice of the petition as posted and as published does not contain the textual or verbatim restatement of the petition. It is in violation of Sec. 9, Com. Act No. 473, which requirement is jurisdictional.[3]

3. He failed to include in his petition his name Chua *Ben* Chiong which appears in the record of the Immigration Bureau according to the certificate of arrival issued on April 25, 1961 upon his own request (p. 9, rec.), over one year prior to the filing of his petition on June 5, 1962. He has not explained

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[1] Republic *vs.* Cloribel, et al., L-27281, June 30, 1970, 33 SCRA 795, 799-800; Republic *vs.* Santos, L-23919, July 29, 1968, 24 SCRA 314, 317-320; Yong Sai *vs.* Republic, L-20483, Sept. 30, 1966; Lim *vs.* Republic, L-21193, Sept. 30, 1966; Ching Leng *vs.* Republic, L-6268, May 10, 1954; Tan Hoi *vs.* Republic, L-15266, Sept. 30, 1960; Go Kay See *vs.* Republic, L-17318, Dec. 27, 1962; Ong So *vs.* Republic, L-20145, June 30, 1965; Pe *vs.* Republic, L-20375, Jan. 31, 1966; Go Im Ty *vs.* Republic, L-17919, July 30, 1966; Chua Tiong Seng *vs.* Republic, L- 21422, Dec. 18, 1967.

[2] Dy *vs.* Republic, L-21958, Sept. 28, 1970, 35 SCRA 65, 73; Pidelo *vs.* Republic, L-7796, Sept. 29, 1955, 97 Phil. 632.

[3] Dy *vs.* Republic, supra, 65; Luchayco *vs.* Republic, L-25814, July 30, 1969, 28 SCRA 997, 1000; Ngo *vs.* Republic, L-25805, Feb. 27, 1969, 27 SCRA 88, 90-91.

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either in his petition or in the course of his testimony why his name appears differently in the records of the Immigration Office. Such failure to include such pseudonym militates against a decision in his favor.[4]

4. He has been using the alias Ang Bon Chiong without any judicial authority therefor. His claim that he has been using the same since childhood as it was given to him by his father, cannot be believed; because the records of the Immigration Bureau as shown in the certificate of arrival (p. 9, rec.) is Chua *Ben* Chiong as heretofore stated. He arrived in the Philippines on March 13, 1938, when he was about seven years old as he was born on August 14, 1931. If his father gave him that alias before 1938, that alias should appear in the record of the Immigration Bureau as early as 1938. While it is true that his Immigrant Certificate of Residence dated December 24, 1949 and his Alien Certificate of Registration dated January 6, 1951 show the said alias (pp. 6-7, rec.), he must have been sporting that alias only when he was already in his early teens prior to 1949 in violation of Com. Act No. 142 as he had no judicial authorization therefor, which fact bars him from being naturalized.[5]

5. Even if he were judicially authorized to use the alias Ang Bon Chiong, Com. Act No. 142 requires that such an alias must be used at all times in the execution of any document with his real name, violation of which is penalized with an imprisonment of from one month to six months under Secs. 3 and 4 of Com. Act No. 142. The petitioner herein used only his alias Ang Bon Chiong without his real name Chua Bon Chiong when he executed and signed his marriage contract on May 9, 1965, and his 1963 and 1964 income tax returns (p.

[4] Dy *vs.* Republic, supra, 35 SCRA 65-70; Uy *vs.* Republic, 28 SCRA, 754, 756; Yu Lim *vs.* Republic, 27 SCRA 804, 806; Te Poot *vs.* Republic, 27 SCRA 644, 648; Yu Nam *vs.* Republic, 16 SCRA 733, 734-5; Dy *vs.* Republic, 16 SCRA 667, 669-670; Yu Seco *vs.* Republic, 108 Phil. 807, 809.

[5] Dy *vs.* Republic, supra, 65, 69; Yu Nam *vs.* Republic, 16 SCRA 733, 734-5; Dy *vs.* Republic, 16 SCRA 667, 669-70; Celerino Yu Seco *vs.* Republic, 108 Phil. 807-809.

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180, rec., Exhs. B, F & G, pp. 2, 6, 7, rec. of Exhs.). This likewise vitiates his petition for it indicates his non-compiance with our penal laws during the two year-probationary period from the receipt on September 26, 1963 by the Solicitor General of the decision of August 30, 1963 and that he has not conducted himself in a proper and irreproachable manner in relation with the community in which he lives and with the duly constituted authorities .

6. His character witnesses in their affidavits affirmed that they know the petitioner only from 1951 when petitioner was already in Cebu City to where he transferred in 1947 from Kinogitan, Misamis Oriental where he resided from 1938 to 1947 or from the age of seven to sixteen. No witness was offered to testify as to his moral character and conduct while he was residing for nine years in Kinogitan, Misamis Oriental. While it is true that a minor below nine is exempt from criminal liability, he is not exempt therefrom when he is above nine but below fifteen if he acted with discernment in the commission of a crime (Art. 12, pars. 2 & 3, Revised Penal Code). No police, P.C., N.B.I. and N.I.C.A. clearances were submitted in connection with his nine-year residence in Kinogitan, Misamis Oriental from 1938 to 1947. No such P.C., N.B.I. and N.I.C.A. clearances were even submitted in evidence concerning his moral character and conduct while residing in Cebu since 1947 (p. 28, rec.; p. 1, rec. of Exhs.). His good moral character therefore has not been amply established to the satisfaction of this Court.

7. He has not secured the permission of the Chinese Minister of Interior from the Republic of Nationalist China to allow him to renounce Chinese citizenship, which is required so that the applicant may not entertain double allegiance to the prejudice of his country of original citizenship or to the country of his new nationality, and as an added assurance that he is sincere in his application for naturalization and that, once naturalized, he will owe loyalty only to the Philippines. As early as 1965, this Supreme Tribunal has so decreed in the case of Go A. Leng *vs.* Republic.[6] And We likewise ruled that petitioner must comply

[6] L-19836, June 21, 1965, 14 SCRA 317.

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with the laws of China requiring such special permission from its Minister of Interior.[7]

8. Finally, petitioner has not also by clear and convincing evidence established that he has a stable and lucrative income; because his income is only from commission and bonuses as *sales representative of Erlanger and Galinger, Inc.* which are speculative, if not nebulous, and therefore inadequate and unstable because of the fluidity of the market.[8]

WHEREFORE, the decision of the trial court dated August 30, 1963 and the order of the trial court dated February 10, 1966 are hereby reversed and set aside. With costs against petitioner-appellee.

Concepcion, C.J., Reyes, J.B.L., and *Zaldivar, JJ.*, concur.

Dizon, Makalintal, Ruiz Castro, Teehankee and *Villamor, JJ.*, in the result.

Fernando, J., concurs except as to paragraph 7 on which he reserves his vote.

Barredo, J., did not take part.

[G.R. No. L-29544. May 31, 1971]

BENITO GO and JUANITO GO, *petitioners-appellants, vs.* CIVIL REGISTRAR OF THE MUNICIPALITY OF MALABON, RIZAL, *respondent-appellee,* REPUBLIC OF THE PHILIPPINES, *oppositor-appellee.*

[G.R. No. L-29637. May 31, 1971]

JOSE GO, JR., *petitioner-appellant, vs.* CIVIL REGISTRAR OF CEBU CITY, JOSE GO and RESTITUTA PACIENCIA BACSAL, also known as PACIENCIA UY, *respondents,* REPUBLIC OF THE PHILIPPINES, *oppositor-appellee.*

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[7] Oh Hek How *vs.* Republic, L-27429, Aug. 27, 1969, 29 SCRA 95.

[8] Tiu Pua Pi *vs.* Republic, L-20909, May 24, 1967, 20 SCRA 175.