

FIRST DIVISION

[G.R. NO. 168877, March 24, 2006]

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. MICHAEL A. HONG, RESPONDENT.

YNARES-SANTIAGO, J.:

Assailed in this petition for review on certiorari is the July 6, 2005 Decision^[1] of the Court of Appeals in CA-G.R. CV No. 71924, which affirmed *in toto* the June 19, 2001 Decision^[2] of the Regional Trial Court of Manila, Branch 49, granting the petition for naturalization filed by respondent Michael Ang Hong in Nat. Case No. 99-94814.

The undisputed facts show that on August 20, 1999, respondent filed a petition for naturalization under Commonwealth Act No. 473 (CA 473), otherwise known as the Revised Naturalization Law, as amended. He alleged that he is single; a citizen of China; that he was born in the Philippines on April 23, 1976 and have resided since birth at No. 2935 Samat Street, Manuguit, Tondo, Manila; that he was a graduate of the University of Sto. Tomas with a degree of Bachelor of Fine Arts Major in Advertising and presently employed with a salary of P72,000.00 per annum;^[3] that he received primary, secondary and tertiary education in Philippine schools and is able to speak and write English, Tagalog and Chinese; that he is a person of good moral character; that he believes in the principles underlying the Philippine Constitution and he has conducted himself in a proper and irreproachable manner; that he has mingled socially with Filipinos and has evinced a sincere desire to embrace and learn the customs, traditions and ideals of the Filipinos; that he possesses all the qualifications under Section 2 and none of the disqualifications under Section 4 of CA 473; that he is not opposed to organized government or affiliated with any association or group of persons who uphold and teach doctrines opposing all organized governments; that he is not defending or teaching the necessity or propriety of violence, personal assault, or assassination for the success or predominance of men's ideas; that he is not a polygamist or a believer in the practice of polygamy; that he is not suffering from any mental alienation or incurable contagious disease and that the nation of which he is a subject is not at war with the Philippines; that he has not been convicted of a crime involving moral turpitude and that it is his intention to become a citizen of the Philippines and to renounce absolutely and forever any and all allegiance and fidelity to any foreign state, specially to the Republic of China; and that he will reside continuously in the Philippines from the date of the filing of the petition up to the time of his admission to Philippine citizenship.

The petition was accompanied by the joint affidavit of the witnesses of respondent, namely Patrocinio M. Ayson, and spouses Eduardo Y. Aguilar and Adelina A. Aguilar. At the trial, however, only Patrocinio M. Ayson and Eduardo Y. Aguilar testified for respondent.

On August 30, 1999, the trial court issued an order stating that:

A verified petition having been filed by Michael A. Hong, said to be born in Manila on April 23, 1976 and resided since birth at No. 2935 Samat St., Manuguit, Tondo, Manila, to be admitted as citizen of the Philippines, said petition, which was filed with this Court on August 20, 1999, together with a copy of this Order, shall have to be published once a week for three (3) consecutive weeks in the Official Gazette and in a newspaper of general circulation in the City of Manila where he is a resident.

Set the petition for hearing on July 26, 2000 at 8:30 in the morning at Room 512, Fifth Floor, Arroceros Wing of the City Hall Building, Manila.

It is likewise ordered that a copy of the petition and of this Order be posted in a conspicuous place in the City Hall Building of Manila for the same duration as the publication.

The Solicitor General shall appear and represent the government in the hearing of this case.

Accordingly, send notice of this Order and the petition to the Solicitor General as well as to the petitioner and counsel.

SO ORDERED.^[4]

Said August 30, 1999 order/notice of hearing together with the copy of the petition and the joint affidavit of the witnesses were published in the October 11, 18 and 25, 1999 issues of the Public View, a newspaper of general circulation in the City of Manila^[5] and in the December 6, 13 and 20, 1999 issues of the Official Gazette.^[6] The same order/notice of hearing, petition and joint affidavit were posted in the Bulletin Board of the Manila RTC Sheriff's Office, Manila City Assessor's Office and of the Office of the Manila Register of Deeds.^[7]

On July 26, 2000, the trial court issued an order allowing respondent to present his witnesses because the jurisdictional requirements had already been satisfied. Pertinent portion thereof reads:

After petitioner's (respondent herein) counsel established the jurisdictional requirements of the petition, he prayed that he be allowed to present at least the petitioner's character witnesses, which the Court granted.

Let the proceeding continue on August 23, 2000 at 8:30 A.M. for the Solicitor General to cross-examine the character witnesses and for the petitioner to testify. ^[8]

On August 23, 2000, the Republic through the Solicitor General filed a motion for reconsideration^[9] pointing out that the trial court did not acquire jurisdiction over the case because the notice of hearing or the August 30, 1999 order failed to state the names of the witnesses of respondent; and prayed that a new order containing

the omitted detail be issued for publication and posting anew.

On June 19, 2001, the trial court rendered the assailed decision granting the petition for naturalization. It ratiocinated that it is the publication of the petition and the order setting the hearing which vests the trial court with jurisdiction; that the statement of the names of the witnesses has nothing to do with the conferment of jurisdiction. It further held that the respondent's witnesses are competent to vouch for his good moral character having known him since childhood. The dispositive portion thereof, reads:

WHEREFORE, petitioner (respondent) MICHAEL A. HONG is hereby declared a Filipino citizen by naturalization and admitted as such.

However, pursuant to Section 1 of Republic Act No. 530, this Decision shall not become executory until after two (2) years from its promulgation and after the Court, on proper hearing, with the attendance of the Solicitor General or his representative, is satisfied, and so finds, that during the intervening time the applicant has (1) not left the Philippines; (2) has dedicated himself continuously to lawful calling or profession; (3) has not been convicted of any offense or violation of Government promulgated rules; (4) or committed any act prejudicial to the interest of the nation or contrary to any government announced policies.

As soon as this decision shall have become final and executory, as provided under Section 1 of RA No. 530, the Clerk of Court of this Court is hereby directed to issue to the petitioner a Naturalization Certificate, after the petitioner shall have subscribed to an Oath, in accordance with Section 12 of Commonwealth Act No. 473, as amended. The Local Civil Registry of the City of Manila is, likewise directed to register the Naturalization Certificate in the proper Civil Registry.

SO ORDERED. ^[10]

The Republic appealed to the Court of Appeals which affirmed *in toto* the decision of the trial court.

Hence, the Republic filed the instant petition, contending that the trial court did not acquire jurisdiction over the case because the notice or order setting the petition for hearing failed to state the names of the witnesses sought to be presented by respondent.

The petition is meritorious.

The law in point is CA 473 as modified by Republic Act No. 530, particularly, Section 9 thereof which provides:

Sec. 9. Notification and appearance. — Immediately upon the filing of a petition, it shall be the duty of the clerk of court to publish the same at the petitioner's expense, once a week for three consecutive weeks, in the Official Gazette, and in one of the newspapers of general circulation in the province where the petitioner resides, and to have copies of said

petition and a general notice of the hearing posted in a public and conspicuous place in his office or in the building where said office is located, setting forth in such notice the name, birthplace and residence of petitioner, the date and place of his arrival in the Philippines, the names of the witnesses whom the petitioner proposes to introduce in support of his petition, and the date of the hearing of the petition, which hearing shall not be held until after six months from the date of the last publication of the notice. The clerk shall, as soon as possible, forward copies of the petition, the sentence, the naturalization certificate, and other pertinent data to the Department of Interior [now Office of the President] the Bureau of Justice [now Office of the Solicitor General], the Provincial Inspector of the Philippine Constabulary [now the Provincial Commander] of the province and the justice of the peace [now Municipal Trial Judge] of the municipality wherein the petitioner resides.

To be a valid publication, the following requisites must concur: (a) the petition and notice of hearing must be published; (b) the publication must be once a week for three consecutive weeks; and, (c) the publication must be in the Official Gazette and in a newspaper of general circulation in the province where the applicant resides. The said provision also requires that copies of the petition and notice of hearing must be posted in the office of the clerk of court or in the building where the office is located.^[11] The same notice must also indicate, among others, the names of the witnesses whom petitioner proposes to introduce at the trial.

In *Gan Tsitung v. Republic*,^[12] the Court held that non-compliance with Section 9 of CA 473, relative to the publication of the notice once a week for three consecutive weeks is fatal for it impairs the very root or foundation of the authority to decide the case, regardless of whether the one to blame is the clerk of court or the petitioner or his counsel. This doctrine equally applies to the determination of the sufficiency of the contents of the notice of hearing or the petition itself because an incomplete notice or petition even if published, is no publication at all. Thus in *Sy v. Republic*,^[13] it was held that the requirement under Section 9 that the copy of the petition to be posted and published should be a textual or verbatim restatement of the petition filed, is jurisdictional.

In the same vein, the failure to state all the required details in the notice of hearing, like the name of applicant's witnesses, as in the instant case, constitutes a fatal defect. The publication of the affidavit of said witnesses did not cure the omission of their names in the notice of hearing. It is a settled rule that naturalization laws should be rigidly enforced and strictly construed in favor of the government and against the applicant.^[14]

In *Ong Chia v. Republic*,^[14] the petitioner failed to indicate in his petition the address appearing in his Immigrant Certificate of Residence. He thus prayed that the publication of his Immigrant Certificate of Residence as an annex to his petition be considered as a substantial compliance with the rules. In denying the petition for naturalization, the Court stressed that the rule of strict application of the law in naturalization cases defeat petitioner's argument of "substantial compliance" with the requirement under the Revised Naturalization Law. Verily, naturalization proceedings are 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.^[16]

Moreover, even if the rule on substantial compliance as to the contents of the notice of hearing be applied in this case, the petition would still be denied because respondent failed to prove that the witnesses presented were competent to vouch for his good moral character and that said witnesses are of themselves possessed of good moral character.

Vouching witnesses stand as insurers of the applicant's conduct and character. For this reason, they are expected to testify on **specific facts and events** justifying the inference that applicant — as **personally** known to them — possesses all the qualifications and none of the disqualifications provided by law for purposes of naturalization.^[17]

In the instant case, the witnesses did not testify on specific acts nor elaborate on the traits of respondent that would convince the Court that they know respondent well and are therefore in the position to vouch for his good moral character. At the most, the witnesses were shown to be close to the father of respondent but not to the latter. Witness Eduardo Aguilar, is a Supervising Labor and Employment Officer of the Department of Labor and Employment (NCR)^[17] with whom respondent's father occasionally turns for advice on labor standards matters in relation to his business. He testified that he sees respondent more than three times a month whenever he visits their house but admitted that he does not know where respondent obtained his primary and secondary education. In all said visits, he chanced upon respondent working on the computer. Except for casual greetings, however, Aguilar never mentioned any conversation he had with respondent. Also, his declarations as to the character of respondent are mere recitals of the required qualifications under Section 2^[19] and the absence of the disqualifications under Section 4,^[20] of CA 473, and not supported by factual basis. Pertinent portions of his testimony are as follows:

ATTY. CHING, JR.:

Do you know the petitioner here?

WITNESS:

Yes, sir.

ATTY. CHING, JR.:

How did you come to know him?

WITNESS:

I know him for more than ten (10) years, since birth, through the parents, sir.

x x x x

ATTY. CHING, JR.:

How often do you see him?

WITNESS: