

TWENTY-SECOND DIVISION

[CA-G.R. CV NO. 02973-MIN, August 13, 2014]

**IN RE: PETITION TO ACQUIRE PHILIPPINE CITIZENSHIP OF
NOOR GULABRAI MOORJANI**

**NOOR GULABRAI MOORJANI, PETITIONER-APPELLEE, VS.
REPUBLIC OF THE PHILIPPINES, OPPOSITOR-APPELLANT.**

D E C I S I O N

INTING, J.:

Before Us is an Appeal^[1] filed by the Republic of the Philippines (Republic) assailing the Decision^[2] of Branch 21, Regional Trial Court (RTC), Cagayan de Oro City, granting the petition for naturalization of Noor Gulabrai Moorjani (Noor), the dispositive portion of which states:

WHEREFORE, petitioner being able to sufficiently proved that she possesses all the qualifications to be naturalized and none of the disqualifications, the petition is GRANTED.

The Local Civil registrar of Cagayan de Oro City is directed to annotate in the Certificate of Live Birth of the petitioner NOOR GULABRAI MOORJANI, the entry that she is a NATURALIZED FILIPINO CITIZEN.

SO ORDERED.

The facts of the case are as follows:

In her petition^[3] for Naturalization, Noor alleged that:

1. She is an Indian national;
2. She was born on October 11, 1969 in Cagayan de Oro City from Indian National-parents;
3. She has been a resident of Cagayan de Oro City since birth;
4. She is of good moral character and believes in the underlying principle of the Constitution;
5. She has conducted herself in a proper and irreproachable manner during her entire period of residence in the Philippines in her relation with the duly

constituted government as well as in the community in which she is living;

6. She received her primary and secondary education from Lourdes College, a private educational institution recognized by the Department of Education where Philippine history, government and civic are taught and prescribed as part of the curriculum;
7. She is a graduate of Cagayan University, formerly Cagayan Capitol College;
8. She can speak, read and write the English language;
9. She can speak, read and write the Filipino and Cebuano dialects;
10. She has mingled with Filipinos and evinced sincere desire to learn and embrace the custom, tradition and ideals of the Filipino people;
11. She is engaged in a business under the business style name of GM Lending where she derived her income sufficient for her support;
12. She has never been a public charge;
13. She is not a user of prohibited drugs;
14. She is not a drug dependent;
15. She is not affected with AIDS;
16. She has all the qualifications set forth under Section 2 and none of the disqualification under Section 4 of the Naturalization law;
17. She is exempted from filing a declaration of intent Under section 6 of the Revised naturalization Law;
18. Her present address is c/o Gobs Store, Sampaguita St., corner Jasmin, Adela Subdivision, Camaman-an, Cagayan de Oro City.

To support her petition Noor submitted the following:

Attachment/Document	Description
Birth Certificate ^[4]	Indicating she was born in Cagayan de Oro City on October 11, 1969
Alien Certificate of Registration ^[5]	Indicating she was born in Cagayan de Oro City on October 11, 1969 and that she has a permanent visa status
Affidavit of MTCC Judge Lorimer Delima, Sr. ^[6]	Stating that he personally knows Noor and that Noor is of good moral character, among others.
Engr. and Brgy. Captain Dometillo C.	Stating that he personally knows Noor and that Noor is of good moral character, among others

Acenas ^[7]	
Diplomas from Lourdes College ^[8]	Indicating that she graduated from the school for her elementary and secondary education
Diploma and Transcript of Records from Capitol University ^[9]	Indicating that she took her Bachelor of Science in Nursing from the university and graduated there
Annual Income Tax Returns for 2007 and 2008 ^[10]	Indicating that she earns an income and pays her taxes
Laboratory Report ^[11]	Indicating that she does not have HIV
NBI Clearance ^[12]	Indicating that she has no record on the files of the NBI
Drug Test Report ^[13]	Indicating that she tested Negative for Methamphetamine and Tetrahydrocannabinol
Certificate of Baptism ^[14]	Indicating that she was baptized in the Our Lady of Fatima-Camaman-an Parish on January 13, 2002

Finding her petition sufficient in form and substance the RTC ordered, among others: (1) setting the hearing of the petition on March 10, 2010 at 8:30 in the morning; (2) the publication of a copy of the order for 3 consecutive weeks in a newspaper of general circulation of the province of Misamis Oriental and in the city of Cagayan de Oro; (3) posting a copy of the order in the bulletin boards of Barangay Camaman-an, the city hall of Cagayan de Oro, the provincial capitol, and the hall of justice.^[15]

The order was posted on the different bulletin boards per certificate issued by the Sheriff.^[16] The order was also published in Golden Banner, a newspaper of general circulation in Cagayan de Oro City and in Mindanao, per affidavit of publication executed by its publisher.^[17]

In an Order^[18] dated April 14, 2010, the RTC acknowledged that it failed to direct the publication of the petition in the Official Gazette. On the same day, it issued an Amended Order directing, among others: (1) setting the hearing of the petition on September 15, 2010 at 8:30 in the morning; (2) the publication of a copy of the order for 3 consecutive weeks in the Official Gazette and in one of the newspapers of general circulation of the province of Misamis Oriental and in the city of Cagayan de Oro; (3) posting a copy of the order in the bulletin boards of Barangay Camaman-an, the city hall of Cagayan de Oro, the provincial capitol of Misamis Oriental, and the hall of justice.^[19]

Per letter of the Acting Assistant Superintendent of the National Printing Office, the publication of the amended order can no longer be accommodated in time for the September 15, 2010 hearing.^[20] Consequently, the RTC issued a second amended order directing, among others: (1) setting the hearing of the petition on July 13, 2011 at 8:30 in the morning; (2) the publication of a copy of the order for 3

consecutive weeks in the Official Gazette and in one of the newspapers of general circulation of the province of Misamis Oriental and in the city of Cagayan de Oro; (3) posting a copy of the order in the bulletin boards of Barangay Camaman-an, the city hall of Cagayan de Oro, the provincial capitol of Misamis Oriental, and the hall of justice.^[21]

However, per letter of the Acting Assistant Superintendent of the National Printing Office, the publication of the amended order can no longer be accommodated in time for the July 13, 2011 hearing.^[22] Consequently, the RTC issued a third amended order directing, among others: (1) setting the hearing of the petition on February 20, 2012 at 8:30 in the morning; (2) the publication of a copy of the order for 3 consecutive weeks in the Official Gazette and in one of the newspapers of general circulation of the province of Misamis Oriental and in the city of Cagayan de Oro; (3) posting a copy of the order in the bulletin boards of Barangay Camaman-an, the city hall of Cagayan de Oro, the provincial capitol of Misamis Oriental, and the hall of justice.^[23]

Per Certificate of Publication by the National Printing Office, the third amended order was published in the Official Gazette.^[24]

In an Order^[25] dated February 20, 2012, the RTC ruled that compliance for the jurisdictional requirements was complete and issued an order of general default except the State.

On May 22, 2012, after the testimony of Noor and her formal offer of exhibits, the RTC dismissed the petition for her failure to present the testimonies of two witnesses as to her good moral character.^[26] The dismissal, per order of the court, is "*without prejudice of revival to present additional evidence.*"^[27]

Noor then filed her Motion for Reconsideration apologizing for the non-presentation of her witnesses and alleging that: (1) the certifications of good moral character issued by the two witnesses were already marked during the pre-trial and (2) that when these documents were offered in Court, the City Prosecutor did not object as to its existence.^[28]

The RTC, in the interest of justice, reconsidered its order of dismissal and set the case for hearing for the reception of the testimonies of the two witnesses on the good moral character of Noor.^[29]

On the scheduled hearing, the witnesses, Judge Lorimer Delima, Sr. and Engr./Brgy. Captain Dometillo C. Acenas, identified their affidavits relating to the good moral character of Noor.^[30] The State did not conduct any cross-examination on the witnesses.^[31]

The RTC ruled in favor of Noor. Aggrieved, the Republic filed the instant appeal and raised following errors:

I.

THE COURT A QUO DID NOT ACQUIRE JURISDICTION FOR NATURALIZATION VIS-VIS THE REQUIREMENTS UNDER SECTION 9 OF COMMONWEALTH ACT (C.A.) NO. 473, AS AMENDED;

II.

THE COURT A QUO ERRED IN GRANTING THE PETITION FOR NATURALIZATION AS PETITIONER FAILED TO ESTABLISH BY SATISFACTORY AND COMPETENT EVIDENCE THAT SHE HAS COMPLIED WITH THE REQUIREMENTS SET FORTH UNDER COMMONWEALTH ACT (C.A.) NO. 473.

Our Ruling

The appeal is with merit.

At the outset, let it be noted that Noor availed herself for judicial acquisition of Filipino citizenship under C.A. No. 473 instead of Republic Act No. 9139 or An Act Providing for the Acquisition of Philippine Citizenship for Certain Aliens by Administrative Naturalization and for Other Purposes . *"R.A. No. 9139 was enacted as a remedial measure intended to make the process of acquiring Philippine citizenship less tedious, less technical and more encouraging. It likewise addresses the concerns of degree holders who, by reason of lack of citizenship requirement, cannot practice their profession, thus promoting 'brain gain' for the Philippines."*^[32]

Having chosen judicial, instead of administrative, acquisition of citizenship, C.A. No. 473 shall apply.

The Republic contends that Noor failed to show that the third amended order of the RTC was likewise published in a newspaper of general circulation pursuant to the requirement of publication under C.A. No. 473 and consequently the RTC never acquired jurisdiction.^[33]

Section 9 of C.A. No. 473 provides in part:

Immediately upon the filing of a petition, it shall be the duty of the clerk of the court to publish the same at 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 the 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 within ninety days from the date of the last publication of the notice.

The Supreme Court once held^[34]: