Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

REPUBLIC OF THE PHILIPPINES, Petitioner,	**G.R. No. 197450**
	Present:
	VELASCO, JR., *J., Chairperson,* PERALTA, ABAD, MENDOZA, and LEONEN, *JJ.*
- versus -	
LI CHING CHUNG, a.k.a. BERNABE LUNA LI, a.k.a. STEPHEN LEE KENG, Respondent.	Promulgated: March 20, 2013

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DECISION

MENDOZA, *J.*:

This Petition for Review on *Certiorari*[1] under Rule 45 of the 1997 Rules of Civil Procedure filed by the Republic of the Philippines, represented by the Office of the Solicitor General *(OSG)*, challenges the June 30, 2011 Decision[2] of the Court of Appeals *(CA)* in CA-G.R. CV No. 93374, which affirmed the June 3, 2009 Decision[3] of the Regional Trial Court, Branch 49, Manila *(RTC)*, granting the petition for naturalization of respondent Li Ching Chung *(respondent)*.

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[1] *Rollo*, pp. 8-42.
[2] Id. at 43-56. Penned by Associate Justice Amy C. Lazaro-Javier and concurred by Associate Justice Rebecca de Guia Salvador and Associate Justice Marlene Gonzales-Sison.
[3] Id. at 57-64. Penned by Pairing Judge William Simon P. Peralta.

On August 22, 2007, respondent, otherwise known as Bernabe Luna Li or Stephen Lee Keng, a Chinese national, filed his *Declaration of Intention to Become a Citizen of the Philippines* before the OSG.[4]

On March 12, 2008 or almost seven months after filing his declaration of intention, respondent filed his Petition for Naturalization before the RTC, docketed as Civil Case No. 08-118905.[5] On April 5, 2008, respondent filed his Amended Petition for Naturalization,[6] wherein he alleged that he was born on November 29, 1963 in Fujian Province, People's Republic of China, which granted the same privilege of naturalization to Filipinos; that he came to the Philippines on March 15, 1988 *via* Philippine Airlines Flight PR 311 landing at the Ninoy Aquino International Airport; that on November 19, 1989, he married Cindy Sze Mei Ngar, a British national, with whom he had four (4) children, all born in Manila; that he had been continuously and permanently residing in the country since his arrival and is currently a resident of Manila with prior residence in Malabon; that he could speak and write in English and Tagalog; that he was entitled to the benefit of Section 3 of Commonwealth Act *(CA)* No. 473 reducing to five (5) years the requirement under Section 2 of ten years of continuous residence, because he knew English and Filipino having obtained his education from St. Stephen's High School of Manila; and that he had successfully established a trading general merchandise business operating under the name of "VS Marketing Corporation."[7] As an entrepreneur, he derives income more than sufficient to be able to buy a condominium unit and vehicles, send his children to private schools and adequately provide for his family.[8]

In support of his application, he attached his *barangay* certificate,[9] police clearance,[10] alien certification of registration,[11] immigration certificate of residence,[12] marriage contract,[13] authenticated birth certificates of his children,[14] affidavits of his character witnesses,[15] passport,[16] 2006 annual income tax return,[17] declaration of intention to become a citizen of the

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[4] Records, pp. 20-21.
[5] Id. at 1-4.
[6] Id. at 26-29.
[7] Id. at 298. TSN dated April 3, 2009, p. 10.
[8] Id. at 26- 27.
[9] Id. at 5.
[10] Id. at 6.
[11] Id. at 7.
[12] Id. at 8.
[13] Id. at 9.
[14] Id. at 10-13.
[15] Id. at 14-15.
[16] Id. at 16.
[17] Id. at 19.

Philippines[18] and a certification[19] from the Bureau of Immigration with a list of his travel records from January 30, 1994.[20]

Consequently, the petition was set for initial hearing on April 3, 2009 and its notice[21] was posted in a conspicuous place at the Manila City Hall and was published in the Official Gazette on June 30, 2008,[22] July 7, 2008[23] and July 14, 2008,[24] and in the Manila Times,[25] a newspaper of general circulation, on May 30, 2008,[26] June 6, 2008[27] and June 13, 2008.[28]

Thereafter, respondent filed the Motion for Early Setting[29] praying that the hearing be moved from April 3, 2009 to July 31, 2008 so he could acquire real estate properties. The OSG filed its Opposition,[30] dated August 6, 2008, arguing that the said motion for early setting was a "clear violation of Section 1, RA 530, which provides that hearing on the petition should be held not earlier than six (6) months from the date of last publication of the notice."[31] The opposition was already late as the RTC, in its July 31, 2008 Order,[32] denied respondent's motion and decreed that since the last publication in the newspaper of general circulation was on June 13, 2008, the earliest setting could only be scheduled six (6) months later or on December 15, 2008.

On December 15, 2008, the OSG reiterated, in open court, its opposition to the early setting of the hearing and other grounds that would merit the dismissal of the petition. Accordingly, the RTC ordered the suspension of the judicial proceedings until all the requirements of the statute of limitation would be completed.[33]

The OSG filed a motion to dismiss,[34] but the RTC denied the same in its Order,[35] dated March 10, 2009, and reinstated the original hearing date on April 3, 2009, as previously indicated in the notice.

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[18] Id. at 20-21.
[19] Id. at 22.
[20] Id. at 23.
[21] Id. at 49.
[22] Id. at 205-208 (Exhibit "A" and Exhibit "A-1").
[23] Id. at 209-215 (Exhibit "B" and Exhibit "B-1").
[24] Id. at 216-221 (Exhibit "C" and Exhibit "C-1").
[25] Id. at 222 (Exhibit "D").
[26] Id. at 227-228 (Exhibit "G" and "G-1").
[27] Id. at 225-226 (Exhibit "F" and Exhibit "F-1").
[28] Id. at 223-224 (Exhibit "E" and Exhibit "E-1").
[29] Records, pp. 50-51.
[30] Id. at 55-59.
[31] Id. at 56.
[32] Id. at 54.
[33] Id. at 60.
[34] Id. at 111-128.
[35] Id. at 155-156.

Thereafter, respondent testified and presented two character witnesses, Emelita V. Roleda and Gaudencio Abalayan Manimtim, who personally knew him since 1984 and 1998, respectively, to vouch that he was a person of good moral character and had conducted himself in a proper and irreproachable manner during his period of residency in the country.

On June 3, 2009, the RTC granted respondent's application for naturalization as a Filipino citizen.[36] The decretal portion reads:

> **WHEREFORE**, petitioner **LI CHING CHUNG a.k.a. BERNABE LUNA LI a.k.a STEPHEN LEE KENG** is hereby declared a **Filipino citizen** by naturalization and admitted as such.
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> 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 a 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.
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> As soon as this decision shall have become executory, as provided under **Section 1 of Republic Act No. 530**, the Clerk of Court of this Branch 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. 472, as amended.
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> The Local Civil Registrar of the City of Manila is, likewise directed to register the Naturalization Certificate in the proper Civil Registry.
>
> **SO ORDERED**.[37]

The OSG appealed the RTC decision to the CA.[38]

On June 30, 2011, the CA affirmed the RTC decision.[39] The CA held that although the petition for naturalization was filed less than one (1) year from the time of the declaration of intent before the OSG, this defect was not fatal. Moreover, contrary to the allegation of the OSG that respondent did not present his Certificate of Arrival, the fact of his arrival could be easily

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[36] *Rollo*, pp. 57-64.
[37] Id. at 63-64.
[38] Records, pp. 391-393.
[39] *Rollo*, pp. 43-56.

confirmed from the Certification, dated August 21, 2007, issued by the Bureau of Immigration, and from the stamp in the passport of respondent indicating his arrival on January 26, 1981.[40] The CA further stated that "the Republic participated in every stage of the proceedings below. It was accorded due process which it vigorously exercised from beginning to end. Whatever procedural defects, if at all they existed, did not taint the proceedings, let alone the Republic's meaningful exercise of its right to due process."[41]

Moreover, the CA noted that the OSG did not in any way question respondent's qualifications and his lack of disqualifications to be admitted as citizen of this country. Indeed, the CA was convinced that respondent was truly deserving of this privilege.[42]

Hence, this petition.[43]

To bolster its claim for the reversal of the assailed ruling, the OSG advances this pivotal issue of

> x x x **whether the respondent should be admitted as a Filipino citizen despite his undisputed failure to comply with the requirements provided for in CA No. 473, as amended – which are mandatory and jurisdictional in character – particularly: (i) the filing of his petition for naturalization within the one (1) year proscribed period from the date he filed his declaration of intention to become a Filipino citizen; (ii) the failure to attach to the petition his *certificate of arrival*; and (iii) the failure to comply with the publication and posting requirements prescribed by CA No. 473.**[44]

The OSG argues that "the petition for naturalization should not be granted in view of its patent jurisdictional infirmities, particularly because: 1) it was filed within the one (1) year *proscribed* period from the filing of declaration of intention; 2) no certificate of arrival, which is indispensable to the validity of the Declaration of Intention, was attached to the petition; and 3) respondent's failure to comply with the publication and posting requirements set under CA 473."[45] In particular, the OSG points out that the publication and posting requirements were not strictly followed, specifically citing that: "(a) the hearing of the petition on *15 December 2008* was set

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[40] Id. at 53.
[41] Id. at 54-55.
[42] Id. at 55.
[43] Id. at 8-42.
[44] Id. at 131-132.
[45] Id. at 22.

ahead of the scheduled date of hearing on *3 April 2009*; (b) the order moving the date of hearing (Order dated 31 July 2008) was not published; and, (c) the petition was heard within six (6) months (15 December 2008) from the last publication (on 14 July 2008)."[46]

The petition is meritorious.

Section 5 of CA No. 473,[47] as amended,[48] expressly states:

> Section 5. *Declaration of intention.* – ***One year prior to the filing of his petition for admission to Philippine citizenship, the applicant for Philippine citizenship shall file with the Bureau of Justice (now Office of the Solicitor General) a declaration under oath that it is bona fide his intention to become a citizen of the Philippines***. Such declaration shall set forth name, age, occupation, personal description, place of birth, last foreign residence and allegiance, the date of arrival, the name of the vessel or aircraft, if any, in which he came to the Philippines, and the place of residence in the Philippines at the time of making the declaration. No declaration shall be valid until lawful entry for permanent residence has been established and a certificate showing the date, place, and manner of his arrival has been issued. The declarant must also state that he has enrolled his minor children, if any, in any of the public schools or private schools recognized by the Office of Private Education of the Philippines, where Philippine history, government, and civics are taught or prescribed as part of the school curriculum, during the entire period of the residence in the Philippines required of him prior to the hearing of his petition for naturalization as Philippine citizen. Each declarant must furnish two photographs of himself. (Emphasis supplied)

As held in *Tan v. Republic*,[49] "the period of one year required therein is the time fixed for the State to make inquiries as to the qualifications of the applicant. If this period of time is not given to it, the State will have no sufficient opportunity to investigate the qualifications of the applicants and gather evidence thereon. An applicant may then impose upon the courts, as the State would have no opportunity to gather evidence that it may present to contradict whatever evidence that the applicant may adduce on behalf of his petition." The period is designed to give the government ample time to screen and examine the qualifications of an applicant and to measure the latter's good intention and sincerity of purpose.[50] Stated otherwise, the waiting period will unmask the true intentions of those who seek Philippine citizenship for selfish reasons alone, such as, but not limited to, those who are merely interested in protecting their wealth, as distinguished from those

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[46] Id. at 147.
[47] An Act to Provide for the Acquisition of Philippine Citizenship by Naturalization, and to Repeal Acts Numbered Twenty-Nine Hundred and Twenty-Seven and Thirty-Four Hundred and Forty-Eight.
[48] Republic Act No. 530.
[49] 94 Phil. 882, 884 (1954).
[50] Ledesma, *An Outline of Philippine Immigration and Citizenship Laws*, Volume I, 2006, pp. 553-554.

who have truly come to love the Philippines and its culture and who wish to become genuine partners in nation building.

The law is explicit that the declaration of intention must be filed one year prior to the filing of the petition for naturalization. *Republic v. Go Bon Lee*[51] likewise decreed that substantial compliance with the requirement is inadequate. In that case, Go filed his declaration of intention to become a citizen of the Philippines on May 23, 1940. After eleven months, he filed his petition for naturalization on April 18, 1941. In denying his petition, the Court wrote:

> The language of the law on the matter being express and explicit, it is beyond the province of the courts to take into account questions of expediency, good faith and other similar reasons in the construction of its provisions (De los Santos vs. Mallare, 87 Phil., 289; 48 Off. Gaz., 1787). Were we to accept the view of the lower court on this matter, there would be no good reason why a petition for naturalization cannot be filed one week after or simultaneously with the filing of the required declaration of intention as long as the hearing is delayed to a date after the expiration of the period of one year. The ruling of the lower court amounts, in our opinion, to a substantial change in the law, something which courts can not do, their duty being to apply the law and not tamper with it.[52]

The only exception to the mandatory filing of a declaration of intention is specifically stated in Section 6 of CA No. 473, to wit:

> Section 6. *Persons exempt from requirement to make a declaration of intention.* – **Persons born in the Philippines and have received their primary and secondary education in public schools or those recognized by the Government and not limited to any race or nationality, and those who have resided continuously in the Philippines for a period of thirty years or more before filing their application**, may be naturalized without having to make a declaration of intention upon complying with the other **requirements** of this Act. **To such requirements shall be added that which establishes that the applicant has given primary and secondary education to all his children in the public schools or in private schools recognized by the Government and not limited to any race or nationality. The same shall be understood applicable with respect to** the widow and minor children of an alien who has declared his intention to become a citizen of the Philippines, and dies before he is actually naturalized. (Emphases supplied)

Unquestionably, respondent does not fall into the category of such exempt individuals that would excuse him from filing a declaration of intention one year prior to the filing of a petition for naturalization.

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[51] 111 Phil. 805 (1961).
[52] Id. at 807-808.

Contrary to the CA finding, respondent's premature filing of his petition for naturalization before the expiration of the one-year period is fatal.[53]

Consequently, the citation of the CA of the ruling in *Tam Tan v. Republic*[54] is misplaced. In that case, the Court did not excuse the non-compliance with the one-year period, but reiterated that the waiting period of one (1) year is mandatory. In reversing the grant of naturalization to Tam Tan, the Court wrote:

> The appeal is predicated on the fact that the petition for naturalization was filed (26 October 1950) before the lapse of one year from and after the filing of a verified declaration of his *bona fide* intention to become a citizen (4 April 1950), in violation of Section 5 of Commonwealth Act No. 473, as amended.
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> The position of the Government is well taken, because no petition for naturalization may be filed and heard and hence no decree may be issued granting it under the provisions of Commonwealth Act No. 473, as amended, before the expiration of one year from and after the date of the filing of a verified declaration of his *bona fide* intention to become a citizen of the Philippines. This is mandatory.[55] Failure to raise in the lower court the question of non-compliance therewith does not preclude the Government from raising it on appeal.[56]
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> Nevertheless, after the one-year period, the applicant may renew his petition for naturalization and the evidence already taken or heard may be offered anew without the necessity of bringing to court the witnesses who had testified. And the Government may introduce evidence in support of its position.[57]
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> The decree granting the petition for naturalization is set aside, without costs.

In naturalization proceedings, the burden of proof is upon the applicant to show full and complete compliance with the requirements of the law.[58] The opportunity of a foreigner to become a citizen by naturalization is a mere matter of grace, favor or privilege extended to him by the State; the applicant does not possess any natural, inherent, existing or vested right to be admitted to Philippine citizenship. The only right that a foreigner has, to be given the chance to become a Filipino citizen, is that which the statute confers upon him; and to acquire such right, he must strictly comply with all

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[53] *Jesus Uy Yap v. Republic*, 91 Phil. 914 (1952).
[54] 95 Phil. 326 (1954).
[55] *Jesus Uy Yap v. Republic*, supra note 52.
[56] *Cruz v. Republic*, 49 Off. Gaz., 958.
[57] *Jesus Uy Yap v. Republic*, supra note 52.
[58] *Sy v. Republic*, 154 Phil. 673, 677-678 (1974).

the statutory conditions and requirements.[59] The absence of one jurisdictional requirement is fatal to the petition as this necessarily results in the dismissal or severance of the naturalization process.

Hence, all other issues need not be discussed further as respondent failed to strictly follow the requirement mandated by the statute.

It should be emphasized that "a naturalization proceeding is so infused with public interest that it has been differently categorized and given special treatment. x x x [U]nlike in ordinary judicial contest, the granting of a petition for naturalization does not preclude the reopening of that case and giving the government another opportunity to present new evidence. A decision or order granting citizenship will not even constitute *res judicata* to any matter or reason supporting a subsequent judgment cancelling the certification of naturalization already granted, on the ground that it had been illegally or fraudulently procured. For the same reason, issues even if not raised in the lower court may be entertained on appeal. As the matters brought to the attention of this Court x x x involve facts contained in the disputed decision of the lower court and admitted by the parties in their pleadings, the present proceeding may be considered adequate for the purpose of determining the correctness or incorrectness of said decision, in the light of the law and extant jurisprudence."[60]

Ultimately, respondent failed to prove full and complete compliance with the requirements of the Naturalization Law. As such, his petition for naturalization must be denied without prejudice to his right to re-file his application.

WHEREFORE, the petition is **GRANTED**. The June 30, 2011 Decision of the Court of Appeals in CA-G.R. CV No. 93374 is **REVERSED** and **SET ASIDE**. The petition for naturalization of respondent Li Ching Chung, otherwise known as Bernabe Luna Li or Stephen Lee Keng, docketed as Civil Case No. 08-118905 before the Regional Trial Court, Branch 49, Manila, is **DISMISSED**, without prejudice.

SO ORDERED.

JOSE CATRAL MENDOZA
Associate Justice

[59] *Mo Yuen Tsi v. Republic*, 115 Phil. 401, 410 (1962).
[60] *Republic v. Reyes*, 122 Phil. 931, 934 (1965).

WE CONCUR:

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

DIOSDADO M. PERALTA
Associate Justice

ROBERTO A. ABAD
Associate Justice

MARVIC MARIO VICTOR F. LEONEN
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

MARIA LOURDES P. A. SERENO
Chief Justice