as one from month to month (the rental being payable monthly) and to have ceased, without the necessity of special notice, upon the expiration of every month. (Article 1581, Civil Code.) Even if, as contended by the appellant, a novation took place when the appellee increased the rent in June, 1945, the lease was still monthly and terminated after said month. Appellee's election to end the lease was unmistakably made known to the appellant when, on July 2, 1945, the latter was asked to vacate. Consequently, after June, 1945, there was no longer any lease that could be affected by section 1 of Commonwealth Act No. 689, which was enacted only on October 15, 1945.

APPEAL from a judgment of the Court of First Instance of Manila. De la Rosa, J.

The facts are stated in the opinion of the court.

Atty. Arturo Zialcita for defendant-appellant.

Attys. Gamboa & Enverga for plaintiff-appellee.

PARAS, *J.*:

The plaintiff is the owner of an apartment known and identified as No. 2227 Rizal Avenue, Manila. This apartment has been occupied by the defendant since September, 1940, under a verbal contract of lease calling for a monthly rental of ₱35 payable in advance, which was raised by the plaintiff to ₱44 in June, 1945. On April 2, 1945, and again on July 2, 1945, the plaintiff gave notice to the defendant for him to vacate the premises. Defendant's failure to do so led to the filing, on July 1945, by the plaintiff of an action for ejectment in the municipal court of Manila which, after trial, handed down a decision in favor of the plaintiff. The defendant appealed, but the Court of First Instance of Manila, in which the parties submitted a stipulation of facts, rendered a judgment for restitution and the payment of the monthly rental of ₱44 beginning June 1, 1945.

Appealing again, the defendant—through his counsel—argues that the action for ejectment was prematurely instituted and that, at least on equitable considerations, he should be allowed to stay.

Section 1 of Commonwealth Act No. 689 provides that "A lease for the occupation as dwelling of a building or part thereof which is not a room or rooms of an hotel, which does not specify any term, shall be considered of six months' duration counted from the date of occupation by virtue of said lease at the option of the lease." It is now the theory of the appellant that since the period of his lease was not specified, he has the right to remain as lessee for at least six months from June 1, 1945, when the rental was increased to ₱44—an act which resulted in a novation of the original lease.

Counsel for the appellant is mistaken. As the lease did not have a fixed term, it should be considered as one from month to month (the rental being payable monthly) and have ceased, without the necessity of special notice, upon the expiration of every month. (Article 1581, Civil Code.) Even if, as contended by the appellant, a novation took place when the appellee increased the rent in June, 1945, the lease was still monthly and terminated after said month. Appellee's election to end the lease was unmistakenly made known to the appellant when, on July 2, 1945, the latter was asked to vacate. Consequently, after June, 1945, there was no longer any lease that could be affected by section 1 of Commonwealth Act No. 689, which was enacted only on October 15, 1945, even assuming that said law is applicable to a legal relation that came into being prior to its enactment.

From the equitable viewpoint, appellant's case cannot also prosper. He might have been an old tenant now facing the difficulty of finding another house, but this circumstance cannot nullify the legal rights of the appellee and his family who have been admittedly "compelled to live upon the charity of some friend who generously offered them temporary shelter in his house which is overcrowded, to say the least."

The appealed judgment is affirmed, with costs against the appellant. So ordered.

Pablo, Perfecto, Hilado, and *Padilla, JJ.*, concur.

Judgment affirmed.

III

Bienvenido Yap, petitioner-appellee, vs. The Solicitor General, oppositor-appellant, G. R. No. L-1602, September 9, 1948, PERFECTO, *J.*

1. POLITICAL LAW; CITIZENSHIP; NATURALIZATION; DECLARATION OF INTENTION TO BECOME FILIPINO; ORAL EVIDENCE, SUFFICIENCY OF.—Where the records have been lost, oral testimony of the applicant that he had filed his declaration of intention to become a Filipino citizen, is sufficient.
2. ID.; ID.; ID.; CHINESE LAW, NATURALIZATION OF FILIPINOS UNDER.—Under the Chinese Law of citizenship, a copy of which was attached to the record, a Filipino can acquire Chinese citizenship by naturalization.

Atty. R. D. Salcedo for the petitioner-appellee.

The Solicitor General for the oppositor-appellant.

DECISION

PERFECTO, *J.*:

Bienvenido Yap was born of Chinese parentage on May 27, 1918, in Capiz, where he has been continuously residing ever since. He speaks and writes English and Hiligaynon, the Visayan language in the locality. He started his studies in the Capiz Chinese Elementary School and continued in the Capiz High School where he was in the fourth year at the outbreak of the last war. He is married to Gloria Lim, a native, born of a Chinese father and by this union he has two children born in Capiz, Wilfred Yap on May 26, 1944 and Roubin Yap on April 12, 1946. He is engaged in business with an invested capital of ₱10,000.00. During the occupation he rendered services to the guerrillas.

The lower court granted his application for Philippine citizenship.

The Solicitor General raises two questions in this appeal.

He contends, in the first place, that the lower court erred in not finding that the applicant has failed to establish satisfactorily that he had previously filed his declaration of intention to become a citizen of the Philippines and that he is not exempted from the prerequisite of filing said declaration.

Applicant alleged under oath in his petition that he had filed his declaration of intention to become a Filipino citizen with the office of the Solicitor General in 1941, although all the records have been lost by reason of the war. This allegation is not disputed in any answer or objection and is supported by the unrebutted testimony of applicant, who was duly cross-examined in the trial court. This is enough evidence. Appellant's contention that applicant's testimony should be supported by documentary proof is not well taken. There is nothing in the law in support of such requirement.

The second and last question raised by the Solicitor General is that the lower court erred in not finding that applicant has failed to establish that the laws of China grant Filipinos the right to become naturalized citizens thereof.

We find on record Exhibit E, a document supposed to be a copy of the Chinese law of citizenship, where it appears that a Filipino can acquire Chinese citizenship by naturalization. Although we do not see any certification attached to the exhibit, the lower court's decision states that applicant's pronouncement is in a way supported by the fact that Exhibit E carries the dry seal of the Court of First Instance of Cebu. The pronouncement of the lower court has not been disputed, and it can be assumed that when the copy was submitted to the lower court, the latter must have seen a certification attached to

it which might have been misplaced. At any rate, the controversy appears to be academic, considering the fact that at the hearing of this case, counsel for appellant stated that in another case there is such certified copy of the Chinese law where it appears that Filipinos are given the right to acquire Chinese citizenship.

There being no error in the appealed decision, the same is affirmed.

Paras, Pablo, Briones, Feria, Bengzon, Padilla and *Tuason, JJ.*, concur.

IV

Consuelo S. de Garcia, Anastacio U. Garcia, Virginia S. de Meneses and Alfredo Meneses, petitioners, vs. Ambrosio Santos, Judge, Court of First Instance of Rizal, Natividad Reyes and Adriana Reyes, respondents, G. R. No. L-1422, October 17, 1947, PARAS, *J.*

1. INJUNCTION; PRELIMINARY INJUNCTION TO PRESERVE "STATUS QUO."—The respondents had been in material and physical possession of certain lots until January 7, 1947. In December, 1946, they commenced to build four houses of strong materials on said lots and the construction work was suspended only on January 7, 1947, due to the forcible entry of petitioners who thereafter built around the lots a wire fence and placed armed men on the premises to make the ouster of respondents and their laborers effective. *Held*: That petitioners' act may at most be considered as a mere interference with or disturbance of respondents' possession and that the issuance of a preliminary injunction to restore respondents in their *status quo* was proper.

2. ID.; POSSESSION AND CONTROL OF PROPERTY.—Injunction generally will not be granted to take property out of the possession or control of one party and place it into that of another whose title has not clearly been established by law (Rodulfa vs. Alfonso, G. R. No. L-144, promulgated February 25, 1946, 42 Of. Gaz. 2439).

3. ID.; PRELIMINARY INJUNCTION TO PRESERVE "STATUS QUO."—The sole object of a preliminary injunction is to preserve the *status quo* until the merits can be heard. The *status quo* is the last actual peaceable uncontested *status* which preceded the pending controversy.

4. ID.; COURT; HEARING; JUDGE ACTED AFTER DUE HEARING.—Where injunction was granted by the respondent Judge almost two months after the filing of the complaint, and only after the parties had argued the point in open court and after considering the verified pleadings with their supporting papers, and the petitioners were able to file a motion for reconsideration, which was also denied by the respondent Judge after taking into account all the considerations invoked by the petitioners, the respondent Judge did not act hastily in the matter and without hearing.

Attys. Q. Paredes & Reyes & Castañeda for the petitioners.

Atty. Mariano Albert for the respondents.

DECISION

PARAS, *J.*:

Under date of January 22, 1947, the herein respondents, Natividad Reyes and Adriana Reyes, filed a verified complaint (Civil Case No. 129) in the Court of First Instance of Rizal against the herein petitioners, praying that a writ of preliminary mandatory injunction be issued ordering the petitioners to restore to the respondents the possession of two contiguous lots located in the municipaliy of Pasay, province of Rizal, and to take away the wire fence built around said lots by the petitioners; that after trial said injunction be made permanent; that the petitioners be sentenced to pay ₱20,000 by way of damages, and that the respondents be granted such other remedy as may be proper under the law. The complaint alleges in substance that the respondents acquired the two lots on June 6, 1945, from their former owner, Realty Investments, Inc.; that from such date the respondents have been in possession of the lots; that in December, 1946, the latter began constructing on the lots four houses of strong materials valued at about ₱14.400; that on January 7, 1947, when the houses were about to be finished, the petitioners forcibly entered the lots and ousted therefrom the respondents and the persons constructing the houses; that said petitioners thereafter built around the lots a wire fence and posted armed men on the lots with a view to preventing the respondents and their laborers from entering therein and proceeding with the construction of the houses above mentioned.

Under date of February 1, 1947, the petitioners filed a verified answer in said Civil Case No. 129, alleging in the main that the contract of June 6, 1945, between the Realty Investments, Inc. and the respondents, upon which the latter base their claim of ownership over the lots in question, was a mere contract to sell, which was converted on April 26, 1946, into a conditional contract to buy, which was in turn rescinded on December 19, 1946, by the Realty Investments, Inc.; that the petitioners are the registered owners of the lots, having bought the same from the Realty Investments, Inc. on December 28, 1946; that the petitioners have been in peaceful possession thereof, by themselves and through their predecessor in interest, Pararam Aildos (who transferred to the petitioners his right to buy the lots from the Realty Investments, Inc.), since November, 1941; that the respondents, on or about December 28, 1946, over the opposition of the petitioners and their predecessor in interest, entered the lots and began the construction of the four houses mentioned in the complaint; that it was the mayor of Pasay who ordered the suspension of said construction, and that the persons guarding the premises are members of the Detective and Protective Bureau, Inc., who are merely enforcing the order of said mayor.

Under date of February 1, 1947, the petitioners filed a verified written opposition to the issuance of the writ of preliminary mandatory injunction, based on practically the same allegations contained in their answer.

After a hearing in which the matter was argued at length, the herein respondent Judge of the Court of First Instance of Rizal, Honorable Ambrosio Santos, issued an order dated March 14, 1947, directing the issuance of the writ of preliminary mandatory injunction prayed for by the respondents, upon their filing of a bond in the sum of ₱5,000. Petitioners' motion for reconsideration dated March 28, 1946, was denied by the respondent Judge in his order of April 15, 1947. On this latter date, the respondent Judge issued an order approving the bond of ₱5,000 filed by the respondents and directing the issuance of the corresponding writ of preliminary mandatory injunction.

Whereupon, on April 19, 1947, the petitioners instituted the present petition for certiorari with preliminary injunction, praying that the orders of the respondent Judge of March 14 and April 15, 1947, and that the respondent Judge be ordered to set Civil case No. 129 for trial on the merits with a view to determining the question of title and possession over the two lots in question.

The respondent Judge, without attempting to settle the issue relating to the ownership of the lots, found, in his order of March 14, 1947, that the respondent have been in material and physical possession of the lots until January 7, 1947, and that in December, 1946, said respondents commenced to build four houses of strong materials on said lots and the construction work was suspended only on January 7, 1947, due to the forcible entry of the petitioners who thereafter built around the