

The Board also contends that as no renewal of the bond required was filed for the extension of the contract, it ceased to have any force and effect; and, as the steel mattings were recovered during the extended period of the contract, Malabanan did not acquire any rights thereto. The pertinent portion of the contract provides:

"12.—Jointly with the execution of this contract, the CONTRACTOR SHALL file a bond in the amount of TEN THOUSAND (P10,000.00) PESOS to guarantee his faithful compliance with the terms and conditions herein; Provided, that this contract shall not be considered to have been executed notwithstanding the signing hereof by the parties until said bond shall have been properly filed."

Malabanan filed a bond dated June 10, 1952, effective for one (1) year, or up to June 10, 1953. The principal contract, executed on June 14, 1952, was first extended to November 30, 1953, and finally, to August 31, 1954. As can be seen, there was no longer any bond from June 11, 1953 to August 31, 1954.

The issue of the bond did not extinguish the contract between Malabanan and the Board. The requirement that a bond be posted was already complied with when Malabanan filed the bond dated June 10, 1952. A bond merely stands as guaranty for a principal obligation which may exist independently of said bond, the latter being merely an accessory contract (Valencia v. RFC & C.A., L-10740, April 25, 1958). Significantly, its purpose, as per the terms of the contract, was "to guarantee his (Malabanan's) faithful compliance with the terms and conditions herein"; and, for violation of the contract, the Board may declare "the bond forfeited" (par. 13). Being for its benefit, the Board could legally waive the bond requirement (Valencia v. RFC, et al., supra), and it did so when, the bond already having expired, it extended the contract not only once, but twice. In none of the resolutions extending the contract (Annexes "C" & "E", pp. 108-112; Record on Appeal) was there a requirement that the bond be renewed, in the face of the first indorsement by the Executive Officer of the Board (Annex "F", pp. 112-113, Record on Appeal) recommending that Malabanan's request for a second extension be granted "provided the bond he originally posted should continue."

There is no merit to the suggestion that there being a novation, Article 1299 of the Civil Code should govern. Novation is never presumed, it being required that the intent to novate be expressed clearly and unequivocally, or that the terms of the new agreement be incompatible with the old contract (Article 1292, N.C.C.; Martinez v. Cavives, 25 Phil. 581; Tiu Siuce v. Habana, 45 Phil. 707; Pablo v. Sapungan, 71 Phil. 145; Young v. Villa, L-5331, May 13, 1953). Here there was neither express novation nor incompatibility from which it could be implied. Moreover, a mere extension of the term (period) for payment or performance is not novation (Inchausti v. Yulo, 34 Phil. 978; Zapanta v. De Rotaeche, 21 Phil. 154; Pablo v. Sapungan, supra); and, while the extension covered only some of the areas originally agreed upon, this change did not alter the essence of the contract (cf. Romas v. Gibbon, 67 Phil. 371; Bank of P.I. v. Herridge, 47 Phil. 57).

It is next contended that the sale by Floro to Legaspi on August 4, 1954 (within 30 days prior to petition for insolvency) was void as a fraudulent transfer under Section 70 of the Insolvency Law. The court below held that the sale to Legaspi was valid and not violative of Section 70; but there having been no proceedings to determine whether the sale was fraudulent, we think it was premature for the court below to decide the point, especially because under section 36, No. 8, of the Insolvency Act, all proceedings to set aside fraudulent transfers should be brought and prosecuted by the assignee, who can legally represent all the creditors of the insolvent (Maceda, et al. v. Hernandez, et al., 70 Phil. 261). To allow a single creditor to bring such a proceeding would invite a multiplicity of suits, since the resolution of his case would not bind the other creditors, who may refile the same claim independently, with diverse proofs, and possibly give rise

to contradictory rulings by the courts.

The order appealed from is hereby affirmed in so far as it declares the disputed goods to be the property of the insolvent; but without prejudice to the right of the assignee in insolvency to take whatever action may be proper to attack the alleged fraudulent transfer of the steel matting to Eulalio Legaspi, and to make the proper parties account for the difference between the number of pieces of steel matting stated in the insolvent's recovery report, Annex "B" (13,107), and that stated in his inventory (11,167). Costs against appellant.

Parras, C.J., Bengzon, Bautista Angelo, Labrador, Barrera, Gutierrez David, Paredes, and Dizon, JJ., concurred.

Padilla, J., took no part.

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Lao Lian Su alias Lorenzo Ting, Petitioner-appellant, vs. Republic of the Philippines, Oppositor-appellee, G.R. No. L-15543, September 29, 1961, Reyes, J.B.L., J.

NATURALIZATION; EVASION IN PAYMENT OF TAXES AS GROUND FOR DENIAL OF APPLICATION.— In the case at bar, it appears that in the verified income tax returns filed by petitioner and that of his wife for the years from 1951 to 1957, the contents of which he ratified under oath while on the witness stand, the spouses appear to have claim exemption for a fourth child by the name of Ting Kock King, supposedly born on 10 October 1948. Of the inconsistency between the sworn statements, petitioner proffered no explanation whatsoever, although counsel for appellant insinuates in the brief that Ting Kock King could be an adopted child of the spouses; but the insinuation is totally devoid of proof, which the applicant was duty bound to submit to the Court. *Held:* The contradictory statements under oath can only lead to the conclusion either that petitioner tried to evade lawful taxes due from him or that he has concealed the truth in his application. Either alternative would be sufficient to disqualify him for admission to Philippine citizenship.

DECISION

Appeal from a decree of the Court of First Instance of Rizal, denying the application of petitioner-appellant Lao Lian Su alias Lorenzo Ting for admission to Philippine citizenship, because of applicant's failure to observe irrefragable conduct in his relations with constituted authorities during the entire period of his residence in the Philippines.

We see no merit in the appeal. In his sworn petition for naturalization as well as in his testimony, petitioner stated that he has only three children with his wife Chua Kim Tia, namely:

Besie Ting, born	11/25/39
Esteban Ting, born	4/11/46
Betty Ting, born	8/16/51

Yet in the verified income tax returns filed in his name and that of his wife for the years from 1951 to 1957, the contents of which he ratified under oath while on the witness stand, the spouses appear to have claim exemption for a fourth child by the name of Ting Kock King, supposedly born on 10 October 1948. Of the inconsistency between the sworn statements, petitioner proffered no explanation whatsoever, although counsel for appellant insinuates in the brief that Ting Kock King could be an adopted child of the spouses; but the insinuation is totally devoid of proof, which the applicant was duty bound to submit to the Court. As the record now stands, the contradictory statements under oath can only lead to the conclusion either that the petitioner tried to evade lawful taxes due from him or that he has concealed the truth in his application. Either alternative would be sufficient to disqualify him for admission to Philippine citizenship.

For all the foregoing considerations, the decision appealed from is affirmed, with costs against the appellant.

Bengzon, C.J., Padilla, Labrador, Concepcion, Paredes and De Leon, JJ., concurred.

Bautista Angelo, J., took no part.