

G.R. No. L-5666

[G.R. No. L-5666. March 30, 1954]

**IN THE MATTER OF THE PETITION OF CHAN HO LAY TO BE ADMITTED A
CITIZEN OF THE PHILIPPINES. CHAN HO LAY, PETITIONER-APPELLANT, VS.
REPUBLIC OF THE PHILIPPINES, OPPOSITOR-APPELLEE.**

D E C I S I O N

CONCEPCION, J.:

This is an appeal taken by the petitioner Chan Ho Lay from a decision of the Court of First Instance of La Union, denying his application for naturalization. In the language of the decision appealed from, the following facts, which are not disputed, have been proven:

“The petitioner is a Chinese, born in Amoy, China, . on November 1, 1906., and arrived in the Philippines in 1918 aboard the vessel ‘Liung Sing’. He resided in the Philippines continuously since his arrival in the Islands for more than thirty years with the exception when he made two short visits to China before the outbreak of the war. During his first visit to China, he got married with Siew Un Hung, a Chinese national. Before he engaged in business, he enrolled in Vigan Seminary, at Vigan, Ilocos Sur, and studied there for one year, acquiring a working knowledge of English. Besides English, he speaks Ilocano and Tagalog. Through practice, he also has a little knowledge of Spanish. He has eight children, namely: Milagros Chan, 17 years, presently enrolled as a student at the Sacred Heart Academy, Bauang La Union; Chan Pia Hoy, 16 years old, residing in China; Chan Hoy Lu, 15 years old, residing in China; Chan Pi Tia, 9 years old, attending school at the La Union Chinese School, San Fernando, La Union; Pacita Chan, 7 years old, attending school at the La Union Chinese School, San Fernando, La Union; Julita Chan, 5 years old; Donato Chan, 2 years old and the youngest

child who is not yet baptized. Chan Ho Lay is permanently residing in Bauang, La Union, where he is engaged in business as agent of the Caltex and buyer of leaf tobacco, investing thereon something around P20,000.00 and netting him a yearly income of P5,000. He owns real properties situated in Bauang, La Union, consisting of land and buildings with a total assessed value of P21,630.00. He is a Protestant and has taken active participation in civic and patriotic activities in his town, giving voluntary contributions to the Red Cross, puericulture center, church, and other civic organizations; he associates and mixes with Filipinos freely, attending social gatherings and pays his taxes to the Government regularly. He has in his employ eight Filipinos in his business and there has never been a case or complaint against him for unfair treatment of his laborers. All his children are baptized in the Protestant Church with influential Filipinos as sponsors." (Pages 15-17, Record on Appeal).

The only question for determination in this case relates to the effect, upon the petitioner-appellant, of Section 2(6) of Commonwealth Act No. 473, as amended by Commonwealth Act No, 535, which requires, among other conditions essential to be qualified for naturalization, that petitioner

" * * * must have enrolled his minor children of school age, 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 Filipino citizen." (Pages 28-29, Record en Appeal),

In this connection it appears that two of petitioner's children, namely, Chan Pia Hoy and Chan Hoy Lu,—who were "born in 1935 and 1936, respectively, according to petitioner's application, or in 1932 and 1933, respectively, according to his testimony—are residing in China, where they were born and have been since birth. In other words, it is

admitted that they are not and have never been—enrolled “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 * * *. Petitioner-appellant tried to prove, however, that he wanted to bring his aforementioned children to the Philippines, but could not do so, because their whereabouts are unknown, owing to the occupation of China by the Communists, and that he should not be required to comply with the requirement above referred to, it being impossible for him to do so. This pretense was not sustained by the lower court. Neither does it impress us for:

(1) The mainland of China was not overrun by the Communists until *several years* after the cessation of the hostilities, in connection with the second world war, in 1945 (Chua Pien v. Republic of the Phil., G.R. No.L-4032, Oct. 25, 1952). Had appellant really wanted to have his children with him in the Philippines, he could have accomplished his purpose long before the establishment of the Communist regime in China;

(2) He could have sent for his children before the outbreak of war in the Pacific. Appellant is a property owner and a merchant with a sizable income, and, as such, he had, and still has, enough means to defray the expenses incident to the trip of his children, had he wanted them brought to the Philippines. He would have us believe that, sometime in 1941 he took the initial steps necessary to bring them and that said war prevented the attainment of his goal. His evidence on this point is, however, very weak. At any rate, he has not explained satisfactorily why he failed to take those steps earlier.

(3) In his application for naturalization, dated November 23, 1949, petitioner alleged that Chan Pia Hoy and Chan Hoy Lu were enrolled in the “Amoy Public School, China. Thus, he knew and knows the whereabouts of his aforementioned children.

(4) In the same application, petitioner stated, *under oath*, that his aforesaid children were “born in and reside in Bauang,” la Union, although in fact they were born and have been in China,

continuously since their birth in 1932 and 1933, respectively. Hence, petitioner's word cannot be taken on its face value.

The case of Nicanor Tan vs. Republic of the Philippines, G.R. No. L-1551 (October 31, 19⁹), relied upon by appellant herein, is not in point, the child of the petitioner in that case "was barely four years old when the petition for naturalization was filed", so that it was physically impossible to enroll him in any school, because of his tender age.

Upon the other hand, in Kao Lian Chu vs. Republic of the Philippines, 48 Off. Gaz., 1780, this Court, through Mr. Justice Bengzon, said;

"As to the second ground, it appears that of the nine children of petitioner, only one, Magdalena, a minor, has not studied in the Philippines because she has lived from infancy in China; that she is actually enrolled in an English school in Amoy; and that all the other eight children of petitioner have attended public schools and schools recognized by the Philippine Government.

Paragraph 5, section 2 of the Revised Naturalization Law provides that the applicant for naturalization must have enrolled his minor children of school age 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 * * *. The trial judge declared that as petitioner could not enroll Magdalena in the Philippines, because she was absent and was not under parental care, the requirement of the law as to children's education may be deemed to have been substantially fulfilled.

This court believes that such requirement is important. The legislator evidently holds that all the minor children of an applicant for citizenship must learn Philippine history, government and civics, inasmuch as upon naturalization of their father they *ipso facto* acquire the privilege of Philippine citizenship. To excuse the

applicant from this requirement it must be shown that there was physical impossibility for him to bring Magdalena here—impossibility which has not been shown in this case.

Needless to say, an applicant for naturalization must comply with the Requirements and conditions specified by law.”

In the subsequent case of Ang Yee Koe Sengkee vs. Re public of the Philippines, G.R. No. L-3863, (Dec. 27,1951)

Mr. Justice Montemayor, speaking for the Court, used the following language:

“The applicant’s children, except Ang Kian Seng the eldest, who is said to have attended the first grade at the Anglo-Chinese School in Manila, have not attended any school, public or private, where Philippine history, government and civics are taught. His excuse for not complying with this requirement of the Revised Naturalization Law is that when his three minor children left-the Islands in 1937, they were not yet of school age, and that now, because of the civil war in China and the unsettled conditions obtaining there, it was difficult if not impossible to bring them here. This reason or excuse given by the applicant was considered satisfactory and accepted by the trial court and so the application for naturalization was granted.

We have had occasion to rule in several cases of naturalization that the requirement of the Revised Naturalization Law about an applicant for naturalization enrolling all his minor children of school age in any public or private school recognized by the Government where Philippine history, government and civics are taught, is important for the reason that upon naturalization of the father, the children ipso facto acquire the privilege of Philippine citizenship, It is the policy of the Philippine Government to have prospective citizens, children of applicants for naturalization, learns and imbibe the customs, traditions and ideals of the Filipinos as well as their democratic form of government. The fact that all of the children of school age of the

applicant are in China or otherwise outside of the Philippines is no valid excuse or reason for non-compliance with this requirement.

As regards the claim that because of the unsettled conditions and the civil war in China, the applicant found it difficult if not impossible to bring his children to the Philippines in order to enroll them in the public or private schools here, this Court thru Mr. Justice Pablo, said in the case of "En el asunto de la peticion de natural isaci6n.de Florentine Uy Boco. FLORENTINO UY BOCO, recurrence y apelado, *contra* REPUBLICA DE FILIPINAS, opositora y apelante," 47 O.G. 3442, that for us to hold that the last world war would dispense with compliance with the requirement of the naturalization Law, would be to establish a dangerous precedents"

This view was reiterated in *Sy Kiap v. Republic of the Philippines*, G.R.No.L-4404 (August 21, 1952); *Chua Pieng vs. Republic of the Philippines*, G.R. No. L-4032 (Oct. 25, 19-52); *Bangon Du v. Republic of the Philippines*, G.R. No.L-3683 (Jan. 28, 1953); *Yap Chin v. Republic of the Philippines*, G.R.Ho.L-4177 (May 29, 1953); and *Amado Abadilla, Co Cai v. Republic of the Philippines*, G.R.No.L-546i (Dec. 17, 1953). (See, also, *Lim Lian Hong v. Republic of the Philippines*, G. R. No. L-3575, Dec. 26, 1950; *Tan Hi v. Republic of the Philippines*, G.R.No.L-3554 Jan 25, 1951; *Francisco Chan Su Hok v. Republic of the Philippines*, G.R.No.L-3470, Nov. 27, 1951.)

Having failed to comply with one of the essential requirements of the law, appellant is not entitled to be naturalized. Wherefore, the decision appealed from is hereby affirmed, with costs against petitioner-appellant.

It is so ordered.

Paras, C. J., Pablo, Bengzon, Padilla, Montemayor, Reyes, Jugo, Bautista Angelo, Labrador, Concepcion, and Diokno, JJ.,
concur.

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