

[G.R. No. L-8780. October 19, 1956]

IN THE MATTER OF THE PETITION OF YU KONG ENG ALIAS JOHN YOUNG, TO BE ADMITTED A CITIZEN OF THE PHILIPPINES. YU KONG ENG ALIAS JOHN D. YOUNG, PETITIONER AND APPELLEE, VS. REPUBLIC OF THE PHILIPPINES, RESPONDENT AND APPELLANT.

D E C I S I O N

BAUTISTA ANGELO, J.:

This is a petition filed by Yu Kong Eng alias John D. Young in the Court of First Instance of Cebu to secure Philippine citizenship. The provincial fiscal opposed the petition setting forth grounds which show that petitioner is not qualified to become a Filipino citizen. After due hearing, the court rendered judgment granting the petition but subject to the condition that the same shall not be executory until after two years from its promulgation and after the court finds, on proper hearing, that petitioner has complied with the other requirements of the law. From this decision, the government has appealed.

Petitioner was born on October 28, 1908 in Amoy, China. He arrived in the Philippines on board a vessel of China Java Line on December 27, 1918. He has been granted permanent residence in this country and has left the Islands for three short visits to China. He is presently residing in the City of Cebu to which he has transferred since the early part of 1928. He is married to Alice Go Kiem and out of that wedlock five children were born. His children of school age are presently studying in schools recognized by the government. He is an operator of two cinema theaters from which he derives an annual income of P6,000. He is able to speak and write the English language, the Visayan dialect and the Chinese language. He believes in the democratic principles of the Philippine Constitution. He is not opposed to organized government nor is he affiliated with persons or associations with subversive ideas. Because of these facts which were established by competent evidence, the court found that petitioner has all the requirements of the law to become a Filipino citizen.

The government, however, differs from this conclusion and in this appeal lays stress on

certain facts which in its opinion render petitioner unfit to become a Filipino citizen. Thus, the government has tried to prove that petitioner on certain occasion was almost arrested by the police authorities when he adopted an arrogant attitude in refusing to accept payment in dollar currency for the entrance to one of his movie theaters; that he has never mixed with his Filipino employees whom he treated harshly and in a haughty manner; and that he was once convicted and fined for driving a car without a driver's license and later he was suspended from driving for three months for another traffic violation.

Commenting on the opposition of the government, the lower court said: "Although this opposition is supported by sworn statements of Attorney Felipe Fernandez, (then acting Chief of Police of Cebu City), Higinio Pacana, (Asst. Chief of Police, Cebu City), patrolmen Dionisio Abellar and Delfin Lopez, secret service-man, that the petitioner was arrogant to and critical of the Filipinos, yet when this petition was heard before this court, all these witnesses for the opposition retracted their former testimonies given way back in 1949, and in turn, were unanimous in speaking highly of petitioner as a desirable Filipino citizen to be; that if they have formerly considered him arrogant, it was due to some misunderstanding and that after knowing and observing him closely all these last years, they are convinced that after all he is a good man and a law-abiding citizen."

We find this conclusion supported by the evidence. Indeed, Felipe Fernandez, the Chief of Police of Cebu City when the alleged incidents took place and apparently is the main witness for the prosecution, practically said nothing derogatory to petitioner and instead said that, after closely associating with him, he found him to be congenial and friendly to the Filipinos. The same opinion was expressed by patrolman Abellar who stated that, according to his observation, petitioner would make a good citizen if granted Philippine citizenship. On the other hand, it appears that Assistant Chief of Police Pacana is the only one who testified as to the arrogance of petitioner towards his employees and his attitude of staying aloft from, or being indifferent to, them because they belong to a lower social strata, but in our opinion his testimony does not deserve credence because it is hearsay in nature. He said that he gathered this impression because such is the information given to him by the employees of petitioner. The best evidence on this matter would have been the testimony of the employees themselves and not of persons who are not in the employ of petitioner.

While it may be true that an incident occurred in one of the movie theaters of petitioner because of his objection to accepting dollar coins as payment for entrance to the theater, and that on another occasion he refused to allow some policemen to enter the theater to enable them to arrest a person whom they suspected to be a pickpocket, such a conduct can

only be attributed to an honest desire to protect his business interest and cannot be considered as a reflection on his character. Nor can his conviction for having driven a car without a license or the suspension of his license for a minor traffic violation be considered a serious act which renders him unfit, for they are minor incidents in one's life that may happen to any other Filipino citizen. Such an act may be given a liberal treatment considering that petitioner has complied with all the other requirements of the law. All things considered, we are of the opinion that the lower court did not err in considering petitioner qualified to become a Filipino citizen.

Wherefore, the order appealed from is affirmed, without pronouncements as to costs.

Paras, C. J., Padilla, Montemayor, Labrador; Concepcion, Reyes, J. B. L., Endencia and Felix JJ., concur.
