

[G.R. No. L-9225. August 21, 1957]

IN THE MATTER OF THE PETITION OF RAMON TING ALIAS TING TIAN YU TO BE ADMITTED A CITIZEN OF THE PHILIPPINES, PETITIONER AND APPELLEE, VS. REPUBLIC OF THE PHILIPPINES, OPPOSITOR AND APPELLANT.

MONTEMAYOR, J.:

The Government is appealing from the decision of the Court of First Instance of Cebu, granting the petition for naturalization filed by Ramon Ting *alias* Ting Tian Yu.

The appellant did not file any opposition to the petition for naturalization, but an assistant provincial fiscal appeared during the hearing and cross examined the “witnesses for the petitioner. According to the evidence and the findings of the lower court, the petitioner, born in China of Chinese parents in the year 1914, came to the Philippines about the middle of March 1920, and had continuously resided here up to the date of the hearing, except when in 1925, he and his father went to China for a six months visit; that he finished the high school course offered by the Southern Colleges, now known as the University of Southern Philippines, Cebu City, graduating therefrom in 1937; that in 1938, he married Conchita Tan *alias* Tan Ching Tee, daughter of a Chinese father married to a Filipina; that his two children, Erlinda Ting and Teodoro Ting, both studied in the San Jose College of Cebu; and that petitioner is a sales agent and bookkeeper of the Hua Kiong Trading of Cebu and at the same time kept the books for other stores, receiving a total income of P3,000.00 a year. The trial court found that during, his long stay in the Philippines, petitioner has observed good conduct and has maintained excellent relations with the Government authorities as well as with the Filipinos; that he has never been accused of any crime or offense and has paid his taxes; and that he does not possess any of the disqualifications for naturalization but on the other hand has the qualifications required by law.

The Government, however, claims that the petitioner failed to comply with the naturalization law requiring the filing of a declaration of intention to become a citizen, because although he may have come to the Philippines in 1920, nevertheless, he

absented himself by going back to China in 1925, and although he returned to the Philippines after six months, the continuous residence of thirty years required by law for exemption from the duty of filing the aforementioned declaration should be computed from that year, 1925, in which case, when he filed his petition for naturalization on December 15, 1950, his continuous residence was only about twenty-five years. We do not believe that a short absence from the Philippines, such as the visit made by the petitioner to China for a period of six months in 1925, should be held to interrupt his residence begun in 1920. In the case of *Leon Miranda Tio Liok vs. Republic of the Philippines*, G. R. No. L-4545, October 29, 1952, we held that absence of short duration from the Philippines did not interrupt or affect the continuous residence of thirty years required by law for exemption from the duty to file a declaration of intention. We said:

* * * "But we find that petitioner is exempt from filing such declaration of intention it appearing from the evidence that he has continuously resided in the Philippines for over thirty years with the exception of two, instances when he went to China for short visits (Exhibit A, pp. 34-35)," * * *

The appellant also expresses the opinion that the trial court erred in allowing a witness to testify for the petitioner when said witness was not one of those mentioned as a character witness in the petition, and there was no reason given why the character witness so mentioned in the petition, Uldarico Alviola, was not presented in court to testify, but that the other witness was allowed to testify in his place. We are afraid that counsel of the Government is laboring under a misapprehension or mistake. The other witness, Conrado Costanilla, was presented only as a corroborative witness. As a matter of fact, Uldarico Alviola actually testified and was even cross-examined by the assistant fiscal, but inasmuch as he testified in Spanish, another stenographer was utilized to take down his testimony, resulting in two separate transcripts of the stenographic notes taken, one by stenographer Gregorio Maureal, who took down the testimonies of all the witnesses, except Uldarico Alviola whose testimony was taken down by stenographer Candido Jumapao. Appellant's counsel presumably overlooked the second transcript.

In view of the foregoing, the decision appealed from is hereby affirmed. No costs.

Paras, Bengzon, Padilla, Reyes, A., Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., Endencia and Felix, JJ., concur.

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