

**IN THE MATTER OF THE PETITION OF JESUS UY YAP TO BE
ADMITTED A CITIZEN OF THE PHILIPPINES. JESUS UY YAP
PETITIONER-APPELLEE, VS. REPUBLIC OF THE PHILIPPINES,
OPPOSITOR-APPELLANT.**

G.R. No. L-4270. May 08, 1952

Ponente: MONTEMAYOR, J.

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MONTEMAYOR, J.:

The Republic of the Philippines thru the Solicitor General is appealing from the decision of the Court of First Instance of Negros Occidental, granting the application of appellee JESUS UY YAP for naturalization, said decision finding that the applicant had complied with all the requisites provided by the law on naturalization; and that he has all the qualifications necessary for naturalization and none of the disqualifications. The Solicitor-General does not question the qualifications of the applicant and his right to citizenship on the basis of said qualifications, but claims that the application should be denied because applicant failed to file a declaration of intention to become a citizen of the Philippines with the Bureau of Justice, one year prior to the filing of his petition.

The claim is well founded. Section 5 of Commonwealth Act No. 473 provides that one year prior to the filing of his petition for naturalization, the petitioner shall file with the office of the Solicitor-General a declaration under oath that it is his bona fide intention to become a citizen of the Philippines. There are exceptions to this requirement under Com. Act No. 535, namely, persons born in this country and have finished their primary and secondary education in public schools or schools recognized by the Government; and those who have resided continuously in this country for a period of thirty (30) years prior to the filing of the petition for naturalization.

The petitioner-appellee in the present case was born in the Philippines, but was only twenty-two years old at the time of filing his application. In other words, he does not come under the second exception which requires thirty years continuous residence in the country prior to the filing of the petition. Does he come under the first exception which requires that he shall have received his primary and secondary education in public schools or those private schools recognized by the Government? This first exception has been interpreted by this Court in the case of Florentino Uy Poco vs. Republic of the Philippines, G. R. No. L-2247, January 23, 1950, 47 O.G. (7) 3442, as meaning not only attendance at primary and secondary schools, but also termination of the courses prescribed by said schools. Has the petitioner-appellee herein finished said elementary and secondary courses? That he finished the elementary course up to and including the seventh grade, is not questioned. As to the secondary course, he merely stated that he continued his education in the Montilla Institute, a school recognized by the Government. The Solicitor-General interprets this as attending said institute but not finishing the course therein prescribed. We agree to this interpretation. Had petitioner-appellee really finished the secondary course at the Montilla Institute, it would have been the easiest thing to say so, specially since he was represented by counsel who conducted his direct examination.

Because of petitioner's failure to file his intention to become a citizen of the Philippines, we are constrained to deny his application for naturalization. It would seem rather unfair to do this because outside of his failure to file a declaration of intention, the applicant is clearly entitled to naturalization. According to the findings of the trial court, not impugned by the Government, the applicant was born and raised in the Philippines, resided continuously here up to the time he applied for naturalization, is married to a Filipina, and is now living as a peaceful resident in this country. Besides possessing all the qualifications required of an applicant for naturalization, the evidence himself shows that during the last war, he clearly identified with the Filipinos, even helping in the underground resistance movement. However, the law must be complied with.

However, the rigor of the law might be mitigated. Should appellee decide to renew his petition for citizenship, complying with all legal requirements, the lower court may consider, and act on the evidence already submitted by him as to his qualifications for naturalization so as to dispense with the necessity of again bringing witnesses and documents into court. Naturally, the Government is to be given an opportunity to refute said evidence, including a written opposition to the application should the applicant fail to file a declaration of intention, a thing that the Government failed to do in the present case despite applicant's failure to state in his application that he had previously filed a declaration of intention to become a citizen.

In view of all the foregoing, the decision appealed from, is hereby REVERSED with costs.

Paras, C. J., Feria, Pablo, Bengzon, Tuason, Bautista Angelo, and Labrador, JJ., concur.

Padilla, Reyes, and Jugo, JJ., did not take part.

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