

## LIM KET KAI, PETITIONER AND APPELLANT VS. THE REPUBLIC OF THE PHILIPPINES, OPPOSITOR AND APPELLEE.

*G.R. No. L-2530. June 22, 1950*

Ponente: MONTEMAYOR, J.

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### MONTEMAYOR, J.:

Petitioner-appellant Lim Ket Kai filed a petition for naturalization in the Court of First Instance of Misamis Oriental on January 17, 1947. He is a Chinese citizen born on October 25, 1902, in Amoy, China; having first come to the Philippines on November 28, 1914. He is now residing in Misamis Oriental and has lived in the Philippines for about 30 years, except for three sojourns of one year each in China in 1916, 1924, and 1931. He is married to a Chinese woman named Rosario Uy and has nine children. He is a merchant engaged in milling rice and corn and is the owner of real estate valued at P80,000.

To the petition for naturalization, the assistant provincial fiscal of Misamis Oriental filed opposition among other grounds because the petitioner did not possess all the necessary qualifications required by law and that his "primary objectives in applying for Philippine citizenship are, to escape deportation, to secure lands and other rights and privileges granted only to Filipino citizens, for purely petitioner's personal aggrandizement, the expansion of his business enterprise." A similar opposition based on the same grounds already stated was filed by one Antonio Tann. Yacapin. Later the same assistant provincial fiscal in representation of the Republic of the Philippines, filed a motion for dismissal of the petition on the ground that petitioner did not. allege in his petition compliance with the fifth requirement provided for in section 2 of the Revised Naturalization Law, to wit:

"He must be able to speak and write English or Spanish and anyone of the principal Philippine language."

After due hearing, the trial court dismissed the case with costs, for several reasons, among them that petitioner failed to prove that he was able to speak and write English or Spanish. Lim Ket Kai is now appealing from that decision.

After a careful review of the evidence in this case, we agree with the lower court that the appellant has failed to establish one of the qualifications or conditions required by Commonwealth Act No. 473 (Section 2, subsection 5), namely, that an applicant for naturalization should be able to speak and write English or Spanish. To start with, petitioner in enumerating his qualifications in his petition, failed, perhaps intentionally, to state or claim that he speaks and writes English or Spanish. We say "perhaps intentionally" because he knew that he did not possess said qualification. During the hearing, he did not present any evidence to prove his ability to speak and write English or Spanish. It is true that on the witness-stand when asked if he was able to speak or write any language, he gave the answer: "I can read and write Chinese and the Cebu Visayan dialect and I understand the English language although I cannot read or write it very well."

When the provincial fiscal, representing the Government began his cross-examination of the petitioner, he (Fiscal) requested the court that the applicant be required to answer his questions in English, and the trial Judge answered: "Why do you require.that? He has declared that he understands a little English, but he cannot write it. He can only

speak Visayan." In the course of his cross-examination the Fiscal asked the petitioner this question: "You have stated a while ago that you cannot write English. Can you speak and write Spanish? Answer—No, sir. Only the Visayan dialect."

The evidence further shows that because of the opposition filed by the Fiscal and some residents of the town of Cagayan de Misamis to the petition for naturalization, the National Bureau of Investigation sent an agent to said province to conduct an investigation. The result of said investigation and the recommendation of the investigator to his Bureau may be gleaned from one of the agent's answers given on the witness-stand on this question of the Fiscal: "Did you conduct an investigation, as requested by the Solicitor General? Answer—Yes, sir \* \* \*. Please relate to this Court as to your findings. In my interview with applicant, I found that the applicant, first, was not able to read and write English or Spanish, as required by the Naturalization Law. That was one of the grounds for my recommending the disapproval of the applicant's petition."

From the evidence on record we find as did the trial court that the petitioner-appellant not only failed to prove that he could speak and write English or Spanish as required by the law on naturalization but that it was even shown that he could not speak and write anyone of these two languages. Naturally, the trial court was justified in denying his petition for naturalization. Considering the conclusion that we have reached, we deem it unnecessary to discuss and decide the other points raised in the appeal.

In view of the foregoing, the decision appealed from insofar as it denies or dismisses the petition for naturalization of petitioner-appellant, is hereby affirmed, with costs.

Ozaeta, Paras, Pablo, Bengzon, and Tuason, JJ., concur.

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