

YAO LONG, PETITIONER AND APPELLEE, VS. REPUBLIC OF THE PHILIPPINES, OPPOSITOR AND APPELLANT.

G.R. No. L-20910. November 27, 1965

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

This is a petition for admission as a citizen of the Philippines filed by Yao Long on October 14, 1961 before the Court of First Instance of Iloilo, the petition being supported by the affidavits of three character witnesses, although in the next thereof four names are mentioned as proposed character witnesses.

After hearing at which two character witnesses testified in behalf of petitioner, the court a quo rendered decision granting petitioner Philippine citizenship. In due time, the government has appealed.

Petitioner was born on January 1, 1903 in Ching kang, Amoy, China. He is married to Co Wan Liong, also a Chinese citizen, who at the time of the filing of the petition was residing at 94 Lian Hap Road, Kowloon, Hongkong. According to petitioner, he has no children although as shown by the record of our Immigration Office he has two children, namely, Yao King Huc and Yao Pue Eng, who were born in 1941 and 1946, respectively, in Ching kang, China. On November 18, 1950, when petitioner applied for alien registration under Republic Act 562 said children were nine and four years of age, respectively.

Petitioner arrived at the Port of Manila in 1928 and since then he resided for sometime in the City of Manila. He transferred to Bacolod City where he stayed until 1957. Since January 3, 1958 to the present, he resided in Iloilo City. In 1940, he went to Ching kang, Amoy, China where he married his wife Co Wan Liong. He returned to the Philippines after ten months when he tried to bring his wife with him but failed. In 1946, he returned to the mainland of China for a vacation of about three months. However, his wife continued to reside in China and later escaped from the mainland to Hongkong where she presently resides.

Petitioner is a merchant engaged in general merchandise or in selling scrap iron by wholesale having had an average annual income of P4,834.19 for the last three years. He speaks and writes English and the Ilongo dialect. He did not file a declaration of intention to become a Filipino citizen because, according to him, he has resided in this country for more than 32 years and had studied in private schools recognized by our government where Philippine history, government and civics are taught, and, claiming not to have any children, he takes the position that he is exempt from the requirement of sending his children to duly recognized schools in the Philippines.

In this appeal, the government claims that the court a quo erred in assuming jurisdiction over the case notwithstanding the failure of petitioner to file a declaration of intention with the Office of the Solicitor General at least one year prior to the filing of his petition for naturalization, and, likewise, notwithstanding his failure to allege therein all his former places of residence.

It should be stated that petitioner predicates his claim of exemption from filing a declaration of intention one year prior to the filing of the present petition as required by Section 5 of Commonwealth Act No. 473 on his contention

that he has resided continuously in the Philippines for a period of over 32 years and that he had studied in a Philippine school recognized by our government where Philippine history, government and civics are taught, which apparently are circumstances that justify the failure of an applicant to file such declaration of intention. It should, however, be noted that under our law to entitle petitioner to such exemption it is necessary that his residence in our country for a period of 30 years or more be continuous and not punctured with interruptions indicative of an intention not in line with the spirit of our law.

Thus, the record shows that his alleged residence in the Philippines for over 32 years was first broken in 1940 when he went to China where he got married and where he stayed for more than 10 months. His residence was again interrupted in 1946 when he went again to China for a vacation of three months, while on the other hand there is a serious discrepancy in the record as regards the date of his arrival in this country for, according to petitioner, he first arrived in 1928 while immigration records reveal that he first arrived on January 1, 1933.

If the date last mentioned be the correct date of his arrival we would have that his residence in the Philippines would be less than 30 years from the date of the filing of his petition which in our opinion is a circumstance which seriously impairs the sufficiency of his application for naturalization.

Another circumstance which seriously affects petitioner's failure to file a declaration of intention is his compliance with the additional requirement that he must not only pursue his education in a school recognized by our government but that he must have given a similar education to his children during the period of residence required to be covered as a predicate for his exemption from the requirement of filing said declaration. And this we say because, according to the record, though, petitioner claims that he is childless, there is however an indisputable evidence that he has two children, namely, Yao King Huc and Yao Pue Eng, who were born in Ching kang, China, in 1941 and 1946, respectively, a fact which he concealed in his petition and which cannot but reflect against his moral character. Since petitioner has failed to show that he gave these children the required education in schools recognized by our government, it is clear that he cannot claim exemption from the requirement of filing a declaration of intention.

Another serious flaw we find in his petition is petitioner's failure to allege his former places of residence thereby making him remiss in fulfilling one of the mandatory requirements of Section 7 of Commonwealth Act 473, as amended. According to the record, petitioner has resided in the following places since his arrival at this country in 1928: (a) in 1928 he resided at 44 Fundador St., Manila ; (b) from 1928 to 1947 at Bacolod City; and (c) from 1950 up to the present at Iloilo City. The requirement to state all the former places of residence in the application is so essential that failure to do so would affect the jurisdiction of the court (*Calvin K. Lo vs. Republic*, 111 Phil. 1036.)

Wherefore, the decision appealed from is reversed. Costs against petitioner.

Bengzon, C. J., Concepción, Reyes, J. B. L., Dizon, Regala, Makalintal, Bengzon, J. P., and Zaldivar, JJ., concur.

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