

IN THE MATTER OF THE PETITION FOR NATURALIZATION OF TAN KHE SHING ALIAS TAN KEE SING. TAN KHE SHING ALIAS TAN KEE SING, PETITIONER-APPELLEE, VS. REPUBLIC OF THE PHILIPPINES, OP...

G.R. No. L-22390. February 29, 1968

Ponente: MAKALINTAL, J.

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MAKALINTAL, J.:

Appeal taken by the Solicitor General from the decision of the Court of First Instance of Marinduque granting the petition of TAN KHE SHING alias TAN KEE SING to be admitted as citizen of the Philippines.

The petitioner, a citizen of the Republic of China was born August 31, 1925 in Fukien, China. He arrived to the port of Manila on November 19, 1929, on board the vessel SS SUSANA. He was in Manila for one week, then proceeded to Mogpog, Marinduque, where he stayed for another week and finally went to Boac, Marinduque, where he established his legal residence. He finished his primary grades at the primary school in Boac, Marinduque, his elementary grade, at the Chinese Republican School, and his high school course at the Anglo-Chinese School in Manila, where he lived for a period of two to three years. On January 29, 1950, in City of Manila, he contracted marriage with So Moy Hun, another Chinese, with whom he has six children. Three of these children who were of school age at the time of the hearing of the petition, namely, Antonio, Alfredo, and Webster, were enrolled and studying at the Crusader's Academy located at 649 Ongpin Street, Binondo, Manila.

The petitioner has a general merchandise store at the poblacion of Boac, Marinduque, with a working capital of P30,000.00 and from which he derived an annual income of from P6,000.00 to P7,000.00 in the years 1960 and 1961, and more or less P9,000.00 in the year 1962.

Two witnesses, Ex-Governor Miguel Manguerra and Ex-Mayor Jose M. Madrigal, both residents of Boac, Marinduque vouched for petitioner's good moral character and irreproachable conduct.

In this appeal, the Solicitor General alleges that the Court erred: (1) in not finding that the petitioner has not evinced a sincere desire to embrace Filipino customs and traditions; and (2) in not finding that petitioner has not conducted himself in a proper and irreproachable manner by his continuous use of an alias without judicial authority.

In support of the first assigned error, the Solicitor General points out in his brief:

“x x x All the children of the petitioner who are of school age are now presently enrolled and studying at the Crusader's Academy. While it is true that said school is recognized by the government and is a branch of the San Juan de Letran College, it cannot also be denied that most of the students in said school are the children of Chinese nationals the same being located in the center of the teeming Chinese district of Binondo.”

While the inference of the Solicitor General may be correct, there is nothing in the record to show that the students in the Crusader's Academy are predominantly children of Chinese nationals. Indeed, if there had been a

showing to that effect the enrollment of petitioner's children in said school, would adversely reflect in his sincerity to embrace Filipino Customs and traditions.[1] We cannot therefore, rule that the trial court erred on this particular point.

As regards the second assigned error, petitioner admits that in almost all the documentary evidences presented by him the name TAN KHE SHING alias TAN KEE SING appears; but contends that this fact does not constitute a violation of law which may disqualify him from acquiring Filipino citizenship because: (1) his use of the alias TAN KEE SING is one of the exceptions provided for Section 1 of Commonwealth Act 142, petitioner having used alias since childhood when he entered the public schools; and (2) that he has only one "name", which name been spelled in two different ways, to wit: TAN KEE SHING and KEE SING.

On direct examination petitioner tried to explain the use of the alias TAN KEE SING by stating that when he was enrolled in the primary school, his teacher misspelled his name and from that time on he has adopted the same. However, except for petitioner's own testimony no other evidence was introduced to show that in the primary grades he was using and/or was known by the name TAN KEE SING. Inasmuch as no corroborative evidence was adduced to show the veracity of his assertion, petitioner's contention cannot be sustained on the first ground.

Regarding the second ground relied upon by the petitioner, TAN KEE SING cannot be considered as just another way of spelling TAN KHE SHING. It is a different name altogether, an alias in contemplation of law, since "the difference of one letter in a name may mean the distinction of identity of one person with that of another" (Tan vs. Republic G. R. No. L-16384, April 26, 1962; Khan vs. Republic, G. R. No. L-19709, Sept. 30, 1964).

In view thereof, we find that the petitioner has used the alias TAN KEE SING in violation of Commonwealth Act No. 142, a ground sufficient to warrant the denial of a petition for naturalization.[2]

Inasmuch as "this case is open for review in its entirety by this Court regardless of whether or not objection had been made in connection with a particular point during the proceedings below" (Go In Ty vs. Republic, G. R. L-17919 July 30, 1966; Kwock How vs. Republic, G. R. L-18521, Jan. 30, 1964; Tio Tek Chai vs. Republic, G. R. L-19112, Oct. 30 1964), we note that the petition of applicant is fatally deprive on at least two more points: (1) the notice and publication requirements of the law were not complied with; and the petition failed to state applicant's former place of residence.

Other than the affidavit of the Director-Publisher of the "NUEVA ERA" to the effect that said newspaper was general circulation in the Philippines, there is no evidence that it was of general circulation in the province of Marinduque. In the case of Tan Ten Kock vs. Republic, G. R. No. L-18344, February 28, 1964 and reiterated in the case of Tan Sen vs. Republic, G. R. No. L-23181, Oct. 24, 1967, this Court said:

"The law requires that the newspaper in which the petition for naturalization is to be published must be of general circulation in the province where petitioner resides. While, in the instant case, there is an affidavit executed by the Editor of the Nueva Era to the effect that the said newspaper is of general circulation in the Philippines, this statement is not sufficient proof that there has been compliance with the law. Positive evidence must be presented to prove that the Nueva Era is of general circulation in Samar, and it is incumbent, upon petitioner to present such evidence.

"The purpose of the law in requiring publication of the notice is to inform those officers and the public in general of the filing of such a petition in order that the public officers and private citizens supposed to be acquainted with the petitioner may furnish the Solicitor General or the provincial fiscal with such necessary information and evidence as there may be against the petitioner (Anti-Chinese League of the Phil. vs. Alfonso Felix, etc., et al., G. R. No. L-998, February 20, 1947, 77 Phil. 1012). Considering then that the Nueva Era is published in Spanish and not in English or in the dialect of Samar, which are more commonly used in petitioner's province of residence, and that there has been no positive and direct proof that it is generally

circulated in said pro-vince, the publication made therein may not be taken as having served the objective of the law."

Regarding the second point, the petitioner on cross-examination stated that he stayed at the Anglo-Chinese School, which is located in Manila, from two to three years. However, his petition does not state that he resided in Manila at any time. It is settled that such failure to mention petitioner's former residences affects the jurisdiction of the court to hear the case" (O Ku Phuan vs. Republic, G.R. No. L-23406, August 31, 1967). This Court had occasion to explain this point, thus:

" x x x In a petition for naturalization, petitioner should set forth not only his present place of residence but also his "former places of residence." (Section 7, Revised Naturalization Law) The statement of all the places of residence, past and present, is required to inform the gen-eral public and to enable it to register its protest through the administrative agencies of the Government, if warranted, against petitioner's desire to embrace citizenship. For petitioner to omit some of his previous residences is to withhold full opportunity for intelligent objection and virtually to defeat the purpose of the law. (Lo vs. Republic, G. R. No. L-15919, May 19, 1961; Qua vs. Republic, G. R. L-19834, October 27, 1964; Go vs. Republic, G. R. L-20558, March 31, 1965; Tan vs. Republic, G. R. No. L-22207, Nay 30, 1966).

Nor would petitioner be right by his contention that the provision of section 7 of the Revised Naturalization Law refers merely to legal residence and not to physical or actual residence as well. Bearing in mind the purpose of the law, which is to accord a fair op-portunity for protest against naturalization by those who know the applicant, it is not difficult to see that actual or physical residence merits the same importance, if not indeed more, as legal residence. For, in whatever place the applicant establishes his actual residence, there he evinces his conduct and exhibits his acts. The people around him or those with whom he mingles, acquire an intimate knowledge of his ge-nuine personality become better judges of his fitness for citizenship. On the other hand, legal residence could be the place where the applicant seldom stays. As a gauge of his real self, information yielded by the legal residence could be illusory, for the people in such place may gain but a superficial knowledge of the subjects conduct and activities, which could be just an inkling of a few of the many facets of his life. Considerations such as these have impelled this Court to underscore the importance of alleging the actual or physical residence. x x x" (Chua Eng Go vs. Republic, G. R. No. L-21054, July 18, 1967).

Wherefore, the decision appealed from is hereby reversed and the petition is dismissed, with costs.

Reyes, J.B.L., (Acting C.J.), Dizon, Bengzon, J.P., Zaldivar, Sanchez, Ruiz Castro, Angeles, and Fernando, JJ., concur.

Concepcion, C.J., on leave.

[1] Chan Kiat Huat vs. Republic, G. R. No. L-19579, Feb. 28, 1966; Lim Yuen vs. Republic, G. R. No. L-21218, Dec. 24, 1965; Wang I. Fu vs. Republic, No. L-15819, Sept. 29, 1962.

[2] Tan Sen vs. Republic, G. R. No. L-23181, Oct. 24, 1967; Chua Tek @ Senando Tan vs. Republic, G. R. No. L-22372, March 31, 1967; Dy vs. Republic, G. R. No. L-20152, February 28, 1966.

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