

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

G.R. No. L-29580. April 27, 1972

Ponente: REYES, J.B.L., J.

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REYES, J.B.L., J.:

Appeal from the decision of the Court of First Instance of Cebu, in its Naturalization Case No. 816, denying the application for Philippine citizenship of petitioner-appellant Macario Yu, on the grounds that his vouching witnesses do not meet the conditions essential to be "credible persons", as the term is used in Section 7 of the Naturalization Law; that the filing of the petition in the court a quo (Cebu) was resorted to by the petitioner to avoid opposition of a certain group of persons in Misamis Oriental where he had previously filed and later withdrawn a similar petition for naturalization; that he is not a bona fide resident of the City of Cebu, but of Bugang, Sagay, Misamis Oriental; and that he failed to notify the proper authorities of his changes of address from Bugang, Sagay, Misamis Oriental, to Cagayan de Oro and then to Cebu City.

Petitioner-appellant Macario Yu was born on 2 January 1941 in Bugang, Sagay, Misamis Oriental, of Chinese parents. He is single and has resided continuously in the Philippines since birth. He finished his elementary and high school education in Tangaro, Catarman Elementary School and Kong Hua Chinese High School, Cagayan de Oro City, respectively. He was a first year commerce student at the University of San Carlos, Cebu City, during the second semester of 1957-58. Aside from claiming possession of all the qualifications and none of the disqualifications for Philippine citizenship, he claims to be a resident at 102-C Sanciango Street, Cebu City, since February, 1964.[1]

Appellant had previously filed in 1962 or 1963[2] a petition for naturalization in the Court of First Instance of Misamis Oriental, which was docketed therein as Naturalization Case No. 64.[3] He withdrew his petition on the alleged ground that his two witnesses were not qualified under the Naturalization Law. The withdrawal was approved, without prejudice, by the court, in an order dated 21 February 1964.[4]

Then, on 27 January 1966, appellant filed the present petition (Cebu CFI Naturalization Case No. 816), dated 27 December 1965, alleging residence in Cebu City "for a term of one year at least." [5] During the hearing, on 9 March 1967, the fiscal read into the records a letter of the Chief Prosecutor of the Deportation Board to the National Bureau of Investigation informing the latter of the filing of deportation charges against Macario Yu by the people of the barrio of Tangaro, Catarman, sub-province of Camiguin, Misamis Oriental, and that since 1963 the Provincial Commander of Cagayan de Oro City had been asked to investigate the charges.[6] Appellant claimed not to know, up to the time of the said hearing, that he was facing charges before the Deportation Board[7] and that he withdrew his petition filed in Misamis Oriental because he had decided to stay in Cebu City in February, 1964.[8]

It will at once be noted from the foregoing that appellant Yu stated two different grounds for the withdrawal of his petition in Misamis Oriental. There, he moved the court for the withdrawal of his petition on the ground of lack of qualification of his witnesses, but in the Court of First Instance of Cebu, he testified that the ground for the said withdrawal was his transfer of residence from Bugang, Sagay, Misamis Oriental, to Cebu City in February, 1964. But what does the record show?

Appellant's own evidence is to the effect that he is the purchasing agent of Ti Chun Lian, his mother, who engages in Bugang, Sagay, Misamis Oriental, in the business of buying and selling of copra. Cebu City, which appellant now claims to be his place of residence, is hardly the proper station for a purchasing agent whose principal operates in Misamis Oriental. Appellant's residence certificate for 1966 indicates that he is a resident of Bugang, Sagay, Misamis Oriental;^[9] a certification issued by the municipal judge of Sagay, dated 31 October 1966, certifies that Macario Yu "is a law-abiding resident of this municipality";^[10] another certification, dated 5 November 1966, from the chief of police of Sagay also certified that appellant is "a peaceful citizen of the above-named municipality."^[11] These certificates were issued ten months after appellant applied for naturalization. With these documentary evidence, it is abundantly clear that, contrary to his testimony and claims, Macario Yu was not a bona fide resident of Cebu City before or after he filed his petition in the Court of First Instance of Cebu; and the reasonable conclusion that can be drawn as to the real ground for the withdrawal of his petition for naturalization in Misamis Oriental and the re-filing of the same in Cebu was, as the lower court correctly observed, to avoid the opposition of those people in Misamis Oriental who had filed charges for appellant's deportation.

Since appellant Yu was not a resident of Cebu City, the Court of First Instance of Cebu where he re-filed his petition for naturalization had no jurisdiction over the case because only the court of the province where applicant is a legal resident for at least one year immediately preceding the filing of a petition for naturalization has exclusive original jurisdiction thereof.^[12]

In addition, applicant Yu failed to submit credible corroborative evidence of his paid employment or of his primary education in schools open to all students regardless of creed, race or nationality or attended by a sizeable number of Filipino students where applicant could have imbibed Filipino customs and ideals,^[13] in order that applicant could be exempt from timely filing a declaration of intention as required by law, which he has not done. The certificates submitted by him as Exhibits "M" and "K-I" are of no probative value since the makers thereof were not presented as witnesses nor tested by cross examination.

WHEREFORE, the decision, object of the instant appeal, dismissing the petition for naturalization, is affirmed. Costs against petitioner-appellant Macario Yu.

Makalintal, Zaldivar, Castro, Fernando, Teehankee, Barredo, and Antonio, JJ., concur.

Concepcion, C.J., on official leave.

Makasiar, J., took no part.

[1] T.s.n., pages 39 and 53.

[2] T.s.n., page 55.

[3] Ibid.

[4] Exhibit "2"

[5] Record on Appeal, pages 1-2.

[6] T.s.n., page 57.

[7] T.s.n., page 56.

[8] Ibid.

[9] Exhibit "I".

[10] Exhibit "U".

[11] Exhibit "R".

[12] Sy Cesar vs. Rep., L-14009, 31 May 1961, 2 SCRA 395; Chin Guan Co vs. Rep., L-15794, 29 Dec. 1962, 6 SCRA 960; Chang vs. Rep., L-20713, 29 Apr. 1966, 16 SCRA 719; Tan vs. Republic, L-26327, 16 Oct. 1970, 35 SCRA 266.

[13] See Lee Ng Len vs. Republic, L-20151, 3 March 1965, 13 SCRA 533; Ng vs. Republic, L-26242, 25 Oct. 1968, 25 SCRA 574.

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