

IN THE MATTER OF THE PETITION FOR ADMISSION TO PHILIPPINE CITIZENSHIP. LAW TAI ALIAS VICENTE LO, PETITIONER-APPELLEE, VS. REPUBLIC OF THE PHILIPPINES, OPPOSITOR-APPELLANT.

G.R. No. L-20623. April 27, 1967

Ponente: SANCHEZ, J.

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SANCHEZ, J.:

On January 14, 1961, Law Tai alias Vicente Lo and christened Vicente Sandiko Lo,[1] a citizen of the Republic of China,[2] filed a petition for naturalization in the Court of First Instance of Romblon.[3]

On March 24, 1962, after trial, the lower court rendered judgment declaring petitioner eligible to Philippine citizenship. The State appealed.

Petitioner was born in Amoy, China on May 17, 1923. He arrived in Manila on October 4, 1930, by boat. After less than a month in Manila, he went to Laoag, Ilocos Norte, where he resided for a period of "[l]ess than two years."

In 1932 he returned to Amoy, China to visit his parents. He was away for "[l]ess than four months." When he came back, he stayed in Manila for about two months, then proceeded to Bacolod, Negros Occidental. Some four or five years later, after liberation, he moved to Romblon, Romblon, his present place of residence. After "two or three years" from the date of his arrival in Romblon, he started to serve as purser on board the ship "General Del Pilar."

The record further discloses petitioner's two more travels abroad: again to Amoy in 1948 with his wife, to pay the respects to his parents; and a sojourn in Hongkong to visit an old sister of his.

Petitioner married Salvacion T. Cerdeña, a Filipina, on May 12, 1948.[4] The couple have six (6) children - all minors.

A merchant, he started business in 1950, under the name of Adventure Supply. At the time of the filing of the petition he had an annual income of P5,499.58.[5]

On three grounds, the State's appeal should be upheld.

1. From petitioner's arrival in the Philippines (October 4, 1930) to the filing of his petition (January 14, 1961), a period of 30 years, 3 months and 10 days elapsed. Petitioner did not file a declaration of intention as required by the Naturalization Law. He claims exemption thereof.[6] The Solicitor General challenges this position, draws attention to jurisprudential doctrine that residence, as here understood, contemplates "actual and substantial," not legal residence alone. Reason for this is that "only by actual and substantial residence may the said qualification be acquired by an applicant." [7]

But petitioner cites authorities - meant to establish an exception - that short absences do not interrupt continuity of residence as a prerequisite for exemption in filing a declaration of intention.[8]

Petitioner's position suffers from infirmity. His first trip to Amoy for less than four months in 1932 may well be termed a short visit which could bring the case within the coverage of *Ting vs. Republic*, footnote 8. But, with reference to the second trip to Amoy and the third trip to Hongkong, the record is barren as to the duration of each. We are hard put to categorize these two trips. We cannot simply assume, as petitioner suggests, that these trips are for short duration. That would be guesswork.

Incumbent upon petitioner is to demonstrate - given the fact of absences from the country - that those absences were compatible with continuous residence. Failing in this and short of it, his case must fail.

For, he has not discharged his burden.[9]

And without the required declaration of intention, the court a quo did not acquire jurisdiction to entertain his petition.[10] The petition herein should not have been entertained.

2. Petitioner's application lists his residence as Romblon, Romblon.[11] He did not state any other place of residence. But, he resided in Laoag, Ilocos Norte, for a period of less than 2 years, and in Bacolod, Negros Occidental, for 4 or 5 years. Without question, Laoag and Bacolod are former places of residence. Long has jurisprudence stabilized the rule that failure to state former places of residence is fatal to a naturalization petition.[12]

3. Petitioner's annual income at the time of the filing of his petition is P5,499.58.[13] With six children and a wife to support, and considering the high cost of living and the low purchasing power of money, this income does not rise to the level of the lucrative.[14]

For the reasons given, the judgment under review is reversed, and the petition for naturalization dismissed. Costs against petitioner.

SO ORDERED.

Concepcion, C.J., Reyes, J.B.L., Dizon, Regala, Makalintal, Bengzon, J.P., and Zaldivar, JJ., concur.
Castro, J., took no part.

[1] Exhibit S.

[2] Exhibit Q.

[3] Naturalization Case No. 23.

[4] Exhibit R.

[5] Exhibit GGG.

[6] Section 6 of Commonwealth Act 473, the Revised Naturalization Law, as amended by Commonwealth Act 535, in part, provides: "Persons born in the Philippines x x x and who have resided continuously in the Philippines for a period of thirty years or more before filing their application may be naturalized without having to make a declaration of intention upon complying with the other requirements of this Act."

[7] *Dy vs. Republic*, 92 Phil. 278, 280-281. See also: *Sy See vs. Republic*, L-17025, May 30, 1962; *Tan vs. Republic*, L-16013, March 30, 1963. *Guy Co Chia vs. Republic*, L-17917, April 30, 1964; See *Yek Tek vs. Republic*, L-19898, June 28, 1965; *Yao Long vs. Republic*, L-20910, November 27, 1965.

[8] *Ting vs. Republic*, 101 Phil. 1038, 1040, citing *Tio Liok vs. Republic*, L-4545, October 29, 1952.

[9] Rule 131, Section 1, Rules of Court.

[10] Ong Khan vs. Republic, L-14866, October 28, 1960; Sy Ang Hoc vs. Republic, L-12400, March 29, 1961.

[11] R.A., p. 1.

[12] Chang vs. Republic, L-20713, April 29, 1966; Tan vs. Republic, L-22207, May 30, 1966, citing cases.

[13] Exhibit GGG, *supra*.

[14] In the following cases, the annual income of married applicants failed to pass the "lucrative" test: P8,687.50, with five children, Keng Giok vs. Republic, L-13347, August 31, 1961; P5,980.00, with three children, Koa Gui vs. Republic, L-13717, July 31, 1962; P6,300.00, with one child, Tan vs. Republic, L-16013, March 30, 1963; P7,133.29, with four children, Go Bon The vs. Republic, L-16813, December 27, 1963; P5,000.00, with five children, Tio Tek Chai vs. Republic, L-19112, October 30, 1964; P8,067.24, with five children, Yap Bun Pin, L-19577, October 30, 1964; P5,000.00, with four children, Tan Kiong Kiat, L-19915, June 23, 1965; P6,660.00, with five children, Yu Tiu vs. Republic, L-19844, June 30, 1965; P7,799.34, with five children, Uy Ching Ho vs. Republic, L-19582, March 26, 1965; and P6,000.00, with six children, Wong Kim Goon vs. Republic, L-20373, December 24, 1965.

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