

**VICTORIO GUY CO CHIA, PETITIONER AND APPELLEE, VS.
REPUBLIC OF THE PHILIPPINES, OPPOSITOR AND APPELLANT.***G.R. No. L-17917. April 30, 1964*

Ponente: BAUTISTA ANGELO, J.

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Petitioner seeks to become a Filipino citizen. Petitioner was born in the Philippines on April 23, 1924 of a Chinese couple named Eugenio Guy Co Chia and Tan Hong who are citizens of the Republic of China and are now both deceased. During his entire period of stay in the Philippines, he has resided in the following addresses: from 1934 to 1938 at 150 Magdalena St., Manila; from 1938 to 1948 at 750 San Fernando, Sto. Cristo, Manila; from 1949 to 1950 at No. 145 Villalobos, Manila; from 1949 to 1952 at No. 141 Villalobos, Manila; from 1952 to 1955 at No. 750 San Fernando, Manila; from 1956 to 1958 at No. 951 California, Manila; from 1955 to 1960 at 1129 Canonigo St., Manila; and from June, 1960 to the present at No. 838 O'Donnell St., Sta. Cruz, Manila.

In 1927 he went to China and returned to the Philippines only in 1938. In 1947, he went back to China, where he married De Yan Che or Dee Yan Tee in Kwangchi, China on September 15, 1947, with whom he has a son named Sin Lin Guy Co Chia who was born on August 18, 1948 in Kwangchi, China, and who is presently enrolled in Grade II of the Hope Christian High School, a school recognized by our government where Philippine history, civics and government are taught. In 1954, he went to Hongkong to visit his family returning to the Philippines on June 28, 1957, and in February, 1958, he went again to Hongkong to visit his family returning to Manila on March 14, 1958.

Petitioner is employed as a salesman in the business firm of Francisco Guy Co Chia established at No. 406 Alliance Building, Rosario, Manila, receiving a salary of P250.00 a month. Aside from his monthly pay, he has some investment in the Lepanto Mines Co., Inc. and the Palawan Quicksilver Co., Inc. from which he received some dividends, his income therefrom in 1959 amounting to P16,000.00. He filed his income tax returns regularly and has no standing obligation to the government. He is registered in the Bureau of Immigration, and has always paid his annual fee.

Petitioner believes in the principles underlying the Constitution and has conducted himself in a proper and irreproachable manner in his relation to the government and to the community in which he lives. He has mingled socially with the Filipinos and is not opposed to organized government, nor does he teach the necessity of violence, assault or assassination for the success or predominance of men's ideas. He does not believe in polygamy, or in the practice thereof, and has not been convicted of any crime involving moral turpitude. His desire to become a Filipino citizen is sincere and it is his intention to renounce absolutely his allegiance to any foreign country. He can speak and write in English and Tagalog, and has studied up to second year high school at the Far Eastern University.

The petition is supported by the testimony of Col. Francisco Sandico, retired, of the Philippine Constabulary, a resident of San Juan, Rizal, now engaged in textile business, and of Gerardo Udarde a resident of Cubao, Quezon

City, who works as a salesman with the National Athletic Supply established at No. 705 Raon St., Manila.

After trial, the court a quo rendered decision granting the petition, whereupon the Republic took the present appeal.

While the Republic does not seriously dispute the personal qualifications of petitioner to become a Filipino citizen as may be reflected from the facts stated elsewhere, it however took his appeal in view of his failure to comply with the requirement of our Naturalization Law that one who desires to be a Filipino citizen must file a declaration of intention before applying for citizenship unless he comes within the exemption prescribed therein.

Indeed, the government contends, there is nothing in the record to show that petitioner has filed such declaration of intention. Neither does he come within the exemption prescribed by law. Thus, the law exempts one from filing such declaration in two cases: (1) when petitioner is born in the Philippines and has received his primary and secondary education in public schools, or in any of those recognized by our government; and (2) when petitioner has resided continuously in the Philippines for a period of 30 years or more before filing. the application for citizenship, and has given primary and secondary education to all his children in public or private schools recognized by our government, which are not limited to any race or nationality, and petitioner does not come under any of these two exceptions.

We find merit in the opposition of the government. To begin with, We may say that while the record clearly shows that petitioner was born in the Philippines, there is nothing in the evidence to indicate that he received his, primary and secondary education in public schools, or in any of those recognized by our government which are not limited to any race or nationality. This educational requirement is necessary not only to test the sincerity of purpose of petitioner but to give him the proper perspective regarding the ideals and principles of the citizenship he seeks to embrace. He cannot, therefore, claim shelter under the first exemption of the law.

He cannot also claim shelter under the second exemption, for the record is clear that he has not resided continuously in the Philippines for 30 years or more prior to the filing of his petition for naturalization. While it is true that he was born here on April 23, 1924 and claims to have resided in the Philippines up to 1959, when he filed the present petition, it is, however, a fact clearly proven that from 1927 to 1938, or more specifically, for a period of 11 years, he was not in the Philippines but in China apart from other substantial absences he had had in the intervening period. And while our law does not require that a petitioner should spend every minute of the required 30—year period in the Philippines, common sense tells us that an absence of uninterrupted 11 years constitutes more than enough reason to break continuity required by law, which furnishes not only a tangible proof of his intention but a means to imbibe the principles and ideals of our institutions. As this Court has observed, the law contemplates not merely legal but actual and substantial residence upon the theory that only by such residence may an applicant acquire the necessary fitness to become a citizen.[1] His absence of more than 11 years certainly disrupts such continuity and renders him unfit to apply for citizenship without the requisite declaration of intention.

It being a matter of record that petitioner has not resided in the Philippines for the duration required by law to exempt him from filing a prior declaration of intention, a requirement which under the law is mandatory, the court a quo erred in granting him the privilege of citizenship.

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

Bengzon, C.J., Padilla, Labrador, Concepcion, Reyes, J.B.L., Barrera, Paredes, Dizon, and Makalintal, JJ., concur.

[1]Dy vs. Republic, 92 Phil., 278; 48 O.G., No. 11, p. 4813.

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