

IN RE: PETITION FOR NATURALIZATION. LO KIO ALIAS ANTONIO MANLY, PETITIONER AND APPELLANT, VS. REPUBLIC OF THE PHILIPPINES, OPPOSITOR AND APPELLEE.

G.R. No. L-13408. September 24, 1959

Ponente: BARRERA, J.

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BARRERA, J.:

On June 15, 1957, the Court of First Instance of Camarines Sur rendered a decision (in Naturalization Case No. 33) denying the petition for naturalization filed by Lo Kio alias Antonio Manly, on the sole ground that the petitioner did not possess good moral character, as required under Paragraph 3, Section 2 of the Revised Naturalization Law.

On July 5, 1957, the petitioner filed a motion for reconsideration, which was denied by the court in its order of July 16, 1957. The petitioner, therefore, appealed to this Court.

It appears that during his first visit to China in 1931, the petitioner-appellant married a Chinese woman, named Tan Eng, and begot with her a son. He returned to the Philippines in 1932, leaving his wife in China who there died in 1941. He however, learned of her death only in 1949. From 1941 to 1952, he cohabited with Luisa Alejo in the Philippines, out of which relationship, 4 children were born. He finally married her on September 9, 1952.

It is contended for the petitioner-appellant that his subsequent marriage to Luisa Alejo on the aforementioned date had cured his lack of moral character and, thereby, qualified him for admission as a Filipino citizen.

The contention is without any merit. In the case of *Sy Kiam vs. Republic* (102 Phil., 575; 54 Off. Gaz., [12] 3802) we held, in effect, that the marriage of the petitioner-appellee to Aurora Villaflor, with whom he had cohabited, begetting with her 13 children, on February 9, 1950, six months before applying for naturalization, did not cure his lack of moral character as to entitle him to be admitted as a Filipino citizen. We, therefore, reversed there the decision of the lower court granting the petitioner-appellee's petition for naturalization. We stated.

"The weightier objection arises from that, according to his own Exhibit 'G' Sy Kiam married Aurora Villafior on 9 February 1950, only six months before applying" for naturalization. This means that he had coliated with her and begotten thirteen children by her without benefit of marriage; and this Court has ruled that such behavior falls short of the 'proper and irreproachable conduct' that our naturalization law requires (*Yu Lo vs. Republic*, 48 Off. Gaz., 4334; *Yu Singco vs. Republic*, 50 Off. Gaz., 104). In the *Yu Lo* case this Court, speaking through Mr. Justice Montemayor, made the following ruling (at p. 4337) that is squarely applicable to the present case:

"However, we agree with the trial court insofar as it denied the petition for naturalization, on the ground that the conduct and behavior of appellant in cohabiting with Francisca Amable and begetting children with her without the benefit of marriage, from the standpoint of morality and decency, does not meet with the approval not only of this court but of the community where he lives and the country whose citizenship he applied for, which country by the way is mostly Christian and of the Catholic faith. While there may be a few cases of

concubinage or cohabitation without the sanction of marriage, by citizens of this country, nevertheless, before admitting an alien into its fold and giving him the rights and privileges of citizenship, this country by law requires of the applicant, among other things, proper and irreproachable conduct. Openly cohabiting with a woman and maintaining with her what the law considers illicit relations, can be hardly regarded proper and irreproachable conduct. For this reason, we affirm the decision appealed from.'

"We therefore believe that the naturalization should have been refused, and reverse the judgment of the court below, without prejudice to a renewal of the application provided the applicant has observed irreproachable conduct after his marriage for the 5-year period required by sec. 3 of Commonwealth Act 473 of aliens who are married to Filipino women, and no other disqualifications appear. Without cost." (*Italics supplied.*)

There is another reason why the herein petition should be denied. It appears that 5 years prior to the filing of his petition for naturalization on February 23, 1954, that is, in 1949, the petitioner-appellant's son in China was only a minor 16 years of age and was still living. It does not appear that the petitioner-appellant had exerted any effort to bring him to the Philippines in order to enroll him in the schools as provided in Paragraph 6, Section 2 of the Revised Naturalization Law. The fact that his child was in China during his minority and when he was of school age, did not, without showing any justifiable reason therefor, excuse the petitioner-appellant from complying with the requirement of the statute. (*Dy Chan Tiao vs. Republic, 95 Phil.; 709. Yap Chin vs. Republic, 98 Phil., 215. Abadilla vs. Republic, 94 Phil., 98; Chan Ho Lay vs. Republic, G. R. No. L-5666, promulgated March 30, 1954; Quing Ku Chay vs. Republic, 94 Phil., 736 Ng Sin vs. Republic, G. R. No. L-7590, promulgated September 20, 1955; Chua Kang vs. Republic, G. R. No. L-8875, promulgated July 31, 1956; and Ku E vs. Republic, G. R. No. L-11364, promulgated May 5, 1958.*)

Wherefore, the decision appealed from is hereby affirmed, with costs against the petitioner-appellant. It is so ordered.

Paras, C. J., Bengzon, Padilla, Montemayor, Bautista Angelo, Labrador, Concepcion, Endencia, and Gutierrez David, JJ., concur.

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