

IN RE: PETITION FOR NATURALIZATION LEON TE POOT ALSO KNOWN AS TE BON BENG, PETITIONER-APPELLEE, VS. REPUBLIC OF THE PHILIPPINES, OPPOSITOR-APPELLANT.

G.R. No. L-20017. March 28, 1969

Ponente: CAPISTRANO, J.

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CAPISTRANO, J.:

Appeal by the Republic from the judgment of the Court of First instance of Davao granting the petition of Leon Te Poot, a Chinese, for naturalization as a ci-tizen of the Philippines.

Our study of the record in the light of the errors assigned in appellants brief shows that the contentions of appellant are tenable in view of the following considerations:

1. The lower court did not acquire jurisdiction over the case in view of petitioner-appellee's failure to file a declaration of intention. Petitioner-appellee did not file a declaration of intention, and con-tended that he was exempt therefrom on the grounds that he was born in the Philippines and that he completed his primary and secondary education in schools recog-nized by the Philippine government. At the trial petitioner-appellee presented a certificate from the Local Civil Registrar of Governor Generoso (formerly Siga-boy), Davao, stating that the record of births, covering June 28, 1933, the alleged date of birth of Leon Te Poot, had been lost before the war. In lieu of birth certificate, petitioner-appellee presented his Alien Certificate of Registration and his Certificate of Re-sidence, both of which show that he was born on June 28, 1933, in Sigaboy, Davao. These documents are, however, hearsay evidence; hence, not satisfactory to prove the fact of petitioner-appellee's birth in the Philippines. (Alfonso Po Chu King vs. Republic, L-20810, May 16, 1967; De Lara vs. Republic, L-18203-04, May 29, 1964.) The evi-dence presented by one claiming exemption from the filing of a declaration of intention must be clear and convincing. (Ong Apacible vs. Republic, L-16987, June 21, 1966.) It is easy to understand why petitioner-appellee's parents, or either of them, were not presented as witnesses, for they could have been cross-examined on this important point by the counsel for the Republic.

To prove compliance with the educational require-ments, petitioner-appellee presented his high school diploma from the Mindanao Colleges. He also presented a certificate from the Principal of the Davao Chinese High School to the effect that he studied in that school from Grade One to the First Year of high school; that said school was recognized by the Philippine government; and that Philippine civics, history and government were taught therein. This certificate is hearsay evidence, considering that the Principal who made it was never pre-sented as a witness in court, thus depriving the State of the opportunity to cross-examine him. (Uy Boco vs. Repub-lic, 85 Phil., 320.) While it is true that Miguel de Cas-tro, one of petitioner-appellee's character witnesses, dec-lared in court that his son, a Filipino, had been a class-mate of petitioner-appellee in the Davao Chinese High School, and that there were some Filipinos enrolled therein, it does not appear that the said school was "regularly attended by a sizable number of Filipino students from whom applicant could have imbibed Filipino customs and traditions." (Lee Ng Len vs. Republic, L-20151, March 31, 1965.)

Petitioner-appellee having failed to file a declaration of intention although he was not exempt therefrom, the court did not acquire jurisdiction over his petition. (Yap vs. Republic, L-12939, July 31, 1951.)

2. Petitioner-appellee has not conducted himself in a proper and irreproachable manner. He admitted using two names: Leon Te Poot and Te Bon Beng. In his Alien Certificate of Registration and in his Certificate of Residence issued by the Bureau of Immigration, petitioner-appellee's name is "Leon Te Poot"; and it is not shown therein that he is also known by another name. His Certificate of Nationality and his income tax returns for 1960 and 1961 are also in the name of "Leon Te Poot" only; they do not show any other name by which he is known. In all his school records petitioner-appellee's name is "Te Bon Beng"; and it does not appear therein that he was known also by another name while he was a student. Petitioner appellee contends that his alias "Te Bon Beng" was given to him by his parents when he was a child, hence, his use also of said name was justified, citing *People vs. Uy Jui Pio* (55 Off, Gaz., No. 40, p. 8463). In *Kock Tee Yap vs. Republic*, L-20992, May 14, 1966, where, as in the present case, the applicant used different names on different occasions without mentioning the other names by which he was also known, and where he claimed that one of his names was given to him by his parents when he was a child, this Court held that the ruling in the *Uy Jui Pio* case was not applicable, because there, the petitioner always used the name by which he was generally known along with his real name, "Uy Jui Pio, alias Juanito Uy."

By using different names on different occasions without judicial authority, thus violating the Anti-Alias Law (Comm. Act No. 142), petitioner-appellee has failed to conduct himself in a proper and irreproachable manner. (*Kock Tee Yap vs. Republic*, supra.)

3. Petitioner-appellee cannot be deemed to have a lucrative trade, profession or lawful occupation for purposes of naturalization. According to petitioner-appellee, he started working for his father in January, 1960, receiving a monthly salary of P200, which was increased to P250 in January, 1961, and to P300 in March of the same year. He claimed that aside from the salary, his father furnished him free board and lodging. The alleged salary of petitioner-appellee was not supported by any payroll, time record or book of account. The absence of these or similar documents (*Yap vs. Republic*, L-19832, August 23, 1966), considered with the circumstance that petitioner-appellee's alleged employer was his own father, makes the claim of employment suspicious. (*Chug Siong Hua vs. Republic*, L-21400, May 31, 1966; *Ngo vs. Republic*, L-25805, February 27, 1969).

Moreover, an applicant's qualifications for naturalization must be determined as of the date of the filing of the application (*O Ku Phuan vs. Republic*, L-23406, August 31, 1967), and increases in earnings after such filing cannot be taken into consideration. (*Tan vs. Republic*, L-22077, February 18, 1967) Considering, therefore, Leon Te Poot filed his petition on February 2, 1961 the privileges of free board and lodging, his alleged income of P250 per month cannot be considered lucrative even though he is single, (*Sia Paw vs. Republic*, L-24782, November 17, 1967; *Sy vs. Republic*, L-19581, April 29, 1966; *Uy vs. Republic*, L-20208, June 30, 1965.)

4. Petitioner-appellee's character witnesses are not competent to vouch for his good character and behaviour. This point was not raised by the Solicitor General; however, it may be considered in this appeal. (*Dy vs. Republic*, L-20348, December 24, 1965.) According to petitioner-appellee, he was born in Sigaboy, Davao, on June 28, 1933. One of his character witnesses, Bansalan Mayor Ramon de los Cientos, testified that he had known petitioner-appellee since 1954. The rule is that where the applicant for naturalization was born in the Philippines, his character witnesses must be competent to vouch for his character and behavior from the time the applicant was born up to the date of the filing of his application. (*Wong Chui vs. Republic*, L-23855, April 24, 1967; *King vs. Republic*, L-19082, September 29, 1966; *Ng vs. Republic*, L-21179, January 22, 1966.) It appearing Mat witness De los Cientos came to know petitioner-appellee only when the latter was 21 years old, and in the case of witness De Castro, only when petitioner-appellee was 19 years old; that, moreover, during the period 1954-1958, witness

De los Cientos' knowledge of petitioner-appellee was admittedly limited to the few times that he went to Davao City to visit his family and to the few times that petitioner-appellee went to his house; and that witness De Castro was necessarily incompetent to declare, as he did declare, that "petitioner conducted himself in a proper and irreproachable manner during the entire period of his residence in the Philippines, "it is clear that both witnesses were not competent to testify on petitioner-appellees good moral character and behavior during his entire period of residence in the Philippines. (Yap vs. Republic, L-19832, August 23, 1966.)

PREMISES CONSIDERED, the judgment appealed from is reversed and the instant petition for naturalization is denied. Cost against petitioners-appellee.

Concepcion, C.J., Reyes, JBL, Dizon, Makalintal, Zaldivar, Sanchez, Ruiz Castro, Fernando, Teehankee, and Barredo, JJ., concur.

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