

CHAN KIAT HUAT, PETITIONER AND APPELLEE, VS. REPUBLIC OF THE PHILIPPINES, OPPOSITOR AND APPELLANT.

G.R. No. L-19579. February 28, 1966

Ponente: SANCHEZ, J.

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SANCHEZ, J.:

On application for naturalization. The judgment below went for petitioner. The Republic appealed.

Petitioner Chan Kiat Huat was born a Chinese in Amoy, China, on January 6, 1919. He landed at the Port of Manila, Philippines, on May 15, 1925, on board the vessel "S/S Susana". He stayed in Manila until 1953 when he transferred to and resided permanently in Bacolod City. He registered as an alien both with the Philippine Immigration Bureau and the Embassy of the Republic of China.

He married one Felipa Te, allegedly a Filipino citizen. Begotten of that marriage were nine (9) children, all surnamed Chan, namely: (1) Lily, born on February 23, 1946; (2) Mary, February 23, 1948; (3) Nenita, January 27, 1951; (4) Alex, May 7, 1951; (5) Carolina, June 8, 1952; (6) Benita, April 2, 1954; (7) Susie, February 29, 1956; (8) Benjamin, February 20, 1957; and (9) Helen, December 7, 1960. Presently schooling at the Tay Tung High School in Bacolod City are the first eight.

Petitioner is engaged in the wholesale business of general merchandise and textiles in Bacolod City under the name and style of "Golden Light Trading". His income tax returns for the years 1958, 1959 and 1960 show respectively a net income of P2,105.52; P6,403.62 and P6,571.86.

First in point of inquiry is whether or not petitioner's last reported income for 1960[*]—P6,571.86—meets with the legal requirement of lucrative trade.

A number of circumstances sustain appellant's position. For one thing, there is the high cost of living and the low buying power of money. Then the fact is that petitioner has to support nine children (eight of whom are schooling), his wife, and himself. By the standard in *Keng Giok vs. Republic*, 112 Phil. 986, August 31, 1961, cited with approval in *Wong Kim Goon vs. Republic*, G. R. L-20373, December 24, 1965, we hold that petitioner's annual net income does not rise to the level of lucrative business.

That petitioner's net earnings rose from P2,105.52 in 1958 to P6,403.02 in 1959 to P6,571.86 in 1960, does not induce belief that thereafter his business will be lucrative. Imponderables there are in the fate of a business enterprise. We are to be guided by his actual income at the "time of the filing of his petition". *Ong Tai vs. Republic*, G.R. L-19418, December 23, 1964. And appellee's P6,571.86 is short of the desired amount.

Appellant next challenges petitioner's sincerity in his desire to become a Filipino citizen. Our attention is directed to the fact that eight of petitioner's children are enrolled in Tay Tung High School, which is predominantly attended by children of Chinese parents. Confronted with this fact, petitioner unwittingly betrayed his lack of sincerity, in his testimony culled from the transcript, viz :

Q. Suppose as a prerequisite to your admission as Filipino citizen you will be required to send your children to schools where Filipinos are predominant, would you be willing- to send your children to that school?

A. Yes, sir, after this school year, I will send my other children to the school where the predominant students are Filipinos. Pp. 95-96, t.s.n. Sess. Oct. 23, 1961, Italics supplied.

On this point the Solicitor General aptly remarked:

"The enrollment of petitioner's children in a school predominantly attended by Chinese children shows a lack of sincerity in his avowed intention to learn and embrace the customs and traditions of the Filipinos and, therefore, of his sincerity to become a Filipino citizen. It shows a desire to preserve for his children, who, if his petition for citizenship is granted, are to become Filipino citizens, the customs, traditions, and culture of his present country. Such adherence to his country's institutions renders more difficult the problem of assimilation."

Jurisprudence has it that enrolment of an applicant's children in Chinese schools raises the inference that he has not evinced a sincere desire to embrace our customs, traditions and ideals—a disqualification in a citizenship application. (*Lim Yuen vs. Republic*, G.R. L-21218, December 24, 1965, and cases cited.)

Appellant likewise avers that petitioner's failure to state in his petition all his former places of residence is a fatal defect which bars naturalization. The petition adverted to sets forth Bacolod City as petitioner's only place of residence. But by his own admission in Court, prior to 1953 he resided in Manila and for sometime stayed in the town of Umingan, Pangasinan.

Section 7 of the Naturalization Act commands that a petitioner for Philippine citizenship must set forth in his petition "his present and former places of residence". Petitioner's non-compliance of this mandatory legal requirement is indeed fatal to his application. *Ong Ping Seng vs. Republic*, 121 Phil. 245; *Tan vs. Republic*, 121 Phil. 411; *Tan Nga Kok vs. Republic*, 121 Phil. 1323. And this because such omission "affects the jurisdiction of the court" (*Yao Long vs. Republic*, 122 Phil. 655) and deprives both public and government of a fair opportunity to check up petitioner's activities material to the proceeding and of registering their objection to his application. *Cheng vs. Republic*, 121 Phil. 415; *Yu Ti vs. Republic*, G. R. L-19913, June 23, 1965.

Upon the view we take of this case, we vote to reverse the judgment under review and to deny the petition for naturalization herein.

Costs against petitioner. So ordered.

Bengzon, C. J., Bautista Angelo, Concepcion, Reyes, J. B. L., Barrera, Dizon, Regala, Makalintal, Bengzon, J. P. and Zaldivar, JJ., concur.

Judgment reversed.

[*] He filed his petition for naturalization on January 31, 1961.

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