

**IN THE MATTER OF THE PETITION OF SATURNINO DY TO BE
ADMITTED A CITIZEN OF THE PHILIPPINES. SATURNINO DY,
PETITIONER AND APPELLEE, VS. REPUBLIC OF THE PHILIPPINES,
OPPOSITOR AND ...**

G.R. No. L-20482. August 31, 1965

Ponente: MAKALINTAL, J.

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MAKALINTAL, J.:

This is an appeal by the Government from the decision of the Court of First Instance, of La Union granting appellee's petition for naturalization.

Appellant accepts the facts stated in said decision as substantially in accordance with the evidence. Appellees's qualifications as to age, residence, familiarity with and belief in the principles underlying the Constitution, association with Filipinos and assimilation of native custom and traditions have been duly established. Two points are, however, raised in this appeal. (1) that the lower court erred in assuming jurisdiction in view of the absence of proof that copy of the petition and notice of the hearing had been posted in a public and conspicuous place in the building where the office of the Clerk of Court was located; and (2) that petitioner has not satisfied the legal requirement as to good moral character and as to ownership of real estate or possession of a lucrative trade, profession and lawful occupation.

As to the first point, appellee contends that under the law (Sec. 9, Commonwealth Act No. 473) the posting of a copy of the petition and of the notice of hearing is the duty of the Clerk of Court, and that the presumption is that such official duty was duly performed, especially considering that all other matters which it was his duty to do in connection with the petition were done by him. We do not think the lack of evidence in this respect is fatal to appellee's case, not only because of the presumption referred to but also because of the certification by the Clerk of Court although made after the decision appealed from was rendered, that a copy of the petition and the notice of hearing had actually been posted by him.

On the second point, however, we find the appeal meritorious insofar as the requirement of lucrative trade, occupation or profession is concerned. Petitioner's evidence is that in 1960 his income was P3,600.00, or an average of P300.00 a month. This was the compensation he received for helping in his father's tobacco business. It was declared by him in his income tax return for said year. Said amount or an approximation thereof, according to a number of recent decisions of this Court, does not satisfy the aforesaid requirement for naturalization, considering that the purchasing power of our currency is now but a fraction of what it was formerly. Petitioner's income for 1961, although it showed considerable increase, cannot be taken into account. The requirement of the law in this respect has reference to the time of the filing of the petition, which, together with petitioner's declaration of intention, furnishes the basis for such investigation of his circumstances as the Government may undertake. In this case the only evidence of petitioner's income in 1961 consists of his income tax return, and it was submitted to the trial court after the original decision was rendered and upon a petition for reopening by the

Provincial Fiscal for the purpose of inquiring into petitioner's income prior to 1960. Besides, as found by the trial court, petitioner has a mother, brothers and sisters to support, his father having died on May 28 of 1960 and he being eldest of the children who had to take over the management of the business of the deceased.

The judgment appealed from is reversed and the petition is denied, without pronouncement as to costs.

Bengzon, C. J., Concepcion, Reyes, J. B. L., Dizon, Regalado, Bengzon, J. P., and Zaldivar, JJ., concur.

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