

**IN THE MATTER OF THE PETITION OF JULIO CHUA LIAN YAN ALIAS
JULIO FRANCES TO BE ADMITTED A CITIZEN OF THE PHILIPPINES.
JULIO CHUA LIAN YAN ALIAS JULIO FRANCES,
PETITIONER-APPELL...**

G.R. No. L-26416. April 25, 1969

Ponente: SANCHEZ, J.

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SANCHEZ, J.:

Upon a decision of the Court of First Instance of Rizal dated January 30, 1961[1] petitioner was declared with right to be admitted as citizen of the Philippines. No appeal therefrom was taken. It was on July 21, 1965 when the Solicitor General entered of record the State's objection to petitioner's taking his oath of allegiance, and also moved to set aside the lower court's decision.[2] Petitioner's counsel opposed. The trial court, in its order of November 26, 1965 dismissed the naturalization petition, and on December 23, 1965 overturned petitioner's motion to reconsider. Hence, this appeal.

Reasons there are why the dismissal order should be affirmed.

1. Petitioner failed to enroll his only minor child Chua Bun Huy alias Choy Man Fai in a public or private school in the Philippines "during the entire period of the residence in the Philippines required of him [petitioner] prior to the hearing of his petition for naturalization as a Philippine citizen" - a qualification exacted by paragraph Sixth, Section 2, Revised Naturalization Law. Indeed, at the time of the filing of the petition herein, his said child Chua Bun Huy alias Choy Man Fai, born on August 26, 1947 at Chuan Chow City, China, who was already beyond 12 years of age, was still resid-ing in Hongkong, with his mother (petitioner's wife), Lam Fan La alias Juana Lim or Juana Ngo.

2. Incidentally, petitioner is not exempt from filing a declaration of intention. By Section 6, Revised Naturalization Law, as amended by Commonwealth Act 535, he may only forego the filing of a declaration of intention if he has also "given primary and secondary education to all his children in the public schools or in private schools recognized by the Government and not limited to any race or nationality." [3] He has not filed a declaration of intention. Therefore, he is not entitled to receive citizenship papers.

Petitioner's excuse that his failure to enroll his son in the Philippines was because he encountered difficulties in bringing him here from abroad, is unavailing. The reason for the requirement just mentioned is that upon naturalization of the father, his children ipso facto become Philippine citizens and "[i]t is the policy of the Philippine Government to have prospective citizens, children of applicants for naturalization, learn and imbibe the customs, traditions and ideals of the Filipinos as well as their democratic form of government." [4] And the learning process should start "as early as possible, and the first formative years are the most important for the purpose." [5]

Petitioner's position became aggravated by the fact that when his son who was in China and later in Hongkong

stepped into Philippine territory in October, 1960, petitioner en-rolled him at the Philippine Sun Yat Sen High School, a Chinese school. It was only after the school years 1960-1961 and 1961-1962 that he took away his child from that school and placed him at the Paco Catholic School. This conduct of petitioner makes him far from acceptable as a Philippine citizen. Because, even long after he has filed his petition for naturalization, still, he failed to evince a "sincere desire to embrace our customs, traditions and ideals." [6] On the contrary, he demonstrated his "lack of earnest intention to identify" himself and his children "with the Filipino community." [7]

Petitioner may not make a point by saying that after the Philippine Sun Yat Sen schooling, the child was transferred, as aforesaid, to the Paco Catholic School, and then to the Far Eastern University. This change of attitude came too late. It was subsequent to the filing of the petition for naturalization. He is still short of the requirement in Section 2, paragraph Sixth of the Revised Naturalization Law. For, that schooling was not "during the entire period" of petitioner's residence in the Philippines "required of him prior to the hearing of his petition for naturalization as Philippine citizen."

Jurisprudence has it that the requirement in paragraph Sixth, Section 2 of the Revised Naturalization Law is mandatory, [8] and an absolute pre-requisite to naturalization; [9] and that non-compliance with this statutory requirement is fatal to the application for naturalization. [10] We do not propose to break away from the views just expressed.

3. Petitioner does not have a lucrative income. His application says that his income was P6,000 per annum. [11] His gross income, according to his Income Tax Return for 1959 is P6,000.00. With a wife and child to support, this income does not rise to the level of lucrative. Some six years back, we held that an applicant with an annual income of P6,300.00 but married with one child would not qualify as having lucrative income within the meaning of Fourth para-graph, Section 2, Commonwealth Act 473. [12]

4. Petitioner did not disclose in his petition all of his former places of residence. He stated therein that he was born in Nato, Sagnay, Camarines Sur and at the time of the filing of the petition, a resident of 224 Quirino Avenue, Parañaque, Rizal. But his character witnesses, Fructuoso Nepomuceno and Henry E. Dy Liaco, testified that he was once a resident of Tondo, Manila. [13] He himself told the court that he studied in Goa, Camarines Sur, where his parents transferred their place of business in 1927. [14] He also resided at 2727 T. Earnshaw, Manila. [15]

This non-disclosure is fatal. Section 7 of the Revised Naturalization Law requires that a petition for naturalization should state petitioner's "present and former places of residence". We have said that "residence" encompasses all places where petitioner "actually and physically resided." [16] Tondo, and T. Earnshaw Street, Manila, where he resided, and Goa, where he studied, certainly come within the term "residence". The legal requirement of recital in the petition of present and former places of residence is not without reason: First, "information regarding petitioner and objection to his application are apt to be provided by people in his actual, physical surrounding;" [17] and second, failure to allege the former places of residence "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." [18]

Upon the view we take of this case, the orders under review are affirmed. Costs against petitioner.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Zaldivar, and Fernando, JJ., concur.

Castro, Capistrano, and Barredo, JJ., took no part.

Teehankee, J., in the result.

[1] Naturalization Case No. 93.

[2] "A decision or order granting citizenship to the applicant does not really become executory, and a naturalization proceeding not being a judicial adversary proceeding, the decision rendered therein is not res judicata as to any of the reasons or matters which would support a judgment cancelling the certificate of naturalization for illegal or fraudulent procurement." Republic vs. Go Bon Lee, 1 SCRA 1166, 1170. See also: Republic vs. Reyes, L-20602, December 24, 1965; Cheng vs. Republic, L-20013, March 30, 1965; Republic vs. Reyes, 17 SCRA 170, 172; Bun Tho Khu vs. Republic, 16 SCRA 29, 31.

[3] Sy See vs. Republic, 5 SCRA 189, 191-192.

[4] Ang Yee Koe Sengkee vs. Republic, 90 Phil. 594, 596-597; Ong So vs. Republic, L-20145, June 30, 1965.

[5] Ong So vs. Republic, supra.

[6] Ng vs. Republic, 25 SCRA 574, 576, citing cases; Yap Puey Eng vs. Republic, 23 SCRA 681, 684; Hui Eng vs. Republic, 18 SCRA 791, 792; Chan Kiat Huat vs. Republic, 16 SCRA 243, 246.

[7] Dy vs. Republic, 18 SCRA 858, 860.

[8] Republic vs. Go Bon Lee, 1 SCRA 1166, 1169 citing Tan vs. Republic, 49 O.G. p. 1409; Chan Lai vs. Republic, 106 Phil. 210, 215.

[9] Yap vs. Republic, 2 SCRA 856, 860.

[10] Yap Chun vs. Republic, L-18516, January 30, 1964.

[11] "The financial capability of an applicant for Philippine citizenship must be determined as of the time when he files his petition." Cu King Nan vs. Republic, 23 SCRA 1313, 1318; Sia Faw vs. Republic, 21 SCRA 893, 894; Teh San vs. Republic, 23 SCRA 733, 734; Choa Ek Yong vs. Republic, 22 SCRA 915, 916.

[12] Tan vs. Republic, 7 SCRA 526, 528.

[13] Tr., November 12, 1960, pp. 43-44 (Testimony of Fructuoso Nepomuceno); Tr., December 17, 1960, pp. 16-17 (Testimony of Henry E. Dy Liaco).

[14] Tr., January 7, 1961, p. 25.

[15] Exhibits D and J.

[16] Tan vs. Republic, 17 SCRA 339, 340; Li Siu Liat vs. Republic, 21 SCRA 1039, 1050; Yap Puey Eng vs. Republic, supra, at p. 682.

[17] Tan vs. Republic, supra; Chua Chi vs. Republic, 24 SCRA 83, 85-86; Li Siu Liat vs. Republic, supra; Chua Bok vs. Republic, 23 SCRA 209, 210; Ong Chian Suy vs. Republic, 20 SCRA 302, 303.

[18] Yap Puey Eng vs. Republic, supra, at pp. 682-683 citing cases. See: Chan Kiat Huat vs. Republic, supra, at pp. 246-247.

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