

**IN RE: PETITION TO BE ADMITTED CITIZEN OF THE PHILIPPINES.
GERVACIO CABRALES CU, PETITIONER AND APPELLANT, VS.
REPUBLIC OF THE PHILIPPINES, OPPOSITOR AND APPELLEE.**

G.R. No. L-16073. March 27, 1961

Ponente: BARRERA, J.

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BARRERA, J.:

This is an appeal interposed by petitioner Gervacio Cabrales Cu from the decision of the Court of First instance of Ilocos Norte (in Nat. Case No. 20), denying his petition for naturalization as a Filipino citizen.

On February 7, 1952, petitioner Gervacio Cabrales Cu filed with the above-mentioned court a petition for naturalization (Nat. Case No. 2) which, after due hearing, was granted by the court. Upon appeal by the Solicitor General, this Court (in G. R. No. L-7836, prom. October 25, 1955), reversed the decision of the trial court, on the grounds that (1) petitioner failed to prove he is a citizen of Nationalist China; and (2) petitioner presented as witness only one of the signers of the two affidavits of good moral character. Said reversal was, however, "without prejudice to the filing of a new petition by the applicant with proper evidence."

In pursuance of our aforementioned decision, petitioner on April 22, 1958, filed with the same court a second petition for naturalization, in the prayer of which he asked that he either be admitted to Philippine citizenship, or be declared a Filipino citizen.

According to the evidence on record, petitioner is the son of Cu Tim Cu, a Chinese, and Inocencia Cabrales, a Filipina. He was born in Laoag, Ilocos Norte, on June 19, 1919. Since his birth, he never left the Philippines. He studied up to the sixth grade, elementary school. He knows how to read and write Ilocano and English. On December 10, 1942, he married Encarnacion Deniega in Bacarra, Ilocos Norte. Out of this marriage, 7 children were born, 4 of whom are studying in the public schools at Bacarra, while 3 have not yet enrolled due to their tender age. Since his marriage in 1942, he has continuously resided in Bacarra, where he had been and is still engaged as a merchant with an annual income of P900.00. He testified that he believes in the principles underlying the Philippine Constitution; that he has conducted himself in a proper and irreproachable manner during the entire period of his stay in the Philippines in his relations with the constituted government, as well as with the community wherein he lives; that he has mingled with the Filipinos and have evinced a sincere desire to learn and embrace their customs, traditions, and ideals; that he is not opposed to organized government, and not affiliated with any association or group of persons who uphold and teach doctrines opposed to organized government or defend or teach the necessity or propriety of violence, personal assault or assassination for the success and predominance of men's ideals; and that he is not a polygamist or a believer in its practice and has not been convicted of any crime involving moral turpitude, nor is he suffering from an incurable contagious disease. He has no real property. His baptismal and marriage certificates state that he is a Filipino. Believing himself to be a Filipino, he launched his candidacy for municipal councilor of Bacarra in 1947. However, according to him, he was unable to continue his candidacy, because somebody questioned his citizenship. Having been found that he is

a Chinese citizen, his certificate of candidacy was cancelled by the court.

In the present petition (the second), petitioner alternatively, seeks to be declared a Filipino citizen, on the ground that prior to the passage of Commonwealth Act No. 625 (governing election of Philippine citizenship of those whose mothers are Philippine citizens) on June 7, 1941, he has already performed certain overt acts showing that he is a Filipino, namely: (1) in 1940, as a Filipino, he paid his residence certificate; (2) in 1940-41, he had secured, as a Filipino a professional driver's license; (3) when he got married, it was stated in the marriage certificate that he was a Filipino; and (4) he had voted on 2 elections after the liberation.

In denying his petition for naturalization, the trial court, in its judgment of June 1, 1959, stated as follows:

"In this case, although the petitioner has presented evidence that he has never been charged or convicted of any crime before our courts of Justice, by his own admission (t. s. n. pp. 18-19), he has willfully violated the provisions of Sec. 6 of the Alien Registration Act of 1950 by not registering himself as an Alien in accordance with the provision of this Act. His exculpatory allegation, however, is that because he believed himself to be a Filipino, he did not register anymore as an alien (t. s. n. p. 19). But assuming for the sake of argument that because he believes himself to be a Filipino citizen and for that matter, according to him, it was not necessary for him to register as an alien, it cannot be denied because he himself admitted it that in 1947 he had not been able to continue his candidacy for councilor, because it has been found out that he was and still is a Chinese citizen (t. s. n. p. 20). This would have been an indication that he should have complied with the Alien Registration Act of 1950. Again, when the Supreme Court has ruled that one of the reasons in denying petitioner's former petition for naturalization was his failure to present, as evidence of his citizenship, his Alien Registration Certificate, that would have been more than sufficient warning for him to register himself as an alien. If the petitioner has only a little respect for our laws and the decision of our Supreme Court he should have immediately registered himself as an alien considering that he has been given by the Supreme Court the privilege to file another petition for naturalization.

"But unfortunately, the herein petitioner has been supercilious and has stubbornly disobeyed the law by persistently refusing to register himself as an alien in accordance with the provisions of the Alien Registration Act of 1950. And where it not for the advise of his lawyer (t.s.n. p. 23, 29) it can safely be assumed that the herein petitioner up to this date would still be flaunting the Alien Registration Law. The record of the case shows that the herein petitioner has after oil consented to register himself as an alien on December 9, 1958, Exh. B long after his present petition has been filed and one (1) day before it has been ordered scheduled for hearing. * * * In the case at bar, petitioner's failure to register as an alien, in accordance with the Alien Registration Act of 1950 is intentional. He should have been prosecuted in accordance with Sec. 6 of the said law.

"It must be considered that the amended Naturalization Law required the petitioner to conduct himself not only properly but also irreproachably with the constituted government. Under the circumstances, as above narrated, can it be said that the petitioner herein has conducted himself in a proper and irreproachable manner during the entire period of his residence in the Philippines with the constituted government?

"Apart from the foregoing, although the petitioner has presented two witnesses whose credibility the court has no reason to doubt, said witnesses however, as insurers of the petitioner's qualifications, have woefully failed. They have not been able to state satisfactorily during the trial that the petitioner possesses all the Ratifications prescribed by the law for acquiring Philippine citizenship and none of the disqualifications therein enumerated. * * *

"In his petition, the petitioner alleges alternative claim to be declared Filipino citizen for the overt acts he has committed. During the trial petitioner testified that as a Filipino in 1940 he has paid his residence certificate and in 1940-41 he also has secured as a Filipino his professional driver's license. His testimony to that effect is not enough. He should have presented as evidence the said residence certificate and the said professional

driver's license. It is true that in his marriage contract dated December 10, 1942 (Exh. C), it is stated therein that the petitioner and his wife are both Filipinos and although it may also be true that the herein petitioner has already voted for two elections after the liberation, these two events, however, took place after the passage of Commonwealth Act No. 625, on June 7, 1941. This law prescribes the procedure the petitioner should have followed in order that he could elect Philippine citizenship in accordance with subsection 4, Sec. 1, Art. IV of the Constitution.

"It appearing that according to the evidence submitted the herein petitioner has not complied with the provision of this law, petitioner's claim to be declared Filipino citizen, because of these overt acts, is without any merit."
(Italics supplied.)

Petitioner filed a motion for reconsideration of said decision, but the same was denied by the court. Hence, this appeal.

The decision appealed from must be affirmed. We fully agree to and adopt the conclusions of the trial court in respect to petitioner's failure to register as an alien as required by law. Additionally, we find that petitioner, who has annual income of only P900.00, with a wife and 7 children to support (4 of said children are already schooling) has, clearly, no lucrative lawful occupation (Sec. 2[4], Rev. Naturalization Law). As this Court has stated in the recent case of *Almonte Uy vs. Republic*, 109 Phil., 696, if admitted a citizen of this country, he (petitioner) may only be an addition to the many problems that now confront the nation. (See also *Swee Din Tan vs. Republic*, 109 Phils., 287, citing *Lim vs. People*, 92 Phil., 522; 49 Off. Gaz., 122; *Tiong vs. Republic*, 94 Phil., 473; 50 Off. Gaz., 1025; *Uy Tiao Hong vs. Republic*, 101 Phil., 77; 54 Off. Gaz., 629; *Republic vs. Yap*, L-11187, April 23, 1958; *Republic vs. Lim*, L-3030, Jan. 31, 1951; and *Pang Kok Hua vs. Republic*, 91 Phil., 254.

With this conclusion, it becomes needless to discuss the other points raised in the briefs of the parties.

Wherefore, the decision of the trial court is hereby affirmed, with costs against the petitioner-appellant. So ordered.

Bengzon, Acting C. J., Padilla, Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., Paredes, and Dizon, JJ., concur.

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