

IN THE MATTER OF THE PETITION OF FRANCISCO CO KENG TO BE ADMITTED A CITIZEN OF THE PHILIPPINES. REPUBLIC OF THE PHILIPPINES, MOVANT AND APPELLANT, VS. FRANCISCO CO KENG, RESPOND...*G.R. No. L-19829. July 30, 1966*

Ponente: BARRERA, J.

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In the amended petition for naturalization, filed by Francisco Co Keng in the Court of First Instance of Manila, it was alleged, among others, that he is a merchant with an annual income of P18,000.00, residing at No. 428 Sto. Cristo, Manila; that he was born in Amoy, China, on August 26, 1920; married to Yao Sok Ti alias Dolores Yao, with whom he has two children Roberto and Francisco, Jr., born on June 6, 1951 and January 24, 1954, respectively; that he speaks and writes English and Tagalog. In short he alleges to possess all the qualifications and none of the disqualifications for Philippine citizenship. After due trial, the court rendered decision on October 31, 1956, granting the petition for naturalization. Two years later or on December 29, 1958, upon proper motion of applicant and there being no objection from the Solicitor General, he was allowed to and did take the oath of allegiance as a Filipino citizen.

On March 7, 1961, the Solicitor General filed in the same Court of First Instance a verified motion for cancellation of Co Keng's certificate of naturalization, on the ground, among others, that the same was obtained fraudulently, by making it appear that he was a resident of Manila when actually, he was residing at No. 28, 12th Street, Broadway. Quezon City. Furthermore, it was alleged that Co Keng does not possess that norm of behavior required of applicants to Philippine citizenship when said petition was filed, by reason of his habitual concealment of taxable income and evasion of taxes due the government, and his engagement in questionable activities inimical to the economic interests of the country. This motion was heard, after which, it was denied on December 11, 1961. The State filed the instant appeal.

The present proceeding for cancellation of the certificate of naturalization already issued to appellee Co Keng is being undertaken by the Solicitor General's Office, in behalf of the government, on the theory that such certificate having been obtained through fraud, is subject to revocation. The alleged fraud consists of the untruthfull allegations made by respondent-appellee in his application for naturalization as to his place of residence and his possession of all the qualifications and none of the disqualifications for acquisition of Philippine citizenship as provided in the law. It is contended by the Solicitor General that contrary to the claim that his only place of residence until he took his oath on December 29, 1958, was No. 428 Sto. Cristo, Manila, appellee was a resident of No. 28, 12th St., Broadway, Quezon City even before the application for naturalization was filed in 1955. It is also contended that appellee did not possess the requisite good moral character because he is habitually delinquent in reporting his true income tax liabilities. In support of the first charge, the Solicitor General submitted the following public documents wherein appellee's residence was recorded as No. 28, 12th St., Broadway, Quezon City, to wit:

Exhibit A—a verified petition dated July 8, 1955, filed by Francisco Co Keng "a resident at No. 28, 12th Street corner Broadway, Quezon City", in Special Proceeding No. Q-587, for his appointment as special administrator of the estate of his deceased father.

Exhibits B and C—birth certificates of Francisco Co Keng, Jr. and Robert Co Keng, born on January 24, 1954 and June 6, 1951, respectively. The parents, Francisco Co Keng and his wife, were registered as residing at 28, 12th St. Broadway, Quezon City.

Exhibit AA—Co Keng tax declaration of real property (house of strong material, valued at P13,490.00 at No. 28, 12th St., Broadway, Quezon City) in the name of Francisco Co Keng. Tax declaration for 1953.

Exhibit Y-5—amended articles of incorporation of Paramount Textile Mills, Inc., acknowledged before a notary public on September 29, 1955, and filed in the Securities and Exchange Commission.

Exhibit Y-6—articles of incorporation of Atlantic Tobacco Fluecuring & Redrying Corporation, presented for filing in the Securities & Exchange Commission on June 1, 1956;

Exhibit Y-1—articles of incorporation of International Management and Investment Associates, Inc., presented for filing in the Securities & Exchange Commission on August 7, 1957.

Exhibit SSS income tax return for 1957.

Of the abovementioned documents, appellee offered the following explanations: he was not the one who furnished the information appearing in the birth certificates of his two sons; the placing of the Quezon City-house which he allegedly bought for his sick father, as his place of residence, was a "mistake" committed perhaps by one of his relatives; the appearance of the said address in the corporate papers was due to the fact that as he and his wife used to take their lunch in that house in Broadway every other day and he was given a room therein for his use, his friends formed the habit of looking for him there. Appellee admits that he could be reached in the Quezon City-address, but denied that it was a residence of his. As he puts it in his brief—

"* * * the material and decisive circumstances on the question of residence is that 428 Sto. Cristo, Manila, was available to respondent-appellee during the material dates and up to December 31, 1958. It really did not matter that he might have had a room in the house of his father in Quezon City—though in truth that was just a second address, not a second residence."

In other words, respondent-appellee is making a distinction between "residence" and "address". Thus, it is his argument that while No. 28, 12th St., Broadway, Quezon City may be one of his addresses, it is not a residence of his.

Even following this line of argument, the contention of the Solicitor General must be upheld. It may be pointed out that in all the abovementioned documents, what was called for was the residence, not merely the address, of appellee. And yet, the requirement was filled with No. 28 12th St., Broadway, Quezon City. The explanation given with regard to the appearance of the same place of residence in the birth certificates of appellee's sons does not also appear convincing. If there was really a "Mistake" committed in giving the information that appeared in the birth certificate of his first son in 1951, it no longer believable that the same "wrong information" would be supplied when the certificate of birth of the second son in 1954, was prepared. It is true that in other corporate papers, appellee's residence was referred to as No. 428 Sto. Cristo, Manila. The only conclusion that can be made of these is that as of 1951, respondent-appellee had two known residences No. 28, 12th St., Broadway, Quezon City, and No. 428 Sto. Cristo, Manila. As it is not disputed that the only place of residence mentioned in the amended petition for naturalization which was published in the Official Gazette and the, Daily Record was No. 428 Sto. Cristo, Manila, the said petition should have been denied by the lower court for non-compliance with Section 7 of Commonwealth Act 473, as amended.[1]

In his brief, respondent-appellee made a statement that the only place material to the petition for naturalization is his residence one year before said petition was filed. This is not exactly accurate, because while this may be true for purposes of determining proper venue under Section 8 of the Revised Naturalization law, under Section 7 thereof, the applicant is obliged to state in the petition all his present and former places of residence. Under the latter requirement, what is being called for to be stated is not the legal residence or domicile, but the actual places of residence,[2] non-compliance with which is fatal to the petition.

On the second point raised by the Solicitor General, it appears from the records that appellee's tax returns from 1948 to 1957 were verified by 3 sets of revenue examiners. While there were variations in their findings as to the exact amount of tax deficiencies payable by respondent-appellee, they were nevertheless unanimous in finding that there were underdeclarations of income committed. This finding is substantiated by the fact that appellee indeed filed amended tax returns for 1952, 1953, 1954 and 1955, and more important, in 1957 or after his petition for naturalization was granted by the lower court although before he could take the necessary oath. The deficiency taxes and surcharges were paid by him in February, 1959. This conduct of appellee, in underdeclaring his income and underpayment of income tax, does not satisfy that proper and irreproachable behavior required of applicants to Philippine citizenship. It is for the same reason that we held that delinquency in payment of license tax on liquor disqualifies an applicant to become a Filipino citizen.[3] Failure of an applicant to enter his true income in his tax return has also been declared as conclusive evidence of dishonesty,[4] making him devoid of that good moral character required by Section 2(3) of the Revised Naturalization law. As the foregoing reasons should have justified the denial of the petition for naturalization in this case, the favorable decision of the lower court and the certificate of citizenship issued pursuant thereto are null and void.

In view of the conclusion we have reached, it is no longer necessary to take up the matter of the trial court's lack of jurisdiction to grant the application for naturalization raised by the Solicitor General by reason of the deficiency in the publication of the petition.

Wherefore, the order of the lower court appealed from is set aside. The certificate of naturalization issued to petitioner Francisco Co Keng is hereby revoked. Without pronouncement as to costs. So ordered.

Concepción, C. J., Reyes, J. B. L., Regala, Makalintal, Bengzon, J. P., Zaldivar and Sanchez, JJ., concur.

Dizon, J., concurs in the result.

Order set aside.

[1] Dy vs. Republic, G.R. No. L-20152, Feb. 28, 1966, and cases cited therein.

[2] Tan vs. Republic. G. R. No. L-19694. March 30, 1965

[3] Ngo Bun vs. Republic, G.R. L-15518, Nov. 29, 1961.

[4] Lim Siong vs. Republic, 105 Phil. 668.

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