

IN THE MATTER OF THE PETITION OF TAN CHU KENG TO BE ADMITTED AS A CITIZEN OF THE PHILIPPINES. TAN CHU KENG, PETITIONER AND APPELLEE, VS. REPUBLIC OF THE PHILIPPINES, OPPOSITOR A...

G.R. No. L-13139. May 24, 1961

Ponente: PAREDES, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/3452c37c00e2/>

PAREDES, J.:

This is an appeal by the Republic of the Philippines from the decision of the Court of First Instance of Cebu, granting Tan Chu Keng Philippine citizenship.

On September 15, 1955, Tan Chu Keng filed a petition for naturalization, with the Court of First Instance of Cebu, alleging that he emigrated to the Philippines from Amoy, China, in or about July 1912, arriving in the islands on board the boat Susana; that he is married to Lu Lay Tee, also a Chinese, born in Amoy, China, who came to the Philippines in 1932; that he has three (3) children with his wife Lu Lay Tee, namely Domingo Tan, Esperanza Tan and Bienvenido Tan, all born in Cebu, on January 28, 1940, September 30, 1942 and April 22, 1945, respectively; that his children are now studying in the Cebu Institute, a school duly recognized by the government where Philippine history, civics and Philippine government are taught and which school is open to children of all races; that he is a merchant, having a sari-sari store and deals in lumber, copra and corn meal business; that he has no tax liabilities; knows the principles underlying the Philippine Constitution; can speak and write English, Spanish and the Cebu-Visayan dialect. Petitioner claimed that he is entitled to the benefits of Commonwealth Act No. 535, which exempts any person who has resided in the Philippines for a period of thirty (30) years from filing a declaration of intention—to become a citizen. The affidavits of two character witnesses, Dr. Hospicio B. Iballe, City School Dentist of Cebu City, who claimed to have known petitioner since childhood, and Atty. Antonio T. Paulin, who lived a stone throw from petitioner's house, vouching for his good moral character and irreproachable conduct, were also presented. Both witnesses are compadres of petitioner.

In the course of the proceedings, the provincial fiscal, on cross examination was able to elicit facts which were not contained in the petition, such as: that petitioner before he married his present wife, was married in China sometime in 1923; that his first wife died in 1925, leaving a son Espiritu Tan, who was living at C. Padilla street, Cebu City, at the time; that Espiritu studied at the Silliman University and reached the 2nd year high school; that he (Espiritu) was already 35 years old at the time of the hearing; that he did not include Espiritu in the enumeration of his children in the petition because he was already of age. On redirect, petitioner explained that Espiritu did not finish his studies because of the outbreak of the last war and of his marriage after.

After the hearing, the provincial fiscal requested for fifteen (15) days within which to file a memorandum. Before the expiration of the period, however, counsel for the petitioner filed a motion for the re-opening of the case to present additional evidence, since he (petitioner) failed to introduce "important, material and relevant facts, through excusable negligence and mistake". At the re-opening, petitioner testified that aside from the three (3)

children he mentioned in his petition, he had two (2) others, namely Espiritu Tan and Alfonso Tan, who were born in Amoy, China, on February 17, 1924 and January 8, 1933, respectively; that when Espiritu was under the custody of petitioner, he attended the Gebu Little Flower School, the Silliman University and the Balamban Institute; that in 1937 to 1938, Espiritu was classified as a third grader and a fifth grader in 1939 to 1940; that Alfonso studied in the Balamban Public School from Grade I to IV. Atty. Narvios, counsel for the petitioner, testified that at the preparation of the petition, he discovered that Espiritu and Alfonso were already 31 and 21 years old and both married; in 1953 and 1955, respectively; that he believed there was no necessity to include their names in the petition, considering that under section 15 of Act 473, only minor children are affected by the naturalization of the father.

It was also brought out at the said hearing that on February 25, 1942, petitioner filed a petition for naturalization in the CFI of Cebu, in which petition he included the names of the two children (Espiritu and Alfonso), who were then minors; but that said petition was dismissed for his failure to appear during the hearing, due to illness.

The lower court on June 8, 1957, rendered the following judgment:

"WHEREFORE, the petition to be admitted as a citizen of the Philippines of petitioner TAN CHU KENG is granted and the Court hereby decrees the naturalization of the said petitioner as a citizen of the Philippines."

The Solicitor General alleged in his appeal brief that the lower court erred in holding that: (1) the omission in the petition of the names of two of petitioners children who were 31 and 22 years old, respectively, at the time of the filing of the petition, is not a sufficient ground for dismissing the petition; (2) the omission of the names of Espiritu Tan and Alfonso Tan in the petition was not made in bad faith or due to some ulterior motive; (3) petitioner is exempt from filing his declaration of intention to become a Filipino citizen; and (4) petitioner has all the qualifications to become a Filipino citizen.

1. Section 7 of the Naturalisation Law (Comm. Act No. 473) specifically provides that the petitioner will set forth, among others, whether he is single or married and the father of children, "the name, age, birthplace and residence of the wife and each of the children". Petitioner gave the flimsy explanation and his counsel tried to corroborate it, that the failure to state the names of the two (2) children (Espiritu and Alfonso) was due to the belief that there was no necessity for it. It will be recalled that it was only during the cross-examination that the existence of these children was elicited; that petitioner did not voluntarily tell the court, during the hearings, that he had another son besides Espiritu and that it was only when the Fiscal asked for time to file a memorandum that petitioner moved for a re-opening of the case, alleging that he had to introduce material and relevant facts, which turned out to be the existence of another son.

The law requires the petitioner, if he is the father of children, to state the name, age, birthplace and residence of each of the children, without making a distinction whether the petitioner's children are minors or of age. Inhere the law does not distinguish we should not distinguish.. If it were the intention of the law to require only minor children of the petitioner to be mentioned in the petition, it would have so stated. An applicant for naturalization must comply with all the requirements and conditions specified by law (*Halo Lian Chu vs. Republic*, 87 Phil., 668; 48 Off. Gaz., 1780). To dispense with some requirements of the law on the shallow excuse that petitioner's counsel was responsible for the omission, would blaze the trail for dangerous precedents.

2 & 3. It would seem that the omission was tinged with the color of bad faith and done for ulterior motives, considering the fact that petitioner claims exemption to file his declaration of intention. Commonwealth Act No. 535, amending section 6 of the Naturalization Law, provides that, "Persons born in the Philippines and have received their primary and secondary education in public schools or those recognized by the Government and not limited to any race or nationality, and those who have resided continuously in the Philippines for a period of thirty

years or more before filing their application, may be naturalized without having to make a declaration of intention upon complying with the other requirements of this Act. To such requirements shall be added that which establishes that the applicant has 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. * * *". While petitioner might have satisfied the condition of the thirty years continuous residence, he has, however, failed to comply with the further requisite of having given all his children of school age, primary and secondary education. Awareness of this requisite has undoubtedly motivated the petitioner to exclude the names of Espiritu and Alfonso in the petition, contrariwise, he would have been compelled to show that he had given said children primary and secondary education in the proper schools, which he had admittedly failed to do. Under these facts, petitioner is not entitled to the exemption of making a declaration of intention. The failure to file a declaration of intention within the prescribed time, in accordance with the requirements of Section 5 of the Naturalization Law, is fatal to his application (*Ng Peng Sia vs. Republic*, G. R. No. L-8378, March 23, 1956).

The requirements of the law regarding the qualifications of a petitioner for citizenship are stringent. In view of the above findings, it is seriously doubted whether the petitioner herein possesses the qualifications to become a Filipino citizen. Doubts concerning grant of citizenship should be resolved in favor of the government and against the claimant (*U.S. vs. Macintosh*, N.Y., 1931, 51 S. Ct. 570, 283 U.S. 605, 75 L. Ed. 1302, cited in *Velayo's Philippine Citizenship and Naturalization*, p. 115).

The decision appealed from is hereby reversed and another entered denying the petition for citizenship of petitioner-appellee Tan Chu Keng. Costs against the petitioner-appellee.

Bengzon, C.J., Padilla, Bautista Angelo, Labrador, Concepcion, Reyes, J.B.L., Barrera, Dizon, De Leon, and Natividad, JJ., concur.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.