

IN THE MATTER OF THE PETITION OF FREDERICK EDWARD GILBERT ZUELLIG TO BE ADMITTED A CITIZEN OF THE PHILIPPINES. FREDERICK EDWARD GILBERT ZUELLIG, PETITIONER AND APPELLEE, VS. THE...

G.R. No. L-1550. May 30, 1949

Ponente: MONTEMAYOR, J.

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MONTEMAYOR, J.:

This is an appeal by the Republic of the Philippines from the decision of the Court of First Instance of Rizal granting the petition for naturalization as Filipino citizen submitted by Frederick Edward Gilbert Zuellig, a Swiss subject, under the provisions of Commonwealth Act No. 473, as amended by Commonwealth Act No. 535. We are quoting with approval the pertinent portions of the decision appealed from, containing the facts as found by the trial court and based on the evidence, as well as the dispositive part of said decision:

"Son hechos claramente establecidos por las pruebas del solicitante Frederick Edward Gilbert Zuellig que el es ciudadano de Suiza; que nació en 25 de diciembre de 1918, en St. Luke's Hospital, Manila que en el año de 1919 salió temporalmente de Filipinas y volvió en septiembre de 1938 a Filipinas procedente de Suiza en el vapor SS "Victoria"; que en el año de 1939 salió otra vez de Filipinas para hacer un corto viaje de negocio a Singapore y volvió en enero 1 de 1940 y se desembarcó en el Puerto de Manila del vapor "Conte Verde." Se ha demostrado también que el aquí Frederick Edward Gilbert Zuellig ha residido continuamente en Filipinas desde entonces por un periodo de seis años inmediatamente a la fecha de su petición, en Meadowbrooklane No. 3, Pasay, Rizal; que sabe leer y escribir el Inglés y el dialecto tagalo; que es soltero, sin hijos ni descendientes; que su ocupación o profesión es comerciante y empleado en la Firma "F. E. Zuellig, Inc.", de la cual recibe unos P800 mensual, o sea P9,600 al año. El solicitante también declara que es dueño de la mitad de una propiedad real, situada en Meadowbrooklane No. 3, Pasay, consistente en una casa y solar, por valor de P80,000, poco más o menos; que ha estado residiendo en esta casa desde el año de 1938 hasta el año de 1944 en que fue desalojado de la misma por la Fuerza Japonesa, motivo por el cual dicho solicitante pasó a vivir temporalmente en Ermita, Manila, evacuándose más tarde a la Ciudad de Baguio; que después de la liberación de la Ciudad de Manila, el solicitante volvió a Pasay, Rizal, y como vio que su casa estaba destruida parcialmente y no era habitable, se fue a residir temporalmente en la casa de su amigo llamado Sr. Surtex, situada en la Calle Pennsylvania No. 1331, Manila, pero con la intención de volver a su casa en Meadowbrooklane No. 3, Pasay, Rizal tan pronto como esté terminada la reparación de la misma. Se ha demostrado igualmente por el testimonio del solicitante que él cree en los principios básicos de la Constitución de Filipinas; que ha procedido siempre de una manera propia e irreprochable durante el tiempo de su residencia en Filipinas, ha sido asociado cordialmente con los Filipinos, y adopta o abraza los costumbres, tradiciones e ideales de los Filipinos; que no está opuesto al gobierno organizado; que no está afiliado a cualquiera organización o grupo de personas que sostienen y predicen las doctrinas contrarias a todo gobierno organizado ni defiende o enseña la necesidad de violencia, asalto personal o asesinato para el éxito y predominio de las ideas de los hombres; que no es polígamo, ni es creyente de la poligamia, y ni ha sido convicto de cualquier delito que envuelve torpeza moral, ni tampoco ha padecido de cualquiera enfermedad contagiosa incurable, y que es su intención a ser ciudadano filipino, y que renuncia absolutamente toda lealtad y fidelidad a cualquier

príncipe, potentado, estado o sube rama, particularmente Suiza, y es su deseo residir continuamente en Filipinas.

"POT tanto, se desestima la oposición del Gobierno, y se ordena que el correspondiente Certificado de Naturalización se expida al solicitante Frederick Edward Gilbert Zuellig, después del plazo legal, sujeto a las condiciones prescritas en el Artículo 12 de la Ley de Naturalización enmendada, y que dicho Certificado de Naturalización sea registrado en la Oficina del Registrador Civil de Pasay, Rizal, Filipinas.

"* * * * *

(Pages 12-14, 16, Record on Appeal.)

"The only questions raised in this appeal by the Government are: that the Court of First Instance of Rizal had no jurisdiction to entertain the petition for the reason that applicant Zuellig had not resided in the municipality of Pasay (now Rizal City) for at least one year preceding the filing of his petition on September 11, 1946; and that the applicant does not possess sufficient ability to speak and write any of the principal Philippine dialects.

As regards the residence of the applicant, it is not exactly correct, as stated by the Solicitor General in his brief, that the applicant had resided in Manila since 1938 until the filing of his petition. On the contrary, the evidence shows that since 1938, when the applicant arrived in the Philippines, he had been residing continuously in Pasay at No. 3 Meadowbrooklane Street until the year 1944 when he was ejected from his house by the Japanese armed forces, for which reason he had to leave Pasay and live for a short time in Malate, Manila, later on going to Baguio to stay there until that city was liberated in 1945; that when he returned to Pasay after liberation, he found his house at Meadowbrooklane damaged and not habitable, for which reason he was compelled to live at No. 1331 Pennsylvania, Manila, but that his residence in Manila was temporary and that he had always intended to rehabilitate or rebuild his house in Pasay in order to resume his residence there.

The only reason adduced by the Government in support of its contention is that the residence certificates of the applicant for the years 1946 and 1947 were purchased in Manila and that it is stated in said certificates that the applicant is a resident of No. 1331 Pennsylvania Street, Malate, Manila, and that the length of his residence "in the City or municipality" was eight and nine years, respectively. In the first place, the place of obtaining a residence certificate and the data contained therein are not conclusive as to the real residence or domicile of a person owning said certificate. In the second place, the applicant herein has established by his testimony that his two residence certificates for 1946 and 1947 were purchased for him by the accountant of F. E. Zuellig, Inc., of which he was a director; that it was the practice for an employee of said company to go to the City Hall in Manila and purchase residence certificates for its employees and, consequently, the applicant was not responsible for the data or information contained in said residence certificates regarding his residence. We find it unnecessary to cite authorities about domicile and residence, it being of universal acceptance that once domicile or residence is established, the same continues, and that, before a resident may acquire a new residence, he must abandon his established residence and reside in his new one with the intention of residing therein permanently and without any intention of returning to his old residence. In the present case, we hold that the applicant did not lose his residence in Pasay (now Rizal City), his residence in Manila being of a temporary character, and only until he shall have rehabilitated his house in Pasay.

As to the alleged lack of sufficient ability to speak and write any of the principal Philippine dialects, we have read the pertinent evidence on this point, particularly the testimony of the applicant, the cross examination to which he was subjected by a representative of the Government, and the test made of his ability to speak and write Tagalog-Although the applicant did not perform accurately all the tasks given to him by the representative of the Government about writing and translation in Tagalog, we are satisfied that the applicant possess a working

knowledge of the Tagalog dialect by which he can understand ordinary conversation and writing, and make himself understood, in that dialect. As his counsel states in his brief, the law does not state the degree of proficiency in speaking and writing a Philippine dialect required of an applicant for naturalization. An applicant need not be proficient. It is not necessary that he write a native dialect faultlessly and without effort and that he speak it fluently and idiomatically. It is enough that he has sufficient knowledge of it so that in his association with the Filipinos he can understand them when they speak or write to him in a principal native dialect, and that he can make himself understood by them in said dialect. The applicant in this case was born in the Philippines. His father has resided here for many years and he is engaged in the importation business with offices in Manila. And, although the applicant grew up and received his education in Europe, since his return to the Islands in 1938 he has continuously resided therein and has shown by his conduct, his work and his residence here that he has decided to cast his lot with the citizens of this country with whom he has identified himself. We believe that he has complied with the requirements of the naturalization law regarding residence and ability to speak and write a principal Philippine dialect.

Finding no reversible error in the decision appealed from, the same is hereby affirmed. No pronouncement as to costs.

Ozaeta, Paras, Feria, Pablo, Perfecto, Bengzon, Tuason, and Reyes, JJ., concur.

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