

IN THE MATTER OF THE PETITION OF SEGUNDO SY CEZAR TO BE ADMITTED A CITIZEN OF THE PHILIPPINES.

G.R. No. L-14009. May 31, 1961

Ponente: PAREDES, J.

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PAREDES, J.:

The Court of First Instance of Cebu granted petitioner Segundo Sy Cezar, Philippine citizenship.

Petitioner proved that he was born in Daanlungsod, Gingoog, Misamis, Oriental on March 3, 1934, of Chinese parentage, Sy Ching (father) and Loa Choy (mother). From birth until 1951, he had been residing in Gingoog, Misamis Oriental and from 1951 up to the present, he had been a resident of Cebu City. He never left the Philippines for abroad, A holder of native born Certificate of Residence No. 43764 issued at Manila, on February 21, 1951, and Alien Certificate of Registration No. A9138448, issued at Gingoog, Misamis Oriental, on January 13, 1951.

Petitioner received his elementary and secondary education in the Philippines, finishing his elementary course in Gingoog Central Elementary School, a, public school in Gingoog, Misamis, Oriental, and his secondary course in the Colegio de San Jose, a private school in Cebu City, duly recognized by the Government of the Philippines, where history, civics and government of the Philippines were taught and which was not limited to any particular race or nationality. He also finished his Pre-Med course in the University of San Carlos and at the time of the hearing, was a fourth year in the College of Medicine, University of Santo Tomas, Manila. Since 1954, he was temporarily residing in Manila, because of his studies, but was always going to Cebu City during his semestral, Christmas and summer vacations. He was employed as a commercial agent of Botica Pacifica, a drug store owned and operated by his uncle, doing business in Cebu City and received an annual compensation of P1,800.00 as such. He speaks and writes the English language and the Visayan dialect, etc.

Petitioner was exempted from filing a declaration of intention, being a native born and educated in the Philippines, His petition was accompanied by supporting affidavits, executed by Mrs. Rebecca Bucag Tan and Mrs. Expectacion Nicdao, both housewives, and Filipino citizens who had known him for a long time, both in Gingoog, from where they came and in Cebu City, where they met the petitioner during his stay there and who vouched for his good moral character.

The Government appealed, claiming that the lower erred in not declaring itself without jurisdiction to hear and decide the case and in not dismissing the petition.

A petition for naturalization should be filed in the Court of First Instance of the province in which the petitioner has resided at least one year immediately preceding the filing of the petition and such, court shall have exclusive original jurisdiction to hear the same (Sec. 8, C.A. 530; as amended; (*Squillantini v. Republic*, G.R. No. L-2785, Jan. 31, 1951)). Legal residence (*animus manendi*) is the place from which one could or might depart, or be absent temporarily for a certain purpose and to which he always intended to return (*animus revertendi*) (*King v. Republic*, G.R. No. L-2687, May 23, 1951). It is an accepted rule that once a 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 the new one, with intention of residing therein permanently and without any intention of returning to his old residence (*Zuellig v. Republic*, 46 Off. Gaz. Supp. No. 11, p. 220, *Lim v. Republic*, G.R.No. L-3030, Jan. 31, 1951; *Lian v. Rep.* 49 Off. Gaz. p. 128).

The record does not show that the petitioner has complied with the above rules. Appellee was born in Gingoog, Misamis Oriental, where his parents had long been residents and where he pursued and completed both primary and elementary education. In his alien Certificate of Registration and in his native born certificate of residence (Exhs. B & C), appellee gave his place of residence as that of Gingoog. If the appellee went to the City of Cebu in 1951, it was for no other purpose than to study; having studied there from 1951 to 1954. He claims that he was employed in Cebu City in 1954 at the Botica Pacifica owned and operated by his uncle, but his work was that of a commercial agent, for said drug store, buying medicines from big drug dealers during Sundays and his off-hours from his classes in Manila. Since 1954, he performed his duties as such employee, not in Cebu City but in Manila. Appellee was receiving P100,00 as monthly allowance from his parents for his studies and stay in Manila. There is all the presumption that being a dependent of his parents who were permanently residing in Gingoog, the petitioner's legal residence was in that town, which he had not abandoned, impliedly or expressly. Of course, petitioner stated that he had no intention of returning to Gingoog, that after finishing his career, he would practice in Cebu City and would also stay there after his marriage. We do not have to stretch our imagination to see that the said statement did not pass beyond a mere intention or wishful thinking and conveniently advanced to bolster his petition. The CFI of Cebu, therefore, had no jurisdiction to hear the petition and render judgment thereon.

An examination of the affidavit of character witness Rebecca Bucag Tan (Exh. "1"), we find that the figures "1946" superimpose the word "childhood" and the joint affidavit of Francisco Gomez, Expectation Wicdao and Buenaventurita, Borga (Exh. 2), the figures "1940" also superimpose the word "childhood". In the original wordings of said affidavits, the affiants therein conveyed the idea, that they have known the petitioner since childhood. When asked to explain why in their affidavits they placed the years 1946 and 1940, respectively, they stated that they also came to know the petitioner on said dates. Aware of the discrepancy, counsel for the petitioner made the following remarks:-

"x x x. I would like to explain that with regard to this affidavit of witnesses it is we who prepare it and we just follow the usual procedure of law - the requirement of law as to the number of years the witness has to know the petitioner. Probably the witness may know the petitioner years previous to that which is stated in the affidavit but we just take the minimum provided by the law" (t.s.n. p. 35).

This explanation is both conceptualistic, and misleading. If the explanation is true, then there would have been no reason at all to make the changes, for a, longer period would be more beneficial to the petitioner. There would seem to be only one reason for these changes, and that is, the witnesses did not really know much about the petitioner, and counsel fearing that from the cross-examination the truth will eventually emerge, had to make the said changes.

Again, the following excerpts are taken from the testimony of witnesses:

Rebecca. B. Tan;

"Q - You mean you have seen the petitioner in Cebu City since 1950 until now every month? Everyday?

A - No, in Cebu, I have seen him only during vacations, but I have seen him also in Manila.

Q - In what occasion?

A - My husband is a practising Civil Engineer. He was assigned in Pasig. I had to accompany him there. 'While I was in Manila, I kept visiting my sister. Every Sunday, practically on all holidays he goes to visit my sister. I met him there.

Q - Is it not a fact that you have only seen him in Manila in 1955?

A - In 1954. It is sometime in the latter part of 1955 and 1956, because we stayed there only six months in Manila. About six months" (t.s.n. pp. 1-18).

Expectacion B. Nicdao;

"Q - You mean you have observed him month by month, year by year, since 1950, until the present time?

A - Yes.

Q - Have you gone to Manila?

A - My husband is from Manila.

Q - Have you met the petitioner in Manila?

A - Yes" (t.s.n."p. 38).

The petitioner himself belied these character witnesses when he declared, thus:-

"Q - You did not meet even this Mrs. Rebecca Bucag Tan in Manila?

A - No, sir.

Q - You never met even once Mrs. Expectacion Nicdao?

A - No, sir.

Q - So, these so-called witnesses of yours as shown in the expediente only happened to know them within the City of Cebu?

A - Also in Gingoog, they knew me already.

Q - That is, in 1950 until 1954, is that right?

A - Yes,sir.

Q - All the time in 1955, 1956 and 1957, these witnesses did not meet you nor associate with you in Manila?

A - No, sir"(t.s.n. pp. 67-68).

It becomes clear, therefore, that these witnesses perverted the truth when they prepared and signed their respective affidavits, and when they testified in court. We are reluctant to admit an alien into this country, upon the basis of

the testimony of character witnesses whose credibility we seriously doubt. An essential requirement in naturalization cases is the high degree of credibility of character witnesses, since by undertaking to vouch for the petitioner, they become the insurer of his (petitioner's) character, and on their testimony the Courts are of necessity, compelled to rely (*Chan Pong v. Republic*, G.R. No. L-9153, May 17, 1957).

Furthermore, we also find that the alleged employment of petitioner by his uncle is not very convincing, for it is possible that he (petitioner) had testified to the supposed employment only in the interest of his petition (*Velasco v. Republic*, L-14216, May 25, 1960; *Chan v. Rep.* L-14460, June 3, 1960). If there was really such employment, his Income Tax Return would have been presented, considering his claim that he was employed since 1954, and that he was single. But even if petitioner was really receiving P1,800 per annum, he cannot be said to have a lucrative trade, since there was no proof adduced that he was given free board and lodging during the time he was a recipient thereof (*Mateo Lim v. Rep.* 49 O.G. #1, 122; *Tiong v. Rep.* 50 O.G. #3, 1025; *Uy Tiao Hong v. Rep.* 54 O.G. #3, 629; *Republic v. Yap*, L-11187, Apr. 23, 1958, cited in *Swee Din Tan v. Rep.*; G.R.No.L-13177, Aug. 31, 1960).

When doubt remains in the mind of the court as to the qualifications of a petitioner and his character witnesses, the benefit goes to the Government.

IN VIEW OF THE FOREGOING, the decision appealed from is reversed, and another entered, denying the petition for Philippine citizenship of Segundo Sy Ceaar. Costs against petitioner-appellee.

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

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