

IN THE MATTER OF THE PETITION OF JACINTO UY TIAN HUA, JR. TO BE ADMITTED A CITIZEN OF THE PHILIPPINES. JACINTO UY TIAN HUA, JR., VS. REPUBLIC OF THE PHILIPPINES, OPPOSITOR-APPEL...

G. R. No. L-20813. November 29, 1966

Ponente: CONCEPCION, C.J.

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CONCEPCION, C.J.:

The Republic of the Philippines seeks the reversal of a decision of the Court of First Instance of Nueva Vizcaya, granting the petition for naturalization, as citizen of the Philippines, of appellee Jacinto Uy Tian, Jr.

The Solicitor General maintains that petitioner has no lucrative trade. Indeed, it is alleged in his petition that his income is P250 a month or P3,000 a year, and, among the documentary evidence introduced by him is an affidavit of Uy Tiong - assistant manager of the North Auto Supply, for which he works as a salesman - to the effect that petitioner "receives a monthly income of TWO HUNDRED FIFTY PESOS (P250.00) from" said enterprise.

Soon after the Solicitor General had filed notice of appeal from the aforementioned decision of the lower court, upon the ground that petitioner had no lucrative trade or occupation, the latter moved to reopen the case for the purpose of proving that he had a gross income of P7,410.62 in the year 1961, and "an investment in the form of shares of stock worth FIVE THOUSAND PESOS (P5,000.00)" in the Philippine Hygenic Servicing, Inc., which had been assigned to him on February 1, 1962. This motion having been granted, despite the objection thereto of the Government, petitioner later introduced evidence in support of his claim, whereupon the lower court rendered a Supplemental Decision finding that said claim had been established and reiterating the original decision adverted to above.

It is, at once, apparent that the motion to reopen was I prompted by a realization, on the part of petitioner herein, that - on the basis of the allegation in his petition to the effect that his income was limited to the meager sum of P250 a month, and the evidence introduced by him in support thereof - the Government stood a good chance of securing a reversal of the original decision in his favor, for lack of a lucrative trade or occupation on his part, in the light of the decision of this Court for the last decade (*Leonides Tan vs. Republic*, L-19694, March 30, 1965; *Alexander Lim Uy vs. Republic*, L-19916, June 23, 1965; *Jose Uy vs. Republic*, L-20799, November 29, 1965; *Antonio Dy vs. Republic*, L-20348, December 24, 1965; *Antonio Po vs. Republic*, L-21019, December 24, 1965; *Andronico Augusto Dy vs. Republic*, L-20709, April 29, 1966; *Kock Tee Yap vs. Republic*, L-20992, May 14, 1966).

It is, likewise, obvious that the lower court has committed a grave error in granting said motion to reopen and I that, in any event, the additional evidence for the petitioner does not justify the decision appealed from. Indeed, petitioner's qualification to be naturalized as a citizen of the Philippines must be determined as of the time of the filing of his petition (*Pablo Lee @ Eng Jio vs. Republic*, L-20148, April 30, 1965; *Pantaleon Sia vs. Republic*, L-20290, August 31, 1965), which took place on September 14, 1960. At that time he had no other income than P250 a month, which is insufficient to be "lucrative", within the purview of Section 2, fourth paragraph, of

Commonwealth Act No. 473. His allegedly increased income in 1961 and the shares of stock he claims to have acquired on February 1, 1962, cannot cure his lack of qualification when he commenced this case in 1960 (Saturnino Dy vs. Republic, L-20482, August 31, 1965; Sene-cio Dy Ong vs. Republic, L-21017, November 29, 1965).

It may not be amiss to note that petitioner's income tax return, Exhibit V, upon which his alleged income for 1961 is based, was filed on April 1, 1962, or several months after the submission of this case in the lower court for decision. Hence, it is not unlikely that the entries in said return may have been influenced by the pendency of this naturalization case. Then, again, the alleged assignor of the shares of stock which petitioner claims to own since February 1, 1962, is petitioner's elder sister, who has not, taken the witness stand.

Independently of the foregoing, it appears that, before establishing himself in Solano, Nueva Vizcaya, where petitioner is now domiciled, he had resided in different parts of Manila, namely: 906 Int. 2, Alvarado Street, 1032-1036 Reina Regente Street and 240 Int. Pennsylvania Street, and that none of these previous residences in Manila was mentioned in petitioner's application and, consequently, in the notice published in connection therewith. Such omission is fatal to the allowance of said application (Chieng Yen vs. Republic, L-18885, January 31, 1964; Pio de Lara vs. Republic, L-18204, May 29, 1964; Manuel de Lara vs. Republic, L-18203, May 29, 1964; Dy Pek Long vs. Republic, L-18758, May 30, 1964; Gaw Ching vs. Republic, L-19419, September 30, 1964; Qua vs. Republic, L-19834, October 27, 1964; Ong Tai vs. Republic, L-19418, December 23, 1964; Ong Ping Seng vs. Republic, L-19575, February 26, 1965; Agueda Go vs. Republic, L-21895, April 29, 1966; Wayne Cheng vs. Republic, L-20713, April 29, 1966).

Lastly, petitioner's attesting witnesses were Francisca Gatchalian and Maria J. Lago, but there is nothing in the record to indicate that these persons enjoy such a high reputation for probity in the community in which they live, that their word can be taken on its face value. Otherwise stated, it has not been proven that said witnesses are credible persons, within the purview of the Naturalization Law (Sy Shin v. Republic, L-13496, April 27, 1960; Albert Ong Ling Chuan v. Republic, L-18550, February 28, 1964; Paul Teh v. Republic, L-19830, September 30, 1964; Saw Cen v. Republic, L-20310, April 30, 1965; Ong Kim Kong v. Republic, L-20505, February 28, 1966).

WHEREFORE, the decision appealed from should be, as it is hereby, reversed and another one shall be entered, dismissing the petition herein, with costs against the petitioner.

IT IS SO ORDERED.

Reyes, J. B. L., Barrera, Dizon, Regala, Makalintal, Bengzon, J. P., Zaldivar, Sanchez and Ruiz Castro, JJ., concur.

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