

IN THE MATTER OF THE PETITION OF KENG GIOK TO BE ADMITTED A CITIZEN OF THE PHILIPPINES. KENG GIOK, PETITIONER AND APPELLANT, VS. REPUBLIC OF THE PHILIPPINES, OPPOSITOR AND APPEL...

G.R. No. L-13347. August 31, 1961

Ponente: BARRERA, J.

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BARRERA, J.:

Keng Giok appeals from the decision of the Court of First Instance of Manila (Civil Case No. 30630) denying his petition for citizenship.

The records show that appellant was born in Ching kang, China, on September 5, 1921. He came to the Philippines in 1930, disembarking at the Port of Manila (Exh. G). He went once to China and stayed there for 2 months, but resided here continuously since his return in 1930 and in Manila for more than one year immediately preceding the filing of his petition for naturalization. He filed a declaration of intention one year prior to the filing of said petition (Exh. E). He is employed as manager of the Cosmopolitan Jewelry store, with an annual income from salary and bonus, of P14,350 for 1954, P9,054.50 for 1955, and P8,687.50 for 1956 (Exhs. F, F-1, and F-2). He is up-to-date in the payment of taxes (Exh. Q-3). He is married to Benita Giok Nan Hartigan Go (Exh. H), with whom he has 5 children (Exhs. L-1, M-1, N-1, O-1, and P-1), who are all studying in the elementary grades at St. Stephen's High School, which is recognized by the Government and open to all pupils, regardless of race, creed, or nationality, and where Civics, Philippine History and Government are taught (Exh. I). He believes in the principles underlying the Philippine Constitution, and is not opposed to any organized government or affiliated with any association or group of persons who uphold and teach doctrines opposing organized government. He does not defend or teach the necessity or propriety of violence, personal assault or assassination for the success and predominance of men's ideas. He is not a polygamist, nor does he believe in the practice of polygamy. He has never been convicted of any offense involving moral turpitude (Exhs. Q, Q-1, Q-2, Q-8, and Q-9). He studied up to sixth grade in a Chinese school in the Philippines and speaks and writes Tagalog and English. He is not suffering from any incurable or contagious disease (Exh. R). He has conducted himself in a proper manner during the entire period of his residence in this country, in relation with the constituted authorities and with the community in which he lives. He has mingled socially with Filipinos and sincerely desires to learn and embrace their customs, traditions, and ideals. He is a Protestant (Exh. H-1, and M-1). He intends in good faith to become a citizen of the Philippines and renounces absolutely and forever all allegiance to any foreign prince, potentate, state, or sovereignty, particularly to the Republic of China of which he is a citizen. As character witnesses, appellant presented Raymundo Reyes, a dentist, and Simeon Limson, a business agent.

In denying appellant's petition for citizenship, the trial court stated:

"The right to become a naturalized Filipino citizen is not a natural or inherent right of a person; it is a statutory right granted by the law-making body of the state, and a petitioner for naturalization must comply with all the

requirements of the statute.

"The petitioner herein in his declaration of intention as well as in his testimony states that he arrived in the Philippines on the SS Ang King in December, 1930 (pp. 29-30, t.s.n.). However, although his certificates of arrival, Exhibit G, shows that he really arrived in the Philippines in 1930, the month is not indicated, and the vessel on which he arrived is stated as "unknown".

"Section 7 of Commonwealth Act No. 473 requires that the petition for citizenship shall set forth not only the present but also the former places of residence of the petitioner. The petition in this case does not comply with this requirement because while he testified that since his arrival in the Philippines he has never changed his address which is 713 Ongpin Street, Manila (p. 55, t.s.n.), he admitted that he is at present residing at 814 Ongpin Street (p. 55, t.s.n.). This is also shown in Exhibits F-1, F-2, Q-2, Q-3, Q-5, Q-9, R and S. That he changed his place of residence several times finds corroboration from an examination of the record which reveals that he also resided at 706 Ongpin Street in 1942 (Exh. H) and at 428 Batangas Street, Manila, in 1945. All of these places of former residence do not appear in the petition. It is therefore a clear violation of the law."

"One of the qualifications required of a petitioner for naturalization, according to Section 2 of Commonwealth Act No. 473, is that he must own real estate in the Philippines worth not less than P5,000.00, Philippine currency, or have some known lucrative trade, profession, or lawful calling. Petitioner herein does not own real estate; he does not have a known lucrative trade, or profession, but he has lawful occupation, and that is, as manager of the Cosmopolitan Jewelry dealing in the sale by retail of jewelry, watches, clocks, fountain pen, etc., with a salary of P500.00 a month, which together with a bonus gave him an average annual income in 1954, 1955, and 1956 of P10,704.00 (Exhibits F, F-1, and F-2).

"His income tax return for 1954 (Exhibit F) shows his income for that year as follows:

Employer's Name

Address

Total Wages

Tan Bid

713 Ongpin

P6,175.00

Tiu Say

704 Ongpin

P5,175.00

Total

P11,350.00

Interest or dividend or income of spouse

3,000.00

Grand Total

P14,350.00

Amount of tax

P716.00

"His income tax return for 1955 (Exhibit F-1) shows his income for that year as follows:

Employer's Name

Address

Total Wages

Tan Say

803 Ongpin

P2,912.00

Tan Bid

Total

6,162.50

Total

P9,074.50

Amount of tax P113.00

"His income tax return for 1956 (Exhibit F-2) shows his income for that year as follows:

Nature of Income

From whom received

Amount of income

Salary

Tiu Say-Sy's Jewelry

P2,475.00

Salary Cosmopolitan Jewelry

6,212.50

Total

P8,687.50

Amount of tax P91.00

"Each of the foregoing income tax returns mentions five children as dependents.

"It is very evident from the income tax returns Exhibits F, F-1; and F-2 that the income of petitioner is diminishing year by year. In this connection, an important question crops up in the mind of the court, and, that is: may petitioner's lawful occupation as manager of a retail jewelry store with a salary of P11,350.00 in 1954, which became P9,074.50 in 1955, and dwindled to P8,687.50 in 1956 which is the only source of his income, be considered lucrative to satisfy the requirements of Section 2 of Commonwealth Act No. 473? Insofar as the meaning of the word "lucrative" is concerned, there is no definite criterion or ruling made by the court. Lucrative means profitable or gainful, but in the mind of this court with respect to naturalization, it only means one thing—substantial—and judging by present standards, the high cost of living and the low purchasing power of the peso, surely the income of P8,687.50 last year (1956) of the petitioner, who has five minor children as dependents, cannot be considered lucrative. This being so, he does not possess one of the qualifications required by law."

The decision appealed from must be upheld. In his petition for naturalization, appellant stated as his place of residence, 713 Ongpin Street, Manila. At the hearing of his petition, however, he admitted he was residing at 814 Ongpin Street (p. 55, t.s.n.; see also Exhs. F-1, F-2, Q-2, Q-3, Q-5, Q-9, R and S). Examination of the records reveals that he also resided at 706 Ongpin Street in 1942 (Exh. H), and at 428 Batangas, Street in 1954. Appellant's failure to state in his petition his former places of residence, violates Section 7 of the Revised Naturalization Law (Com. Act No. 473, as amended), which requires that the petition for citizenship shall set forth not only the present, but also the former places of residence of petitioner. The reason for such a requirement is, as pointed out by the Solicitor General, to "facilitate checking up on the different activities of the petitioner bearing on his petition for naturalization (especially as to his qualifications and moral character) either by private individuals or government agencies, by indicating to them the localities or places in which to make appropriate inquiries or investigations thereon." Needless to say, by such omission, appellant, in effect, falsified the truth, indicating lack of good moral character on his part, which disqualifies him from admission to Philippine citizenship (Sec. 2[3], Rev. Nat. Law). In this connection, we note that appellant also committed a discrepancy when he presented 2 different sets of residence certificates for the same year—different in numbers and dates of issuance—while securing his clearances from the Manila City Fiscal's Office (See Exh. Q-1) and the Philippine Constabulary Intelligence Office (See Exh. Q-2). Appellant's argument that it was needless for him to state his said former places of residence because they were all in Manila anyway, cannot stand in the face of the aforementioned express requirement of Section 7 that petitioner must state in his petition his protest as well as former places of residence, if any. Where the law does not distinguish, no distinction is to be made.

Furthermore, we find some weight in the trial court's observation that due to the present high cost of living (in Manila) and the low purchasing power of the peso, appellant's annual income of P8,687.50 (in 1956) cannot be considered lucrative, especially if we take into account the fact that he has a wife and 5 children (all of school age and actually attending school) to support. Note that appellant owns no real estate, and has no other source of livelihood, other than his salary as manager of the Cosmopolitan Jewelry Store. As such manager, however, his income appears to be declining every year (See Exhs. F, F-1, and F-2). If the trend continues, it may reach the stage where appellant would find it very difficult to support his family decently or continue sending his children to school. Eventually, he may become a public charge. The cases of *Lim vs. Republic* (90 Phil., 387) and *Tiong vs. Republic* (94 Phil., 473) cited by appellant are inapplicable, as there, petitioners (for citizenship) were unmarried men, without any dependents at all or a family and children to support.

Wherefore, finding no error in the judgment appealed from, the same is hereby affirmed in all respects, with costs against the petitioner-appellant. So ordered.

Bengzon, C. J., Concepcion, Reyes, J. B. L., Paredes, Dizon, De Leon, and Natividad, JJ., concur.

Bautista Angelo, J., on leave, took no part.

Labrador, J., took no part.

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