

GERARDO YU ALIAS MONGMONG, PETITIONER AND APPELLANT, VS. REPUBLIC OF THE PHILIPPINES, OPPOSITOR AND APPELLEE.

G.R. No. L-16517. November 29, 1961

Ponente: LABRADOR, J.

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LABRADOR, J.:

Appeal from the decision of the Court of First Instance of Bohol, Hon. Hipolito Alo, presiding, dismissing the petition of Gerardo Yu alias Mongmong for naturalization.

Petitioner is a legitimate son of Yu Hing Se and Irinea Tan, subjects to Nationalist China. He was born in Calape, Bohol on April 22, 1930. He has permanently resided there since his birth, never leaving the Philippines. No declaration of intention to become a citizen was filed by him for the reason that petitioner was born in the Philippines and has completed his elementary education in the public schools and his secondary education in private schools recognized by the government.

Opposition to the application was filed by the Republic of the Philippines on the ground that applicant's probity or capacity for truth is questionable, after he misrepresented himself as well as his mother to be Filipino citizens when he went through two separate marriage ceremonies with his wife; admitted violation of the income tax law and consequent lack of respect for his citizenship, and lack of knowledge of the responsibilities thereof. The court below found that he committed falsification in his application for marriage license (Exh. "1") when he declared therein that his citizenship is Filipino; that he also made a false statement when in his marriage contract with one Elisa M. Bustamante, on August 18, 1956, he stated that his nationality is Filipino (Exh. "SS"); and that he made a third false statement when he married his wife on May 4, 1957 before the parish priest of the Immaculate Concepcion Church, Cubao, Quezon City (Exh. "TT"), when he declared that he was a Filipino.

The court below, upon finding the above false statements made by petitioner, declared:

"Q—

How about your nationality?

A—

Chinese

Q—

In your marriage application?

A—

Yes, Sir."

"But the fallacy or mendacity in this assertion was bared when oppositor offered in evidence petitioner's application for marriage license (Exhibit 1) wherein he states that he is a Filipino citizen. After Exhibit 1 had been offered in evidence, petitioner again took the witness stand and explaining the contents of Exhibit 1 he asserted that, while he and his future wife were in the City Hall of Manila an unknown person approached them and offered his help in the preparation of the papers; that this unknown person asked the necessary data; that two hours after, the unknown person handed over documents to be signed by them; that to his (petitioner's) surprise it appeared in Exhibit 1 that his nationality was Filipino, notwithstanding the fact that he previously told the unknown person that he was a Chinese citizen.

"If it were true that petitioner had discovered beforehand¹ that his application for marriage license (Exhibit 1) stated that he was a Filipino citizen, it is strange why he subscribed it under oath before a Notary Public.

"To save himself from the damaging effect of his application for marriage license (Exhibit 1), petitioner asserted that his application for marriage license (Exhibit 1) was actually signed by him on the date of his marriage August 18, 1956, but it was antedated to make it appear to have been signed by him on August 6, 1956; that he did not appear before a Notary Public to swear to this marriage license (Exhibit 1); that after receiving this marriage license on August 18, 1956, he and his future wife were immediately taken upstairs the City Hall of Manila where their marriage was solemnized by a Minister who, after the marriage, gave them the marriage contract. (Exhibit "SS")" (pp. 25-27, Record on Appeal).

The judge, therefore, denied the petition in the following language:

"We sympathize with petitioner in his eagerness to become a Filipino citizen; but it would be a gross dereliction of duty to disregard the law requiring every applicant for naturalization to be of good moral character. Although petitioner is a physician, this alone is insufficient to entitle him to become a citizen of the nation. He must further show that he is a law-abiding person, a man of sterling character capable to stand against the slightest temptation to transgress any law or rules of conduct sanctioned by human dignity. Without these moral qualifications, he can not be considered an asset to the country, whatever may be the magnitude of his knowledge in medical science." (p. 30, Record on Appeal)

In his appeal before us, counsel for petitioner-appellant argues that when petitioner-appellant and his wife went to the City Hall in Manila for the purpose of contracting a secret marriage, he was totally ignorant of the procedure for marriage; that the person who prepared his application for marriage license never asked him his citizenship; and that he signed the papers without reading and verifying the truth of the statements appearing therein; that petitioner and his wife belong to the younger generation and they did not have friends or acquaintances who would intercede for and help them in their application for a marriage license; that the petitioner-appellant was indubitably the victim of the pernicious practice of unscrupulous individuals known as "fixers" and that it was his misfortune to have such an individual prepare his application, etc; that the evident good faith of petitioner is shown by the fact that he married his present wife in a second religious ceremony; and that he has passed his course in medicine with high honors, and is now engaged in the practice of his profession (medical) since June, 1957 together with his wife.

In the same way as the judge of the court below, we are in sympathy with his plight but we cannot close our eyes to the fact that he has violated the express provision of the law that a foreigner desiring to contract marriage must secure beforehand a certificate of legal capacity to contract marriage to be issued by the diplomatic or consular official of his country. (Art. 66, Republic Act No. 386.) This requirement for foreigners is contained in the instruction at the back of the application for marriage license. He has also made false statements on three occasions, for which he may not be excused, whatever may have been his motives. With the above false statements he made, it is evident that he cannot claim an irreproachable character.

For the foregoing consideration, the decision appealed from denying his petition for naturalization is hereby affirmed, with costs against petitioner-appellant.

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

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