

IN THE MATTER OF THE PETITION OF TAN SANG ALIAS CHUA TO BE ADMITTED A CITIZEN OF THE PHILIPPINES; TAN SANG ALIAS CHUA, PETITIONER AND APPELLEE, VS. REPUBLIC OF THE PHILIPPINES, ...

G.R. No. L-19914. June 23, 1965

Ponente: BENGZON, J.P., J.

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BENGZON, J.P., J.:

Petitioner filed on September 24, 1960 an application for naturalization in the Court of First Instance of Misamis Occidental. On September 11, 1961, the Republic filed an opposition thereto. Reply to the opposition was submitted on October 14, 1961. After trial the court rendered, on April 12, 1962, its decision finding petitioner entitled to naturalization.

The Republic appealed, raising the following questions: (1) Is petitioner exempt from filing a declaration of intention? (2) Is the petition invalid for non-inclusion of the certificate of arrival? (3) Is petitioner's conduct irreproachable, there being no proof of his compliance with the Alien Registration Law in regard to his minor children? (4) Does petitioner have a lucrative trade, profession or occupation? and (5) Are petitioner's character witnesses credible persons?

- Petitioner, a citizen of the Republic of China was born in Yung Eh, China on July 13, 1902. He arrived in Cebu on board S.S. "Sapphiro" on November 21, ; Since then he has resided in Cebu and in Ozamis City in the latter since 1950. He is married, has nine children, of whom two are already married. At the time the Petition was filed, four of his unmarried children were still minors.

Petitioner's un rebutted testimony shows enrollment of his nine children in schools recognized by the Government and not limited to any nationality or race (Tsn., p. 16).

Section 6 of the Revised Naturalization Law, therefore, exempts petitioner from filing a declaration of intention:

"Persons * * * who have resided continuously in the Philippines for ;i period of thirty years or more before filing their application, may be naturalized without having to make a declaration of intention upon complying with the other requirements of this Act. To such requirements shall be added that which establishes that the applicant has given primary and secondary education to all his children in the public schools or in private schools recognized by the Government and not limited to any race or nationality."

- Petitioner admittedly did not present his certificate of arrival nor did he include the same as part of his petition. Such a defect is fatal (*Charm Chan vs. Republic*, 108 Phil., 882).

It is argued on petitioner's behalf that the Bureau of Immigration took his certificate of arrival from him, issuing in lieu thereof an Immigrant Certificate of Residence (Exh. C). The statute, however, expressly requires inclusion of the certificate of arrival as part of the petition (Sec. 7 Revised Naturalization Law) and said requirement !s mandatory (*Charm Chan vs. Republic*, supra). Petitioner should have secured a certified copy of his certificate of arrival if one had really been issued and adduced the same as required by law.

- Petitioner, it is true, did not prove that he complied with the Alien Registration Law (RA 562) as to his minor children. The same, however, is not unfavorable to his petition. It was for the Republic to prove that he failed to comply with it, since compliance with the Alien Registration Act is not one of the items specifically required to be established in naturalization proceedings.

- Petitioner, as stated, is married, has nine children, four of whom, as of the time petition was filed, were still unmarried minors.

The source of petitioner's income is his business, the Sin Beng Trading. Per his testimony, he earns an average of P5,000.00 annually (Tsn., pp. 11, 21). Per his income tax returns his earnings were:

1960 Gross Income

P22,001.11

Net Income

P3,790.99

1959 Gross Income

P20,174.30

Net Income

P4,779.75

1958 Gross Income

P21,462.57

Net Income

P8,019.10

(Exhs. H, H-1 and H-2)

It is quite obvious, therefore, that by petitioner's own evidence he does not possess the qualification of a lucrative trade, profession or occupation. In *Koa Gui vs. Republic*, L-13717, July 31, 1962, an annual income of P5,980.00 was held insufficient for a married applicant with three children. And in *Tan vs. Republic*, L-16013, March 30, 1963, an income of P6,300.00 a year was likewise held inadequate for a married petitioner with but one child.

- Petitioner's character witnesses were Maximo Lago and Gregorio Calit. Lago was the City Treasurer of Ozamiz. Calit was the Bureau of Internal Revenue examiner who handled the books of petitioner's Sin Beng Trading. Nowhere in their testimonies did they show personal, intimate knowledge of petitioner. Calit admitted he was not close with petitioner's family and could not state the name of petitioner's wife (Tsn., p. 10). All that can be gathered from said character witnesses as to their relationship with petitioner is that the same was on a professional, business level. We have already stated, time and again, that for petitioner's character witnesses to be qualified to vouch for his good moral character, they must have intimate knowledge of the applicant (Cuaki Tan

Si vs. Republic, L-18006, October 31, 1962). Professional or business dealings alone do not provide a sufficient basis for deriving such knowledge (Uy vs. Republic, L-19578, October 27, 1964).

WHEREFORE, the decision appealed from is hereby reversed and the petition for naturalization is denied, with costs against appellee. It is so ordered.

Bengzon, C.J. Concepción, Reyes, J.B.L., Paredes, Dizon, Regala, Makalintal and Zaldivar, JJ., concur.

Decision reversed.

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