

NICANOR TAN, PETITIONER AND APPELLEE, VS. REPUBLIC OF THE PHILIPPINES, OPPOSITOR AND APPELLANT.

G.R. No. L-1551. October 31, 1949

Ponente: REYES, J.

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REYES, J.:

This is an appeal by the Government from a decision of the Court of First Instance of Cagayan, granting Nicanor Tan's petition for naturalization.

The uncontradicted proof shows that the petitioner Nicanor Tan was born in Aparri, Cagayan, on January 10, 1921, the son of Tan Lingco and Chua Lian, both Chinese; that he obtained his primary education in Aparri, his intermediate education in Manila, and his high school education in Mapua Institute of Technology in Manila; that he speaks English, Tagalog, and Ilocano and writes English; that he took an engineering course in the University of the Philippines and was on the day of the trial a third year student in the college of engineering of the Mapua Institute of Technology; that although a student in Manila, his permanent residence is Aparri, and he is a partner in the firm Tan Boon Diok & Bros. in which he has invested P5,000; that he is married to San Sun and has three children, namely, Tan Chiong Heng, born in Manila on November 17, 1942; Tan Chiong Lu, born in Baggao, Cagayan, on December 8, 1944, and Susan Tan, born in Manila on December 15, 1946; that he intends to send his children to the public schools.

Petitioner says that he believes in the principles underlying the Philippine Constitution and is not opposed to organized government; that he does not belong to any group teaching subversive doctrines or ideas against the government; that he does not believe in communism and is not a polygamist; that he is not suffering from mental alienation or any contagious disease; and that he has not been convicted of any crime, involving moral turpitude. Petitioner, however, admits that he has not filed with the Bureau of Justice (now Office of the Solicitor General) a declaration of his intention to become a citizen of the Philippines and that he does not know whether the laws of China accord to Filipinos the right to become citizens or subjects of that country.

The Solicitor General contends that the lower court erred (1) in not finding that petitioner has failed to establish that he can write any of the principal Philippine dialects, (2) in holding that petitioner is exempted from the prerequisite of filing a declaration of his intention to become a Filipino citizen, and (3) in holding that the laws of China permit Filipinos to become naturalized citizens or subjects thereof.

As to the first contention, the evidence shows that petitioner speaks both Ilocano and Tagalog, as might well be expected from his long residence in Cagayan and Manila, and the evidence further shows that he has finished both his primary and secondary education in this country and was, at the time of the trial, a third year student in the college of engineering of the Mapua Institute of Technology in Manila. It being common knowledge that the Philippine alphabet is substantially the same as the English alphabet, and that a high school graduate in English would have no difficulty in writing in the dialect he speaks, it is not illogical to assume that petitioner can also write both Ilocano and Tagalog.

With respect to the second error assigned, Section 5 of the Revised Naturalization Law (Commonwealth Act No. 473, as amended by Commonwealth Act No. 535) requires the applicant for Philippine citizenship to file with the Bureau of Justice (now Office of the Solicitor General), one year prior to his petition for naturalization, a sworn declaration of his bona fide intention to become a citizen of the Philippines. Section 6 of the same law, however, exempts certain persons from this requirement. The section reads:

"SEC. 6. Persons exempt from requirement to make a declaration of intention.—Persons born in the Philippines and have received their primary and secondary education in public schools or those recognized by the Government and not limited to any race or nationality, and those who have resided continuously in the Philippines for a 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. The same shall be understood applicable with respect to the widow and minor children of an alien who has declared his intention to become a citizen of the Philippines, and dies before he is actually naturalized."

It is not disputed that herein petitioner, as a person born in the Philippines and possessed of the required educational qualifications, comes within the purview of the first sentence of the above section. The second sentence, however, adds, as a further requisite to exemption from the filing of the declaration of intention prescribed in section 5, a provision to the effect that the applicant has "given primary and secondary education to all his children," and the Solicitor General points out that this additional requisite is lacking in the present case because petitioner's eldest child (born November 17, 1942 was barely four years old when the petition for naturalization was filed. It is argued that the primary and secondary education required of the children is one that has already been given, that is, finished and completed and not one that is yet to be given or completed. But while conditions prescribed for the naturalization of aliens are strictly construed, we are not for enforcing the rule to the point of absurdity, or to the extent of requiring the impossible. In the present case, as all of petitioner's children are below school age, it would be absurd to expect them to have finished the primary and secondary courses. As was said by this Court in the case of *Thomas Pritchard vs. Republic of the Philippines*, 46 Off. Gaz., Supp. (1), p. 26[1]—

"* * * The legal provision requiring that the applicant has given primary and secondary education to all his children in the private or public schools recognized by the government should be construed in the sense that, if the applicant has children, and they are of school age, they should be given primary or secondary education in the schools mentioned by the law. The words has given should be interpreted to mean that the children, if of school age, should be given the opportunity of getting primary or secondary education, by their opportune enrolment and attendance in the schools mentioned by the law, but not that both must have completed in said schools both primary and secondary education. The narrow point of view of appellant can be shown by the absurdities to which it leads. In the first case, it will compel applicants to have in the first place children. What about unmarried persons or sterile spouses? Because the former can not procreate without indulging in illicit sexual relations or the latter by limitations imposed by nature, shall they be denied the opportunity of being naturalized, regardless of their substantial merits to apply for it? Suppose the applicant has children who are already old, are university graduates, have careers and have absorbed all the knowledge that can possibly be imparted in our primary and secondary public schools, shall said children be compelled to attend said schools in the company of youngsters that can be their grandchildren, before their parent is given the opportunity of being naturalized? Suppose the applicant has children of school age and they are enrolled in our public schools but by some constitutional defects they are unable to be graduated, regardless of the years they spend in school, or due to illness they have to stop their schooling, because to save their lives is of more paramount importance than their education, shall said applicant be deprived of the opportunity of being Filipino citizen even if he has

rendered meritorious services to our country?"

And in the more recent case of *In re Application of Roa Yrostorza*, 46 Off. Gaz., Supp. (11), p. 179,[1] involving the same provision of law, this Court said:

"If the applicant's children have gone through high school and one of them is in the process of completing it, we think he may be considered to possess the additional requirement of Section 6. The clause 'has given primary and secondary education to his, children etc.' should be construed in relation to other provisions of the Naturalization Law; and thus construed, the phrase means that the applicant has enrolled his minor children in school, which is all that is required of an applicant who has filed a declaration of intention to become a Philippine citizen. The law could not have intended to impose on an applicant who was born or has lived for more than 30 years in the Philippines a more stringent condition than on one who was born outside the country and has not resided therein so long. There is nothing in the filing of a declaration of intention which makes the declarant a more desirable citizen or gives greater assurance of his loyalty to his prospective new country. The courts are not to give words a meaning which would lead to absurd or unreasonable consequences or a meaning which would render compliance with the provision impossible in many cases.

"The conclusion that the requirement of section 6 as to education is no different from that of section 5 results not only from a consideration of the entire law but also from the application of the rules of grammar. The pronoun 'that' in the clause, 'To such requirements shall be added that which establishes that the applicant has given primary and secondary education to all his children,' relates, in our opinion, to the requirement in section 5 that 'the declarant * * * has enrolled his minor children, if any, in any of the public schools etc.' In the phrase 'that which' the first word is 'used when the reference is emphatically to what precedes. (Webster's New International Dictionary.)"

To the same effect is the decision of this Court in *Yee Bo Mann vs. Republic of the Philippines*, 46 Off. Gaz., Supp. (11), p. 201,[2] holding that enrollment in the proper school is sufficient compliance with the legal provision in question.

Following the trend of the above decisions, and giving the requirement of section 6 of the Revised Naturalization Law as to the education of the children of an alien applicant for Philippine citizenship a rational interpretation, we hold that the lower court did not err in holding that herein petitioner is exempt from the prerequisite of filing a declaration of his intention to become a Filipino citizen.

Regarding the third error assigned, this Court has already accepted it as a fact in previous naturalization cases that the laws of China permit Filipinos to naturalize in that country. (*Yee Bo kann vs. Republic of the Philippines*, supra, *Lock Ben Ping vs. Republic of the Philippines*, 47 Off. Gaz., 176[3].)

In view of the foregoing, the decision appealed from is affirmed. Without costs.

Moran, C.J., Ozaeta, Paras, Bengzon, Padilla, Tuason, and Torres, JJ., concur.

[1] 81 Phil., 244.

[1] 83 Phil., 721.

[2] 83 Phil., 743.

[3] 84 Phil., p. 217.

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