

GERVACIO CABRALES CU, PETITIONER AND APPELLEE, VS. REPUBLIC OF THE PHILIPPINES, OPPOSITOR AND APPELLANT.

G.R. No. L-7836. October 25, 1955

Ponente: JUGO, J.

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JUGO, J.:

This is an appeal for the Solicitor General from the decision of the Court of First Instance of Ilocos Norte which granted the application for Philippine citizenship of Gervacio Cabrales Cu.

The Solicitor General makes the following assignment of errors:

"I. The lower court erred in finding that the petitioner is a citizen of the nationalist government of China with which the Republic of the Philippines has reciprocity laws regarding citizenship.

"II. The lower court erred in considering the good moral character of the petitioner upon the testimony of only one witness produced in court.

"III. The lower court erred in finding that the appellee is entitled to Philippine citizenship and in granting his petition for naturalization."

The applicant formerly lived in the town of Bacarra, Ilocos Norte, but he moved to Laoag of the same province. He has been a merchant in the Philippines for ten years and has an average annual income of P900. He was born on June 2, 1919 in Bacarra. His father is Cu Tim Cu a Chinese citizen and his mother is Inocencia Cabrales, a Filipino citizen before her marriage. The applicant married on December 10, 1942 Encarnacion Diniega who was born in Bacarra. They have four children, namely, Gloria Cu, Elena Cu, Moises Cu and Antonio Cu, all born in Bacarra. The first two were enrolled by him in the Gabaldon Public School of Bacarra in 1949 and 1951, respectively. The two younger children are not yet of school age. The applicant has resided continuously in the Philippines for thirty-three years immediately preceding the filing of his petition, and has resided in Bacarra for nine years or since 1943. He speaks and writes English and Tagalog, and has all the qualifications to become a Filipino citizen.

In a number of decisions rendered by this Court, it has been declared as a fact that Filipinos may acquire citizenship in the Republic of China, and, consequently, it is no longer necessary to prove that fact in subsequent cases. However, since those decisions were rendered some years ago, China has split into two governments—one the Nationalist, and the other, the Communist. No evidence was presented to show that the applicant is a citizen of Nationalist China. His mere statement that he does not believe in communism does not necessarily prove that he is a citizen of Nationalist China. It was incumbent upon him to produce in court his Alien Certificate of Registration or any other reliable official document to show that he is a resident of Nationalist China.

With respect to the second assignment of error, which refers to the fact that he presented as a witness only one of the signers of the two affidavits of good moral characters, this Court has declared in the decision on the petition for naturalization of Karam Singh, G. R. No. Lr-7567, that the two signers of the affidavits of good moral

character should testify in court, if available, to be subject to direct and cross examination by the parties and by the court, in order to test their veracity.

The last assignment of error is only a consequence of the first two.

In view of the foregoing, the judgment appealed from is reversed, without prejudice to the filing of a new petition by the applicant with proper evidence. Without pronouncement as to costs. It is so ordered.

Paras, C. J., Bengzon, Padilla, Montemayor, Reyes, A., Bautista Angelo, Labrador, Concepcion, and Reyes, J.B.L., JJ., concur.

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