

IN THE MATTER OF THE PETITION TO BE ADMITTED A CITIZEN OF THE PHILIPPINES. LIM BIAK CHIAO, PETITIONER-APPELLEE, VS. REPUBLIC OF THE PHILIPPINES, OPPOSITOR-APPELLANT.*G.R. No. L-28541. January 14, 1974*

Ponente: FERNANDO, J.

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The merit of this appeal by the Republic of the Philippines from a lower court decision of October 17, 1966 which, after reciting that petitioner, now appellee, Lim Biak Chiao, possessed all the qualifications, and none of the disqualifications for citizenship and that he had complied with all the requirements of the law, granted his plea for naturalization subject to the provisions of Republic Act No. 530, is rather obvious. In the brief filed for appellant Republic of the Philippines by the then Solicitor General, now Justice, Antonio P. Barredo, the two principal errors assigned were that the lower court erred in not dismissing the petition, lacking as it did any allegation that petitioner was a person of good moral character and failing as he did to establish that he had a lucrative income.[1]

As to the lack of the requisite allegation that petitioner is a person of good moral character, it was set forth in such brief: "Section 7 of Commonwealth Act 473 requires that the petition for naturalization should specify the qualifications possessed by an applicant. One of the qualifications required under Section 2 of said Act is that the applicant must be a person of good moral character. This particular qualification is not alleged in the petition at bar ***. The failure to allege it as required by law calls for a dismissal of the naturalization petition." [2] In the other principal error assigned as to his failure to establish that he had a lucrative employment or occupation, it was therein stated: "Petitioner's petition, which was filed on December 14, 1964, stated that petitioner's average annual income was P5,000.00 more or less, * * *. Petitioner's income tax returns presented at the trial show that in 1962 his net income was P2,644.03; in 1963, P3,746.87; and in 1964, P6,988.46 ***. Aside from himself, petitioner had to support his wife and children. In 1962, he had one child (Edmond Yu Lim); in 1963 he had two children (Edmond Yu Lim and Benson Yu Lim); in 1964 he had three children (aside from the two was Juvy Yu Lim). We submit, the income of petitioner during these three years, considering the high cost of living and the low purchasing power of the peso, did not meet the requirements of lucrative employment or occupation within the meaning of our Naturalization Law ***." [3] It could be a consciousness on the part of appellee that the lower court's decision was legally indefensible that resulted in his not filing any brief, notwithstanding his being granted an extension of fifteen days to do so.

That is why, as set forth at the opening sentence, the Republic is entitled to a reversal.

1. To assert that any alien, one desirous of joining the ranks of Filipino citizens, has the inescapable duty of satisfying every requirement of the Naturalization Act [4] is to assert the undisputed and indisputable. To the state belongs the exclusive competence of determining on whom shall be conferred that eagerly-sought privilege. It follows then that it may prescribe the conditions that must be fulfilled, the steps that must be taken, and the

allegations that a petition for naturalization must contain. There must be a faithful compliance with every requirement. Otherwise consequences fatal in character as far as the petition is concerned would result. So it has been since the leading case of *Orestoff vs. Government of the Philippines*[5] decided in 1941. The applicant is thus called upon to set forth categorically that he has all the qualifications required by law.[6] More specifically, considering that the Naturalization Law itself[7] requires a showing of good moral character, it would follow, as held in *Lim Cho Kuan vs. Republic*,[8] that such a matter should "be alleged and proved." [9] In the latest decision in point, promulgated barely two years ago,[10] this Court, through Chief Justice Concepcion, reaffirmed such a doctrine.[11]

2. Now as to the lack of lucrative employment. It is one of the qualifications required in the Naturalization Act that petitioner must be worth either not less than P5,000.00 or "must have some known lucrative trade, profession, or lawful occupation." [12] Some of the earlier decisions stressing how essential such a requirement is came from the pen of former Chief Justice Bengzon, in the cases respectively of *Lim vs. Republic*,[13] *Tiong vs. Republic*,[14] and *Swee Din Tan vs. Republic*. [15] In *Tan vs. Republic*, [16] there was a definition of what lucrative employment signifies from the pen of Justice Zaldivar. It "means a gainful employment. It is not only that the person having the employment gets enough for his ordinary necessities in life. It must be shown that the employment gives one an income such that there is an appreciable margin of his income over his expenses as to be able to provide for an adequate support in the event of unemployment, sickness, or disability to work and thus avoid one's becoming the object of charity or a public charge." [17] Under such a standard, an applicant with an income of P8,687.50 with five children, [18] one with P5,980.00 with three children, [19] a third with an income of P6,300.00 and only one child [20] and still another one with an income of P7,133.29 with four children [21] were all denied citizenship. Again, from Chief Justice Concepcion comes the latest decision applying such a doctrine consistently adhered to with undeviating rigidity. Reference is made to *Watt vs. Republic*, [22] where, in a sense, a further refinement was made in the Tan pronouncement leading to a stricter view of the matter. In the language of the Chief Justice: "It is not enough for an applicant for naturalization not to be a financial burden upon the community. He must, also, have a 'lucrative trade, profession, or lawful occupation.' And this qualification has been construed to mean, not only that he is not a beggar, a pauper or indigent, but, also, that his financial condition must be such as to permit him and the members of his family to live with reasonable comfort, in accordance with the prevailing standard of living, and consistently with the demands of human dignity, at this stage of our civilization." [23]

WHEREFORE, the lower court decision of October 17, 1966 granting citizenship to petitioner Lim Biak Chiao subject to Republic Act No. 530 is reversed. Costs against petitioner Lim Biak Chiao.

Zaldivar, (Chairman), Fernandez, and Aquino, JJ., concur.

Antonio, J., concurs on the second ground and the result.

Barredo, J., took no part.

[1] Brief for Appellant Republic of the Philippines, 1.

[2] *Ibid*, 4.

[3] *Ibid*, 7.

[4] Commonwealth Act No. 473 (1939).

[5] 71 Phil. 240.

[6] Cf. *Yap Chin vs. Republic*, 93 Phil. 215 (1953); *Ly Hong vs. Republic*, 109 Phil. 635 (1960); *Ong Khan vs. Republic*, 109 Phil. 855 (1960).

[7] Under Section 2 on qualifications, it is required that petitioner "must be of good moral character."

[8] L-21198, January 22, 1966, 16 SCRA 25.

[9] *Ibid*, 29.

[10] *Que Tiac vs. Republic*, L-20174, January 31, 1972, 43 SCRA 56.

[11] *Ibid*, 69. The Chief Justice likewise referred to the following cases: *Lim Cho Kuan vs. Republic*, L-21198, January 22, 1966, 16 SCRA 25; *Chan Ho Lay vs. Republic*, L-26244, Oct. 31, 1969, 30 SCRA 234; *Dy vs. Republic*, L-21958, Sept. 28, 1970, 35 SCRA 65; *Chua Bon Chiong vs. Republic*, L-29200, May 31, 1971, 39 SCRA 318.

[12] Commonwealth Act No. 473, Section 2, par. 4 (1939).

[13] 90 Phil. 387 (1951).

[14] 94 Phil. 473 (1954).

[15] 109 Phil. 287 (1960). Cf. *Limtao vs. Republic*, 92 Phil. 130 (1952); *Lim vs. Republic*, 92 Phil. 522 (1953); *Sancho vs. Republic*, 107 Phil. 1128 (1960); *Velasco vs. Republic*, 108 Phil. 234 (1960); *Uy vs. Republic*, 109 Phil. 694 (1960).

[16] L-19580, April 30, 1965, 13 SCRA 663.

[17] *Ibid*, 667.

[18] *Keng Giok vs. Republic*, L-13347, August 31, 1961, 2 SCRA 1090.

[19] *Koa Gui vs. Republic*, L-13717, July 31, 1962, 5 SCRA 679.

[20] *Tan vs. Republic*, L-16013, March 30, 1963, 7 SCRA 526.

[21] *Go Bon The vs. Republic*, L-16813, December 27, 1963, 9 SCRA 812.

[22] L-20718, August 30, 1972, 46 SCRA 683.

[23] *Ibid*, 697-698.

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