

JUSTO.TAN ALIAS LI SUI, PETITIONER-APPELLEE, VS., REPUBLIC OF THE PHILIPPINES, OPPONENT-APPELLANT.

G.R. No. L-16013. March 30, 1963

Ponente: PADILLA, J.

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PADILLA, J.:

The Government seeks reversal of a decree entered on 2 December 1958 by the Court of First Instance of Quezon granting" the petition of Justo Tan alias Li Sui to' become a Filipino citizen by naturalization (case No 28-G)

The only ground relied upon by the Government is that Justo Tan alias Li Sui, not having resided continuously in the Philippines for a period of thirty years, was not exempt from filing a declaration of intention, and riot having filed it, his petition for naturalization should be denied.

It appears that since his birth on 12 August 1926 (Exhibit P) Justo Tan alias Li Sui continuously had resided in the Philippines. In 1941 he went to A'moyi China, for a vacation and in January 1948 he returned to the Philippines on board SS Hai Lang.

The Government contends that the continuous residences of thirty years in the Philippines to exempt an applicant for naturalization from filing a declaration of intention means actual or physical presence in the Philippines for said length of time and that deducting appellee's stay in Amoy, China, from 1941 to 1948 or eight years, from the period from 12 August 1926, the date when he was born, to 24 February 1958, the date when the petition was filed, the total number of years .he'had resided in the Philippines is less than 30 years and for that reason he is not entitled to be exempt from filing a declaration of intention one year before the filing in court of his petition for naturalization. On the 6ther hand, the appellee maintains otherwise, because from 1941 to 1948 he was only on vacation in China and had' the intention to return to the Philippines.

In Dy to Republic of the Philippines, 48 Oil. Gaz. 4813, this Court held that the "provision of section 6 of Commonwealth Act No. 473, as amended by Commonwealth Act No. 535, exempting those 'who have resided continuously in the Philippines for a period of thirty years or more before filing their application' from submitting their declaration of intention as required by section 5 of the law," "* . * * contemplates actual and substantial residence within the Philippines, not legal residence alone, because only by actual and substantial residence may the said qualification be acquired by an applicant."

Besides, appelleels annual income of P3,000 only is not lucrative within the meaning of .the revised Naturalization . Law, as amended.[1] Even if added up to his wife's annual income of P3,300 still their total income of P6,300 falls short of the requirement of the law, considering that they have a ehildto support and the already present high cost of living continues to go. up.

Furthermore, the appellee was not truthful. The trial court asked him as follows:

Q. During the war, where were you residing or living?

A. In China.

Q. In what part of China?

A. Amoy, China.

Q. Liberation took place in 1945 in the Philippines. Why were you not able to come to the Philippines in 1945?

A. Because there is a law that it should be ... that the return to the Philippines is by lottery.

Q. And when did you get your lot to return to the Philippines?

A. In 1947.

Q. And when did you arrive in the Philippines?

A. In January, 1948.

Q. Where did you live from 1948 up to the present time?

A. In Quezon, Quezon.

Q. Have you ever left Quezon, from that date to the present time?

A. No, sir. (pp. 47-48, t.s.n., italics supplied)

That he had not left Quezon Province is not true, because in the marriage contract that he entered into with , his wife Justina Tan on 16 September ,1956 his residence was 459 Rosario street, Manila (Exhibit H), and in his immigrant's certificate of residence issued on 28 January 1948 his address was 168 Rosario street, Manila (Exhibit L). This untruthful statement clearly shows that the appellee does not possess the irreproachable conduct required of him by law to become naturalized Filipino citizen.

The decree appealed from is reversed and the petition for naturalization denied, with costs against the appellee.

Bengzon, C. J., Bautista Angelo, Reyes, J. B. L., Barrera, Paredes, Dizon, and Regala, JJ., concur.

[1]Koa Gui vs. Republic of the Philippines, G. E. No. L-1S71T, 31 July 1962.

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