

IN THE MATTER OF THE PETITION OF MATEO QUINCA CHUA TO BE ADMITTED A CITIZEN OF THE PHILIPPINES. MATEO QUINCA CHUA, PETITIONER AND APPELLEE, VS. REPUBLIC OF THE PHILIPPINES, OPPO...

G.R. No. L-19695. October 31, 1964

Ponente: BARRERA, J.

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BARRERA, J.:

In his petition for naturalization as well as his testimony in court, petitioner Mateo Quinga Chua alleged that he is single, employed by the China Bazar in Tacloban City as bookkeeper with an annual salary of P2,400.00 and P1,200.00 as board and lodging allowances; that he speaks and writes English and the Waray dialect; that he attended the Holy Infant Academy and St. Paul's College where he received his elementary, secondary and college education— schools which teach Philippine History, Civics and government and are not limited to any nationality, race or creed; that he has conducted himself in a proper and irreproachable manner, mingled socially with the Filipinos; that he does not teach nor believe in the use of violence, etc. In short, he possesses all the qualifications and none of the disqualifications, to become a Filipino citizen. (He was also born in the Philippines on Sept. 21, 1932).

It was established during the hearing that notice of the hearing of his petition was published in the issues of June 19, 26 and July 3, 1961, of the Official Gazette and in the newspaper "La Nacion," in its issues of April 8, 15 and 22, 1961. Two witnesses also vouched for his moral character and testified to this effect in court.

The court declared that petitioner has satisfactorily shown that he has all the qualifications required by law, and has complied with all the prescribed requirements, and, hence, granted his petition.

The City Fiscal in behalf of the Solicitor General, opposed and moved for reconsideration of the decision. Denied, he appealed, claiming that petitioner failed to comply with the requirement of posting of the notice of hearing in the office of the Clerk or in the building where said office is located, as required by the Naturalization Law; that he has not satisfactorily proven that he has a lucrative trade, income or profession or that his moral character was beyond reproach; and finally, the character witnesses did not have sufficient and reliable basis for their conclusion that applicant is qualified to become a Filipino citizen.

Applicant-appellee admits that no evidence whatsoever has been adduced to prove that the petition and notice of hearing had been posted in a public and conspicuous place in the office of the Clerk of Court or, in the building where said office is located, as specifically required by the Pvevised Naturalization Law. Applicant, however, contends that this is a duty devolving on the Clerk of Court, and it is presumed that this official duty has been duly performed. While this rule of evidence is generally true, yet a mere presumption will not suffice where the law specifically requires positive proof of a fact, specially when it constitutes a jurisdictional matter, as is the proof of notice in the case of naturalization proceedings. In the case of *Co vs. Republic*, 104 Phil., 889, we held that:

"In short, non-compliance with the requirements thereof, relative to the publication of the petition affords the jurisdiction of the court. It constitutes a fatal defect, for it impairs the very root or foundation of the authority to decide the case, regardless of whether the one to blame therefor is the clerk of court or the petitioner or his counsel. Failure to raise this question in the lower court would not cure such defect."

In addition, the testimony of the applicant that he has a net annual income of P2,400.00, excluding board and lodging allowances, even if true, does not satisfy the requirement of a lucrative trade, income or profession, considering the high cost of living nowadays. Moreover, this alleged income is even doubtful as applicant did not include it in his income tax returns where he reported a net income less than P2,400.00. This omission, proven either he had no such income, or if he had, that he committed a fraud or a falsity in his income tax returns. In either case, he has shown that he is not entitled to naturalization.

This Court, having arrived at this conclusion, finds it unnecessary to discuss the other point raised by the Solicitor General.

The decision appealed from is hereby reversed and appellee's petition for naturalization is dismissed, with costs against applicant-appellee. So ordered.

Bengzon, C. J., Bautista Angelo, Concepcion, Reyes, J. B. L., Paredes, Dizon, Makalintal, Bengzon, J. P. and Zaldivar, JJ., concur.

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