

IN THE MATTER OF THE PETITION OF YAP BUN PIN TO BE ADMITTED A CITIZEN OF THE PHILIPPINES, YAP BUN PIN ALIAS VICENTE YAP, PETITIONER AND APPELEE VS. REPUBLIC OF THE PHILIPPINES, ...

G.R. No. L-19577. October 30, 1964

Ponente: MAKALINTAL, J.

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MAKALINTAL, J.:

This is an appeal by the Government from the decision of the Court of First Instance of Quezon allowing Yap Bun Pin alias Vicente Yap to become a naturalized citizen. Main objections to the grant of citizenship are: (1) petitioner does not have a lucrative occupation; (2) his character witnesses were not in a position to vouch for his conduct; (3) during his residence in this country he had been using an alias in contravention of law, showing that he has not conducted himself in a proper and irreproachable manner; and (4) he has not mingled socially with the Filipinos during said period of residence.

The evidence for petitioner shows: At present he is a resident of Gumaca, Quezon. He arrived in this country on September 3, 1929, and having resided here for more than thirty years prior to the filing of his petition did not file a declaration of intention. From the time of his arrival he lived in Pitogo, Quezon until he transferred to his present residence in 1941. He is married to Juanita Tan, with whom he has five children, all born in the Philippines, and the oldest three of whom are of school age and actually studying in duly recognized schools where Philippine history, civics and government are taught as part of the curriculum. He testified that as copra dealer, he had a net income of P5,000.00 in 1960 and about P6,000.00 in 1961. He does not own real estate but he has a house built on a lot leased to him under a long-term contract. There is also evidence with respect to his other qualifications and lack of disqualifications.

The first error assigned by appellant refers to the legal requirement of lucrative occupation. Petitioner's income tax return for 1960 shows the net amount of P4,485.27 (Exhibit E). This amount is obviously inadequate for purposes of naturalization, considering the fact that petitioner has a wife and five children to support. In this respect, we have, already taken into account the circumstance that the cost of living in Gumaca, Quezon, where petitioner resides, is slightly lower than that in Manila.

Petitioner's income tax returns for 1961[1] and 1962,[2] cannot be considered by this Court, since they were not presented at the trial.[3]. Besides there are indicia that the earnings declared therein have been padded. Petitioner's 1960 income came exclusively from his business as a copra dealer. In his two subsequent tax returns he claimed to have, also derived income from commissions as administrator,[4] of a certain Yu Kim,[5] apparently his mother, and from farming.[6] Note that in his testimony in court on December 14, 1961, he did not mention these two new sources of income. He did testify, however, that his mother Yu Kim, who had a monthly income of P140.00 from her coconut plantation, was helping him with his household expenses. Yu Kim's income, which was her sole means of livelihood, was hardly sufficient for her own needs, let alone enable her to pay petitioner a

commission as administrator of the plantation. With respect to the alleged income from farming, petitioner does not own a farm, nor does it appear that he is renting one. If he was referring to the income from his mother's land, his declaration thereof in his tax return was unwarranted. The income did not accrue to him since he was not the owner.

Petitioner's income from his business—P5,234.04 in 1961 and P8,067.24 in 1962, assuming that it could be taken into consideration—is still short of the requirement of the law. We have already held that incomes of P6,300, where applicant had a wife and one child (*Tan vs. Republic*, L-16013, March 30, 1963); of P5,980.00 in 1956, where applicant had a wife and three children (*Koo Cui vs. Republic*, L-13717, July 31, 1962); and of P8,687.50, also in 1956, where applicant had to support a wife and five children (*Keng Giok vs. Republic*, L-13347, August 31, 1961), were all inadequate to qualify the applicants to become naturalized citizens.

Petitioner's claims that the last case, *Keng Giok vs. Republic* should not be applied here since in that case the income of the petitioner showed a decrease from year to year while here petitioner's income increases every year. The point is of no importance, as we there stated that "due to the present high cost of living (in Manila) and the low purchasing power of the peso. appellant's annual income of P8,687.50 (in 1956) cannot be considered lucrative, especially if we take into account the fact that he has a wife and five children (all of school age and actually attending school) to support."

The judgment appealed from is reversed and petitioner's application is denied, with costs.

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

[1] Attached to his brief.

[2] Attached to a subsequent manifestation.

[3] It is a well-settled rule that, except as otherwise provided by law, now evidence cannot be considered on appeal; the appeal must be decided solely on the evidence produced in the court below and shown by the record. This is true even though the evidence would have been entitled to consideration if introduced at a proper stage of the proceedings, or even though it was discovered after the decree below was rendered. 3 Am. Jur. 377-378.

[4] P414.00 in 1961 and P468.00 in 1962.

[5] See statement of Income tax for the Year 1962, Annex A-1 to petitioner's manifestation.

[6] P1,602.20 in 1961 and P1,583.10 in 1962.

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