

IN THE MATTER OF THE PETITION OF ANTONIO CHUA KANG TO BE ADMITTED A CITIZEN OF THE PHILIPPINES.

G.R. No. L-8875. July 31, 1956

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

This is an appeal, taken by the Government, from a decision, of the Court of First Instance of Manila, granting the petition for naturalization of Antonio Chua Kang.

Born in Amoy, China on May 1, 1906, petitioner came to the Philippines on May 3, 1919, at the age of thirteen (13). He now operates a grocery store at No. 1126 Sta Elena Street, Manila, with a capital of P15,000 and an average annual income of approximately P6,000.00. Thrice he went to Amoy, China, on vacation: in 1930 and 1934, each time for two months, and in 1947, for five months. It was probably in 1930 when he married Chan Ti in China, which he left, soon thereafter, before the birth of their first child, Chua Su Hue. Upon petitioner's return to his native land in 1934, he met Chua Su Hue, then three (3) years of age, for the first time. Having no male heir, he got his nephew, Chua Nai Bon, by natural adoption. In 1948, after his last trip to China, petitioner learned that Chan Ti had begotten him another child, Chua Se San. In According to a telegram received by him in February, 1954, Chua Su Hue and Chua Nai Bon had died in 1953, and January, 1954, respectively.

The appeal of the Government is based upon the fact that petitioner had filed no declaration of intention to become a citizen of the Philippines, prior to the institution of this case, and that his children of school age had not been given the primary and secondary education in a school recognized by our Government. Indeed, the Philippine Naturalization Law (section 5 of Commonwealth Act No. 473) requires, as a condition precedent to the consideration of any petition for naturalization, that such declaration of intention be filed, with the office of the solicitor General, at least one year prior to the institution of the naturalization case. This requirements is dispensed with, however, where the applicant has resided continuously in the Philippines for at least thirty (30) years, provided that his children of school age have taken the primary and secondary courses in a school recognized by the Government of the Philippines (Section 6 of Commonwealth Act No. 473, as amended by Commonwealth Act No. 535). It is not disputed that petitioner's children have not had such education, or even been, in the Philippines. Neither is it denied that this fact would justify a reversal of the decision appealed from, unless petitioner's failure to comply with the aforementioned condition precedent were excusable under the circumstances.

In this connection, petitioner alleges that this children had been unable to come to the Philippines because, shortly after the liberation thereof, the communists occupied Amoy, where his family was. This excuse is clearly unsatisfactory, for petitioner had, at least, two (2) good opportunities to bring his children to the Philippines - first when he went to China, in 1934, when his daughter, Chua Sue Hue, was three (3) years of age, and then in 1947, when she must have been about seventeen (17) years of age. At that time (1947), his child by natural adoption (Chua Nai Bon) must have, also, been of school age. Yet petitioner did nothing to have them, brought to the Philippines. We have repeated held - and there is no reason to depart from the view - that non-compliance with the requirements already referred to, under similar conditions, is fatal to the petition for naturalization. (Chua vs.

Republic of the Philippines, No. L-6269, March 30, 1954; Chua Ho Lay vs. Republic of the Philippines, No. L-5477, April 12, 1954; Tan vs. Republic of the Philippines, No. L-5663, April 30, 1954; Manzano Dy Chan Tiao vs. Republic of the Philippines No. L-6430, August 31, 1954).

WHEREFORE, the decision appealed from is hereby reversed and another one shall be entered dismissing the petition of herein appellee, with costs against him.

IT IS SO ORDERED.

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

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