

TAN KING BOOK, PETITIONER AND APPELLEE, VS. REPUBLIC OF THE PHILIPPINES, OPPOSITOR AND APPELLANT.

G.R. No. L-20712. February 28, 1966

Ponente: ZALDIVAR. J.

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ZALDIVAR. J.:

This is an appeal by the Republic of the Philippines from the decision of the Court of First Instance of Misamis Occidental granting the petition for naturalization of petitioner Tan King Book.

The record shows that all the requirements regarding the jurisdiction of the lower court to hear and decide the petition had been complied with.

The evidence for the petitioner shows that the petitioner was born on December 19, 1916 in Lamua, China, of parents who were citizens of Nationalist China; that he arrived in the Philippines on July 19, 1929 on board the S/S "ANKING at the port of Manila, and has resided in the Philippines since then, or for a period of almost 32 years, 26 years of which period in Ozamis City; that he is married to Wong- Soi Tee who is residing in Hongkong; that he has no children with his said wife; that his residence as of the time when he filed the petition for naturalization is Ozamis City, and that his former residence was Catbalogan, Samar; that he is employed in the Misamis Soap and Candle Factory, and in 1960 his annual salary was P2,483.01, while in 1961 his annual salary was P2,492.77; that he is a part-owner of the Misamis Soap and Candle Factory and in 1960 he received P1,729.28 as share in the profits of said factory, while in 1961 he received a share of P3,930.80 from such profits; that he believes in the principles underlying the Philippine Constitution and has conducted himself in a proper and irreproachable manner during the entire period of his residence in the Philippines in his relation with the constituted authorities as well as with the community of his residence; that he is of good moral character; that he has evinced a sincere desire to embrace the customs and traditions of the Filipino people; that he is not opposed to organized government nor is he defending or teaching the necessity or propriety of violence, personal assault or assassination for the success or predominance of men's ideas; that he is not a polygamist nor a believer in polygamy; that he has never been convicted of any crime; that he is not suffering from any contagious or incurable disease nor is he suffering from mental alienation; that he is not a communist nor does he believe in communism, but, on the contrary, he is a believer in democracy; that he speaks and reads the English language and the Cebu-Visayan dialect; and that he has not applied previously for naturalization in any court in the Philippines. Two character witnesses, namely, Maximo Lago, City Treasurer of Ozamis City, and Gregorio Calit, a certified public accountant of Aloran, Misamis Occidental, testified for the petitioner.

After hearing, the lower court found that petitioner has all the qualifications and none of the disqualifications to become a Philippine citizen by naturalization. The lower court, therefore, declared that the petitioner is eligible for admission to Philippine citizenship and that as soon as the decision shall have become final and executory, in accordance with the provisions of Republic Act No. 530, a certificate of Philippine citizenship be issued to him by the Clerk of Court.

The Republic of the Philippines appealed from the decision of the lower court. In the present appeal the Solicitor General assigns three errors as having been committed by the lower court, namely: (1) that the lower court erred in not granting the motion of the City Fiscal of Ozamis City for a new trial to afford said Fiscal an opportunity to cross-examine the petitioner and his witnesses; (2) that the lower court erred in finding that the petitioner is married to Wong Soi Tee, when it appears that he is also married to a woman by the name of Uy See Teh; and (3) that the trial court erred in granting the petition for naturalization, notwithstanding the fact that the petitioner has no lucrative income.

The first assignment of error has no merit. The record shows that the City Fiscal of Ozamis City was in fact given a chance to cross-examine the petitioner and one of his character witnesses. Apparently the Solicitor-General, in preparing the appellant's brief, had overlooked the record of the proceedings when the City Fiscal of Ozamis City had conducted the cross-examination of the petitioner and one of his character witnesses.

We find merit, however, in the second assignment of error. In the petition for naturalization it is stated that petitioner is married to Wong Soi Tee alias Uy See Tee. In his direct testimony, the petitioner declared that he is married to Wong Soi Tee, but he did not make any mention of the fact that he is married to a woman whose name is spelled in two different ways. The petitioner simply said that his wife Wong Soi Tee is residing in Hongkong. Except for the testimony of the petitioner no other evidence to establish the fact of his marriage to Wong Soi Tee was presented. There is no evidence that his wife Wong Soi Tee had ever come to the Philippines during the 32 years that the petitioner had been in this country, nor is there any evidence that the petitioner had ever left the Philippines to go to Hongkong if only to visit his wife who is residing there. The evidence for the petitioner is to the effect that he has stayed in the Philippines continuously from July 19, 1929. In his Alien Certificate of Registration, dated October 18, 1950 (Exh. D), however, it appears that he is married to one Uy See Teh whose address is Amoy, China. In the income tax returns of the petitioner for the years 1960 and 1961 (Exhibits T and J), it is stated that the wife of petitioner is Uy See Tee. No document showing that the petitioner was married to Wong Soi Tee was ever presented in evidence. There is no evidence at all that this woman named Wong Soi Tee is also known by the name of Uy See Teh or Uy See Tee. Counsel for the petitioner-appellee, in his brief, tried to explain that the name "Wong Soi Tee" is a Cantonese name and it is equivalent in the Amoy dialect to "Uy See Teh". We consider this explanation in the appellee's brief as flimsy. It should have been shown by proper evidence during the hearing that the alleged wife of the petitioner in Hongkong whose name is "Wong Soi Tee" in the Cantonese dialect is also known as "Uy See Teh" in the Amoy dialect. No evidence had been presented that the wife of the petitioner whose address in 1950 was Amoy, China (about 21 years after the petitioner had arrived in the Philippines) had transferred her residence to Hongkong. There is no evidence that the wife of the petitioner who was living in Amoy, China when he left for the Philippines in 1929 had transferred her residence to Hongkong. It strikes Us as strange, or unnatural, that the petitioner had not left the Philippines at all from the time he arrived in 1929 to visit his wife either in Amoy or in Hongkong. We agree with the Solicitor General that the fact of the marriage of the petitioner has not been satisfactorily shown by the evidence; and if he was married at all, it was not satisfactorily shown that his wife whose name is given as "Wong Soi Tee" is the very same woman stated in the Alien Certificate of Registration by the name of "Uy See Teh". Considering that the alien wife of a Filipino citizen, and the children born during the existence of the marriage, acquire rights or privileges under our laws and immigration regulations, it behooves an alien who applies for Philippine citizenship to establish by satisfactory evidence the fact of his marriage and the identity of his spouse. This obligation to establish the fact of marriage and the identity of the spouse becomes more patent when, as in the present case, the alleged wife is not residing in the Philippines and has never come to the Philippines. Failure on the part of the applicant for naturalization to establish clearly the fact of his marriage and the identity of his spouse, when he claims in his petition that he is a married person' would constitute a fatal impediment to the grant of his application.

When an alien applies for Philippine citizenship his whole personal history, his civil status, his conduct and activities are open to scrutiny. We have held in numerous cases that naturalization is not a matter of right but one of privilege, and so it is the concern of the State to be searching, nay exacting, in the efforts to determine whether the applicant for naturalization is a person who fulfills all the conditions prescribed by law for admission to Philippine citizenship. When the applicant can not show by satisfactory evidence that he had been married when he claims to be married, when he can not clearly establish the identity of the woman that he claims to be his wife, when after coming to the Philippines and staying therein for thirty-two years he did not even visit his said wife, certainly that applicant is not a person who has fulfilled the conditions required for admission to Philippine citizenship. He can not be considered a person of good moral character and irreproachable conduct. He can not be considered a person who has embraced the customs, traditions and ideals of the Filipino people. When an alien who applies for Philippine citizenship is of doubtful status and conduct, he certainly is not qualified to be admitted to Philippine citizenship.

The naturalization law should be strictly construed and doubts should be resolved against the applicant for naturalization (*Pe vs. Republic*, 113 Phil. 549, Nov. 29, 1961).

In his third assignment of error the Solicitor General contends that the petitioner does not have a lucrative trade or profession that would qualify him for admission to Philippine citizenship under our Naturalization law. We also find this assignment of error meritorious.

The petitioner, testifying in his behalf during the hearing on March 1, 1962, declared that his profession is that of a businessman, that he is a part-owner of the Misamis Soap and candle Factory and that his annual income is around P5,000.00. The petition for naturalization was filed on September 24, 1960. We find that in the income tax return of the petitioner for 1960 (Exh. I) it appears that his gross income consisted of the sum of P2,483.01 representing his salary from the Misamis Soap and Candle Factory and the sum of P1,749.28 representing his "other income" which presumably is his share out of the profits or bonus from the Misamis Soap and Candle Factory, or a total of P4,232. 29. In his income tax return for 1961 (Exh. J), it appears that his gross income for that year consists of P2,492.77 representing his salary and the sum of P3,930.80 representing "other income", presumably his share in the profits or bonus from the Misamis Soap and Candle Factory, or a total of P6,423.57. There is no evidence as to what kind of a job the petitioner had at the Misamis Soap and Candle Factory which gave him a salary of almost P2,500.00 a year. Neither is there any evidence showing the extent of his investment or participation in the business of the Misamis Soap and Candle Factory. There is no evidence showing the extent and the actual condition of the business of the said Misamis Soap and Candle Factory. It may well be said, therefore, that the only steady income of the petitioner, if at all, is his salary which is almost P2,500.00 every year, or about P208.00 a month. There is no evidence that the petitioner owns any real property or has any other source of income. We note that in the Class B residence certificate of the petitioner for 1961 (Exh. 1-2), the only item he declared therein is his "salary or gross receipts or earnings derived from the exercise of his profession or pursuit of any occupation" in the amount of P2,483.01. This coincides with the statement in his income tax return for the year 1960 (Exh. I) that he received a salary of P2,483.01. In this residence certificate the petitioner did not put any amount opposite the item, "gross receipts or earnings derived from business in the Philippines during the preceeding year". Likewise We note that in his Class B residence certificate for the year 1962 (Exh. J-2), the petitioner declared therein as "salaries or gross receipt or earnings derived from his profession or pursuit of any occupation" the amount of P2,492.77, which also tallies with the statement in his income tax return for the year 1961 (Exh. J) that during that year he received a salary of P2,492.77; but like his Class B residence certificate for 1961, he did not declare any amount opposite the item "gross earnings derived from business in the Philippines during the preceeding year". This failure of the petitioner to declare in his Class B residence certificates any amount other than the salary that he received during the preceeding year indicates either one of two things: either

(1) he tried to evade payment of additional residence tax, or (2) he did not consider that he had other income for the preceeding year other than the salary that he received. This circumstance bolsters our statement that the only steady income of the petitioner is the salary that he received from the Misamis Soap and Candle Factory amounting to almost P2,500.00 a year. We held that additional income consisting of bonus and commission, and profits from business which has not been shown to be steady, are unreliable basis for determining the financial capability of an applicant for Philippine citizenship (*Rafael Pe vs. Republic*, 122 Phil. 1202, Jan. 31, 1966).

If We consider that, as shown by the evidence, the steady income of the petitioner is only about P2,500.00 a year, it results that even if he is single he is not eligible for admission to Philippine citizenship (*Tan vs. Republic*, G.R. No. L-19580, April 30, 1965; *Yap vs. Republic*, O.R. No. L-19649, April 30, 1965; *Lim Uy vs. Republic*, G.R. No. L-19916, June 23, 1965). The petitioner claims that he is married. With more reason he is not qualified for admission to Philippine citizenship if his annual income is only P2,500.00. If we admit the statement of the petitioner that he has an average annual income of P5,000.00 and he has a wife residing in Hongkong, We declare that his income is not considered lucrative as to qualify him for admission to Philippine citizenship. The Court takes judicial notice of the high cost of living in Hongkong, and one in the Philippines who has only an income of P5,000.00 a year will surely find it very difficult to support a wife who lives in Hongkong, considering the low buying power of the Philippine peso during these days.

Wherefore, the decision appealed from is reversed. The petition for naturalization of petitioner-appellee Tan King Book is denied, with costs against said petitioner-appellee.

Bengzon, C. J., Bautista Angelo, Concepcion, Reyes, J. B. L., Barrera, Dizon, Regala, Makalintal, Bengzon, J. P., and Sanchez, JJ., concur.

Judgment reversed.

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