

IN THE MATTER OF THE PETITION OF DELFIN GO KIAM LAM TO BE ADMITTED A CITIZEN OF THE PHILIPPINES.

G.R. No. L-13571. January 31, 1959

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

This is an appeal, taken by the Solicitor General, from a decision, of the Court of First Instance of Davao, granting the application for naturalization, as a citizen of the Philippines, of petitioner Delfin Go Kiam Lam.

The appeal is based upon the fact that Dr. Jose Hernandez, one of the character witnesses for petitioner-appellee, came to know him in 1953 only, shortly after he established himself in the City of Davao (in 1952), or less than five (5) years prior to the institution of this case, on July 28, 1955, in violation of section 7, in relation to section 5 of Commonwealth Act No. 473, petitioner having been 'born in Laoag, Ilocos Norte, on July 10, 1930.

Instead of filing his brief in reply to that of the Government, appellee filed a motion', dated October 23, 1958, praying "that his petition for naturalization be declared withdrawn, without prejudice to presenting another petition," or, else, that we "reverse the decision of the trial court immediately," for the reason that "he did not realize" that his aforementioned witness was "disqualified", under the provisions above referred to, to testify on his behalf, and that, "in order not to waste the time of this Court by passing on an appeal which is clearly meritorious, and in order to save petitioner's time, he desires to withdraw the present petition without prejudice to presenting another one, as he can now avail in Davao of competent witnesses as to his character and irreproachable conduct for having resided therein for more than five years." By resolution dated October 29, 1958, we deferred action on this motion "until the date when the case is considered upon the merits." Thereafter, or on January 24, 1959, appellee moved for a reconsideration of said resolution upon the ground that "there is no more issue between the parties on this appeal", the meritorious nature thereof being admitted in his motion of October 23, 1958, and that "the long pendency of this case since 1956 has caused and is causing enormous damage and prejudice to petitioner who cannot file his petition anew until this case be finally terminated". This motion for reconsideration is well taken, and, accordingly, said resolution of October 29, 1958, is hereby reconsidered and set aside.

It appearing, furthermore, that appellee has not complied with the requirements of said sections 5 and 7 of Commonwealth Act No. 473, inasmuch as one; (1) of his two (2) character witnesses, namely the aforementioned Dr. Hernandez, stated in his affidavit (Exh. P), attached to the petition for naturalization, as well as on the witness stand, that he knew the appellee since 1953, when he established himself in Davao (pp. 13-14, t.s.n.) or less than the minimum period of five (5) years, prescribed in the provisions already adverted to, prior to the filing of said petition it is obvious that the decision appealed from must be, as it is hereby, reversed (*Yu Chong Tian v. Republic*, L-6029, April 12, 1954; *Karam Singh v. Republic*, L-7567, Sept. 29, 1955; *Sy Chhut v. Republic*, L-10202, Jan. 8, 1958; *Dy Tian Siong v. Republic*, L-10200, April 18, 1958).

In view of the foregoing, and the Solicitor General having made of record that he has no objection to the relief

prayed for in appellee's motion of October 23, 1958, this case is hereby dismissed, without prejudice. Petitioner shall pay the costs.

IT IS SO ORDERED.

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

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