

IN THE MATTER OF THE PETITION FOR ADMISSION TO PHILIPPINE CITIZENSHIP OF KIAT CHUN TAN. KIAT CHUN TAN, PETITIONER AND APPELLEE, VS. REPUBLIC OF THE PHILIPPINES, OPPOSITOR AND AP...

G. R. No. L-4802. April 29, 1953

Ponente: PARAS, C.J.

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PARAS, C.J.:

This is an appeal by the Government from a decision of the Court of First Instance of Sulu, granting the petition for naturalization filed by Kiat Chun Tan.

The Solicitor General contends that without being exempt therefrom, the petitioner failed to comply with the legal prerequisite of filing with the office of the Solicitor General a declaration of his intention to become a citizen of the Philippines one year prior to the filing of the petition for naturalization.

It appears that the petition was filed on June 14, 1948. The petitioner was born in Umus Mataha, Cagayan de Sulu, on January 15, 1920. Under the law, a declaration of intention to become a Filipino citizen must be filed, unless the petitioner was born in the Philippines and has received the primary and secondary education in public schools or schools recognized by the Government and not limited to any race or nationality, or unless he has resided continuously in the Philippines for a period of 30 years or more prior to the filing of the petition for naturalization.

As the petitioner was born on January 15, 1920, he had not yet resided in the Philippines for 30 years or more on June 14, 1948, when his petition was filed; and while he was born in this country, he has admittedly not received the secondary education (high school).

The fact that the petitioner filed an amended petition on January 31, 1951, alleging that he is exempted from filing a declaration, for having resided continuously in the Philippines for a period of 30 years, does not alter the situation, since it is not disputed that said amended petition, obviously calculated to frustrate the opposition interposed by the Government, was not published in accordance with law and cannot therefore be the basis for computing the period of petitioner's residence. Moreover, section 1 of Republic Act No. 530 prohibits a hearing earlier than six months after the publication of the petition; and the hearing in this case was held in the lower court on February 3, 1951, or three days from the filing of the amended petition.

We cannot agree with the conclusion of the trial court that the petitioner was not required to file a declaration, because he was born in the Philippines of Filipino mother and Chinese-Filipino father, so that he could have become a Filipino citizen under clause (1), section 1, Article IV of the Constitution, which declares to be citizens of the Philippines "those whose mothers are citizens of the Philippines and, upon reaching the age of majority, elect Philippine citizenship," although the petitioner had failed to make the necessary election within the prescribed period. While the petitioner could have availed himself of this constitutional provision, he should not

be distinguished from others after he had failed, to exercise his right. The law makes no distinction.

Wherefore, the appealed decision is hereby reversed and the petition for naturalization in this case denied. So ordered.

Feria, Bengzon, Tuason, Montemayor, Reyes, Jugo, Bautista Angelo and Labrador, JJ., concur.

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