

IN THE MATTER OF THE PETITION FOR NATURAL-IZATION OF CHIU TEK YE, CHIU TEK YE, PETITIONER-APPELLANT, VS. REPUBLIC OF THE PHILIPPINES, OPPOSITOR-APPELLEE.

G.R. No. L-22302. January 30, 1971

Ponente: MAKASIAR, J.

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MAKASIAR, J.:

Petitioner-appellant Chiu Tek Ye interposes this appeal (p. 88, rec.) from the orders dated March 25, 1963 and August 22, 1963 (pp. 75-81, rec.) dismissing his petition for naturalization.

On June 10, 1954, petitioner-appellant Chiu Tek Ye filed his petition for naturalization before the Court of First Instance of Negros Oriental (Exh. A, pp. 2-3, rec.), which petition was published only once in the Official Gazette issue of August, 1954 and once a week for three consecutive weeks in the Vanguard, a newspaper of general circulation in Dumaguete City (Exhs. E, E-1, E-2, E-3, F, F-1, and F-2), as well as posted on the bulletin board of the court (Exh. H).

The petition does not allege that he is of good moral character. Neither does it state that he resided in the town of Zamboanguita, Negros Oriental, during the Japanese occupation.

After trial, the court rendered a decision dated November 17, 1958 granting his petition (pp. 45-52, rec.).

On January 27, 1959, petitioner-appellant filed a motion ex parte to withdraw his exhibits consisting of his immigrant certificate of residence (Exhs. C and B), identification cards (Exhs. G-3 and Y-2), check-up certificate (Exh. G-4) and alien certificates of registrations (Exhs. O, O-1 to O-8), on the ground that he needed them for his projected trip around the Philippines. Said motion was granted by the court on the same day; and immediately thereafter on that same day, January 27, 1959, petitioner-appellant withdrew the aforementioned exhibits after signing a receipt therefor at the bottom of his motion just below the court order granting the same (pp. 53-54, rec.).

He did not file any declaration of intention, because he claims that he is exempted therefrom by reason of the fact that he has resided in the Philippines continuously for over thirty years since his arrival in May, 1916 at the port of Iloilo City from Amoy, China, where he was born on June 14, 1904. But he did not allege this in his petition.

In a decision dated January 22, 1963, the court, after due hearing and finding that petitioner-appellant had complied with the requirements of R. A. No. 530, authorized petitioner-appellant to take his oath of allegiance and directed the issuance of a certificate of naturalization in his favor (pp. 59-60, rec.).

On February 22, 1963, the Solicitor General thru the City Attorney of Dumaguete City filed a motion to vacate the decisions of November 17, 1958 and of January 22, 1963, respectively granting his petition for naturalization and allowing him to take oath of citizenship, on the ground that the petition is fatally defective and void ab initio because petitioner-appellant did not file any declaration of intention from which he is not exempt; and that the petitioner does not have a lucrative trade considering that he has a wife and four children to support in 1963 and

eight children to support at the time he filed his petition in 1954 (pp. 61-63, rec.).

The petitioner-appellant filed an opposition to the said motion to vacate, to which the government filed a reply (pp. 64--74, rec.).

In an order dated March 25, 1963, the trial court set aside the decisions of November 17, 1958 and January 22, 1963 and dismissed the petition (p. 75, rec.).

On April 20, 1963, petitioner-appellant filed a motion to introduce further evidence and for the reconsideration of the order dated March 25, 1963 (pp. 76-77, rec.).

In an order dated June 8, 1963, the trial court allowed defendant to adduce additional evidence, which however the court found to be insufficient to support his petition, for which reason the court in an order dated August 22, 1963 accordingly denied appellant's motion to set aside the order of March 25, 1963 (p. 81, rec.).

Hence, this appeal.

We have repeatedly held that failure on the part of the petitioner to aver in his petition that he is of good moral character is fatal; because strict compliance with the requirements of the law is jurisdictional.[1]

His two character witnesses, Crescenciano Ozoa and Buenaventura Zamora could not attest to his conduct during the period of Japanese occupation from 1942 to 1945, for they did not see him as he evacuated to Zamboanguita, Negros Oriental.

Moreover, as contended by the Solicitor General, his income of P1,800.00 per annum from 1954 to 1960 with a wife, five children and a Chinese mother-in-law to support, or his yearly income of P4,200 since 1961 with a wife, four minor children and a 76-year old (in 1961) mother-in-law to support is too inadequate to qualify him for naturalization.

It should be noted also that in his 1961 tax census form (Exh. K), he stated that the members of his family consisted of his wife, a 76-year old mother-in-law and seven children, two of whom were already of age then and each earned P40.00 and P60.00 a month. Even if the combined income of the two children amounting to P100.00 a month were to be considered in favor of the petitioner, still a monthly income of P450.00 would be insufficient to maintain a family of ten in Dumaguete City.

His claim that he is paid by his son-in-law Zosimo Dy, a naturalized citizen and husband of his eldest daughter Nati-vidad, a monthly salary of P80.00 since January, 1963 as overseer of Zosimo's coconut plantation in Ayungon, Negros Oriental, is incredible; because Zosimo could more efficiently oversee his alleged coconut plantation as he resides in Ayungon than the petitioner who was already 59 years old in 1963 with still seven members of his family to take care of and who resides in Dumaguete City over fifty kilometers from Ayungon. But even conceding that he earns since 1963 a total of P5,160.00 a year, still said income is insufficient to adequately maintain his family in Dumaguete City. An annual income of P8,867.24 in 1961 was not considered lucrative for an applicant with a wife and five children to support, even if it increases every year.[2]

Furthermore, petitioner did not state, in his petition that he resided during the period of three years of Japanese occupation in Zamboanguita, Negros Oriental, to enable the government to inquire into his conduct during that period in the community where he was then living. This, too, vitiates his petition.[3]

Petitioner-appellant, who claims exemption from filing a declaration of intention, omitted to allege such exemption and the reasons therefor in his petition, which failure is also fatal to his petition and renders the same void.[4] An amended petition supplying such a deficiency should be treated as a new one and published in accordance with Sec. 9 of the Revised Naturalization Law.[5]

Finally, petitioner-appellant failed to attach in his petition a certificate of arrival as required by Sec. 7 of Com. Act No. 473, as amended, which omission likewise nullifies his petition. The reason for the requirement that the certificate of arrival should form part of the petition is to prevent aliens, who illegally entered the Philippines, from acquiring citizenship by naturalization.[6] If, as he pretends, his certificate was taken back by the Bureau of Immigration and in lieu thereof he was issued an immigrant's certificate of residence, he could have submitted the same or a certified true copy thereof.[7]

WHEREFORE, the orders of March 25, 1963 and August 22, 1963 are hereby affirmed, petitioner-appellant's petition for natu-ralization is dismissed, and the decision dated January 22, 1963 is hereby revoked. With costs against appellant.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Castro, Fernando, Teehankee, Barredo, and Villamor, JJ., concur.

[1] Tek vs. Republic, L-23383, Jan. 1971; Dy vs. Republic, L-21958, Sept. 28, 1970; Fidelo vs. Republic, L-17776, Sept. 29, 1965.

[2] Keng Giok vs. Republic, L-13347, Aug. 31, 1961, 2 SCRA 1090, 1093; Pin vs. Republic, L-19577, Oct. 30, 1964; see also Dy vs. Republic, L-21958, Sept. 28, 1970; Dy vs. Republic, L-20482, Aug. 31, 1965; Chie vs. Republic, L-20169, Feb. 26, 1965.

[3] Tek vs. Republic, L-23383, Jan. 1971; Dy vs. Republic, supra, Tiu vs. Republic, L-21448, Jan. 30, 1970.

[4] Khan vs. Republic, L-1466, Oct. 28, 1960, 109 Phil. 855, 858-859.

[5] Khan vs. Republic, supra.

[6] Ang vs. Republic, L-12400, March 29, 1961, 1 SCRA 886, 889-90; Chan vs. Republic, L-14460, June 30, 1960.

[7] Chan vs. Republic, supra.

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