

ALFREDO K. TAN, PETITIONER AND APPELLEE, VS. REPUBLIC OF THE PHILIPPINES, OPPOSITOR AND APPELLANT.

G.R. No. L-22077. February 18, 1967

Ponente: REYES, J.B.L., J.

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REYES, J.B.L., J.:

The Government seeks review of a decision of the Court of First Instance of Agusan in Naturalization Case No. 31 of that Court, declaring Alfredo K. Tan, upon the latter's petition, to be qualified to assume Filipino citizenship, thereby overruling the objections of the City Attorneys of Butuan City.

The petition for naturalization was filed on January 3, 1962 by Alfredo K. Tan, single, Chinese, allegedly born of Tan Diam Him and Khio Shio Chit in Butuan City on November 28, 1938. At the time he was registered as permanent resident alien in the Bureau of Immigration. Petitioner's application was supported by the affidavits of character witnesses Jose Mondejar and Restituto Sintos, residents of Butuan City. The three testified at the trial, and after reception of the evidence, both testimonial and documentary, the trial court decided, on June 28, 1963, that the applicant possessed all the qualifications, and had none of the disqualifications, prescribed by the naturalization laws.

Grounds for the state's appeal are:

- (1) That the character witnesses were not credible persons;
- (2) That the petition for naturalization failed to state all of petitioner's former places of residence;
- (3) That the petitioner failed to satisfactorily establish that he was born in the Philippines;
- (4) That petitioner's declaration of intention was defective; and
- (5) Petitioner had no lucrative income.

We find the government's objections supported by the record.

Witness Jose Mondejar, a foreman of the New Asia Lumber Company in Butuan City, where petitioner worked as a salesman since 1960 and petitioner's father was the cashier, asserted that petitioner had studied in Manila for seven years (tsn., p- 108). Since neither Mondejar nor his co-witness Sintos was shown to have been in Manila during the period of petitioner's stay, we are faced with a sizeable gap during which there is no evidence of petitioner's irreproachable conduct. According to Sintos, a school director, he met petitioner once a year, while the latter was studying in Manila, and such rare encounters fail to qualify the witnesses to testify on petitioner's moral character during those years that he was away from Butuan.

Considering that petitioner appears closely intimate with Mondejar's children, the influential position of petitioner's father over a lower employee, and the testimony of Sintos in court, to the effect that he became acquainted with petitioner in 1946, while in the affidavit accompanying the petition this witness asserted having

known petitioner since birth (1938), neither of the character witnesses can be regarded as trustworthy and reliable insurers of the applicant's character; hence they are not the credible witnesses required by law.[1]

The petition is, likewise, invalid in failing to disclose that petitioner had resided in Manila, as admitted by him, in addition to his present residence in Butuan, a deficiency that violated section 7 of the Naturalization law.[2]

The fact of applicant's having been born in the Philippines is not duly authenticated by competent evidence. Petitioner himself, of course, was not qualified to give evidence on this point, and the alleged copy of the entry in the Civil Register was not properly certified, and hence, was erroneously admitted in evidence and is without probative value. His parents did not testify. The same thing can be stated of his proof of lawful entry for permanent residence, that should accompany his declaration of intention. The photographic copies submitted by him are not certified, nor was their accuracy vouched for by competent witnesses. Such failure of proof is fatal to the petition (*Tan Kong Kiat vs. Republic*, L-19915, June 23, 1965).

Finally, to establish his financial qualifications, the applicant-appellee claimed to be receiving P300.00 a month, plus annual bonus of P1,000.00 from his employer, the New Asia Lumber; in addition, he asserted to having purchased a house, assessed at P17,380.00, from the same employer in December, 1961. It is noteworthy that applicant could not show any deed of sale of the house in his favor; he exhibited a 1962 assessment in his favor, but a tax assessment is no proof of ownership (*Province of Camarines Sur vs. Director of Lands*, 64 Phil. 600). He did not call any authorized officer of the vendor company to prove the alleged conveyance. Such deficiencies in evidence render his assertions of title highly doubtful, and they infirm the probative value of his entire testimony. We have also held that a bonus, not being stable earnings, should not be included in computing lucrative income[3]; and while applicant submitted evidence that his salary had been increased to P500.00 monthly, from March, 1962 onwards, this increase must be disregarded, being subsequent to the filing of the application for citizenship.[4] We conclude that petitioner has not satisfactorily established possession of lucrative income, as required by law.

Wherefore, the decision appealed from, admitting appellee Alfredo K. Tan to Philippine citizenship, is reversed, and the application is ordered dismissed. Appellee shall pay the costs in all instances.

Concepcion, C. J., Dizon, Regala, Makalintal, Bengzon, J. P., Zaldivar, Sanchez, and Ruiz Castro, JJ., concur.

Judgment reversed.

[1] *Cu vs. Republic*, 89 Phil. 473; *Tan vs. Republic*, L-19694, March 30, 1965; *Ong vs. Republic*, L-10642, May 30, 1958; *Ong Ling Chuan vs. Republic*, L-18550, February 28, 1964; *Saw Cen vs. Republic*, L-20310, April 30, 1965).

[2] Cf. *Keng- Giok vs. Republic*, L-13347, Aug. 31, 1961; *Go Bon vs. Republic*, L-16813, December 27, 1963; *Ong Ping Seng vs. Republic*, 19575, Feb. 26, 1965)

[3] *To chip vs. Republic*, L-19637, Feb. 26, 1965; *Uy vs. Republic* L-20208, June 30, 1965.

[4] *Deetuanka vs. Republic*, 106 Phil. 916; *Yu Ti vs. Republic* L-19913, June 23, 1965.

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