

**IN THE MATTER OF THE PETITION FOR ADMISSION AS CITIZEN OF
THE PHILIPPINES. JESUS SY DY ALIAS DESIONG,
PETITIONER-APPELLEE, VS. REPUBLIC OF THE PHILIPPINES,
OPPOSITOR-APPELLANT.**

G.R. No. L-25637. February 20, 1971

Ponente: CONCEPCION, C.J.

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CONCEPCION, C.J.:

Appeal, taken by the Solicitor General, from a decision of the Court of First Instance of Cebu granting the petition, of appellee Jesus Sy Dy alias Desiong, for naturalization as citizen of the Philippines.

Appellant maintains that the lower court erred in not denying said petition for naturalization upon the grounds hereinafter discussed, which We find to be well taken. In this connection, the record shows, *inter alia*, the following:

1. The appellee had not filed a declaration of his intention to apply for naturalization, which is a condition precedent therefor.^[1] Although he claims to be exempt from the requirement of filing said declaration, upon the ground of birth in the Philippines, this fact alone is insufficient to entitle him to the exemption. Under the law, the petitioner must have, moreover, received his "primary and secondary education in public schools or those recognized by the Government and not limited to any race or nationality x x x."^[2] It has been repeatedly held that, pursuant to this provision, to avail of said exemption, the applicant for naturalization must have completed or finished his primary and secondary education in said schools.¹ Upon the other hand, herein appellee was merely a third year high school student when he took the witness stand, in May, 1965, so that he must have been in the second year high school at the time of the filing of his petition on August 14, 1964. Hence, the lower court did not even have jurisdiction to entertain the petition herein.²

2. Appellee had not secured, from the Minister of the Interior of the Republic of China, the permission, required by its laws, to renounce his Chinese citizenship and thus divest himself thereof.³ Inasmuch as he cannot become a citizen of the Philippines by naturalization without a valid renunciation of the allegiance he owes to his country,⁴ it follows that his petition for naturalization cannot be granted.⁵ Otherwise, he would owe allegiance to China, despite his Philippine citizenship, if conferred upon him, which is contrary to the letter and spirit of our Naturalization Laws.

3. Appellee has no lucrative trade or profession, his gross income for the year 1964, combined with that of his wife, being merely P4,300.00. Considering that they, likewise, have a child,¹ it is clear that said income is far from being lucrative and that appellee lacks, accordingly, one of the requisite qualifications for naturalization as citizen of the Philippines.²

The Solicitor General points out other flaws in the evidence for appellee herein, but those already adverted to suffice to show that the lower court has committed a reversible error in granting the petition for naturalization of

herein appellee.

WHEREFORE, the judgment appealed from should be, as it is hereby reversed, and another one shall be entered denying the petition for naturalization of appellee Jesus Sy Dy, alias Desiong, and dismissing the case at bar, with costs against said appellee.

IT IS SO ORDERED.

Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Villamor, and Makasiar, JJ., concur.

Ruiz Castro, Fernando, and Teehankee, JJ., in the result.

Barredo, J., did not take part.

[1] Sec. 5, Com. Act No. 473.

[2] Sec. 6, Com. Act No. 473, as amended by Com. Act No. 535.

1 Uy Boco v. Republica, 85 Phil. 320, 322-323; Son v. Republica, 87 Phil. 666; De la Cruz v. Republic, 92 Phil. 714, 716; Dy v. Republica, 92 Phil. 782, 784-785; Tan v. Republic, 94 Phil. 882, 883-884; Guy Co Chia v. Republic, L-17917, April 30, 1964; Lee Ng Len v. Republic, L-20151, March 31, 1965; Sia v. Republic, L-20290, Aug. 31, 1965; Uy Chin Hong v. Republic, L-21219, May 20, 1966; Po Chu King v. Republic, L-20810, May 16, 1967; Ng v. Republic, L-26242, Oct. 25, 1968; Luchayco v. Republic, L-25814, July 30, 1969.

2 Uy Yap v. Republic, L-4270, May 8, 1952; Sy Ang Hoc v. Republic, L-12400, March 29, 1961; Law Tai @ Vicente Lo v. Republic, L-20623, April 27, 1967; Pessumal Bhrojrj v. Republic, L-24023, May 8, 1969; Luchayco, Cesar v. Republic, L-25814, July 30, 1969; De la Cruz v. Republic, 92 Phil. 714, 716-717; Ong Khan v. Republic, 109 Phil. 855. See, also, Yap v. Republic, L-12938, July 31, 1961; Dy, Antonio v. Republic, L-20348, Dec. 24, 1965; Sio Kim @ John Dia v. Republic, L-20415, Dec. 29, 1965; Lim v. Republic, L-20804, Jan. 22, 1966; Lim Cho Kuan v. Republic, L-21198, Jan. 22, 1966; Yu v. Republic, 92 Phil. 804-805.

3 See Exh. M.

4 Sec. 12, Com. Act No. 473.

5 Go A. Leng v. Republic, L-19836, June 28, 1965; Oh Hek How v. Republic, L-27429, Aug. 27, 1969.

1 In Chua Lian v. Republic, L-26416, April 25, 1969, and Tan v. Republic, L-16013, March 30, 1963, yearly incomes of P6,000 and P6,300, respectively, were held insufficient to be lucrative for one who has a wife and a child. In Yu Kian Chie v. Republic, L-20169, Feb. 26, 1965, P400 a month or P4,800 a year was not considered lucrative for a childless married man.

2 Sec. 2, subdivision (4) of Com. Act No. 473.

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