

KOA GUI, PETITIONER AND APPELLANT, VS. REPUBLIC OF THE PHILIPPINES, OPPONENT AND APPELLEE.

G. R. No. L-13717. July 31, 1962

Ponente: PADILLA, J.

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PADILLA, J.:

Appeal by the petitioner Koa Gui from a decree entered on 15 January 1958 by the Court of First Instance of Manila denying his petition to become a Filipino citizen by naturalization filed on 3 August 1956 (civil case No. 30346).

It appears that Koa Gui, born on 1 November 1924 in Amoy, China, emigrated to and arrived in Manila Port Philippines, on board the SS "Empress of Asia" sometime in 1937 and since then has continuously resided in the Philippines. On 20 May 1951 in the Church of the University of Santo Tomas, Manila, he married Marcelina Tan, a Chinese, signing Robert Dee Koa Gui as his name in the marriage contract (Exhibit G). Out of the marriage he begot three children, namely, Marietta, Raymond and Jackson, all surnamed Koa, none enrolled at school because all are not of school age. He speaks and writes English and Tagalog. He owns and operates the Mercury Motor Supply, a retail store of auto spare parts, located at 1072 Azcarraga street, Binondo, Manila, earning or deriving an annual income of P5,000. Believing in the principles underlying the Philippine Constitution, he has conducted himself properly and irreproachably during his entire stay in the Philippines, has mingled socially with the Filipinos, and sincerely desires to learn and embrace their customs, traditions and ideals. He is not opposed to organized government and is not affiliated with any association or group of persons upholding and teaching doctrines opposed to organized government. He does not teach nor defend the necessity or propriety of violence, personal assault or assassination for the predominance and success of men's ideas. He is not a polygamist nor a believer in the practice thereof, has not been convicted of any crime involving moral turpitude, and does not suffer from any incurable contagious disease. Intending in good faith to become a Filipino citizen, he will renounce absolutely and forever all allegiance to any foreign prince, potentate, state or sovereignty, particularly the Republic of China which is not at war with the Philippines, and will continuously reside in the Philippines.

The two character witnesses who testified for him were Tomas Calasan residing at 2252 Rizal Avenue, Manila, and Benjamin Roca, at 1716 Honradez, Sampaloc, Manila.

His petition for naturalization was denied, for the reason that he does not own real estate in the Philippines worth not less than P5,000 or that his income in 1955 and 1956 is not lucrative, and has been using two aliases other than his true name. He has appealed.

The appellant contends that the trial court erred in holding that his annual income of P5,000 is not lucrative, in passing upon his income tax returns, and in holding that his other names Robert Dee Koa Gui and Eoa Gui Ong were aliases.

The appellant has two sources of income, namely: his retail store of auto spare parts at 1072 Azcarraga street, Binondo, Manila, which he owns and operates under the name and style Mercury Motor Supply and his business

connection with Lim Lin & Co., a partnership doing business at 1094-96 Azcarraga street, Manila. His income tax returns for 1955 shows that his total sales in 1955 amounted to P111,867.65 and that the net income he derived therefrom was P3,705.62 (Exhibit D). His sales in 1956 amounted to P115,042.90 and his net income was P5,146.70 (Exhibit C). From Lim Lin & Co., 1094-96 Azcarraga, a registered partnership, he received an income of P1,389.36 in 1955 and P1,784.43 in 1956, as shown under Schedule H in his income tax returns for those years (Exhibits D-1 and C-1). His average annual income from Mercury Motor Supply is about P4,400 and from Lim Lin & Co., about P1,580, making a total average annual income of about P5,980. Because of the present high cost of living and the low purchasing power of the peso and because the appellant has a wife and three children to support, the trial court held that his annual income of P5,980 is not lucrative within the meaning of section 2, Commonwealth Act No. 4737, otherwise known as the Revised Naturalization Law. The conclusion must be sustained and upheld. In the case of *Keng Giok vs. Republic of the Philippines*, 112 Phil., 986, this Court ruled that an annual income of P8,687.50 derived and received by an applicant for naturalization who has a wife and five children to support is not lucrative to qualify him for naturalization. Although in that case all the applicant's children were studying unlike in the present where none of the appellant's children goes to school for none is of school age, yet such difference does not improve the appellant's qualification, because his annual income is only P5,000 or P3,000 less than that received by the applicant in the former case.

Since his arrival in the Philippines in 1937 the appellant's name has been Koa Gui, as it appears in the Alien Certificate of Registration (Exhibit F) and in the Immigrant certificate of Residence (Exhibit F-1). However, in his marriage to Marcelina Tan, solemnized by Fr. Benito Vargas, O.P., on 20 May 1951 in the Church of the University of Santo Tomas, Manila, the appellant used and signed the name of Robert Dee Koa Gui (Exhibit G). He explained that Robert Dee Koa Gui was given as a Christian name when he was baptized preparatory to his canonical marriage to Marcelina Tan and that he has never used such name in his business or social dealings. The explanation is not satisfactory. It may be true that the Catholic Church requires a person to be baptized to have a Christian name, but in this case in addition to his name Koa Gui the appellant adopted, used and signed not only the Christian name Robert but also another Chinese name Dee. The use of this additional Chinese name is likely to befuddle his identity as a contracting party to the marriage and cannot be justified by the fact that it is not used on other occasions, for marriage in this country is a sacred institution that requires full and accurate disclosure of identities of the contracting parties. The ruling in *Hao Bing Chiong vs. Republic of the Philippines*, G. R. No. L-13526, 24 November 1959, that minor infraction of Commonwealth Act No. 142, known otherwise as the Anti-Alias Law, is not sufficient to disqualify an alien from becoming a citizen of this Republic, cannot be invoked for the appellant. In that case as well as in other cases^[1] the other names used by the applicant for naturalization have been since childhood—either with which he was christened or by which he has been known since childhood. In the present case, the appellant adopted and used the other name Robert Dee Koa Gui at an adult age when he was baptized before contracting marriage. Such being the case, section 1 of the Anti-Alias Law which provides that—

Except as a pseudonym for literary purposes, no person shall use any name different from the one with which he was christened or by which he has been known since his childhood, or such substitute name as may have been authorized by a competent court. * * *,

does not apply to him.

It appearing that Ong is the maternal surname of the appellant, his other name Koa Gui Ong shown by a clearance certificate issued by the Philippine Constabulary (Exhibit O-2) is not an alias.

The appellant has not complied with the requirement of section 7 of Commonwealth Act No. 473, as amended, that an applicant for naturalization should state in his petition "his present and former places of residence." In his

petition for naturalization filed on 3 August 1956 he averred that his present residence is 1112 Azcarraga street, Manila, and his former residence was 531 Rizal Avenue, Manila. According to his character witness, he stayed in the latter from 1945 to 1946 and in the former from 1946 to the present. However, in his immigrant certificate of residence issued by the Bureau of Immigration on 14 May 1947 (Exhibit F-1), under the heading "Personal Description of Bearer," his address was 602 Benavidez, Manila. This address is not stated in his petition for naturalization nor was it mentioned at the trial. Such omission or failure taken together with his yearly income and his use of an alias disqualifies him for naturalization.

The decree appealed from is affirmed, with costs against the appellant.

Bengzon, C. J. Bautista Angelo, Labrador, Concepcion, Barrera, Paredes, Dizon, Regala, and Makalintal, JJ., concur.

[1]People vs. Uy Jui Pio, 102 Phil., 679; 55 Off. Gaz. 8463 and Anselmo Lim Hok Albano vs. Republic of the Philippines, 104 Phil., 795; 56 Off. Gaz. 4750.

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