

IN THE MATTER OF THE PETITION OF CHING CHONG ANG TAN TO BE ADMITTED AS CITIZEN OF THE PHILIPPINES. CHING CHONG ANG TAN, PETITIONER AND APPELLEE, VS. REPUBLIC OF THE PHILIPPINES,...

G. R. No. L-17670. June 23, 1966

Ponente: DIZON, J.

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DIZON, J.:

Appeal taken by the Republic of the Philippines from the decision of the Court of First Instance of Batangas admitting Ching Chong Ang Tan to Philippine citizenship.

On September 1, 1959, appellee filed a petition for Naturalization alleging that he was a citizen of Nationalist China, born on July 16, 1921, in Ching kang, Fookien, China; that he arrived in the Philippines on October 2, 1933 on board the vessel "ANGKING"; that he had resided in the Philippines continuously for a period of 23 years immediately preceding the date of the petition, to wit, since 1935 in Kinuguitan, Oriental Misamis, for ten years, and from 1945 up to the filing of the petition, in Tanauan, Batangas; that he was engaged in the lumber business as Assistant Manager of the New Philippine Lumber Company; that he was married to Dionisia M. Padilla, a Filipino citizen, with whom he had two children, Rufina, 3 years of age, and Crisanto, 9 months of age; that he derived an average annual income of approximately P5,000.00 from his employment mentioned heretofore; and that he possessed all the necessary qualifications required under Section 2 and none of the disqualifications under Section 4 of Commonwealth Act No. 473.

Attached to the petition were the affidavits of character witnesses, Modesto Castillo and Pedro Gonzales, wherein they alleged that they personally knew appellee since 1946; that the latter had continuously resided in the Philippines since then, and that, in their opinion, appellee had all the qualifications necessary to become a citizen of the Philippines and none of the disqualifications provided by law.

After the requisite publication but before the date of the hearing of the petition scheduled on June 22, 1960, character witness Castillo suddenly died. Thereupon petitioner's counsel filed a motion for leave to substitute him and the affidavit of Mariano Castillo in lieu of that of said deceased; which motion was granted by the court.

At the hearing of the petition, appellant, represented by the Assistant Provincial Fiscal of Batangas, filed a written opposition thereto, claiming that the court did not acquire jurisdiction to hear the petition because no new publication had been had after the death of character witness Modesto Castillo and his substitution by another, as required by Section 9 of the Revised Naturalization Law, as amended.

After trial, the court, on September 6, 1960, rendered the appealed judgment.

One of the grounds relied upon by appellant in this instance is that appellee's annual income does not show that he was engaged in a lucrative occupation. We find this to be meritorious. Appellee testified upon this point that he derived an income of about P6,000.00 per annum, but it turned out that this income consisted of his fixed salary in

the lumber business amounting to a mere P150.00 per month, or P1,800.00 per annum, and the rest was alleged profits earned as partner of the New Philippine Lumber Company where he was employed. Such profits, naturally, are purely of a contingent character. We have repeatedly held that, upon this showing, an applicant for letters of naturalization can not be considered as being engaged in a lucrative occupation.

Premises considered, the decision appealed from is reversed. With costs.

Concepcion, C. J., Reyes, J.B.L., Barrera, Regala, Makalintal, Bengzon, Zaldivar, and Sanchez, JJ., concur.

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