

IN THE MATTER OF THE PETITION FOR ADMISSION TO PHILIPPINE CITIZENSHIP. ALFONSO PO CHU KING, PETITIONER-APPELLEE, VS. REPUBLIC OF THE PHILIPPINES, OPPOSITOR-APPELLANT.*G.R. No. L-20810. May 16, 1967*

Ponente: ZALDIVAR, J.

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In a petition for naturalization filed before the Court of First Instance of Misamis Occidental, petitioner Alfonso Po Chu King alleged that he was born on July 18, 1936 at Iligan City, although he has been residing at Ozamis City since 1945; that he is single, 25 years old, and a citizen of Nationalist China; that he speaks and writes the English language and the Cebu-Visayan dialect; that he is a businessman by trade or profession, being an employee and a stockholder of the Po Sun Que Sons Corporation from which he derived an annual income of P3,000.00, more or less; and that he is exempt from filing a declaration of intention because he was born in the Philippines and graduated from high school at the Ozamis Chinese School. Petitioner further alleged that he believed in the principles underlying the Philippine Constitution; that he has conducted himself in a proper and irreproachable manner during the entire period of his residence in the Philippines; that he has mingled socially with the Filipinos and evinced a sincere desire to embrace their customs, traditions and ideals; that he is not opposed to organized government; that he is not a polygamist nor a believer in polygamy; that he was never convicted of any crime involving moral turpitude; and that he is not suffering from any incurable contagious disease. In short, petitioner claims that he has all the qualifications and none of the disqualifications to be a Filipino citizen as provided in the Naturalization Law.

The petition was accompanied by the joint affidavits of two character witnesses, namely, Maximo Lago and Filemon Tan. After the requisite publication, the case was heard on March 31, 1962. The Government, which was represented by the City Fiscal of Ozamis City, did not file any formal opposition. On July 28, 1962, the lower court rendered a decision finding petitioner qualified for Philippine citizenship and granted the petition for naturalization. In due time, the Solicitor General interposed the present appeal to this Court, assigning the following errors:

1. The lower court erred in not finding that petitioner is not exempt from filing a declaration of intention;
2. The lower court erred in not finding that petitioner possesses no lucrative employment; and
3. The lower court erred in not finding that the evidence adduced by petitioner's character witnesses is insufficient to sustain the allegations in their joint affidavit supporting the petition.

We find the appeal meritorious.

It is alleged in the petition for naturalization that petitioner is exempt from filing a declaration of intention for having been born in the Philippines and had graduated from a high school recognized by the Government of the Philippines and not limited to any race or nationality. Petitioner, however, did not mention in his petition, nor in

his testimony, the primary or elementary schools that he attended; and no evidence whatsoever was presented to show that the Ozamis Chinese School where he finished his high school is an institution recognized by the Government and not limited to any race or nationality. This Court has held that a petitioner for naturalization, who fails to mention in his petition the schools where he finished his elementary and secondary education and fails to prove that the elementary and high schools he attended were recognized by the Government and not limited to any race or nationality, is not exempt from filing a declaration of intention, as provided in Sections 5 and 6 of the Naturalization Law (Commonwealth Act 473, as amended by Commonwealth Act 535).

"x x x Considering that section 6 of the Naturalization Law expressly requires that to be exempt from filing declarations of intention Philippine-born applicants must; inter alia, have received both primary and secondary education in public schools or those recognized by the Government and not limited to any race or nationality; that there is no evidence that the Manila Chinese School (where petitioner received primary education) was not limited to any race or nationality, but, on the contrary, its name clearly imported that it was limited to Chinese students (cf. Wang I. Fu vs. Republic, L-15819, Sept. 29, 1962; Hao Su Siong vs. Republic, L-13045, July 30, 1962; Sy See vs. Republic, L-17025, May 30, 1962); and considering that the burden lies on applicant to satisfactorily show that all schools attended by him are not limited to students of a particular nationality, but are regularly attended by a sizable number of Filipino students from whom applicant could have imbibed Filipino customs and traditions, we agree that petitioner should have filed in due time his declaration of intention, and not having done so, his application was erroneously granted." (Len v. Republic, L-20151, March 31, 1965; emphasis supplied)

"It is to be noted from the above-quoted allegation that petitioner omitted to mention the school where he received his primary education and whether or not the primary school he attended is recognized by the Government and not limited to any race or nationality. In his testimony at the hearing before the trial court, petitioner declared that he studied from the third grade of the elementary course up to the first year high school at the Hope Christian High School (formerly Chia-Nan School), a school run and managed by Chinese and where he did not have Filipino classmates but only Filipino teachers. Although there is a certification issued by the Bureau of Private Schools, dated April 3, 1962, stating that said Hope Christian High School is recognized by the Government, and another certification issued by the Principal of the same school, dated February 6, 1962, stating that said school is not limited to any race or nationality, no proof was submitted to show that at the time petitioner was enrolled and studying at the said school it was not limited to any race or nationality. The importance of this factor in petitioner's early education lies in the fact that it is in the formative early years of schooling that the more lasting impressions are received and absorbed by the child's mind. His imbibing our customs and traditions, therefore, depends in the greater extent upon his opportunities to mingle with Filipinos while receiving elementary education.

"For these deficiencies (omission to state in the petition the school which petitioner attended and where he received his primary education and failure to satisfy this Court that Chia-Nan School (now Hope Christian High School) was not limited to any race or nationality at the time petitioner attended it), we hold that petitioner is not exempted from filing a declaration of intention, contrary to his contention." (Sia v. Republic, L-20290, August 31, 1965)

Moreover, as the Solicitor General points out, there is no sufficient evidence in the record which establishes the fact that the petitioner was born in the Philippines. The petitioner tried to prove the fact of his having been born in the Philippines by his own testimony and by the affidavits of his mother and his older brother. These affiants - his mother and his brother - did not take the witness stand so that they could not be cross-examined by the representative of the Government. The petitioner presented his alien certificate of registration and his immigrant certificate of residence, also to prove the fact of his birth in the Philippines; but these two certificates, like the affidavits of his mother and brother, are hearsay evidence and therefore not satisfactory to prove the fact of petitioner's birth in the Philippines.[1] No explanation was offered by petitioner why he could not produce his

birth certificate. There is no evidence whatsoever that the record of birth of the petitioner had been lost or destroyed.

It having been shown that the petitioner has not established that he is exempt from filing a declaration of intention, and it appearing that he had not filed a declaration of intention one year before the filing of his petition for naturalization as required by law, the lower court erred when it granted the instant petition for naturalization.

The Solicitor General also correctly points out that petitioner does not have a lucrative trade or profession. It appears in the income tax return of the petitioner for 1961,[2] that his net income is P2,814.74, and of this amount P1,814.74 represents his salary and P1,000.00 as bonus, from the Po Sun Que Sons Corporation. Considering that "contingent income, like bonuses and commissions, do not constitute dependable remuneration entitled to consideration in determining lucrative trade or work for the purposes of the Naturalization Law"[3] because "they are, by their nature, indefinite and unsteady,"[4] the yearly income of P1,814.74 of petitioner, even if he is single, can not be considered lucrative, or sufficient, to meet the requirement of the law.[5]

A cursory examination of the joint affidavit of petitioner's character witnesses reveal that they practically reiterated what is contained in it when they testified in court, without giving any instance showing why petitioner, if admitted to Philippine citizenship, would be a good citizen of the Philippines. Thus, when asked the question, "what is your impression of petitioner's conduct toward the community and the constituted authority?", their answers were either, he is good, satisfactory, or law-abiding. And when further queried: "Do you believe that the petitioner possesses the qualifications necessary to become a Filipino citizen?", their answer is, "Yes, sir." In the case of *Santiago Ng v. Republic*, L-16302, February 28, 1962, this Court declared: "The belief expressed by the witnesses that the petitioner would make a good citizen, and that they recommend his admission to Filipino citizenship, is a mere conclusion unsupported by facts, and, therefore, an opinion entitled to no weight."

IN VIEW OF THE FOREGOING, the decision appealed from is reversed, and the petition for naturalization is denied, with costs against petitioner-appellee.

Concepcion, C.J., Reyes, J.B.L., Dizon, Regala, Makalintal, Bengzon, J.P., Sanchez, and Ruiz Castro, J.J., concur.

[1] *De Lara v. Republic*, L-18203-04, May 29, 1964.

[2] Exhibit H. The petition for naturalization was filed on June 17, 1961.

[3] *Chie v. Republic*, L-20169, February 26, 1965; *So v. Republic*, L-20145, June 30, 1965.

[4] *Tse v. Republic*, L-19642, November 9, 1964; *Sia v. Republic*, L-20290, August 31, 1965.

[5] *Sia v. Republic*, supra; *Chuan v. Republic*, L-18850, February 28, 1964; *Yap v. Republic*, L-19649, April 30, 1965; *Tan v. Republic*, L-19694, March 20, 1965; *Uy v. Republic*, L-19916, June 23, 1965; *Uy v. Republic*, L-20799, November 29, 1965; *Uy v. Republic*, L-20208, June 30, 1965.

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