

EREMES KOOKOORITCHKIN, PETITIONER, VS. THE SOLICITOR GENERAL, OPPOSITOR.

G.R. No. L-1812. August 27, 1948

Ponente: PERFECTO, J.

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PERFECTO, J.:

In August, 1941, appellee filed with the lower court a petition for naturalization, accompanied with supporting affidavits of two citizens, copy of a declaration of intention sworn in July, 1940, and proper notice of the hearing. The petition was finally set for hearing on December 18, 1941, but it was not held on that date because the province was invaded by the Japanese forces on December 14, and the case remained pending until the records were destroyed during the military operations for liberation in March, 1945. The case was declared reconstituted on May 10, 1947) and the evidence was presented on August 28 and September 30, 1947. On the same day resolution was issued granting the petition.

Although appellant was represented at the hearing and cross-examined the witnesses for the petitioner, he did not file an opposition or presented any evidence. The lower court made the findings of fact in the following paragraphs of its resolution:

"Eremes Kookooritchkin applies for Philippine citizenship by naturalization under the provisions of Commonwealth Act 473 as amended by Act 535.

"The record shows that in August, 1941, he filed his petition for naturalization supported by the affidavits of ex-Judge Jaime M. Reyes and Dr. Salvador Mariano, both residents of Camarines Sur. In the preceding year, in July, 1940 to be precise, he filed his declaration of intention to become a citizen of this country. Notice of the hearing was published as required by law.

"It was established at the hearing that the petitioner is a native-born Russian, having first seen the light of day on November 4, 1897 in the old City of St. Petersburg, Russia. He grew up as a citizen of the defunct Imperial Russian Government under the Czars. World War I found him in the military service of this Government. In 1915 he volunteered for the Imperial Russian navy and was sent to the Navy Aviation School. He fought with the Allies in the Baltic Sea, was later transferred to the eastern front in Poland, and much later was sent as a navy flier to Asia Minor. In the latter part of the war, but before the Russian capitulation, he was transferred to the British Air Force under which he served for fourteen months. When the revolution broke out in Russia in 1917 he joined the White Russian Army at Vladivostok and fought against the Bolsheviks until 1922 when the White Russian Army was overwhelmed by the Bolsheviks. As he refused to join the Bolshevik regime, he fled by sea from Vladivostok to Shanghai and from this Chinese port he found his way to Manila, arriving at this port as a member of a group of White Russians under Admiral Stark in March, 1923. He stayed in Manila for about seven months, then moved to Olongapo, Zambales, where he resided for about a year, and from this place he went to Iriga, Camarines Sur, where he established his permanent residence since May 1925. He has remained a resident of this municipality, except for a brief period from 1942 to July, 1945 when by reason of his underground activities he roamed the mountains of Caranoan as a guerrilla officer. After liberation he returned to Iriga where again he resides up to the present time.

"The applicant is married to a Filipina by the name of Concepcion Segovia, with whom he has one son named Ronald Kookooritchkin. He is at present studying in Saint Agnes Academy, at Legaspi, Albay, a school duly recognized by the Government.

"The applicant is shop superintendent of A.L. Ammen Transportation Company, with about eighty Filipino employees working under him. He receives an annual salary of £13,200 with free quarters and house allowance. He also owns stocks and bonds of this and other companies.

"The applicant speaks and writes English and the Bicol dialect. Socially he intermingles with the Filipinos, attending parties, dances and other social functions with his wife. He has a good moral character and believes in the principles underlying the Philippine Constitution. He has never been accused of any crime. On the other hand, he has always conducted himself in a proper and irreproachable manner during his entire period of residence in Camarines Sur, in his relations with the constituted authorities as well as with the community.

"Although he could have lived in ease by maintaining good relations with the enemy by reason of his being Russian-born during the years preceding the declaration of war by Russia against Japan, the applicant of his own volition choosed to cast his lot with the guerrilla movement and fought the enemy in several encounters in the Province of Camarines Sur. He belonged to the guerrilla outfit of Colonel Padua with rank of major. Upon the arrival of the forces of liberation he was attached to the American Army from April to June, 1945.

"Although a Russian by birth he is not a citizen of Soviet Russia. He disclaims allegiance to the present Communist Government of Russia. He is, therefore, a stateless refugee in this country, belonging to no State, much less to the present Government of the land of his birth to which he is uncompromisingly opposed. He is not against organized government or affiliated with any association which upholds and teaches doctrine opposing all organized governments. He does not believe in the necessity of propriety of violence, personal assault or assassination for the success or predominance of his ideas. Neither is he a polygamist or a believer in the practice of polygamy. He is not suffering from any mental alienation or incurable contagious disease."

Appellant assigns four errors in the appealed resolution. We will consider them separately.

I

Appellant claims that the lower court erred in not finding that the declaration of intention to become a Filipino citizen filed by appellee is invalid and insufficient as a basis for the petition of naturalization. The question calls for the application of the following provision of Section 5 of the Revised Naturalization Laws:

"No declaration shall be valid until entry for permanent residence has been established and a certificate showing the date, place and manner of his arrival has been issued."

Appellant alleges that no documentary or testimonial evidence was introduced to establish the fact that appellee had lawfully been admitted into the Philippines for permanent residence.

In the reconstituted declaration (page 11, record on appeal) the following can be read:

"I arrived at the Port of Manila on or about the first day of March, 1923, as shown by the attached certificate of arrival or landing certificate of residence."

The records of the Bureau of Justice, where the declarations of intention to become a Filipino citizen were filed, had been lost or destroyed during the battle for the liberation of Manila, and the certificate alluded to has not been reconstituted.

Appellant's contention that attachment of the certificate of arrival is essential to the validity of a declaration finds no support in the wordings of the law, as the above-quoted section 5 of the Commonwealth Act uses the words "has been issued."

Appellee suggests that we should not consider the question here raised by appellant, the latter having failed to raise it in the lower court and points out that there is testimonial evidence showing appellee's arrival in March, 1923, and that he was lawfully admitted for permanent residence, and the testimony of petitioner has not been refuted. Appellee alleges that the office of the President has certified that it is a matter of record that petitioner was one of the Russian refugees who entered the Philippines under the command of Admiral Stark, the facts regarding arrival of the latter fleet being a matter of common knowledge, widely publicized in the newspapers at the time, of which this Court may properly take judicial notice under Section 5 of Rule 123. When the fleet entered the Philippine waters, it was met by a US destroyer and personally investigated by Governor General Wood who, later, took the matter up with the authorities in Washington in lengthy correspondence, and the 1,200 persons manning the fleet were allowed to land and to remain in the Philippines or proceed to other countries, except about 800 who were allowed to go to the United States and given free transportation on the naval transport "Meritt." The ships of the fleet were sold in the Philippines.

The undisputed fact that petitioner has been continuously residing in the Philippines for about 25 years, without having been molested by the authorities, who are presumed to have been regularly performing their duties and would have arrested petitioner if his residence is illegal, as rightly contended by appellee, can be taken as evidence that he is enjoying permanent residence legally. That a certificate of arrival has been issued is a fact that should be accepted upon the petitioner's undisputed statement in his declaration of July, 1940, that the certificate had actually been attached to the declaration, because it cannot be supposed that the receiving official would have accepted the declaration without the certificate mentioned therein as attached thereto.

We conclude that petitioner's declaration is valid under Section 7 of the Naturalization Law, failure to reconstitute the certificate of arrival notwithstanding. What an unreconstituted document intended to prove may be shown by other competent evidence.

II

The second assignment of error touches upon two questions, that the lower court erred (1) in not finding that appellee has not established a legal residence in the Philippines, and (2) in not finding that he cannot speak and write any of the principal Philippine languages.

The first question has already been disposed of in the above discussion. Perusal of the testimonies on record, leads to the conclusion that petitioner has shown legal residence in the Philippines for a continuous period of not less than ten years as required by Section 2 of Commonwealth Act 473.

As to the next question, appellant alleges that in the oral test at the hearing, it was demonstrated that petitioner has only a smattering of Bicol, the Filipino language that petitioner alleges to know, and he cannot speak it as he was not able to translate from English to Bicol questions asked by the court and the provincial fiscal, although, in the continuation of the hearing on September 30, 1947) "surprisingly enough, he succeeded answering correctly 1 in Bicol the questions propounded by his counsel, however, he fumbled and failed to give the translation of such a common word as 'love' which the fiscal asked of him."

The lower court made the finding of fact that applicant speaks and writes English and Bicol and there seems to be no question about the competency of the judge who made the 'pronouncement, because he has shown by the appealed resolution ;and by his questions propounded to appellee, that he has command of both English and Bicol.

The law has not set a specific standard of the required ability to speak and write any of the principal Philippine languages. A great number of standards can be set. There (are experts in English who say that Shakespeare has

used in his works 15,000 different English words, and the King's Bible about 10,000, while about 5,000 are used by the better educated persons and about 3,000 by the average individual. While there may be persons ambitious enough to have a command of the about 600,000 words recorded in the Webster's International Dictionary, there are authorities who would reduce basic English to a few hundred words. Perhaps less than one hundred well selected words will be enough for the ordinary purposes of daily life.

There is reason to believe that the lower court's pronouncement is well taken considering the fact that, after he was liberated in 1942 from the Japanese in the Naga prison, petitioner joined the guerrilla in the Bicol region, took part in encounters and skirmishes against the Japanese, and remained with the guerrilla until the Americans liberated the Bicol provinces. If appellee with his smattering of Bicol was able to get along with his Bicol comrades in the hazardous life of the resistance movement, we believe that his knowledge of the language satisfies the requirement of the law.

But appellant contends that there is no piece of positive evidence to support petitioner's allegation that he can write too in the Bicol language. There is, however, on record circumstantial evidence from which it can be concluded that petitioner ought to know also how to write Bicol. We know that Bicol, as all the important Philippine language?, uses the same alphabet used in English, and it is much easier to write Bicol than English, because it is phonetic. Vowels and consonants have in them single and not interchangeable phonetic values, while English words deviate very often from the basic sounds of the alphabet. The ability to write cannot be denied to a person like petitioner, who has undergone the exacting technical training to be able to render services as flier in the Russian Naval Squadron in the Baltic Sea and in the British Air Forces during the first World War. The difference between the Cyrillic alphabet, as now used by Russians, and our Roman alphabet, cannot weigh much to deny petitioner the ability to use the latter. A person who has shown the command of English which can be seen in his testimony on record can easily make use of an alphabet of twenty or more letters universally used in this country where he has been residing continuously for 25 years.

III

Appellant contends that the lower court erred in finding appellee stateless and not a Russian citizen and in not finding that he has failed to establish that he is not disqualified for Philippine citizenship under section (h) of the Revised Naturalization Law.

It is contended that petitioner failed to show that tinder the laws of Russia, appellee has lost his Russian citizenship and failed to show that Russia grants to Filipinos the right to become naturalized citizens or subjects thereof. The controversy centers on the question as to whether petitioner is a Russian citizen or is stateless.

Petitioner testified categorically that he is not a Russian citizen and that he has no citizenship. His testimony supports the lower court's pronouncement that petitioner is a stateless refugee in this country. Appellant points out that petitioner stated in his petition for naturalization that he is a citizen or subject of the Empire of Russia, but the Empire of Russia has ceased to exist since the Czars were overthrown in 1917 by the Bolsheviks, and petitioner disclaims allegiance or connection with the Soviet Government established after the overthrow of the Czarist Government.

We do not believe that the lower court erred in pronouncing appellee stateless. Appellee's testimony, besides being uncontradicted, is supported by the well-known fact that the ruthlessness of modern dictatorships has scattered throughout the world a large number of stateless refugees or displaced persons, without country and without flag. The tyrannical intolerance of said dictatorships toward all opposition induced them to resort to beastly oppression, concentration camps and blood purges, and it is only natural that the not-so-fortunate ones who were able to escape to foreign countries should feel the loss of all bonds of attachment to the hells which

were formerly their fatherland's. Petitioner belongs to that group of stateless refugees.

Knowing, as all cultured persons all over the world ought to know, the history, nature and character of the Soviet dictatorship, presently the greatest menace to humanity and civilization, it would be technically fastidious to require further evidence of petitioner's claim that he is stateless than his testimony that he owes no allegiance to the Russian Communist government and, because he has been at war with it, he fled from Russia to permanently reside in the Philippines. After finding in this country economic security in a remunerative job, establishing a family by marrying a Filipina with whom he has a son, and enjoying for 25 years the freedoms and blessings of our democratic way of life, and after showing his resolution to retain the happiness he found in our political system to the extent of refusing to claim Russian citizenship even to secure his release from the Japanese and of casting his lot with that of our people by joining the fortunes and misfortunes of our guerrillas, it would be beyond comprehension to support that the petitioner could feel any bond of attachment to the Soviet dictatorship.

IV

The fourth and last assignment of error need not be discussed, it being only a sequel of the other assignments and has necessarily been disposed of in their discussion.

The appealed resolution is affirmed.

Paras, Actgn. C.J., Feria, Pablo, Bengzon, Briones, Padilla, and Tuason, JJ., concur.

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