

**IN THE MATTER OF THE PETITION OF JOSE PIDELO TO BE
ADMITTED A CITIZEN OF THE PHILIPPINES, JOSE PIDELO,
PETITIONER AND APPELLEE, VS., REPUBLIC OF THE PHILIPPINES,
OPPOSITOR AND A...**

G.R. No. L-7796. September 29, 1955

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

This is an appeal, taken by the Office of the Solicitor General, from a decision of the Court of First Instance of Davao, granting, over the former's opposition, the application for naturalization, as citizen of the Philippines, of petitioner Jose Pidelo.

Upon a review of the record, we are of the opinion, and so hold, that the decision appealed from is untenable for the following reasons, namely:

1. Petitioner claims to have been born in the City of Cebu on September 3, 1918 and, seemingly, for this reason, among others, he has not filed the declaration of intention required in section 5 of Commonwealth Act No. 473. However, birth in the Philippines does not suffice to dispense with the filing of said declaration, unless the applicant has "received the primary and secondary education in public schools or those recognized by the Government, and not limited to any race or nationality"? (Commonwealth Act No. 535, sec. 6). The record shows that petitioner has reached only the third year high school, which he does not even appear to have finished. (De la Cruz vs. Republic of the Philippines, 49 Off. Gaz., 958; Cerverleon TV Dy vs. Republic of the Philippines, 49 Off. Gaz., 939; Yu vs. Republic of the Philippines, L-3808, decided on July 29, 1952; by Kiap vs. Republic of the Philippines, 48 Off. Gaz., 3362; py Yap vs. Republic of the Philippines, L-4270, decided on May 8, 1952; Carlos Chua vs. Republic of the Philippines, L-4112, decided on August 28, 1952.)
2. Petitioner, likewise, invokes exemption from the duty to file said declaration of intention upon the ground that, since his alleged birth in the Philippines, on September 3, 1918, he had continuously resided in the Philippines, although it is admitted that he went to Amoy, China, once, to study for three (3) years. Even assuming that this alleged birth in the Philippines which is assailed by the Government—were true, it has not been proven satisfactorily that petitioner "resided" in the Philippines for over 30 years. The very petitioner has not so testified, although he declared that he resided in Davao since 1951. Considering that his residence, from birth, followed that of his father, a Chinese, who—in the absence of proof to the contrary, and there is none—must be presumed to be domiciled in China, petitioner's alleged birth in the Philippines does not imply necessarily that he resided therein since 1918. Indeed, the fact that he went to China, and stayed there for three (3) years (from 1933 to 1936), in order "to study," strongly indicates that his father and he regarded China as their homeland and domicile, and, consequently, that they were not residence of the Philippines at that time. Hence, petitioner was bound to file a declaration of intention and his failure to do so bars his naturalization.
3. After specifying the facts required to be set forth in petitions for naturalization, section 7 of Commonwealth

Act 473 provides that:

"* * * The petition must * * * be supported by the affidavit of at least two credible persons, stating that they * * * personally know the petitioner to be a resident of the Philippines for the period of time required by this Act and a person of good repute and morally irreproachable, and that said petitioner has in their opinion all the qualifications necessary to become a citizen of the Philippines and is not in any way disqualified under the provisions of this Act. * * *." (Italics supplied.)

In the case at bar, petitioner herein attached to his application the affidavits of Jose S. Rayraundo and Faustino Florida. The former declared, in his affidavit:

"That I know Jose Pidelo since 1946 in Manila;

"That I have known him to be a peace loving person and had never heard him to be ever in trouble;

"That ever since I have known him, he had conducted himself to be gentlemanly and peacefully and had confined his activities to his work and had always behaved himself in irreproachable manner; ,

"That I believe that he would be a good asset to any community where he may reside and I have no doubt that he would be a good Filipino citizens." (Record on Appeal, pp. 5-6.)

The pertinent portion of Florida's affidavit states:

"That I know Jose Pidelo since the year 1947;

"That I have known him to be a peace-loving person and had never heard him to be ever in trouble;

"That ever since I have known him, he had conducted himself to be gentlemanly and peacefully and had confined his activities to his studies and had always behaved himself in irreproachable manner;

"That I believe that he would be a good asset to any community where he may reside and I have no doubt that he would be a good Filipino citizen." (Record on Appeal, pp. 6-7.)

Affiants have not stated in their aforementioned affidavits: (1) that they "personally know the petitioner to be a resident of the Philippines for the period required" by law or (2) that petitioner is a "person of good repute;" or (3) "that petitioner has in their opinion all the qualifications necessary to become a citizen of the Philippines and is not in any way disqualified under the provisions" of the Naturalization Law. Inasmuch as the same must be strictly construed (In re Tomarchio, 169 Fed. 409; In re Kempon, 14 Fed. 2d, 669; U.S. vs. Ginsberg, 243 U. S. 479, 61 L. ed. 853), and non-compliance with the provisions thereof relative to the contents of, and the annexes to, the petition for naturalization, renders the same void (In re Robert Cu,[*] L—3018, decided on July 18, 1951; U. S. vs. Martorana, 171 Fed. Rep. 397), it follows that petitioner's application for naturalization should have not been entertained.

Wherefore, the decision appealed from is hereby reversed, and the case dismissed, with costs against the petitioner. So ordered.

Bengzon, Padilla, Montemayor, Reyes, A., Jugo, Bautista Angelo, Labrador, and Reyes, J.B.L., JJ., concur.

[*] 89 Phil., 473.

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