

IN RE-PETITION FOR PHILIPPINE CITIZENSHIP, KAW SENG, PETITIONER-APPELLEE, VS. REPUBLIC OF THE PHILIPPINES, RESPONDENT-APPELLANT.

G.R. No. L-29208. January 28, 1971

Ponente: CONCEPCION, C.J.

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CONCEPCION, C.J.:

The Solicitor General seeks the reversal of a decision of the Court of First Instance of Iloilo granting the petition for naturaliza-tion of appellee Kaw Seng. Several grounds have been invoked in support of the stand taken by the government. Insofar as this appeal is concerned, it will suffice to consider one only.

It is not disputed that the appellee has not filed the declara-tion of intention required in section 5 of Com. Act No. 473, upon the ground that he had continuously resided in the Philippines for over thirty years, or since 1916, and that he is, accordingly, exempt from such requirement under section 6 of said Act, as amended by Com. Act No. 535, the pertinent part of which provides that:

"Persons born in the Philippines and have received their primary and secondary education in public schools or those recognized by the Gov-ernment and not limited to any race or nationality, and those who have resided continuously in the Philippines for a period of thirty years or more before filing their application, may be naturalized without having to make a declaration of intention upon complying with the other requirements of this Act. To such requirements shall be added that which establishes that the applicant has given primary and secondary education to all his children in the public schools or in private schools recog-nized by the Government and not limited to any race or nationality. x x x."[1]

It is admitted, however, that appellee had gone to China and stayed there from eight (8) to nine (9) months, in 1921; ten (10)months in 1927; eight (8) months in 1932; and four (4) months in 1946. More-over, his children were enrolled in the Iloilo Chinese Commercial High School, thus failing to evince a sincere desire to identify him-self and his family with the local community and to embrace the customs, traditions and ideals of the Filipino people.[2] Accordingly, the present case falls squarely within the purview of *Sy See v. Republic*,[3] in which it was held:

"Another requirement to exempt an appli-cant for naturalization from filing the notice of intention to apply for Philippine citizenship, is that the residence of the applicant in the Philip-pines must be continuous. The petitioner at bar was absent having gone to China on the following years and for so many months: 1941, five months; 1946, three months; 1956, two months; 1958, two months; and 1959, two months. The apparent purpose of the petitioner in going to Hong Kong was to visit his family and children who were living in China or in Hong Kong. An applicant who has left the Philippines so many times and stayed outside for so long periods of time to visit his family outside the Philippines, cannot be considered as having resided in the Philip-pines continuously as required by Section 5 of the Naturalization Act. x x x."

Owing to appellee's absence from the Philippines for longer periods of time than those of *Sy See*, and to the enrolment of his children in Chinese schools, it is clear that appellee cannot avail of the benefits of section 6 of

our amended Naturalization Act. This explains why he did not even file a brief in the present appeal.

WHEREFORE, the decision appealed from should be, as it is hereby, reversed, and another one entered dismissing the petition for naturalization of appellee Kaw Seng, with costs against him.

IT IS SO ORDERED.

Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Castro, Fernando, Teehankee, Barredo, and Villamor, JJ., concur.
Makasiar, J., did not take part.

[1] Underscoring ours.

[2] Ong Ching Guan v. Republic, L-15691, March 27, 1961; Garchitorena v. Republic, L-15102, April 20, 1961; Hao Su Siong v. Republic, L-13045, July 30, 1962; Wang I Fu v. Republic, L-15819, September 29, 1962; Uy Ching Ho v. Republic, L-19582, March 26, 1965; Pek v. Republic, L-20913, November 29, 1965; Lim Yuen v. Republic, L-21218, December 24, 1965; Ching Kiat Huat v. Republic, L-19579, February 28, 1966; Ang Pua v. Republic, L-16459, July 26, 1966; Tan Tian v. Republic, L-19899, March 18, 1967; Chua Tek v. Republic, L-22372, March 31, 1967; Yap Puey Eng v. Republic, L-24805, May 23, 1968; Chan De v. Republic, L-25551, May 29, 1968.

[3] L-17025, May 30, 1962.

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