

IN THE MATTER OF THE PETITION OF DOMINGO DY ALIAS WILLIAM DY CHINCO TO BE ADMITTED A CITIZEN OF THE PHILIPPINES. DOMINGO DY ALIAS WILLIAM DY CHINCO, PETITIONER AND APPELLEE, VS....

G.R. No. L-4548. November 26, 1952

Ponente: LABRADOR, J.

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LABRADOR, J.:

The question involved in this appeal is the interpretation of the provision of section 6 of Commonwealth Act No. 473, as amended by Commonwealth Act No. 535, exempting those "who have resided continuously in the Philippines for a period of thirty years or more before filing their application" from submitting their declaration of intention as required by section 5 of the law. The record shows that petitioner-appellee Domingo Dy, alias William Dy Chinco, possesses all the qualifications for naturalization, but did not file his declaration of intention to become a Filipino citizen one year prior to the filing of his petition for admission to Philippine citizenship.

The record discloses that petitioner-appellee was born in Naga, Camarines Sur, on May 19, 1915, and at the age of seven or eight, or in the year 1923, he went to China with his mother to study, and while he used to go back and forth from China to the Philippines during school vacations, he did not come back to live permanently here until the year 1937. The period during which he studied in China is fourteen years, from 1923 to 1937, and if this period is not counted as part of the period of his residence in the Philippines, the petitioner-appellee would have resided continuously here only from 1937 to 1949, the date of the filing of his petition for naturalization, or for a period of 12 years only. The Court of First Instance of Camarines Sur held that the petitioner is deemed to have continuously resided in the Philippines during the said period of time, because residence in the Philippines is not lost or interrupted by the fact that one goes abroad either for vacation or study. Against this ruling the Solicitor General, on behalf of the Republic of the Philippines, contends on this appeal that there is no satisfactory showing as to the domicile of appellee's father while appellee was in China from 1923 to 1937, and that the legal provision of continuous residence "contemplates actual and substantial residence in the Philippines not only as a tangible evidence of intent to reside here, but in order that the petitioner may learn the principles and imbibe the spirit of our institutions."

The first contention of the Solicitor General involves a question of fact not disputed by petitioner-appellee. We have examined the evidence, and we find absolutely no evidence of the residence of petitioner-appellee's father during said period. As a minor child has legal residence in that of his father, it can not be said that during the period in question (1923-1937) petitioner-appellee's residence was satisfactorily shown to have been in the Philippines because of the absence of proof that his father was then residing here.

As to the second contention, we declare that the evident reason of section 6 of the Revised Naturalization Law in exempting applicants who have resided in the country continuously for 30 years or more before the filing of their application for Philippine citizenship, is because they have stayed in the country for so long a time that they can

be presumed to have acquired the principles and imbibed the spirit of our institutions, and the community and the naturalization service have had full opportunity to observe their conduct. This reason is implied from the requirement from the other class of applicants (those born in the country and have received their primary and secondary education in public schools or those recognized by the Government) also granted similar exemption. The law, therefore, contemplates actual and substantial residence within the Philippines, not legal residence alone, because only by actual and substantial residence may the said qualification be acquired by an applicant. (Application of Vilorio, 84 F. Supp. 584, 585; U. S. vs. Gunsberg, 244 Fed. 209, 213.)

Finding the grounds for the appeal to be well founded, we hereby reverse the decision appealed from and dismiss the petition, with costs against the petitioner-appellee.

Paras, C. J., Pablo, Bengzon, Padilla, Montemayor, Jugo, and Bautista Angelo, JJ., concur.

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