

**IN THE MATTER OF THE PETITION OF OSCAR TAN TO BE ADMITTED  
A CITIZEN OF THE PHILIPPINES. OSCAR TAN, PETITIONER AND  
APPELLEE, VS. REPUBLIC OF THE PHILIPPINES, OPPOSITOR AND  
APPELLANT.***G. R. No. L-18242. December 24, 1963*

Ponente: LABRADOR, J.

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This is an appeal from a decision of the Court of First Instance of Cagayan, Hon. Guillermo Dacumos, presiding, approving the petition of Oscar Tan for naturalization. The Solicitor General alleges in his brief that the judge below erred in finding that the petitioner for naturalization Oscar Tan has all the qualifications required by law to become a Filipino Citizen.

The Court below found that the petitioner herein is a citizen of the Republic of China, born in Tuao, Cagayan on July 16, 1937, single, who had resided in the Philippines from birth up to the present; that he has been a student of public schools or Government recognized schools, and is at present a second year pre-med student in the School of Medicine of the University of Santo Tomas. The court below further found that he is a partner of his father in his business of dry goods and "sari-sari" in Tuao, Cagayan with a share of the capital therein in the amount of P5,000.00.

In arguing for the revocation of the decision the Solicitor General contends that there is doubt that petitioner's claim that he has a lucrative trade, profession or occupation is true, as according to the evidence, petitioner was supposedly given by his father P5,000.00 which he invested in his father's store and from which investment he derives an annual income of P1,300.00 to P1,700.00 which he spends for his subsistence. It is argued that there is no documentary evidence submitted to establish the existence of the alleged partnership between petitioner and his father, or receipts of payment of taxes due from him by reason of the alleged partnership. It is also argued that petitioner pays no income taxes and does not even have a Class B residence certificate, which is a violation of Com. Act No. 456, as amended by Rep. Act No. 545.

In answer to the Solicitor General's contention, counsel for petitioner-appellee cites the pertinent portions of petitioner's testimony and that of his father, attesting to the supposed existence of the business capitalized at P17,000. 00 in which his father is engaged; and the share of petitioner in the amount of P5,000.00 from which share he receives an income of around P120.00 per month.

The claim that petitioner-appellee has a share in the capital of the business of his father is of doubtful veracity; no written evidence of any sort has been submitted to prove the existence of the supposed partnership. If it were really true that petitioner has a share in the partnership, partnership papers would have been submitted and the business should have been registered in the name of the partnership. Further, the fact of the partnership would have been shown in the books of the business as well as in the income tax returns therefor, because the share of the petitioner in the partnership renders him an income of P130.00 per month so that the partnership should be

netting an income of around P3,000.00 per year.

The fact that there is no documentary evidence of the supposed existence of the partnership and of the business thereof convinces the Court that the existence of the partnership and the participation of petitioner in the business thereof was only a scheme conceived to enable the petitioner to satisfy the requirements of the law as to the possession of a lucrative profession. The Court believes with the Solicitor General that the business belongs to petitioner's father who only sends part of his earnings for the support of his son and for his studies.

The provisions of the Naturalization Law on the possession of a lucrative profession are clear and explicit (Sec. 2, par. 4, Com. Act No. 473). It is the intention of the legal provision not to allow the admission as citizens of individuals who do not possess the necessary property or business.

But even if it were true, as claimed by petitioner and his father, that petitioner has an income of from P130.00 to P170.00 per month, such income is not considered sufficiently lucrative to satisfy the requirement of the law. (Que Choc Qui vs. Republic, G.R. No. L-16184, Sept. 30, 1961; Zacarias vs. Republic, G.R. No. L-14860, May 30, 1961; and Sy Ang Hoc vs. Republic, G.R. No. L-12400 and L-14861, March 17, 1961.)

Finding the argument of the Solicitor General, that the existence of a lucrative profession of the petitioner-appellee has not been proved by competent evidence, to be well taken, the Court finds that the petitioner has not established that he possesses the necessary qualification required in Sec. 2, par. 4 or Com. Act No. 473, and hereby sets aside the order appealed from and decrees the dismissal of the petition for naturalization, with costs against petitioner appellee. So ordered.

Bengzon, C. J., Padilla, Bautista Angelo, Concepcion, Reyes, J. B. L., Barrera, Paredes, Dizon, Regala, and Makalintal, JJ., concur.

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