

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

G.R. No. L-7871. October 29, 1955

Ponente: PARAS, C.J.

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PARAS, C.J.:

This is an appeal from a decision of the Court of First Instance of Antique granting the petition for naturalization filed by Leon Pe. The latter's qualifications are not in issue, and the Solicitor General merely contends that the lower court erred in granting the petition because "only one of the two character witnesses whose affidavits are attached to his petition testified at the hearing."

The petition for naturalization alleged that Delfin Encarnacion and Perpetuo Lotilla "will appear and testify as my witnesses at the hearing of my herein petition." Immediately following said petition are (1) the "affidavit of witness" Delfin Encarnacion and (2) the "affidavit of witness" Perpetuo Lotilla. At the hearing, Delfin M. Encarnacion testified for the petitioner, and although Perpetuo Lotilla was not put on the witness stand, the petitioner presented Higino Loza as his other witness, and the latter's affidavit, dated on the same day as the affidavits of Delfin Encarnacion and Perpetuo Lotilla, appears on page 31 of the record.

The Solicitor General argues that the testimony of Higino Loza cannot be substituted for that of Perpetuo Lotilla, inasmuch as to permit such substitution is tantamount to amending the petition which cannot be allowed, citing the case of *Cu vs. Republic of the Philippines*,[*] G.R. No. L-3018, decided July 18, 1951.

We believe that the law was substantially complied with. Section 7 of the Revised Naturalization Law (Commonwealth Act No. 473) provides that "* * * The petition must be signed by the applicant in his own handwriting and be supported by the affidavit of at least two credible persons, stating that they are citizens of the Philippines and 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. The petition shall also set forth the names and post office addresses of such witnesses as the petitioner may desire to introduce at the hearing of the case."

Although the name and post office address of petitioner's witness Higino Loza were not set forth in the petition for naturalization, he is a vouching witness and his affidavit (Exhibit D) is contained in the record. While said affidavit was not attached immediately after the petition, it recites that it is a part of the petition.

The decision in *Cu vs. Republic of the Philippines* is not in point, since the two vouching witnesses therein were found not to be competent, and as a matter of fact one witness was withdrawn upon objection interposed by the Government; and no other witnesses were actually presented in support of the petition.

The decision in *Yu Chong Tian vs. Republic of the Philippines*,[**] G.R. No. L-6029, decided April 12, 1954,

also relied upon by the Government, is not applicable, because in said case this Court found the affidavits attached to the petition for naturalization to be insufficient and held that the testimony of other witnesses could not be substituted after the petitioner had closed his evidence. In the case at bar the fiscal not only did not object to the presentation of witness Higinio Loza but also cross-examined the latter.

Wherefore, the appealed decision is affirmed and it is so ordered without costs.

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

[*] 89 Phil., 473

[**] 94 Phil., 742.

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