

**IN THE MATTER OF THE PETITION OF TAN TEN KOC TO BE
ADMITTED CITIZEN OF THE PHILIPPINES. TAN TEN KOC,
PETITIONER AND APPELLEE, VS. REPUBLIC OF THE PHILIPPINES,
OPPOSITOR AND APPE...**

G.R. No. L-18344. February 28, 1964

Ponente: REGALA, J.

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REGALA, J.:

This is an appeal taken by the Solicitor General from the decision of the Court of First Instance of Samar granting the petition of Tan Ten Koc to be admitted a citizen of the Philippines.

The evidence adduced by petitioner's testimony in the court below tends to show the following:

Petitioner Tan Ten Koc is a Chinese citizen. He came to the Philippines in 1927 and landed in Manila. After two weeks stay in the city, he proceeded to Catbalogan, Samar where he has been residing since then. Prior to 1945, he was employed as a salesman at the Tan Jioco Store in Catbalogan, starting off with a salary of P40 a month, gradually increasing until finally he was given P80.00 a month. In 1945, however, he established a store of his own in the same town.

It also appears from the evidence that in 1936, petitioner married Tan Ting Chun, also a Chinese citizen, and out of their union were born 12 children, the oldest having been born on April 23, 1937, and the youngest on February 4, 1960. All of petitioner's children went to schools recognized by the government, but two of them stopped schooling because one got married and the other allegedly became sick.

Further, petitioner testified that during his stay in the Philippines, he has not been convicted of any crime and that he has conducted himself in a proper and irreproachable manner in his relations with the constituted government as well as with the community in which he is living; that he believes in the principles underlying the Philippine Constitution; that he has mingled socially with the Filipinos and has evinced a sincere desire to learn embrace their customs, traditions and ideals; that he is not opposed to organized governments; and that he does not believe, in polygamy and has only one wife

In compliance with the requirements of the Naturalization Law, the petitioner presented two witnesses testified as to his character and eligibility for citizenship. After hearing, the lower court granted the petition. In this appeal, the Solicitor General assigns the following errors:

- THE LOWER COURT ERRED IN NOT FINDING THAT THE NOTICE AND PUBLICATION REQUIREMENTS OF THE LAW HAS NOT BEEN COMPLIED WITH IN THE CASE AT BAR.
- THE LOWER COURT ERRED IN NOT FINDING THAT PETITIONER HAS NO LUCRATIVE OCCUPATION.
- THE LOWER COURT ERRED IN NOT FINDING THAT PETITIONER IS NOT EXEMPTED FROM

MAKING A DECLARATION OF INTENTION.

The record shows that notice of the petition for naturalization was published once a week for three consecutive weeks in the "Nueva Era". But the Solicitor General contends that such a publication did not meet the requirements of the Naturalization Law because the said newspaper does not have a nationwide circulation, much less a general circulation in Samar, considering that it is a Spanish newspaper.

Section 9 of Commonwealth Act 473 provides:

"Immediately upon the filing of the petition, it shall be the duty of the clerk of the court to publish the same at petitioner's expense, once a week for three consecutive weeks, in the Official Gazette, and in one of the newspapers of general circulation in the province where the petitioner resides, and to have copies of said petition and a general notice of the hearing posted in a public and conspicuous place in his office or in the building where said office is located, setting forth in such notice the name, birthplace and residence of the petitioner, the date and place of his arrival in the Philippines, the names of the witnesses whom the petitioner proposes to introduce in support of his petition, and the date of the hearing of the petition, which hearing shall not be held within the six months from the date of the last publication of the notice, * * * (*Italics supplied.*).

The law requires that the newspaper in which the petition for naturalization is to be published must be of general circulation in the province where petitioner resides. While, in the instant case, there is an affidavit executed by the Editor of the Nueva Era to the effect that the said newspaper is of general circulation in the Philippines, this statement is not sufficient proof that there has been compliance with the law. Positive evidence must be presented to prove that the Nueva Era is of general circulation in Samar, and it is incumbent upon petitioner to present such evidence.

The purpose of the law in requiring publication of the notice is to inform these officers and the public in general of the filing of such a petition in order that the public officers and private citizens supposed to be acquainted with the petitioner may furnish the Solicitor General or the provincial fiscal with such necessary information and evidence as there may be against the petitioner (*Anti-Chinese League, of the Phil. us. Alfonso Felix, etc., et al., G. R. No. L-998, February 20, 1947, 77 Phil. 1012*). Considering then that the Nueva Era is published in Spanish and not in English or in the dialect of Samar, which are more commonly used in petitioner's province of residence, and that there has been no positive and direct proof that it is generally circulated in said province, the publication made therein may not be taken as having served the objecting of the law.

Anent the second error, there is no question that the annual income of petitioner which amounts to only P4000 is not lucrative, with his wife and twelve children to support. In an earlier case (*Koa Gui vs. Republic, G. R. No. L-13717, July 31, 1962*), this Court did not consider as sufficient annual income the amount of P5,980 where the petitioner for naturalization was married with three children.

In his last assignment of errors, the Solicitor General questions the propriety of petitioner's exemption from making a declaration of intention. Commonwealth Act 535, amending section 6 of the Revised Naturalization Law, provides that persons born in the Philippines who have received primary and secondary education and resided here for thirty years need not file a declaration of intention to become citizens in order to be eligible for naturalization. The said residence requirement, however, must be construed in conjunction with another requirement that petitioner must have given primary and secondary education to all his children in schools recognized by the government. (Sec. 1, Commonwealth Act 525) It has been held that this wise and farsighted provision of the Naturalization Law is one of the tests of applicant's bona fide intention to become a citizen. It is to forestall and prevent aliens and their minor children from becoming citizens of this country without knowing its institutions and the duties of citizenship that it entails (*Kiap vs. Republic, 91 Phil., 784*).

Since two of petitioner's children in the case at bar stopped schooling, allegedly by reasons of marriage and illness, respectively, and petitioner did not present satisfactory proof that it was absolutely necessary for both their children to stop studying, especially the one who got married, said petitioner should not have been given the benefit of exemption, for failure to comply with the requirements. In *Lee Choo vs. Republic*, 106 Phil, 755, where one of the applicant's children stopped studying, it was said: "The reason advanced that she (the child) was not able to complete her studies because she got married is not only unsatisfactory but betrays the sincerity of petitioner in embracing our citizenship. (See also *Yu Soon Seng vs. Republic*, 105 Phil., 558).

From the foregoing, it is thus evident that the lower court erred in granting Philippine citizenship to petitioner-appellee.

We have observed that some judges of the Courts of First Instance seem to have not been following the repeated pronouncements of this Court regarding application involving naturalization cases. It is well to bear in mind that, as stated in several cases decided by this Court as well as the U.S. Supreme Court, the right of an alien to become a citizen by naturalization is a statutory one and therefore the applicant must comply strictly with the requirements prescribed in the statute.

Wherefore, the decision appealed from is hereby reversed. Petition is dismissed, with costs against the petitioner-appellee.

Bengzon, C. J., Bautista Angelo, Labrador, Concepción, Reyes, J.B.L., Barrera, Paredes, Dizon and Makalintal, JJ., concur.

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