

**IN THE MATTER OF THE PETITION FOR NATURALIZATION AS
CITIZEN OF THE PHILIPPINES. LIM ENG YU, PETITIONER AND
APPELLEE, VS. REPUBLIC OF THE PHILIPPINES, OPPOSITOR AND
APPELLANT.**

G.R. No. L-20809. August 31, 1966

Ponente: ZALDIVAR. J.

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ZALDIVAR. J.:

This is an appeal from the decision rendered by the Court of First Instance of Negros Occidental on August 10, 1962, granting the petition of herein petitioner-appellee, Lim Eng Yu, for Philippine citizenship.

On May 4, 1961, petitioner filed a petition for naturalization (Civil Case No. 6149), accompanied by the affidavits of two witnesses, Francisco Arias and Antonio L. Tijam. The notice of hearing was published in the Official Gazette and the "Negros Clarion." During the trial, evidence was presented to establish, among others, that petitioner Lim Eng Yu was born in Chai Po, Amoy, Fookien, China, on October 10, 1920; that he arrived in the Philippines on August 15, 1959, and proceeded to Toboso, Negros Occidental, where he continually resided up to the time of the trial; that he is married to Alberta Yu, a Chinese woman, with whom he has two children, namely: Elizabeth Lim and Ester Lim, both enrolled in the Toboso Elementary School; that petitioner is a high school graduate, having graduated from the Negros Occidental High School in Bacolod City; and that he can speak and write English and the Ilongo dialect. The trial court, finding petitioner possessed of all the qualifications and none of the disqualifications required by law, declared him eligible for naturalization.

Its motion for reconsideration having been denied, the Government interposed the present appeal raising the following errors:

1. The lower court erred in finding that the petition was published in newspaper of general circulation as contemplated by law.
2. The lower court erred in finding that the petitioner has a lucrative income within the meaning of the Naturalization Law.
3. The lower court erred in finding that the petitioner has two children when in fact their paternity has not been duly established.
4. The lower court erred in granting the present petition for naturalization.

Without passing on whether or not the petition was published in a newspaper of general circulation or the paternity of petitioner's two children was duly established, We believe that the instant appeal is well-taken. As contended by the Solicitor General, petitioner does not have a lucrative trade or occupation. It is noted that in the income tax returns filed by petitioner for the years 1958, 1959 and 1960, or three years immediately before the filing of his petition for naturalization, petitioner stated that his net incomes [1] for those years were P2,453.36, P3,392.00, and P2,654.87, respectively, or an average annual income of P2,834.08. Considering the present high

cost of living and the low purchasing power of the peso, and the fact that petitioner has a wife and two children to support, such income of petitioner cannot be considered lucrative. [2]

Petitioner pretends that the net incomes appearing in his income tax returns are actually his net savings. He claims that his net income is the sum total of his alleged net savings plus the sundry expenses and depreciation stated in his income tax returns, explaining that for the year 1958, his net savings was P2,453.36, (which appears in his income tax returns as net income) while the respective sundry expenses and depreciation were P2,693.93 and P1,703.46. So that summing up, he avers that his net income for that year was P6,850.75. And adopting the same procedure for the years 1959 and 1960, he now alleges that his net incomes for those years were P7,456.86 and P9,690.58, or an average annual net income of P8,002.76 for the three years. At this juncture, the question may be asked: If the claim of petitioner were true, why did he not so state in his income tax returns?

The answer to the foregoing query is not hard to find. Had petitioner stated in his income tax returns the net incomes he now claims he would have been required to pay income taxes, it appearing that the same exceed his exemption under the law. [3] Hence, he had to conceal the same to evade paying lawful taxes. But presently confronted that the net incomes appearing in his income tax returns could not qualify him for Philippine citizenship, petitioner resorted to make this eleventh hour explanation. Such conduct of petitioner shows that his moral character is not irreproachable, or as good as it should be, which disqualifies him for naturalization. [4]

Neither can the claim of petitioner, that because he allegedly owns two houses worth more than P5,000.00 he should not be required to prove that he has a lucrative profession, be sustained, it appearing that he failed to present evidence to substantiate the same. Indeed, the only evidence presented by petitioner on this matter is his own testimony and the statements he made in his income tax returns, and failed to adduce any documentary proof such as certificate of assessment or tax receipts from the treasurer's or assessor's office. In the absence of credible proof to support his alleged ownership of the houses, and how he acquired the same, petitioner cannot be said to have met the requirement of Section 2, Commonwealth Act 473, otherwise known as the Revised Naturalization Law.

"While the petitioner in this case had stated in his petition that he is the owner of a building for residential and commercial purposes with an assessed value of P5,000.00, he did not say so in his oral testimony. Only Atty. Jose B. Castro, one of the character witnesses, during the cross-examination by the fiscal, made a statement to this effect. And it is not explained why no certificate of assessment or a declaration of real estate property, or any other piece of evidence from the treasurer's or assessor's office was submitted. In the absence of credible proof to support the allegation as to property ownership of the petitioner in this case, We are constrained to conclude that petitioner has not met the requirement." (Cu v. Republic, L-13341, July 1, 1962)

"As to his statement that he has real property worth P6,000, no credible evidence was presented in support thereof. We have only his own testimony to that effect. He declared that the only property he has is a residential house, which evidently is the house where he and his parents live and which should belong to the latter. If he is the owner of real property, he would have been able to explain how he acquired the same." (Ong v. Republic, L-15764, May 19, 1961) [5]

Moreover, there are other circumstances appearing in the record which, though not pointed out by the Solicitor General in his appeal, this Court may consider in determining petitioner's eligibility for Philippine citizenship. [6] One is that the petition for naturalization is defective. It is not accompanied by petitioner's certificate of arrival as required by Section 7 of our Naturalization Law. And although he tried to justify his failure to present or attach the requisite certificate by stating that the Bureau of Immigration ordered him to surrender the same and issued in lieu thereof only his immigration certificate of residence, such inability of petitioner to comply with this mandatory provision of the law is fatal.

"The next point raised by appellant is petitioner's failure to present his certificate of arrival as required by Section 7 of the law. It is admitted that, instead of the certificate of arrival, petitioner adduced only his immigrant certificate of residence. Petitioner contends, however, that substantial compliance exists, stating that the Bureau of Immigration took his certificate of arrival and issued in lieu of it the aforesaid immigrant certificate of residence, as attested to by the notation on the latter: 'issued in lieu of LCR No. 65951762, Manila, Aug. 1, 1922'. Since Section 7 of the Revised Naturalization Law requires that the certificate of arrival be made part of the petition, which requirement is mandatory, petitioner's failure in this regard is fatal (*Charm Chan vs. Republic*, L-14460, June 30, 1960). It should not have been difficult for petitioner to have secured from the Collector of Customs a certified copy of the landing certificate allegedly issued to him and taken by the Bureau of Immigration, since we have no knowledge that such records have been destroyed during the last war, no certificate of such loss having been presented (*Charm Chan vs. Republic*, supra)." (*Yu Ti v. Republic*, L-19913, June 23, 1965)[7]

Another circumstance which would disqualify petitioner to become a Filipino citizen is his failure to comply with the requirement of the law that an applicant for naturalization must be vouched for by two "credible persons" who must be of good standing in the community, trustworthy, and reliable so that their words may be taken on their face value. In the instant case, the evidence shows that Francisco Arias, one of petitioner's witnesses, was employed by petitioner as his bookkeeper, hence, he could not have testified with such independence of mind as is required of character witnesses, and his declarations regarding the qualifications of petitioner cannot but lead to the conclusion that they are biased, unreliable and untrustworthy. He is not, therefore, qualified to act as insurer of the character of petitioner.

"Moreover, We find that the character witnesses of petitioner did not measure to the requirements provided for by law, to be considered as 'credible persons.' In the case of *Ong vs. Republic*, L-10642, May 30, 1958, this Court stated that a credible person, for purposes of naturalization cases, is one as having a good standing in the community; known to be honest and upright; reputedly trustworthy, and reliable so that his words may be taken on its face value to serve as warranty of the worthiness of the petitioner. This must be so, because said witnesses are in a way, the insurers of the character of applicant (*Cu vs. Rep.*, L-3018, July 18, 1951). x x x Witness Tanchoco declared that he came to know the petitioner because said witness was the accountant of the La Campana Factory, the General Fabrikoid Manufacturing Company and the Atlantic Development Company, all of which were managed by the petitioner. x x x He could not, therefore, be an insurer of petitioner's worthiness. Witness Tanchoco being an employee of petitioner, his partiality is not far-fetched." (*Saw Chan v. Republic*, L-20310, April 30, 1965)

"We also note that the other character witness, Cesar Las Piñas, while declaring that he had known the petitioner since 1940 in Cebu City, admitted that he is a certified public accountant and that petitioner is his retainer client. Considering that the question of witness' qualification in a naturalization proceeding is a matter of more than usual importance, since 'they are in a way insurers of the character of the candidate concerned,' we are not prepared to say that this witness possesses the qualifications necessary to satisfy the requirements of the law." (*Chan Chen v. Republic*, L-13370, October 31, 1960) [8]

WHEREFORE, the decision appealed from is reversed, and the petition for naturalization is hereby denied, with costs against petitioner-appellee.

IT IS SO ORDERED.

Concepcion, C.J., Reyes, J.B.L., Barrera, Dizon, Makalintal, Bengzon, JP, Sanchez, and Ruiz Castro, JJ., concur.

[1] In the case of *Tee v. Republic*, L-18009, December 27, 1963, the net incomes of petitioner therein appearing in his income tax returns were made the basis of determining whether or not he had a lucrative trade or profession.

[2] Keng Giok v. Republic, L-13347, August 21, 1961 ; Koa Gui v. Republic, L-13717, July 31, 1962 ; The v. Republic, L-16813, December 27, 1963 ; Uy Ching v. Republic, L-19582, March 26, 1965 ; Bok v. Republic, L-19111, June 22, 1965 .

[3] Petitioner has a wife and two children so at most his total exemption is P5,000.00.

[4] Seng v. Republic, L-19575, February 26, 1965; Deetuanaka v. Republic, L-12981, January 29, 1960; Tan v. Republic, L-16013, March 20, 1963; Su v. Republic, L-15543, September 29, 1961; Yu Seco v. Republic, L-13441, June 30, 1960.

[5] See also Sancho v. Republic, L-13429, April 30, 1960 .

[6] "Petitions for naturalization involve the public interest; hence, on appeal, the entire record is open to scrutiny, whether objection is made or not." (Kwan Kwock How v. Republic, L-18521, January 30, 1964) "We can, therefore, inquire in this appeal whether or not applicant is not disqualified for naturalization." (Guan v. Republic, L-15691, March 27, 1961; See also Albano v. Republic, L-10912, October 31, 1958; Liong v. Republic, L-21671, February 28, 1966; Co Im Ty v. Republic, L-17919, July 30, 1966.

[7] See also Sang v. Republic, L-19914, June 23, 1965 .

[8] See also Leoncio Ngo v. Republic, L-18319, May 31, 1963 , citing Calvin K. Lo v. Republic, L-15919, May 19, 1961 ; Chuan v. Republic, L-18550, February 28, 1964 ; Paul Teh v. Republic, L-19830, September 30, 1964 .

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