

TE TAY SENG, PETITIONER AND APPELLEE, VS. REPUBLIC OF THE PHILIPPINES, OPPONENT AND APPELLANT.

G.R. No. L-15956. March 30, 1963

Ponente: PADILLA, J.

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PADILLA, J.:

Appeal from a decree entered on 14 July 1959 by the Court of First Instance of Manila granting the petition filed by Te Tay Seng to become a Filipino citizen by naturalization (case No. 37295).

On 25 August 1958 Te Tay Seng filed a sworn petition stating what section 7 of Commonwealth. Act No. 473 requires to be pleaded. By order of the court, the notice setting the petition for hearing on 5 May 1959 at 8:30 o'clock in the morning was published in the Official Gazette for three consecutive issues on 29 September, 6 and 13 October 1958 (Exhibit B) and in the Daily Mirror once a week for three consecutive weeks on 1, 8 and 15 September 1958 (Exhibits C and C-1). On 20 April 1959 the applicant prayed that the testimony of Francisco R. Lopez, one of the character witnesses, be taken and heard on 28 April 1959 at 8:30 o'clock a.m. instead of 5 May 1959, the date set for the hearing of the petition, because three days thereafter, or on 26 April, he (the witness) would go abroad on a business trip for about four months. On 23 April, the date when the testimony was to be taken, the Government objected to the taking and hearing of the testimony, contending that prior to 5 May 1959, the date set for the hearing of the petition as published in the Official Gazette, the court had not yet acquired jurisdiction to hear the case even as regards the examination of only one character witness. At first, the court denied the taking of said testimony but, later on, allowed it on motion for reconsideration by the applicant. After trial, on 14 July 1959 the court entered the decree referred to at the beginning of this opinion.

The Government has appealed.

The appellant predicates its appeal on the ground that (1) the trial court was without jurisdiction to take the testimony of one of the character witnesses before the date of hearing published in the Official Gazette and newspaper; (2) the character witnesses presented by the appellee are not credible persons within the meaning of the Revised Naturalization Law, as amended; and (3) it had not been proved that the appellee is morally irreproachable.

Section ,1 of Republic Act No. 530 in part provides that-

* * * no petition for Philippine citizenship shall be heard by the cottrts until after six months from the publication of the application requested lby law * * * (Italics supplied)

Section 10, Commonwealth Act No. 473, in part provides that—

No petition shall be heard within the thirty days preceding any election. * * *

In the case at bar, as from 13 October 1958, the last publication of the notice of hearing, to 23 April 1959, the date when the testimony of the character witness Francisco R. Lopez was taken or heard, the six months already had

passed, and as it does not appear that an election was to be held within 30 days from 23 April 1959, the testimony of the character witness Francisco R. Lopez taken or heard on 23 April 1959 does not come under the prohibition above quoted.

On 23 April 1959 Francisco R. Lopez testified that he first came to know Te Tay Seng in the later part of 1947 and since then had frequent contacts with him, because as a businessman he used to go to the National Development Company to purchase textiles and lie (the witness) was the officer-in-charge thereof; that Te Tay Seng continuously had resided in the Philippines and associated with the Filipinos, speaks and writes English and Tagalog, has embraced the Filipino customs, believes in the principles underlying the Philippine Constitution, likes the democratic way of life, is a Christian belonging to the Anglo-Christian Church on Soler, Manila, and as Te Tay Seng had not been convicted of any crime involving moral turpitude he (the witness) recommends applicant's admission, as a citizen; that he (the witness) is a natural-born Filipino; and that he ratifies all the contents of the joint affidavit (Exhibit A) executed on 11 August 1958 by him and his co-witness Sofio Zarsadiaz and attached to the petition for naturalization. The witness was not cross-examined. .

On 9 June 1959 Sofio Zarsadiaz testified that he had known Te Tay Seng since 1948; that the latter had been mingling and associating with Filipinos, has means of livelihood, writes and speaks English and Tagalog, knows the principles which underlie the Philippine Constitution and for that reason he (the witness) believes that Te Tay Seng has the qualifications and none of the disqualifications to become a Filipino citizen by naturalization. He identified his signature in the joint affidavit (Exhibit A) and ratified its contents. On cross examination, he declared that since 1948 he had been residing in 1332 Galigny street, Manila, came to know Te Tay Seng for the first time in 1948, and before that year had only heard of his name but had no personal contact with him.

The two character witnesses failed to show and prove that they are credible persons as contemplated by law. In the case of *Ong vs. Republic of the Philippines*, 55 Off. Gaz. 3290, this Court describes a credible person as follows:

* * * Within the purview of the Naturalization Law, a "credible" person is, to our mind, not only an individual who has not been previously convicted of a crime; who is not a vicious character and has no police record who has not perjured in the past; or whose "affidavit" or testimony is not incredible. What must be "credible" is not the declaration made, but the person making it. This implies that such person must have a good standing in the community; that he is known to be honest and upright; that he is reputed to be trustworthy and reliable; and that his word may be taken on its face value, as a good warranty of the worthiness of the petitioner. * * * (Italic supplied)

The decree appealed from is reversed and the petition for naturalization denied, with costs against the appellee.

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

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