

IN THE MATTER OF THE PETITION OF MANUEL HI KWONG TO BE ADMITTED A CITIZEN OF THE PHILIPPINES: MANUEL LI KWONG, PETITIONER AND APPELLANT, VS. REPUBLIC OF THE PHILIPPINES, RESPOND...

G.R. No. L-7956. June 27, 1956

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 Laguna denying the petition for naturalization filed by the petitioner-appellant, Manuel Li Kwong.

The trial court, in denying the petition for naturalization, called attention to the facts (1) that the appellant made a wrong choice of jurisdiction, in that while it was alleged in the petition that the appellant is a resident of Baños, the evidence consisting of his marriage certificate, income tax returns, and residence certificate, shows that his residence is in Manila; (2) that while he claimed to be a Catholic, it turned out that he is an Aglipayan; (3) that while he claimed to have twelve employees in his printing press, without any Chinese employee, an ocular inspection made by the court showed that the printing press was not in operation and there were only four Filipinos and one Chinaman; and (4) that although he claimed to have an annual income of P50,000, he had a bank account of only P2 while his wife had a bank account of only P38 thereby casting a doubt as to petitioner's solvency.

The Solicitor General in his brief concurs with the appellant in contending that the grounds invoked by the trial court are untenable. Even so, he recommends affirmance of the appealed decision on the sole ground that there is no sufficient evidence to prove that the petitioner has not been convicted of a crime involving moral turpitude.

We agree with both the appellant and the Solicitor General in their view that the court a quo erred. With reference to the matter of residence, it may be stated that the record shows that the petitioner has since 1931 lived with his wife in Los Baños, Laguna, although he goes to Manila every day in connection with his business, thereby being absent from his family residence only in the day time. The statement in the marriage contract, residence certificate and income tax returns to the effect that the appellant was a resident of Manila is not conclusive and cannot prevail over the positive testimony of the appellant, corroborated by his witnesses, that his residence is in Los Banos, especially considering the fact that there is absolutely no showing that the appellant owns or is renting a residential home in Manila. We have held in the case of Pajo vs. Borja, Vol. 47, No. 1 (1951) Off. Gaz., page 310, that a residence certificate is not truly what its name implies, "a certificate of residence"; it is more properly an "identification certificate" for the reason that the place and date of birth and civil status are required to be placed therein, and these circumstances identify the holder, and for the further reason that the law requires it to be exhibited as a means of identification before a government department, branch or office, or before notaries public. It is obvious that Manila was mentioned in the income tax returns merely because he has his business there.

In connection with appellant's claim that he has an annual income of P50,000, it is to be remembered that he

asked the permission of the court to amend his pleading by alleging that said income was meant to be gross, as actually shown by the evidence. This petition to amend was denied by the trial courts and we believe erroneously. The amendment should have been allowed conformably to the Rules of Court so as to make the allegation in the pleading agreeable to the facts proven.

As to appellant's solvency, the record shows that he has as annual net income of about P7,000. The fact that at the time the court make an ocular inspection of appellant's printing press, only four Filipinos and a Chinaman were found therein, is not sufficient to overcome the positive evidence to the effect that appellant's income is more or less P7,000, not to mention the circumstance that he owns one-half of the house where he is living in Los Baños costing about P15,600, the same being conjugal property, although in the name of his wife. The number of employees which the appellant has in his printing press, alleged by him to be eleven, is borne out by the corresponding report to the Bureau of Labor, Exhibit "P". Upon the other hand the bank balances in favor of the petitioner and the latter's wife, are not a correct index as to the annual income.

We are constrained to overrule the objection interposed by the Solicitor General that tends to support the appealed decision, namely, that there is no sufficient proof that the appellant has not been convicted of any crime involving moral turpitude. It is noteworthy that the present petition for naturalization was unopposed, and the appellant positively testified that he has never been convicted of any crime involving moral turpitude. It is true that ordinarily clearances from the proper authorities are presented in evidence, but there is no law to that effect, with the result that the uncontroverted evidence presented by the appellant on the point has to be given weight. Moreover, the clearances referred to by the Solicitor General have in this instance been incorporated into the record, and although they cannot be legally considered as formal evidence, they tend at least to satisfy a requirement insisted upon by the Solicitor General but not imposed by law.

Wherefore, the appealed decision is reversed and the petition for naturalization filed by the petitioner-appellant is hereby granted So ordered without costs

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

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