

CHONG KING KEH YENG, ALSO KNOWN AS ROMULO KEH YENG, PETITIONER AND APPELLEE VS. REPUBLIC OF THE PHILIPPINES, OPPOSITOR AND APPELLANT.

G.R. No. L-37601. December 26, 1974

Ponente: FERNANDEZ, J.

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FERNANDEZ, J.:

This is an appeal taken by the Government from the judgment of the Court of First Instance of Pampanga (Branch I) granting Chong King Keh Yeng's application for Philippine citizenship.

The evidence shows that appellee, a Chinese subject, was born on June 15, 1945 at San Matias (then part of San Fernando), Santo Tomas, Pampanga, to Keh Yeng and Tio Kim Leong, both Chinese subjects owing allegiance to the Republic of China. During his infancy, appellee's parents and family moved to Sta. Lucia at the same municipality and province. He was baptized at the Roman Catholic Church of San Fernando, Pampanga. He received his elementary education at San Fernando Chinese Sin Seng School, Pampanga; Chin Hwa Chinese School in Manila, and the Assumption Academy of Pampanga, and his secondary education at Crusader's Academy, Manila. He obtained his degree of Bachelor of Science in Chemical Engineering at the Mapua Institute of Technology, Manila in 1968.

In 1969, he opened a distillery business, known as "King's Distillery", at Tayug, Pangasinan, which gave him an annual income of P6,000.00, but due to lack of capital and stiff competition, the same was closed temporarily in March, 1970. After closing his business, appellee was employed as production manager of Washington Distillery in San Fernando, Pampanga, owned by his father, Keh Yeng, at an annual salary of P4,000.00.

On June 26, 1970 he filed a petition for naturalization without previously filing a declaration of intention under Section 5 of the Revised Naturalization Law.

The Solicitor General, on behalf of the Republic of the Philippines, filed a motion to dismiss on the ground that the court did not acquire jurisdiction over the case in view of applicant's failure to file a declaration of intention. It was claimed that applicant can not claim exemption from the requirement it appearing that the enrollment at the schools from where applicant received his primary and secondary education (Chinese Sin Seng School at San Fernando, Pampanga and Crusader's Academy at Binondo, Manila), was predominantly Chinese.

In its order of September 15, 1971, the court denied for lack of merit the Republic's motion for dismissal, the applicant having "proved to the satisfaction of the Court that all the schools where he attended are not limited to students of a particular nationality but are regularly attended by a sizeable number of Filipino students from whom applicant could have imbibed Filipino customs and traditions."

On December 16, 1973, and after due hearing, the court rendered a decision granting the petition and admitting applicant as citizen of the Philippines.

The Republic of the Philippines now seeks reversal of the appealed judgment on the following grounds: (1) that

the lower court did not acquire jurisdiction over the case for lack of legally required declaration of intention; (2) that the character witnesses were incompetent; (3) that petitioner used an alias without judicial authority; and (4) that appellee did not have a lucrative income.

Upon the facts of record the appealed judgment should be reversed.

1. Although appellee was born in the Philippines, he is nevertheless, not exempt from filing the required declaration of intention there being no sufficient proof that he had received his primary and secondary education in public schools or in private schools recognized by the government and not limited to any race or nationality. The certification by the Department of Education that Philippine History, Government and Civics are taught in the schools attended by appellee as part of the school curriculum, and that the records thereof show that said schools are not limited to any particular race or nationality, does not satisfy the requirement of the law there being no evidence that said schools were regularly attended by a sizeable number of Filipino students from whom applicant could have imbibed Filipino customs and traditions. In the case of *Ang Ban Giok vs. Republic*, L-26949, February 22, 1974, 55 SCRA 556, this Court, thru Mr. Justice Antonio, stated:

"x x x Although those principals issued certifications (Exhs. T, U, & V) to the effect that their schools are duly recognized by the Government of the Republic of the Philippines and not limited to any race or nationality and that Philippine history, government and civics are taught as part of the school curriculum, no competent evidence has been presented to show that those schools are regularly attended by a sizeable number of Filipino students from whom petitioner-appellee could have imbibed Filipino customs and traditions. (*Lee Ng Lem vs. Republic*, L-20151, March 31, 1965, 13 SCRA 533; *Te Poot vs. Republic*, L-20017, March 28, 1969, 27 SCRA 647-648; *Go Ay Koo vs. Republic*, L-23652, April 25, 1969, 27 SCRA 988; *Lim vs. Republic*, L-30424, January 28, 1971, 37 SCRA 96)."

2. It was established that character witness Pedro Lingad is the father-in-law of appellee's counsel. Such a relationship could create doubt as to the truthfulness of his testimony on the moral character and fitness of applicant to be admitted to Philippine citizenship.

In one case (*Lee Tit vs. Republic*, L-21446, April 29, 1966, 16 SCRA 735), where one of the witnesses presented was the father of petitioner's counsel, this Court ruled that said witness could not have testified with such independence of mind as required of character witnesses in naturalization cases. In another case (*Albert Ong Ling Chuan vs. Republic*, L-18550, February 28, 1964), where one of the witnesses was the lawyer of petitioner's father, this Court held that "this circumstance lends doubt as to the veracity of his testimony, and leads, one to conclude that his declarations are biased and untrustworthy."

3. Appellee's full name as stated in the petition is Chong King Keh Yeng, also known as Romulo Keh Yeng. As explained by appellee, he got the name Romulo Keh Yeng because while in Grade II at the Assumption College, he was required to have a Christian name and so he was baptized as such. To our mind such use of another name is unjustified, the same being without judicial authority. Time and again We have ruled that use of an alias without judicial authority warrants denial of the petition for naturalization.[1]

4. At the time of filing of the petition in the court below, appellee's annual income as shown in the petition was P4,000.00 as production manager of "Washington Distillery" owned by his father. Receipt of such salary does not satisfy the requirement of the law that applicant must have a lucrative trade or business or must be engaged in gainful occupation. In a long line of decisions, this Court has declared that income derived from employment in business of applicant's father renders the claim of such income dubious (*Hua vs. Republic*, L-21400, May 31, 1966, 17 SCRA 373; *Lee vs. Republic*, L-20148, April 30, 1965; *Velasco vs. Republic*, L-14214, May 25, 1960; *Justino Cu vs. Republic*, L-13344, July 21, 1962; *Que Hoc Cuie vs. Republic*, L-16884, Sept. 30, 1961; *Zacarias Tan vs. Republic*, L-14860, May 8, 1961; *Yu vs. Republic*, L-17748, Nov. 28, 1962). However, granting that the

alleged income was true, still the same cannot be considered lucrative for purposes of naturalization. A monthly income of P350 or P4,200.00 annually of an unmarried applicant in 1966 was not considered lucrative. (Dy vs. Republic, L-20709, April 29, 1966, 16 SCRA 667).

IN VIEW OF THE FOREGOING, the decision appealed from is reversed with costs against appellee.

SO ORDERED.

Fernando, (Chairman), Barredo, Antonio, and Aquino, JJ., concur.

[1] Dy vs. Republic, L-21958, Sept. 28, 1970, 35 SCRA 65, Yu Nam vs. Republic, 16 SCRA 733, Dy vs. Republic, 16 SCRA 667, Celerino Yu Seco vs. Republic, 108 Phil. 807.

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