

CIPRIANO KING, PETITIONER AND APPELLEE, VS. REPUBLIC OF THE PHILIPPINES, OPPOSITOR AND APPELLANT.

G. R. No. L-1687. May 23, 1951

Ponente: PADILLA, J.

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PADILLA, J.:

This is an appeal from a decree granting the petition of Cipriano King to become a citizen of the Philippines under the provisions of Commonwealth Act No. 473, as amended by Commonwealth Act No. 535.

Cipriano King was born of Chinese parents in the municipality of Victoria, province of Tarlac, on 16 September 1925 (Exhibit A). With the exception of two visits to China for three and four or five months when he was 7 and 9 years of age, respectively, he has resided continuously in the Philippines. He completed his elementary education at the Victoria Elementary School in Tarlac (Exhibit C), enrolled at the Macabulos Memorial High School in Victoria, Tarlac, for his secondary education (Exhibit C-1), and transferred to the Gregg Business Institute where he was senior high school student on 13 July 1948 (Exhibit C-2). He speaks and writes English and Tagalog. He is the registered owner of a lot and a house erected thereon located at No. 929 Magdalena Street, Manila, acquired with money advanced by his father as inheritance, from which he derives a monthly rental or income of P400. He is not a believer in polygamy, not opposed to organized government, not suffering from any contagious or incurable disease and has not been convicted of any crime.

It is claimed that the applicant does not have the residence qualification of one year immediately preceding the filing of his petition. It is argued that the term "resided" means actual and not the legal or constructive residence. The residence required in section 8 of the Revised Naturalization Law need not be actual, physical or material. It would be unreasonable to require an applicant for citizenship to be physically present or actually residing in the province one year immediately before he filed his petition. The residence of at least one year immediately preceding the filing of the petition means the legal residence (*animus manendi*) from which he could or might depart or be absent temporarily for a certain purpose and to which he always intended to return. *Animus revertendi* which is the criterion for determining or fixing one's domicile in a country other than that of his actual residence may be taken into account in the determination of his domestic residence. There is no question that the applicant has the intention of going back to the municipality of Victoria, Tarlac, where his father resides and owns a rice mill. His residence in Manila is just for the purpose of studying. The situation pictured by the appellant in its brief does not obtain in the present case, because the applicant has resided in Victoria since his birth. The residence of the applicant in Victoria since birth is sufficient time to give the citizens of that town knowledge of his habits, tendencies and conduct which would enable them to object if the applicant be unworthy to become a naturalized citizen of this country. Hence there is no merit in the claim that the petition filed in the court of first instance of Tarlac by the applicant was not filed with the proper court as required by law.

It is also claimed that the applicant has failed to file a declaration of intention to become a citizen of the Philippines, as required in section 5 of the Revised Naturalization Law. The applicant counters with the contention that he is not required to do so, because he was born in the Philippines and received his primary and

secondary education in public schools or those recognized by the Government and not limited to any race or nationality, as required in section 6 of the Revised Naturalization Law, as amended. We have held that the requirement of enrollment in such schools of the children of a petitioner for naturalization could not be exacted from one whose children are not of school age.[1] The same reason may be applied to the applicant who, at the time of the hearing of his petition, was a senior high school student in the Gregg Business Institute. He could not be required to allege and prove that he had received his secondary education in that institute when he was only a senior at the time of the filing and hearing of his application. We are of the opinion that there is a substantial compliance with the education requirement provided by law.

It is further claimed that the applicant does not own real estate in the Philippines valued at not less than P5,000, or does not have some known lucrative trade, profession or lawful occupation, as required in section 2, paragraph 4, of the Revised Naturalization Law. The appellant makes much out of the fact that at the time of the filing of the petition in this case the applicant was not the owner of the lot and house which he later on acquired with money advanced by his father and draws the inference that the applicant is not of good moral character. According to the appellant, the applicant lacks good moral character, because he alleged under oath on 14 March 1947, when he signed his application, that he was the owner of a real estate in the city of Manila, when in truth and in fact he was not. The transfer certificate of title evidencing his ownership of the lot and a house erected thereon was issued on 13 June 1947. The fact that the certificate of title of the property was issued on the last mentioned date does not necessarily mean that he was not the owner thereof on 15 March 1947, the date of the filing of the petition. The date of issuance of the certificate of title by the registrar of deeds is always subsequent to that of the acquisition of the property, and is not sufficient to overcome the applicant's testimony that at the time of the filing of his petition for naturalization he was the owner of the real y mentioned therein.

As regards the requirement of the Chinese Law of Nationality that Chinese subjects or citizens desiring to become naturalized citizens of another country must secure the permission of the Chinese Ministry of the Interior, we have held already in the case of *Parado vs. Republic of the Philippines*, 47 Off. Gaz. Supp. (12), 19, that such requirement cannot be read into our law.

The decree appealed from is affirmed, without costs.

Paras C. J., Feria, Bengzon, Tuason and Jugo, JJ., concur.

[1] In re Application of Rafael Yrostorza, 46 Off. Gaz., Supp. (11), 179; 83 Phil., 727 *Yee Bo Mann vs. Republic of the Philippines*, 46 Off. Gaz., Supp. (11), 201; *Tan vs. Republic of the Philippines*, 84 Phil., 829.

DISEDENTE

PABLO, M.,

Disiento. La causa debe ser sobreseida por la razon de que el solicitante no ha presentado la declaracion de su intencion de adquirir la ciudadania filipina un ano antes de presentar su solicitud. El solicitante contiene que no esta obligado a presentar tal declaration porque el ha nacido en Filipinas y ha estudiado la primera y segunda ensenanza, lo que no es cierto, porque cuando presente su solicitud solamente era estudiante de cuarto afio de la High School, y apenas tenia 22 anos. En el asunto de Florentino Uy Boco contra Republica de Filipinas, promulgada en 23 de enero de 1950, y en el asunto de Jose Son contra Republica de Filipinas, promulgada en 29 de noviembre, 1950, eate Tribunal sobreseyo lag solicitudes porque los recurrentes no habian estudiado mas que

el segundo año de High School y no habían completado el estudio de la instrucción secundaria.

En 13 de Julio de 1948, el solicitante no comenzaba más que el cuarto año. Solamente había estudiado las tres cuartas partes de la instrucción secundaria, un año más de estudio que el de los dos solicitantes en las tres causas citadas. No había completado aun el estudio de la segunda enseñanza. Declarar que un estudiante de cuarto año de High School cumple sustancialmente la exigencia de la ley es abrir una brecha por la cual entrarían personas que no están en condiciones de obtener la ciudadanía filipina. Los estudiantes matriculados en el cuarto año de derecho, de medicina, farmacia, etc. reclamarían tener derecho para sujetarse a los exámenes del gobierno.

En la primera causa citada, este Tribunal dijo:

"El artículo 6, Ley No. 473 del Commonwealth tal como ha sido enmendado por la Ley No. 535 del Commonwealth es clara: no obliga la presentación de la declaración de propósito (a) a las personas nacidas en Filipinas y que hayan recibido instrucción primaria y secundaria, y (6) a aquellas que hayan residido en Filipinas por un período de 30 años o más. Y como el solicitante no ha recibido la instrucción primaria y secundaria (además de haber nacido en Filipinas), debe presentar su declaración de intención de hacerse ciudadano filipino a la Oficina de Justicia como cualquier otro solicitante. No está incluido entre los exceptuados. El texto inglés es más claro aun, dice textualmente: "Persona born in the Philippines and have received their primary and secondary education in public schools* * *." El que solamente ha estudiado hasta el segundo año de la escuela secundaria (High School) no ha recibido la instrucción secundaria; solamente ha estudiado la mitad de ella. Si el solicitante hubiera estudiado la primera y segunda enseñanza (y no parte solamente de la secundaria), podría presentar su solicitud sin necesidad de esta declaración de propósito de hacerse ciudadano filipino."

La Ley de Ciudadanía debe interpretarse de acuerdo con su letra y espíritu.

Reitero que debe sobreseerse la solicitud.

Montemayor, J., concurs.

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