

MO YUEN TSI, PETITIONER AND APPELLEE, VS. REPUBLIC OF THE PHILIPPINES, OPPOSITOR AND APPELLANT.

G. R. No. L-17137. June 29, 1962

Ponente: REGALA, J.

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REGALA, J.:

This is an appeal interposed by the Solicitor-General from the decision of the Court of First Instance of Manila in Civil Case No. 38630, granting the petition for naturalization of petitioner-appellee Mo Yuen Tsi.

It appears from the record that Mo Yuen Tsi, petitioner herein, was born in Amoy, China on March 11, 1914; that he emigrated to the Philippines, arriving at Manila on November 28, 1941; that he resides at No. 940 Juan Luna St., Manila; that he was married to Yiu Hou Deh in Amoy, China on July 24, 1948 with whom he has two children born in Manila on June 5, 1949 and December 19, 1951, both being enrolled at the Hope Christian High School in Manila; that he is a citizen of the Republic of Free China; that one year prior to the filing of this petition, he has submitted a declaration of intention to become a citizen of the Philippines with the Office of the Solicitor General; that he is a merchant by occupation and his average annual income is P8,571.00, more or less; that he speaks and writes in English but in Tagalog, not so much; that his writing in both languages which was executed by him in open court is marked as Exhibit "Q"; that he believes in the principles underlying the Philippine Constitution; that he conducts himself while staying in the Philippines in a good manner; that he adopts Filipino customs, traditions, and ideals; that he is not opposed to organized government; that he is not a member of any association or group of persons who uphold and teach doctrines against government; that he does not teach or believe in the principle advocating the use of force, violence, personal assault or assassination for the success and predominance of men's ideas; that he is not a polygamist and neither does he believe in polygamy; and that he has presented clearances from the National Bureau of Investigation, Manila Police Department, City Fiscal of Manila, Bureau of Immigration, Deportation Board, Clerk of Court of the Manila Court of First Instance, Bureau of Internal Revenue, Bureau of Prisons, and Land Registration Commission.

The Solicitor General maintains that:

- The lower court erred in not holding that the two character witnesses presented are not credible persons within the meaning of the Revised Naturalization Law.
- The lower court erred in not holding that at least character witness Ceferino Simpao is not competent.
- The lower court erred in holding that the petitioner speaks and writes Tagalog.
- The lower court erred in not finding that petitioner has not been shown to be morally irreproachable.
- The lower court erred in granting the petition.

Under the first assigned error, the Government counsel contends that in the light of the ruling laid down by this Court in *Ong vs. Republic*, 55 Off. Gaz. 3290, petitioner-appellee has not proven that his two character witnesses

are "credible persons" within the meaning and purview of the Revised Naturalization Law. It is to be remembered that in said case, it was ruled that a "credible person" is not merely an individual who has not been previously convicted of a crime; who is not a police character and has no police record; who has not perjured in the past or whose affidavit or testimony is not incredible. What is credible said the Court in that case is not the declaration made, but the person making it (See also *Sy Ang Hoc vs. Republic*, G. R. No. L-12400, March 29, 1961, reiterating this rule), which clearly implies that such character witness must have a good standing in the community; 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 trustworthiness of the petitioner. The government counsel thus submits that under the authority of the *Ong* case, *supra*, it is incumbent upon petitioner to establish affirmatively that his character witnesses are credible persons, and having failed to comply with the requirement of the law, the petition should have been denied.

The principle laid down in the *Ong* case has also been reiterated in the case of *Dy Shui Sheng vs. Republic of the Philippines*, 58 Off, Gaz. 2904.

On the other hand, petitioner-appellee's counsel strongly maintains that the *Ong* case, *supra*, is not applicable to the case at bar, because one of the witnesses of petitioner *Ong* in that case was a dismissed policeman for having record and at the same time under his employ and so is not worthy of any credit. Whereas, in the present case, counsel points out, the witnesses presented by petitioner-appellee are persons holding responsible positions. To bolster his argument, he quotes at length the pertinent ruling of the Honorable trial court on this point, to wit:

"In this particular case, the character witnesses who testified in petitioner's behalf are both men holding high positions of enormous responsibility, of good and long standing, and where the need for trustworthiness and integrity is not only essential but indispensable and absolute.

"In the case of the witness, Mr. David de Guzman, he is an Accountant, 54 years old. Mr. Guzman's profession is one that demand trustworthiness and reliability, and the fact that this witness has been in good standing in his exacting profession in his 54th year when he testified in this case is not lost to the Court. But one salient point that most eloquently testifies of Mr. Guzman's integrity and trustworthiness, and his high standing in the community is the fact that he is the President of a civic organization of Navotas, Rizal, which took charge and implemented the inauguration of the Navotas Health Center (p. 97, t.s.n., October 6, 1959).

"In the case of the other witness, Mr. Ceferino Simpao, he had been—he still is a high official, being chief or the Manager of the Export Department of the Hongkong & Shanghai Bank for more than ten years when he testified in petitioner's favor in this case (p. 10, t.s.n. November 28, 1959).

It may be said that the respective declarations of the vouching witnesses as to their qualifications are purely-self-serving, coming as they do from their own lips, and may not therefore be deemed sufficient to establish their credibility. It were perhaps different if those qualifications of these witnesses were duly established by other evidence. In fact, there is reason to doubt the credibility of the character witnesses of petitioner in the present case.

With respect to witness David de Guzman, a perusal of his testimony shows that his answers to questions propounded to him during the hearing are evasive, and in most instances, not responsive And just to give an idea of the evasive and non-responsive answers of this witness, we quote a portion of his testimony as follows:

q.

Now, how often do you telephone each other say in 1946?

a.

After...

Q.

After he was no longer your co-worker in the same office?

A.

Sometimes by necessity we call for that.

Q.

How often I say?

A.

Sometimes once a week, once a month, like that.

Q.

Was that also true in 1948?

A.

Yes, sir. 1948 he was not here, he was in Hongkong.

Q.

1948?

A.

1948 he was not here. He was in Hongkong. He went therefor almost a year.

Q.

Are you sure of that?

A.

That was my information, he went away.

Q.

So in other words, you did not know that of your own knowledge, you were only informed by another?

A.

Well, I know that he is going to leave the country for some reason or another and of course

Q.

But you said you were only informed that he went abroad?

A.

Yes, sir.

Q.

Who informed you?

a.

I mean to say that I came to know that he went abroad also because it was thru him also that he will leave the country, because when we were together in the Pan Asiatic, we were together and he transferred in 1947. (p. 38, t.s.n., Oct. 6, 1959).

As to witness Ceferino Simpao, there is likewise a serious doubt as to his credibility, because in many instances, his answers were "I do not remember". As a matter of fact, he testified that petitioner was first introduced to him in 1947 by a very good friend of his in a downtown restaurant, but when asked who that friend is and where was that restaurant, he said he can't remember the name of his friend and the restaurant. His testimony on this point is quoted as follows for immediate reference:

q.

You said you personally know the petitioner?

a.

Yes, sir.

q.

Since when?

a.

Since 1947.

q.

Under what circumstances did you first meet the petitioner in 1947?

a.

I met him one time when I was having lunch in a downtown restaurant and he was introduced by a very good friend of mine.

q.

Where was that restaurant?

a.

I don't quite remember, it has been quite a long time.

q.

Can you more or less tell the street on which that restaurant was located?

a.

Somewhere in Juan Luna, that is, the vicinity between our two offices.

q.

Who introduced you to the petitioner? a. A friend of mine; I don't remember his name anymore, (pp. 3-4, t.s.n., November 28, 1959.)

If the testimony of this witness is not credible as it would appear from the above-quoted portion, then there is

every reason to say that the witness himself is not credible.

If the petitioner was introduced to him by a good friend, why is it that he could not remember the name of this good friend?

It is next contended by the government counsel that character witness Ceferino Simpao is not competent because when asked on what he understood of the clause "that the petitioner is attached to the principles underlying the Philippine Constitution," he answered that the petitioner is law-abiding and very peaceful and he follows the laws of our country, and that was all he knows of the principles underlying the Philippine Constitution, which goes to show, says counsel, that he is not competent to testify on the matter of attachment of said petitioner to these principles, as his conclusion was not supported by correct basis. Besides, counsel continues, when asked what made him believe that petitioner possesses all the qualifications necessary to become a citizen of the Philippines, he merely answered that the petitioner has a means of livelihood, good moral character, and can speak English and Tagalog, thereby demonstrating that the conclusion of the witness on the qualifications of petitioner does not lie on a correct legal foundation. On this score, we also agree with the government counsel. In fact, in the very recent case of *Palaran vs. Republic*, G. R. No. L-15047, January 30, 1962, this Court had judiciously ruled that—

Where there is no showing that the character witnesses were fully qualified to state that petitioner had conducted himself in a proper and "irreproachable" manner; and where witnesses testified that petitioner believes in the principles underlying the Philippine constitution, but it was not shown upon what they base this belief and what these principles are, the petition for naturalization should be denied. (*Italics supplied*; See also *Jesus Lim Ching Tian vs. Republic*, 111 Phil. 196; *Marciano Deetuanaka vs. Republic*, 106 Phil. 916; *Edison Chua R. Young vs. Republic*, G. R. No. L-11278, May 19, 1958; and *Chan Pong vs. Republic*, L-9153 May 17, 1957.)

It is to be noted that in the present case the character witnesses, particularly Ceferino Simpao who had only casual meeting with petitioner since he had supposedly got acquainted with him in a downtown restaurant in 1947 clearly shows that the nature of his association with petitioner is not such as to permit him to be reasonably posted on petitioner's qualifications, especially his moral character and behavior during the period of his residence in the Philippines. There is absolutely no showing that this character witness has had close association with petitioner.

It is also contended by the Solicitor General that the lower court erred in holding that the petitioner speaks and writes Tagalog, because when asked to translate the English sentences dictated to him in open court into Tagalog, it took him several minutes to do it, and did not in fact make a good and grammatical translation thereof. Besides, he admitted that he could not even translate the word "happy" into the Tagalog language, thereby showing, says counsel, that he had a deficient knowledge of Tagalog. A close examination of Exhibit "Q" (the specimen of petitioner's handwriting in both the English and Tagalog languages made in open court), however, reveals that his translation into Tagalog is clearly understandable. In line, therefore, with the rule laid down by this Court in previous naturalization cases that since the Naturalization Law does not set a specific standard of the required ability to speak and write any of the principal Philippine languages, it is believed that the error under discussion has not been committed by the trial court.

It is finally contended that the lower court erred in not finding that petitioner has not been shown to be morally irreproachable. As elsewhere stated, the nature of the association of the character witnesses and petitioner was not such as to permit them to be reasonably posted on petitioner's qualifications, particularly as to his moral character and behavior during his entire period of residence in the Philippines. There is, therefore, no competent evidence showing that the petitioner is "morally irreproachable" which is a strict requirement of the law to be established. As well pointed out by the Solicitor General, the phrase "morally irreproachable" is not satisfied by mere "good" or even "good conduct", because the law requires a moral character of the highest order, an excellent one. It is a

well-settled rule in naturalization cases that vouching witnesses, apart from their allegations in their affidavit, must prove at the trial that applicant is "morally irreproachable". Thus, it has been consistently ruled that—

"Apart from allegations in their affidavit to the effect that petitioner is personally known to them to be morally irreproachable, the vouching witness should prove at the trial that the applicant is morally irreproachable." (Chua Pun vs. Republic, G. R. L-16825, Dec. 22, 1961.)

"It is not enough that a witness states personal knowledge of petitioner's proper and irreproachable conduct and character in his affidavit; such irreproachable character must be proved by evidence before the court and the evidence must be sufficient to satisfy the court as to the existence of such qualifications. (Dy Tian Siong vs. Republic, 103 Phil., 363; 55 Off. Gaz., [3] 420.)

Thus, viewed in the light of the foregoing discussion, We are convinced that petitioner has not satisfactorily proven that he has all the necessary qualifications and none of the disqualifications to be admitted a citizen of the Philippines.

To uphold the granting of the petition for naturalization of the petitioner-appellee in this instant case, would be to place a premium on failure to conform diligently with the requirements of the Revised Naturalization Law.

As well stated by the United States Supreme Court in similar Naturalization cases, the right of an alien to become a citizen by naturalization is a statutory, rather than a natural one, and it does not become vested until he files a petition and establishes facts showing strict compliance with the law. (3 C.J.S. sec. 122, p. 832.)

Wherefore, the decision appealed from is reversed and the petition for naturalization of petitioner-appellee Mo Yuen Tsi is hereby denied, without pronouncement as to costs.

Bengzon, C.J., Padilla, Bautista Angelo, Labrador, Concepcion, Reyes, J.B.L., Barrera, Paredes, Dizon and Makalintal JJ., concur.

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