

IN THE MATTER OF THE PETITION OF HENRY SY CHUANG, TO BE ADMITTED AS A CITIZEN OF THE PHILIPPINES, HENRY SY CHUANG, PETITIONER-APPELLEE, VS. REPUBLIC OF THE PHILIPPINES, OPPOSITO...*G.R. No. L-29194. August 30, 1971*

Ponente: FERNANDO, J.

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The objection by the Republic of the Philippines, oppositor, now appellant, to the grant of citizenship to petitioner, now appellee, Henry Sy Chuang, was premised primarily on his failure to file a declaration of intention, which in his opinion was unnecessary because of his birth in this country, ignoring the fact that his primary and secondary education, as it turned out, was obtained in Chinese schools, the recognition of which was testified to solely by himself and not by official certification to such effect. Such deficiencies notwithstanding, the lower court, satisfied that his petition should prosper, rendered a decision in his favor. The matter is now before us. Respect for the control-ling principles of law leaves us no alternative but to reverse.

The petition for naturalization was filed in the Court of First Instance of Negros Oriental on November 2, 1963. There was no declaration of intention, petitioner relying on his being born in the Philippines and his completion of primary and secondary education in government-recognized schools, namely, the Dumaguete Chinese School and Iloilo Sun Yat Sen High School. There was a hearing after which such petition was granted in a decision of September 30, 1964. Then came the order of April 29, 1967 allowing petitioner to take his oath of allegiance as Filipino citizen. Such an order was received on May 15, 1967 by the then Solicitor General, now Associate Justice, Antonio P. Barredo, who immediately filed by registered mail a motion for reconsideration on the ground that the lower court never validly acquired jurisdiction in view of the failure of the petition to file a declaration of intention, his alleged right to be exempt therefrom being unwarranted. The motion for reconsideration was denied. Hence this appeal.

In the brief for the Republic of the Philippines filed by the then Solicitor General, now Associate Justice, Felix V. Makasiar, there was a reiteration of the above contention of lack of jurisdiction as the principal error assigned. As set forth in such brief: "On the witness stand petitioner claimed he finished his elementary education at the Dumaguete Chinese School in the year 1952, and his secondary education at the Sun Yat Sen High School in Iloilo City in the year 1956 * * *, but the only evidence offered to prove that these schools were recognized by the government was petitioner's own self-serving declaration to that effect * * *. Clearly petitioner is not competent to testify on the matter. The best evidence of government recognition would have been the certificates of recognition issued to the schools by the Bureau of Private Schools, or certified true copies thereof." [1]

Why petitioner was not entitled to be exempt in filing a declaration of intention was next taken up therein. Thus: "Undersigned counsel however consulted the 'List of Authorized Private Schools and Courses' issued by the Bureau of Private Schools, which shows that the certificate of government recognition issued to the Dumaguete

Chinese School authorized it in 1959 to offer the complete elementary course for Chinese schools, while the Sun Yat Sen High School was in 1957 authorized to offer the complete secondary course for Chinese schools (Bureau of Printing, Manila 1963, pp. 230 & 116). That these schools offer curricula for Chinese schools and that the very names of the schools are Chinese clearly indicate they are Chinese schools. Moreover, these schools had not yet been recognized by the government when the petitioner studied there. He completed his elementary in 1952 at the Dumaguete Chinese School * * *, whereas the school was recognized by the government only in 1959. He completed his secondary in 1956 at the Sun Yat Sen High School * * *, whereas it was recognized only in 1956. He therefore cannot be said to have taken his primary and secondary education in government recognized schools and hence cannot be exempted from filing a declaration of intention under Section 6 of Commonwealth Act 473."[2]

The legal proposition in support of the above assignment of error was furnished by *Ng v. Republic*,[3] where this Court, through the Chief Justice, declared: "Petitioner has not filed a declaration of intention. Although born in the Philippines, he is not exempted from the obligation to submit said declaration having failed to prove that he had received his 'primary and secondary education in public schools or those recognized by the government and not limited to any race or nationality.'"[4]

Counsel for petitioner failed to submit appellee's brief. In a resolution of July 23, 1969, the case was deemed submitted.

This Court, to repeat, finds for appellant Republic of the Philippines. The petition is vitiated by a jurisdictional defect. Petitioner, considering the incontrovertible facts of record, could not validly lay claim to an exemption from the filing of a declaration of intention. The law as consistently interpreted by this Court casts upon him a duty of compliance with such a requirement. He cannot be deemed as excluded from its operation.

Even more recently, in *Luy v. Republic*,[5] this Court again speaking through the Chief Justice, there was a reiteration of the above doctrine. Thus: "It should be noted, however, that to impart the benefits of said exemption, petitioner's primary and secondary education - in addition to birth in the Philippines - must have been received 'in public schools or those recognized by the Government and not limited to any race or nationality.' The record shows that the Zamboanga City Chinese High School was not granted Government recognition until 1958, whereas appellee finished high school therein in 1959, so that the institution had not, as yet been recognized by the Government when he completed his primary and elementary education, as well as when he finished second year high school in 1957."[6]

The latest case in point, *Lim v. Republic*,[7] the opinion being penned by Justice Castro, speaks to the same effect. Thus: "Resolving this appeal, it suffices for us to state that the petition for naturalization was correctly denied, and this upon the ground, inter alia, that the petitioner has not complied with the requirements of sections 5 and 6 of the Naturalization Law * * *. The Chinese Kipsi Memorial School where the petitioner received his primary and intermediate education is definitely a Chinese school, as its name imparts. And altho Exhibit AA for the petitioner, dated August 28, 1968, which is a certification by Principal Luis G. Uy, states that the school 'is recognized by the Philippine Government, and that the enrolment of this school is not limited to any race or nationality and Philippine history, government and civics are also taught as part of the school curriculum,' nevertheless there is no evidence that it was 'regularly attended by a sizeable number of Filipino students from whom applicant could have imbibed Filipino customs and traditions,' in order to place him within the exemption of the law * * *. The petitioner-appellant not being exempt from the filing of a declaration of intention, and having failed to file one, his application for naturalization was therefore vitiated by a fatal jurisdictional defect * * *, which rendered the entire proceeding null and void."[8]

WHEREFORE, the decision of the lower court of September 30, 1964 granting the petition for naturalization of petitioner Henry Sy Chuang is set aside and reversed. The order of April 29, 1967 declaring such petitioner a naturalized citizen after his taking the oath of allegiance thus entitling him to a naturalization certificate is likewise set aside and reversed. With costs against petitioner.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Castro, and Villamor, JJ., concur.
Teehankee, Barredo, and Makasiar, JJ., took no part.

[1] Brief for the Appellant Republic of the Philippines, p. 4.

[2] Ibid, pp. 4-5.

[3] L-26242, October 25, 1968, 25 SCRA 574.

[4] Ibid, p. 575.

[5] L-28860, July 24, 1970, 34 SCRA 1.

[6] Ibid, p. 2.

[7] L-30424, January 28, 1971, 37 SCRA 96.

[8] Ibid, pp. 97-98.

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