

IN THE MATTER OF THE PETITION OF CHUA PIENG TO BE ADMITTED A CITIZEN OF THE PHILIPPINES. CHUA PIENG, PETITIONER AND APPELLEE, VS. THE REPUBLIC OF THE PHILIPPINES, OPPOSITOR AND ...

G.R. No. L-4032. October 25, 1952

Ponente: LABRADOR, J.

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LABRADOR, J.:

This is an appeal from a decree of the Court of First Instance of Rizal, Quezon City (Branch III) granting the petition of Chua Pieng to be admitted a citizen of the Philippines. The record discloses that Chua Pieng was born in Amoy, China, on June 18, 1909, and came for the first time to the Philippines on January 3, 1919. Since then he has resided continuously in this country, except for four short visits to China. He studied in the Anglo-Chinese School in Manila, and speaks and writes both Tagalog and English. He has a perfumery business in Manila with a capital investment of P200.000 and owns a house and a lot and two other parcels of land in Quezon City.

By his first wife named Lee Siok Cheng he has six children, namely, Chua Siu Siu, 19 years old, enrolled in Amoy high school, China, in 1942; Carlos Chua, 16 years old, enrolled at the Ateneo de Manila, Manila, in June, 1948; and Lily Chua, 10 years old, enrolled in the Chinese Republican School in June, 1946; Manuel Chua, 14 years old, enrolled in the Chinese Republican School, Manila, in June, 1946; Nelson Chua, 12 years old, enrolled in the Amoy Elementary School, Amoy, China, in June, 1948 and Lily Chua, 10 years old, enrolled in the Chinese Republican School, Manila.

Lee Siok Cheng died in June, 1945, and Chua Pieng was married for the second time to Go Ay Ty in February, 1950. No child has as yet been born out of this union. Chua Pieng declared that he has never been convicted of any crime involving moral turpitude; that he is not suffering from any incurable or contagious disease; that he is neither a communist, nor a polygamist, nor a believer in the practice of polygamy. He further declared that he believes in the principles underlying the Constitution of the Philippines, and that he has associated or mingled socially with Filipinos. He presented two witnesses to corroborate his declaration as to his business and social activities in the Philippines, and both of them testified that they know of no impediment to the petition of Chua Pieng for citizenship.

The original petition of Chua Pieng was filed on March 29, 1949. Prior to this petition he did not file his declaration of intention to become a citizen of the Philippines as required by section 5 of the Revised Naturalization Law. The Court of First Instance of Rizal found him fully qualified and granted his petition, and against this decision the Solicitor General has prosecuted this appeal, contending that Chua Pieng can not be admitted for naturalization for two reasons, namely, because he has not enrolled all his minor children of school age in the public schools of the Philippines or in the private schools thereof recognized by the Bureau of Private Education, and because he failed to file a declaration of intention to become a citizen of the Philippines, as required by section 5 of the Revised Naturalization Law, prior to filing his application.

With respect to the first objection raised by the Solicitor General, petitioner's counsel contends that petitioner's sons, Chua Siu Siu and Nelson Chua, could not return to the Philippines on account of the war in China and due to the lack of transportation facilities from Amoy to the Philippines. Counsel for petitioner has also presented a motion for new trial to admit as newly discovered evidence a letter (Annex B) of Dee Han King, father-in-law of petitioner, to the effect that the above two children of the petitioner died in China on December 5, 1949, and February 24, 1950, respectively.

There is no explanation given by the petitioner why his two children, Chua Siu Siu and Nelson Chua, have been in China. Their existence and stay in China have been disclosed by petitioner with reluctance, without any plausible reason or excuse. In the original application filed by petitioner with the Court of First Instance on March 29, 1949, no mention of the existence of these two children is made. In his statement before the National Board of Investigation on June 2, 1949, their names are also improperly omitted, the petitioner stating that he had only four children by his first wife (Exhibit 2). His explanation in court was that his lawyer told him that it was not necessary to mention in his application the two children that had resided in Amoy, China, but that later on he was told by his counsel that it was necessary to include them, so he filed an amended petition including their names.

The petitioner must have sent his two children, Chua Siu Siu and Nelson Chua, to China to study, because when they went there they were still of school age. Chua Siu Siu was in China since 1942, and Nelson Chua in June, 1948. These children must have gone there prior to December, 1941. If petitioner sent them soon after the outbreak of the war, it must have been for the same purpose or with the same intention. The statement made in petitioners' brief that it was impossible for him to bring them back to the Philippines because of the war is not borne out by the evidence submitted. We can take judicial notice of the fact that after the surrender of Japan in 1945 some two or three years passed before China was occupied by the Communists. It was not impossible then for the petitioner to bring them back to the Philippines. From all these circumstances the least we can say is that petitioner has failed to prove satisfactorily that he had always desired to enroll all his children in the public or private schools in the Philippines. He has also enrolled two of his children in the Chinese Republican School in Manila, an exclusive Chinese school. From these we conclude that he has failed to comply with the requirement contained in paragraph 6, section 2, of the Revised Naturalization Law.

"SEC. 2. Qualifications. * * *:

"Sixth. He must have enrolled his minor children of school age, in any of the public schools or private schools recognized by the Office of Private Education of the Philippines, where Philippine history, government and civics are taught or prescribed as part of the school curriculum, during the entire period of the residence in the Philippines required of him prior to the hearing of his petition for naturalization as Philippine citizen."

This Court, in the case of *Hao Lian Chu vs. Republic of the Philippines*, (87 Phil., 668; 48 Off. Gaz., 1780), held:

"Paragraph 6, section 2 of the Revised Naturalization Law provides that the applicant for naturalization must have enrolled his minor children of school age in any of the public schools or private schools recognized by the office of Private Education of the Philippines, where Philippine history, government and civics are taught or prescribed as part of the school curriculum * * *. The trial judge declared that as petitioner could not enroll Magdalena in the Philippines, because she was absent and was not under parental care, the requirement of the law as to children's education may be deemed to have been substantially fulfilled.

"This court believes that such requirement is important. The legislator evidently holds that all the minor children of an applicant for citizenship must learn Philippine history, government and civics, inasmuch as upon naturalization of their father they ipso facto acquire the privilege of Philippine citizenship. To excuse the applicant from this requirement it must be shown that there was physical impossibility for him to bring Magdalena here—impossibility which has not been shown in this case."

To the same effect is the decision of this court in the case of *Tan Hi vs. Republic of the Philippines*[*] (G. R. No. L-3354, promulgated on January 25, 1951). The application of the petitioner must, therefore, be denied. Another ground for denying it is the fact that he has failed to file his declaration of intention to become a citizen of the Philippines, when he does not fail within the exemption provided by section 6 of the Revised Naturalization Law.

"SEC. 6. Persons exempt from requirement to make a declaration of intention.—Persons born, in the Philippines and have received their primary and secondary education in public schools or those recognized by the Government and not limited to any race or nationality, and those who have resided continuously in the Philippines for a period of thirty years or more before filing their application, may be naturalized without having to make a declaration of intention upon complying with the other requirements of this Act. To such requirements shall be added that which establishes that the applicant has given primary and secondary education to all his children in the public schools or in private schools recognized by the Government and not limited to any race or nationality. * * *" (Commonwealth Act No. 535, amending section 6 of Commonwealth Act No. 473; italics ours.)

The petition for new trial must also be denied. The subsequent death of petitioner's children at the time of the pendency of the proceedings for his naturalization can give no benefit nor serve purpose to the petitioner. The requirement of the law is that he must send all his children to the public schools or private schools in the Philippines which are recognized by the Government and which are not limited to any race or nationality. The petitioner undoubtedly failed to comply with this requirement while all his children were still living; the death of two of them, who were not in the Philippines, can not operate as an excuse for non-compliance with the requirements of the law.

The decree appealed from should be, as it hereby is, reversed, and the petition is dismissed, with costs against the petitioner-appellee.

Paras, C, J., Pablo, Bengzon, Padilla, Montemayor, Jugo, and Bautista Angelo, JJ., concur.

* 88 Phil., 117.

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