

**IN THE MATTER OF THE PETITION FOR NATURALIZATION OF
SIMEON LIM HAM YONG. SIMEON LIM HAM YONG, PETITIONER AND
APPELLEE, VS. REPUBLIC OF THE PHILIPPINES, OPPOSITOR AND
APPELLANT.**

G.R. No. L-11362. May 27, 1959

Ponente: PARAS, J.

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PARAS, J.:

On May 5, 1953, the petitioner filed a petition for naturalization in the Court of First Instance of Cebu which, after trial, granted the same. The Solicitor General has appealed on the ground that the petitioner was not qualified at the time he filed his petition to become a naturalized Filipino, being only a student as alleged in said petition. The lower court is alleged to have erred in allowing proof of petitioner's employment in the absence of any allegation to that effect in the petition.

The evidence shows that the petitioner was born in Cebu City on January 6, 1930, of Chinese parents; that since birth he has never left the Philippines except once in 1934 when he was four years old and his parents brought him to China; that he has finished his elementary education in Leyte and high school in the University of San Carlos, Cebu; that he obtained his degree of Bachelor of Science in Civil Engineering from the Mapua Institute and is presently employed at a salary of P200.00 a month in the Building" Craft Construction Company of which he is one of the stockholders; that he is now studying commerce in the University of San Carlos; that he is single and able to speak and write English and the Cebuano, Visayan and Tagalog dialects; that he believes in the principles underlying the Philippine Constitution and has conducted himself properly during the period of his residence in this country that he has mingled socially with the Filipinos and evinced a sincere desire to learn and embrace their customs, traditions and ideals; that he is not suffering from any mental ailment or incurable contagious disease.

The objections raised by the appellant do not warrant the reversal of the appealed decision. Evidence of petitioner's trade or occupation should have been blocked during the trial since it is argued that there was no corresponding allegation in the petition. Failure to do so constitutes a waiver of its inadmissibility.[1] Even assuming that at the time of the filing of the petition, the petitioner had not complied with the requirement that the applicant must have a lucrative trade or occupation,[2] the deficiency was cured and the qualification was possessed when, at the time of the trial, the petitioner was able to prove that he not only was employed in the Building Craft Construction Company with a monthly salary of P200.00 but was a partner therein to the extent of 5% of its capital.

In view of the foregoing, the decision appealed from is hereby affirmed without pronouncement as to costs. So ordered.

Bengzon, Padilla, Montemayor, Reyes A., Bautista Angelo, Labrador, Concepcion, and Endencia, JJ., concur.

[1]Abrenica vs. Conda, 34 Phil., 739; see also the case of Marella vs. Reyes, 12 Phil., 1.[2]Sec. 2, Paf. (4) Com. Act No. 473, as amended.

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