

SY KIAP, PETITIONER AND APPELLEE, VS. REPUBLIC OF THE PHILIPPINES, OPPOSITOR AND APPELLANT.

G.R. No. L-4404. August 21, 1952

Ponente: PADILLA, J.

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PADILLA, J.:

This is an appeal from a decree granting citizenship by naturalization to Sy Kiap alias Sy Kau Kiap.

The applicant was born on 18 January 1895 in Chinkang, Amoy, China, and arrived in this country on board the SS "Taysang" in 1909. He is married to Go Seng who bore him eight children, all born in Chinkang, Amoy, China. In 1948 his wife and two children named Sy Nui and Sy Gui Chuan arrived in this country. In the same year he enrolled Sy Nui in the Samantabhadra Elementary School and in 1949 Sy Gui Chuan in the Anglo-Chinese School, but his other children four of age and two under age are in China and have never been to the Philippines.

His qualifications for naturalization testified to by the applicant and his witnesses need not be restated.

The Government points out two errors of the trial court: (1) the holding that the applicant is exempt from making a declaration of his intention to become a citizen, as required by section 6 of Commonwealth Act No. 473, as amended by Commonwealth Act No. 535 and Republic Act No. 530, and (2) the finding that the applicant possesses all the qualifications and none of the disqualifications prescribed by law for acquiring citizenship by naturalization.

As to the enrollment of his minor children in the public or private schools approved by the Government and not limited to any race or nationality, the court below is of the opinion that such enrollment applies only to minor children of the applicant residing in the Philippines.

The enrollment of minor children in the government-approved schools of the Philippines, in addition to other requirements, to exempt an applicant for naturalization from filing his declaration of intention to become a citizen, was required since 26 May 1940 when C. A. No. 535 was passed. This wise and farsighted provision of the Naturalization Law (C. A. No. 473, as amended) is one of the tests of applicant's bona fide intention to become a citizen. It is to forestall and prevent aliens and their minor children from becoming citizens of this country without knowing its institutions and the duties of citizenship that it entails.

The cheaper cost of living in China is the applicant's reason for keeping his children there. With his substantial annual income before the outbreak of the Pacific War and after the liberation he could have brought to this country his minor children who would follow his citizenship upon his becoming a citizen thereof or at least he should have exerted efforts to bring them here. Applicant's testimony that he wanted to bring his children to this country but was prevented by the Immigration Law (C. A. No. 613) does not conform to another part of his testimony that he kept them in China because of cheaper cost of living there. He testifies also that it was his purpose to become a citizen of this country long before he filed the application in this case. Again that part of his

testimony does not tally with the stay of his children in China notwithstanding the fact that his long residence in the country and his resources afforded him the opportunity to bring at least his minor children before the quota on immigrants was imposed by the Immigration Law (C. A. No. 613) which took effect on 26 August 1940. Before the quota on immigrants there was no limitation to the entry of minor children of Chinese merchants.

Not having complied with section 5 of Commonwealth Act No. 473, the applicant cannot be granted citizenship by naturalization, because he does not come under the exemption provided for in section 6 of the same Act, as amended by Commonwealth Act No. 535.

The decree appealed from is reversed, with costs against the appellee.

Paras, C. J., Pablo, Bengzon, Tuason, Montemayor, Bautista Angelo, and Labrador, JJ., concur.

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