

**IN THE MATTER OF THE PETITION TO BE ADMITTED A CITIZEN OF
THE PHILIPPINES. FRANCISCO SY, PETITIONER-APPELLEE, VS.
REPUBLIC OF THE PHILIPPINES, OPPOSITOR-APPELLANT.**

G.R. No. L-24857. February 17, 1970

Ponente: MAKALINTAL, J.

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MAKALINTAL, J.:

Appeal by the Republic of the Philippines from the order of the Court of First Instance of Manila allowing the petitioner, Francisco Sy, to take his oath of allegiance as a Filipino citizen. This case has been submitted for decision without appellee's brief.

On May 4, 1960 Francisco Sy filed in the lower court a petition for naturalization as a citizen of the Philippines. On March 7, 1961 the Solicitor General moved to dismiss the petition on the ground that "the petition on its face states no cause of action," since the petitioner's annual income of P1,800.00, or P150.00 a month, could not be considered as lucrative within the meaning of the Naturalization Law. In its order of March 8, 1961, the lower court dismissed the petition, but later on, upon motion of the petitioner, reconsidered said order and set the petition for hearing.

The petitioner presented evidence tending to show that he was born in Manila on April 2, 1936; that since birth he had resided in the Philippines, particularly in Manila, except for a brief stay of about one month in Formosa sometime in 1958; that at the time of the hearing his residence was at No. 858 Sto. Cristo, Manila, while his former residence was at 1758 Sto. Cristo St., Manila; that he was single, a Chinese citizen, and registered as such with the Bureau of Immigration and the Embassy of the Republic of China; that he could speak and write English and Tagalog; that he completed the elementary course in the Anglo-Chinese School during the school year 1950-51; that he graduated from the high school department of the University of the East during the school year 1955-56; that in 1959 he had an income of P1,780.00 and in 1960, the year the petition was filed, he had an income of p1,827.28; that he derived his income from his employment as a salesman of the East Hongkong Food Commercial Company, a firm partly owned by his brother, where he himself had a share in the capital; and that he was living with his brother who provided him with free board and lodging. Two witnesses, both residents of Gapan, Nueva Ecija, who claimed to have known the petitioner since 1949, vouched for his good moral character and irreproachable conduct.

After considering the evidence, the lower court rendered its decision on March 31, 1962, granting the petition, subject to the provisions of Republic Act No. 530. No appeal was taken therefrom by the government.

On April 14, 1964 the petitioner filed a petition to take his oath. After several hearings the Solicitor General filed an Opposition and Motion to Dismiss on the following grounds, namely: (1) that the court did not acquire jurisdiction to hear the petition for naturalization because of the failure of the petitioner to file a declaration of intention; (2) that the petitioner was without lucrative income; and (3) that the petitioner's character witnesses were not credible persons. In an order dated February 22, 1965, the lower court overruled the opposition of the

Solicitor General and granted the petition for oath taking. Within the reglementary period, the Solicitor General interposed this appeal.

On February 25, 1965, even before the expiration of the time to appeal, the trial Judge administered the oath of allegiance to the petitioner. Upon motion of the Solicitor General, this Court issued a preliminary injunction on September 24, 1965, enjoining the clerk of the Court of First Instance of Manila from issuing a certificate of naturalization to the petitioner, and likewise enjoining the petitioner from representing him-self as a Filipino citizen and from exercising any of the rights and privileges appertaining to such citizen-ship.

Of the several grounds relied upon by the Solicitor General, we need consider, only one, namely, that the petitioner lacked the qualification of lucrative income. The rule is settled that this qualification is determined as of the date of filing the petition, and increases in the earnings thereafter cannot be taken into consideration.[1] Here, the petitioner's income in 1960, the year when the petition was filed, was P1,827.28, or approximately P150.00 a month. In pre-vious decisions of this Court, it was held that even for an unmarried applicant, P200.00 a month, with free board and lodging, could not be considered as a lucrative income in 1960.[2]

In connection with the administration of the oath to the petitioner even before the expiration of the time to appeal, this Court had on several occa-sions expressed its disapproval of such practice. Thus:

"Finally, we must agree with the government's stand that the act of the court of first instance in allowing this applicant to take the oath of allegiance even before the expiration of the Government's period to appeal from the order overruling its objections thereto, and, in fact, three (3) days before the Solicitor General received copy of the appealed order, is highly irregular, to say the least. Republic Act No. 530 contemplates that the ap-plicant for naturalization becomes entitled to all the privileges of citi-zenship upon taking the oath of allegiance, and precipitate administration of the oath in present case appears to be an attempt to render nugatory the Government's appeal. The record is devoid of any justification for such unseemly haste in conferring the privileges of citizenship before any and all doubts about appli-cant's right thereto are finally settled and we must make of record our disapproval of the practice."[3]

Wherefore, the order appealed from is hereby reversed, the petition for naturalization is dismissed, the oath of allegiance taken by the appellee is declared without force and effect; and the preliminary injunction heretofore issued is made permanent. No pronouncement as to costs.

Concepcion, C.J., Reyes, J.B.L., Dizon, Zaldivar, Sanchez, Ruiz Castro, Fernando, Teehankee, Barredo, and Villamor, JJ., concur.

[1] Pessumal Bhrojraj vs. Republic, G.R. No. L-24023, May 8, 1969 and the cases cited; Te Poot vs. Republic, G.R. No. L-20017, March 29, 1969; O Ku Phuan vs. Republic, G. R. No. L-23406, August 31, 1967, and the cases cited.

[2] Ong Ling Chuan vs. Republic, G.R. No. L-18550, February 28, 1964; Luis Yap vs. Republic, G.R. No. L-19649, April 30, 1965; Benjamin Yap vs. Republic, G.R. No. L-20372, May 14, 1966; Chan vs. Republic, G.R. No. L-22352, June 30, 1966.

[3] So vs. Republic, G.R. No. L-20145, June 30, 1965, reiterated in Yong Sai vs. Republic, G.R. No. L-20483, Sept. 30, 1966.

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