

IN THE MATTER OF THE PETITION FOR ADMISSION TO PHILIPPINE CITIZENSHIP.

G.R. No. L-19913. June 23, 1965

Ponente: BENGZON, J.P., J.

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BENGZON, J.P., J.:

Petitioner, Yu Ti alias Vicente Yute alias Kanga, was born in Amoy, China on October 9, 1907. Aboard the vessel S.S. "Thay Sing" he came to the Philippines—specifically, the Port of Manila—in September 1920. For two years he stayed in Manila; he moved to Cortez, Bohol and resided there for 11 years; he again transferred residence, to Ozamiz City, where he has stayed since 1933.

On August 30, 1960, he filed his application for admission to Philippine citizenship in the Court of First Instance of Misamis Occidental. The City Fiscal of Ozamiz City, on behalf of the Republic, filed on August 25, 1961, a motion to dismiss the petition. On September 7, 1961, petitioner filed his answer to the motion. Subsequently, the court denied said motion and proceeded to hear the application. After trial, on March 28, 1962, the court rendered judgment declaring petitioner entitled to naturalization.

The Republic has appealed.

Appellant argues that the filing of a declaration of intention, not fulfilled by petitioner, is necessary. The record shows that at the time the petition was filed petitioner was married to Tan Bee, then residing in Hongkong; that he had two children, namely Yu Ang Chio (born September 15, 1929) and Yu Tiong Ho (born October 9, 1935); that said children resided and are still residing in Chuanchiu, Amoy, China.

Section 6 of the Revised Naturalization Law exempts from the filing of declaration of intention an applicant who has resided continuously in the Philippines for at least 30 years, adding to it the requirement 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 of nationality.

Petitioner contends that the requirement of having enrolled his children, as provided for in Section 6 aforementioned, does not apply to him because they had both attained majority or were beyond school age when the petition was filed. This Court has already ruled that under Section 6 of the statute an applicant, to be exempt from filing: declaration of intention, is required to have enrolled all his children, not only his minor children, in approved schools and the circumstances that the children were in China when they were of school age and that they had reached majority age before their father's petition for naturalization was filed, do not dispense with the requirement (*Dy Chan Tiao vs. Republic*, 95 Phil. 709).

The next point raised by appellant is petitioner's failure to present his certificate of arrival as required by Section 7 of the law. It is admitted that, instead of the Certificate of arrival, petitioner adduced only his immigrant certificate of residence. Petitioner contends, however, that substantial compliance exists, stating that the Bureau of Immigration took his certificate of arrival and issued in lieu of it the aforesaid immigrant certificate of residence,

as attested to by the notation on the latter: "issued in lieu of LCR No- 659-51762, Manila, Aug. 1, 1922". Since section 7 of the Revised Naturalization Law requires that the certificate of arrival be made part of the petition, which requirement is mandatory, petitioner's failure in this regard is fatal (*Charm Chan vs. Republic*, 108 Phil., 882). It should not have been difficult for petitioner to have secured from the Collector of Customs a certified copy of the landing certificate allegedly issued to him and Ken by the Bureau of Immigration, since we have no Pledge that such record have been destroyed during the last war, no certificate of such loss having been presented (*Charm Chan vs. Republic*, supra).

Another defect, alleged in the petition is the failure to mention all of applicant's former places of residence. During his testimony petitioner stated that, following his entry in 1920 into the Philippines, he resided in Manila for two years. The petition, however, states only one former place of residence, namely, Cortez, Bohol. It is argued by petitioner that the defect has been cured by the evidence. Section 7 of the Revised Naturalization Law requires the petition to state all former places of residence in order that, upon its publication, the public as well as the investigating authorities may have the needed opportunity to be informed thereof and voice their objection, if any, to the application. Since the omission of such facts deprives the public and government agencies of such opportunity, the defect cannot be cured by proving them later at the trial. (*Lo vs. Republic*, 111 Phil., 1036; *Qua vs. Republic*, L-19834, October 27, 1964)

The financial capacity of petitioner should be determined as of the time of the filing of his petition for naturalization (*Ong Tai vs. Republic*, L-19418, December 23, 1964). It is undisputed that petitioner's income at the time of his application was only P200.00 a month or P2,400.00 a year (*Tsn.*, p. 11). Since he was then married and had two children, the same cannot be deemed lucrative. An annual income of P6,300.00 for a married man with one child has been considered not lucrative for purposes naturalization (*Tan vs. Republic*, L-16013, March 30, 1963).

With all the above defects fatal to petitioner's application, there is no need to pass upon the other points raised by appellant.

WHEREFORE, the decision appealed from is hereby reversed, and the petition denied, with costs against appellee. It is so ordered.

Bengzon, C.J., Concepción, Reyes, J.B.L., Paredes, Dizon, Regala, Makalintal and Zaldivar, JJ., concur.

Judgment reversed.

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