

MARIO DE LA CRUZ, PETITIONER AND APPELLEE, VS. REPUBLIC OF THE PHILIPPINES, OPPOSITOR AND APPELLANT.*G. R. No. L-4589. February 27, 1953*

Ponente: JUGO, J.

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This is an appeal by the Solicitor General from the decision of the Court of First Instance of Manila, granting Philippine citizenship to one Mario de la Cruz, alias Lim Kiu Tiong. Mario de la Cruz was born on May 24, 1925, in the City of Manila of Chinese parents, who were citizens of the Republic of China. He finished his primary course and has reached the second year high school in the San Juan de Letran College, a school recognized by the Government, which admits students of any race or nationality. He is co-owner of the business known as "State Lumber", with a capital of P50,000. He has an income of P5,000 per annum, owning an automobile and a truck. He filed with the court his petition for naturalization on June 16, 1948. Before the hearing was finished, he filed on October 20, 1948 with the office of the Solicitor General his "declaration of intention" to become a Filipino citizen; that is, after he had filed his petition in court, contrary to the provisions of section 5 of the Revised Naturalization Law, Commonwealth Act No. 473, as amended by Act No. 535, which requires that the "declaration of intention" be filed one year before the presentation of the petition. He claims, however, that he is exempt under section 6 of said Act from the requisite of filing his "Declaration of Intention", for the reason that he was born in the Philippines and received his primary and secondary education in a school recognized by the Government, which admits students of any race or nationality.

The fact that he has finished only up to the second year high school does not entitle him to such exemption, for, as held by this court in the case of Florentino Uy Boco vs. Republic of the Philippines [*](47 Off. Gaz., pp. 3442, 3445 and 3447).

"El que solamente ha estudiado hasta el segundo ano de la escuela secundaria (high school) no ha recibido la instruccion secundaria; solamente ha estudiado la mitad do ella. Si el solicitante hubiera estudiado la primera y segunda enseñanza (y no parte solamente de la secundaria), podria presentar su solicitud sin necesidad de esta declaracion de proposito de hacerse ciudadano filipino."

We see no reason for modifying the above doctrine. The appellee contends that he substantially complied with the Naturalization Law by presenting his "Declaration of Intention" during the pendency of the court proceedings. This contention cannot be sustained.

"An alien who seeks political rights as a member of this nation can rightly obtain them only upon terms and conditions specified by Congress. Courts are without authority to sanction changes or modifications; their duty is rigidly to enforce the legislative will in respect of the matter so vital to the public welfare." (United States vs. Ginsberg, 243 U. S., 472, 475; 61 L. ed., 853, 856, cited in Benjamin Bautista vs. Republic of the Philippines, 87 Phil., 818.

The appellee argues that the Solicitor General did not ask for the dismissal of the petition or object to the

introduction in evidence of the document evidencing the filing of appellee's "Declaration of Intention" on October 18, 1948 and that such failure amounted to a waiver of the requisite of presentation of declaration. This contention is untenable for the reason that:

"La competencia del juzgado se confiere por la ley, no por la voluntad del solicitante, ni por la acquiescencia del fiscal provincial, ni por la condescendencia del juez que lo preside." (Jose Clevio Manlio Squillantini vs. Republic of the Philippines, (88 Phil., 135.)

In view of the foregoing, the judgment appealed from is reversed and the petitioner, Mario de la Cruz, is denied naturalization as a Filipino citizen, without costs. So ordered.

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

[*] 85 Phil., 320.

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