

IN THE MATTER OF THE PETITION OF FELIPE DE JESUS DY TO BE ADMITTED A CITIZEN OF THE PHILIPPINES, FELIPE DE JESUS DY, PETITIONER-APPELLEE, VS. REPUBLIC OF THE PHILIPPINES, OPPOS...

G.R. No. L-21958. September 28, 1970

Ponente: MAKASIAR, J.

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MAKASIAR, J.:

The Republic of the Philippines, thru the Solicitor General, appealed from the decision of the Court of First Instance of Negros Oriental granting the petition for naturalization of Felipe de Jesus Dy.

On April 30, 1962, petitioner Felipe de Jesus Dy filed his petition for naturalization together with the requisite affidavits of his witnesses Ireneo G. Tubio and Maximo R. Enardecido in the Court of First Instance of Negros Oriental (Exhs. A, A-1, A-2, A-3 and B).

Only the notice of the petition for Philippine citizenship, not the petition itself, was posted on the Bulletin Board of the Court of First Instance of Negros Oriental (Exh. D) and published in the Vanguard, a newspaper of general circulation in the province of Negros Oriental, and in the Official Gazette once a week for three consecutive weeks as required by law (Exhs. C, E, F, F-1, F-2 and F-3). Although the notice of the petition for Philippine citizenship, as posted and published as aforesaid, contained most of the allegations of the petition, it omitted especially the important averment in paragraph 12 of the petition concerning his belief in the principles underlying the Philippine Constitution, his having conducted himself in a proper and irreproachable manner during the entire period of his residence in the Philippines, in his relation with the constituted government as well as with the community in which he lives, his having mingled socially with Filipinos, and his having evinced a sincere desire to learn and embrace the customs, traditions and ideals of the Filipinos (see Exh. A, p. 2, rec. of Exh.).

It should be noted also that his petition does not allege that he is of good moral character as required by law.

During the trial, he submitted his certificate of registration as a private merchant issued on April 19, 1955 (Exh. G-3 and G-4); his permit to engage in the retail business dated January 15, 1962 issued by the municipal treasurer of Ayungon, Negros Oriental (Exh. G-5); official receipts of payment of his privilege tax dated January 20, 1962 and of the license fee to engage in retail business (Exh. G, G-1, and G-2); his birth certificate (Exh. H); a certification that he is registered in the Chinese Embassy and holds ACR No. C-006813 (Exh. I); his immigrant certificate of residence and receipts of payment of the corresponding fee therefor dated January 22, 1962 and January 3, 1963 (Exhs. J, J-1, K, K-1, L and L-1); an official translation of the Chinese Law allowing Chinese nationals to be naturalized in other countries with the permission of the Chinese Minister of Interior (Exhs. M, M-2 to M-8); affidavits of Tranquilina T. Ferrolino and Olivia Diluvio attesting to his having attended Grade II and Grade III in Ayungon Elementary School during the school years 1945 to 1946 (Exhs. N and N-1); the affidavits of Coo Ak and Frank T. Liao that he finished his first, fourth and fifth grades, in the Dumaguete

Chinese School during the school years 1939 to 1941, 1946 to 1948 (Exh. N-2); certifications that he completed his elementary and secondary courses at the then Cebu Chinese School, now Cebu Eastern College, from 1948 to 1953 (Exhs. N-3 and N-6), his three-year pre-medical course in the University of San Carlos, Cebu City, from 1953 to 1956 (Exh. N-4), and his medical course at the University of Santo Tomas from 1956 to 1961 (Exh. N-5); the official receipt for his payment of his professional tax as a physician for the years 1962 and 1963 (Exhs. P and P-1); a certificate from the Board of Exam-iners attesting to his having passed the medical examination (Exhs. P-2 and P-3); his income tax returns for 1960, 1961 and 1962 showing his gross income respectively of P2,228.07 (Exh. Q), P3,698.02 (Exh. Q-1) and P9,300.13 (Exh. Q-2); official receipts evidencing payment of his income tax for 1960, 1961, and 1962 (Exhs. R, R-1, and R-2); his resi-dence certificates A and B for 1962 and 1963 (Exhs. S, S-1, S-2 and S-3); tax clearance certificates from the assistant municipal treasurer of Ayungon and the BIR Collection Agent of Negros Oriental (Exhs. T and T-1); clearance certificates from the chief of police of the Muni-cipality of Ayungon, the provincial commander of Negros Oriental, the Justice of the Peace of Ayungon, the First Assistant Provincial Fiscal, the Clerk of Court of the Court of First Instance of Negros Oriental, the NICA, the Deportation Board, the Bureau of Immigra-tion, the Bureau of Prisons and the Land Registration Commission (Exhs. U, U-1, U-2, U-3, U-4, V, V-1, W, W-1, W-2 and W-3); and a health certificate from the municipal health officer of Ayungon, Neg-ros Oriental (Exh. X).

But he failed to submit clearances from the National Bureau of Investigation as well as from the chiefs of police, courts and fiscals of Manila and Cebu City.

To prove his having imbibed Philippine customs and traditions, he submitted receipts for his membership fee of P10.00 and contribu-tion of P1.00 paid to the Philippine National Red Cross (Exhs. Y and Y-1); his contribution of P1.00 to the Philippine Tuberculosis Society for 1961 (Exh. Y-2), P2.00 for 1962 (Exh. Y-3) and P1.00 for 1963 (Exh. Y-4); his contribution of P1.00 to the Peace and Amelioration Fund Commis-sion for 1961 (Exh. Y-5); and his P1.00 contribution to the Tayasan Catholic Rectory (Exh. Y-6).

He demonstrated however his ability to speak and write English and Cebu Visayan.

Nonetheless, the following circumstances bar applicant's admission to Philippine citizenship:

(1) His petition was not copied entirely or verbatim in the notice posted in the bulletin board and published in the Official Gazette and the Van-guard (see Exhs. A, C, D, and E). Sec. 9 of Com. Act No. 473 requires that copies of the petition shall be published and posted. This requirement is jurisdictional.[1] The notice as thus posted and published contained only a summary of some of the contents of the peti-tion. Such an omission militates against the approval of his petition; because we cannot depart, as Justice Fernando opined speaking for this Tribunal, from "the basic concept that the grant of citizenship being a highly regarded privilege, there must be a full and strict compliance with the requirements of the law before its benefits can be enjoyed." [2]

(2) His alias Agong, which appears in the records of the Chinese embassy as cer-tified to by its First Secretary and concurrently Consul General on August 23, 1962, (Exh. I), in his immigrant certificate of residence dated July 22, 1951 (Exh. K), and in his permit to engage in the retail business issued on Jan-uary 15, 1962 by the municipal treasurer of Ayungon, Negros Oriental (Exh. G-5), does not appear in his petition for naturalization as filed, nor in the notice of petition as posted and published, and therefore vitiates the same.[3]

His immigration certificate of residence alone (Exh. K), shows that as early as 1951, he has been sporting said alias. His use of an alias must have started from the time he was registered with the Chinese Embassy long before 1951.

His claim that "Agong" is the nickname of his mother, by which people used to call him, imposes on one's credulity; because only he could have supplied such data appearing in official docu-ments like his permit to engage in retail business (Exh. G-5), his immigrant certificate of residence, (Exh. K) and embassy records

(Exh. I). He should have caused the necessary correction in said documents if he were not employing such an alias.

(3) There is no showing that he has been duly authorized by the Court to employ any alias or specifically the alias Agong. Utilizing an alias without judicial authority demonstrates that he has not conducted himself in a proper and irreproachable manner during the entire period of his residence in the country in his relationship with the duly constituted government as well as with the community in which he lives.[4]

(4) The only name appearing in his petition for naturalization and in the posted and published notice thereof is Felipe de Jesus Dy (Exh. A). But his immigrant certificate of residence (Exh. K), issued on July 22, 1951, states that his name is Felipe Yu Dy de Jesus alias Agong. His certificate issued by the Board of Medical Examiners on November 22, 1961 states that his name is Felipe Y. Dy (Exhs. P-2 and P-3), which appears re-stated in the official receipt, of payment of his professional fee dated February 5, 1962 (Exh. P). The official transcript of his records in the University of Santo Tomas shows that his name is Felipe Dy Y. Yu, (Exh. N-5). The affidavits of Tranquilina T. Ferrolino and Olivia Diluvio as well as the certificates of the principal and director of the Cebu Eastern College (formerly Cebu Chinese School) and the registrar of the University of San Carlos state that the name of the petitioner is simply Felipe Dy (Exhs. N, N-1, N-3, N-4, and N-6). Even his 1962 residence certificate B states that his name is Felipe Y. Dy and he signed the said residence certificate B also as Felipe Y. Dy (Exh. S-1). The middle surname Yu is not justified by his birth certificate which states that his name is Felipe de Jesus Dy, that his father is Dy Chuan and that his mother is You Chee (Exh. H). The failure of petitioner to include in his petition all the names that he used and by which he is known likewise negates the granting of the same.[5]

(5) His petition states only one place of residence, namely Barrio Tampucon, Ayungon, Negros Oriental, despite the fact that he resided in Dumaguete City for about three years while attending the first, fourth and fifth grade in the Dumaguete Chinese School, from 1939 to 1941 and from 1946 to 1948 (Exh. N-2), in Cebu City where he completed his elementary and high school at the Cebu Eastern College (formerly Cebu Chinese School) from 1948 to 1949 and from 1949 to 1953 (Exhs. N-3 and N-6), and his three-year pre-medical course at the University of San Carlos from 1953 to 1956 (Exh. N-4), and in Manila where he took his medical course at the University of Santo Tomas from 1956 to 1961 including the twelve-month internship (Exh. N-5). He resided for about four years in Dumaguete City, eight years in Cebu City, and five years in Manila or a total of seventeen years of his thirty years - his age when he filed his petition on April 30, 1962 as he was born on February 6, 1932. Such omission to state all his previous residences, whether permanent or temporary, in his petition as filed and in the notice thereof as posted and published, is likewise fatal.[6]

(6) As aforesaid, he took his first, fourth and fifth grade at the Dumaguete Chinese School (Exh. N-2) and his sixth grade and high school at the then Cebu Chinese School, now Cebu Eastern College. While it is true that both Chinese schools were certified to as not limited to any particular nationality and race (Exhs. N-3 and N-6); it is obvious that most, if not all, of the students therein at the time were Chinese. This indicates that petitioner has not imbibed Filipino customs and traditions as well as ideals.[7] This is further demonstrated by the fact that the principal and director of the Cebu Eastern College as well as the fact that one Co Ak, his teacher in the Dumaguete Chinese School, who testified to his having attended his fourth, fifth, and sixth grade at the said school (Exh. N-2), are all Chinese as they bear Chinese names (Frank T. Liao, L.F. Chen, and Co Ak). His taking four years of his six-year elementary course and the entire four-year high school course in Chinese schools, negates petitioner's protestation that he has a sincere desire to imbibe Filipino customs, traditions, and ideals.[8]

(7) His pretension that he was in the retail and cattle business in Ayungon from 1950 until 1962 is repudiated by the fact that from 1948 to 1961, he was studying in Cebu and Manila. He could not possibly operate a retail store during that period of time in Ayungon, Negros Oriental. It is patent therefore that during said period, his parents owned and operated the business. He did not present any license to operate a retail store from 1950 to 1961. The only permit he submitted was issued on January 15, 1962 by the municipal treasurer of Ayungon,

although it states that "he is hereby permitted to continue his retail business at poblacion Ayungon, Negros Oriental. xx xx" (Exh. G-5). The foregoing permit does not state when he started as a retail merchant. If long prior to 1962 he owned a retail store, he could have at least submitted his sales books and licenses for the last five (5) years including 1963, the year of the trial; for the law requires a merchant to keep his books for at least five years. (Secs. 334, 336 and 338, Nat. Int. Rev. Code and Sec. 13, Chapter IV of Revenue Regulation No. V-1 of March 17, 1947).

We cannot accord belief to his assertion that, during the time that he was studying in Cebu and Manila, his uncle Raymund Vailoces managed his store assisted by his uncle's houseboy; because he does not know the name of the alleged store helper, or whether he had a payroll or not, or whether his business was registered with the Social Security System. Neither is his claim that he capitalized his store with his savings of P1,000.00 in 1950, credible; because he did not even state the source of his alleged savings or how he saved such an amount when he was only about 18 years old.

(8) His income tax returns are insufficient to support his alleged income for 1960, 1961, and 1962. His salesbooks for 1958 until the first quarter of 1963, should have been submitted to show not only that he had such an income but also that he owned and was actually operating the store, which should be corroborated by the business licenses, permits, books and income tax returns of his father or mother to prove that they have separate businesses.

To prove his alleged ownership of thirty heads of large cattle, petitioner submitted only a certification of the municipal treasurer attest-ing to such ownership. The best evidence of such ownership are the certificates of ownership of large cattle themselves or certified true photo-stats thereof, which contain the description of the individual cattle owned by him, its sex, age, cowlicks, brands, etc. and the source and mode of acquisition thereof. The certification issued to him by the municipal treasurer does not even identify the alleged thirty heads of large cattle he allegedly owns, whether cows, bulls, carabaos, or horses. He has not submitted any proof to show that he had income from the sale of such large cattles.

He received his certificate from the Board Medical Examiners on November 22, 1961 (Exhs. p-2 and P-3). Being a novice in the practice, he could not possibly earn in his town P200 a month or P2,400 that year 1962. Even if he did, the said income is insufficient to qualify him for naturalization, although he is a bachelor.

In *Uy vs. Republic*,^[9] the petition for naturalization was denied because the petitioner, single of Cebu City, had a monthly income of only P300. In *Tan Tiu vs. Republic*,^[10] the petition for naturalization was also rejected because the applicant, a bachelor of Numancia, Surigao, earned only P230 a month. In *Sia Faw vs. Republic*,^[11] the petition for naturalization was also denied because the applicant, a bachelor of Ormoc City, earned only P250 a month with free board and lodging. In *Te Poot vs. Republic*,^[12] the applicant, another bachelor resident of Davao, was denied naturalization because his monthly income was only P250 although with free board and lodging.

(9) His petition does not specifically allege that he is of good moral character as required by Sec. 7 in relation to par. 3 of Sec. 2 of Com. Act No. 473.^[13]

(10) Even his good moral character has not been satisfactorily established. His three witnesses, Irineo Tubio, Maximo Enardecido and Dr. Julio Abella, could not possibly affirm that petitioner had conducted himself properly while petitioner was studying for eight years in Cebu City and for five years in Manila, despite their pretension that they visited him two or four times a year during that period of thirteen years. And in the case of Dr. Julio Abella, he did not see petitioner while the latter was studying at the University of Santo Tomas from 1959 to 1961.

Much depends upon what they know about the petitioner during at least ten years before he applied for naturalization.^[14]

And he did not present the necessary clearances from the National Bureau of Investigation, as well as from the chiefs of police, courts, and fiscals of Manila and Cebu City.

WHEREFORE, the judgment appealed from is reversed and the instant petition for naturalization is denied. Costs against petitioner-appellee.

Reyes, J.B.L., Acting C.J., Dizon, Makalintal, Zaldivar, Ruiz Castro, Fernando, Barredo, and Villamor, JJ., concur.

Teehankee, J., in the result.

Concepcion, C.J., concurs in the foregoing decision.

[1] Yu Tiu vs. Republic, L-19844, June 30, 1965, 14 SCRA, 587, 589-590; Kiat vs. Republic, L-19915, June 23, 1965, 14 SCRA, 389, 392-393; Co vs. Republic, 55 O.G. 9224, 9229.

[2] Luchayco vs. Republic, L-25814, July 30, 1969, 28 SCRA, 997, 1000; Ngo vs. Republic, L-25805, Feb. 27, 1969, 27 SCRA, 88, 90-91.

[3] Yu Nam vs. Republic, 16 SCRA 733, 734-735; Dy vs. Republic, 16 SCRA 667, 669-670; Celerino Yu Seco vs. Republic, 108 Phil. 807, 809.

[4] Yu Lim vs. Republic, 27 SCRA 804, 806; Uy vs. Republic, 28 SCRA 754, 757; Te Poot vs. Republic, 27 SCRA 644, 648.

[5] Uy vs. Republic, 28 SCRA, 754, 756; Yu Lim vs. Republic, 27 SCRA, 804, 806; Te Poot vs. Republic, 27 SCRA, 644, 648; Yu Nam vs. Republic, 16 SCRA, 733, 734-735; Dy vs. Republic, 16 SCRA, 667, 669-670; Yu Seco vs. Republic, 108 Phil. 807, 809.

[6] Tan Liu vs. Republic, L-21558, Jan. 30, 1970, 31 SCRA, 124, 125; Zabaleta vs. Republic, L-25401, July 30, 1969, 28 SCRA, 654-657; Lim Siong vs. Republic, L-26601, June 30, 1969, 28 SCRA 687, 690-691.

[7] Luchayco vs. Republic, 28 SCRA 997, 999; Lee vs. Republic, L-20151, March 31, 1965; Hong vs. Republic, 17 SCRA 220 (1966), 222.

[8] Yap vs. Republic, L-15102, May 23, 1968, 23 SCRA 681, 683-684; Chan De vs. Republic, L-25551, May 29 1968, 23 SCRA 943; 947.

[9] 14 SCRA, 596, 597-598.

[10] 18 SCRA, 824, 826.

[11] 21 SCRA, 893, 894.

[12] 27SCRA, 644, 649.

[13] Pidelo vs. Republic, L-17796, Sept. 29, 1965.

[14] Lim vs. Republic, L-2001, Feb. 28, 1961; Dy vs. Republic, L-13496, April 27, 1960; Te Poot vs. Republic, 27 SCRA, 644-650.

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