

IN RE PETITION FOR NATURALIZATION OF RAYMUNDO PE AND FORTUNATO PE. RAYMUNDO PE AND FORTUNATO PE, PETITIONERS AND APPELLEES, VS. REPUBLIC OF THE PHILIPPINES, OPPOSITOR AND APPELL...

G.R. Nos. L-7872-73. July 20, 1956

Ponente: MONTEMAYOR, J.

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MONTEMAYOR, J.:

This is an appeal by the government from a decision of the Court of First Instance of Antique, granting two separate petitions for naturalization of the brothers, Raymundo Pe and Fortunato Pe.

Raymundo Pe and Fortunato Pe filed separate petitions for naturalization in the Antique court. Attached to each petition were the affidavits of the same two character witnesses, Panfilo Chua and Gerardo Agravante. The opposition filed by the provincial fiscal was based on the ground that the applicants did not have the qualifications required by law. After due publication of the petitions, and after a joint hearing, the trial rendered separate decisions granting the two petitions for naturalization. As already stated, the provincial fiscal appealed from said decisions.

The trial court found that both brothers possessed all the qualifications and none of the disqualifications for naturalization. Among the court's findings are the following: Both Raymundo and Fortunato, 26 years old and 25 years old respectively, were born in Guisijan, Laua-an, Antique, and were baptized at the Aglipayan Church of that barrio. They finished their elementary course at the Laua-an Elementary School, and the secondary course, at the Central Philippine College, recognized by the government. They both studied at the Mapua Institute of Technology from where Raymundo obtained an Engineering degree. Fortunato, at the time of the hearing, was a 3rd year mechanical engineering student. Raymundo is now employed as manager of the Davao branch of the National Merchandizing Corporation at a salary of P300 a month. He has P5,500 in the bank. Fortunato is employed as a salesman of the Vimes Trading Corporation in Manila, with a salary of P150 a month. He has P4,000 deposited in the bank. The two brothers had always resided in Laua-an, Antique, except when they studied in Manila, although in 1936 they went to visit their grandmother in China and returned to Antique in 1938. They both speak and write English and Visayan and a little Tagalog. They have mingled socially with Filipinos and have adopted Filipino ways and customs.

The only ground of the appeal of the government is that at the hearing, only one of the character witnesses named Gerardo Agravante, testified for the applicants. In place of Panfilo Chua, the other character witness whose affidavit was attached to the two petitions, Provincial Governor Calixto O. Zaldivar of Antique, testified for the applicants. He said that he had known the two brothers since 1934 specially since he was a member of the faculty of the Central Philippine College, when they were students there and he vouched for their good character. It is the theory of the government that the affidavits of character witnesses attached to a petition of naturalization form part of the application and that to substitute witnesses for any or both of said character witnesses to testify at the

hearing, would be amending the application; and that, furthermore, to do that, would be to deprive the government of the opportunity to check up on the new witnesses, find out their background and determine whether they really were in a position to know the applicants so as to be able to vouch for their good character.

We realize that in previous naturalization cases, this court has held that the two character witnesses required by law, whose affidavits should be attached to the application for naturalization, must be presented to testify at the trial, unless there is some valid reason why they or anyone of them could not testify, and in case of a justified change or substitution, the new witness or witnesses must be competent. In the present case, the reason why character witness as Panfilo Chua could not testify at the hearing was because he died shortly before said hearing. That certainly was a valid excuse. The government could not well allege that it had no time to check up on the new or substitute witness so as to determine his background and his opportunity to know the applicants and his competency as a witness because as already stated, he was the Provincial Governor of the province, well known, and whose competency and background could not be doubted. Moreover, at the hearing, the provincial fiscal, in representation of the government, did not raise any objection to the substitution of witnesses and to Governor Zaldivar taking the witness stand. On the contrary, he cross examined the witness. From all this, we are satisfied that there has been a substantial compliance with the requirements of the law.[1]

In view of the foregoing, the appealed decisions granting the petitions for naturalization of Raymundo Pe and Fortunato Pe, are hereby affirmed. No costs.

Paras, C. J., Bengzon, Reyes, A., Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., and Endencia, JJ., concur.

[1] Leon Pe m. Republic of the Philippines, 97 Phil. 792.

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