

PETITION FOR NATURALIZATION OF FRANCISCO YAP @ FRANCISCO YAP Y UYSECO, PETITIONER-APPELLEE, VS. REPUBLIC OF THE PHILIPPINES, OPPOSITOR-APPELLANT.

G.R. No. L-26820. July 31, 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 petitioner Francisco Yap alias Francisco Yap y Uyseco, to take his oath of allegiance as a Filipino citizen.

Petitioner's evidence is to the effect that he was born in Candelaria, Quezon, on March 24, 1930; that since birth he had resided in the Philippines and in the City of Manila for a period of more than one year immediately preceding the filing of the petition for naturalization; that at the time of the hearing his residence was at No. 491 Madrid Street, San Nicolas, Manila, while his former address was No. 247 Madrid Street, San Nicolas, Manila; that he was married to Paulina Lim, by whom he has six (6) children; that three of his children were of school age and enrolled at the Crusader's Academy; that he is a Chinese citizen and registered as such in the Bureau of Immigration and in the Embassy of the Republic of China; that he can speak and write English and Tagalog; that at the time of the filing of the petition he had an average annual income of P6,000.00, more or less, derived from his employment as a factory supervisor at the Pag-asa Industrial Corporation. Two witnesses, both residents of Manila, vouched for his good moral character.

On October 17, 1961, after considering the evidence for both parties, the lower court rendered a decision granting the petition. No appeal was taken therefrom by the Government.

On November 19, 1963 the petitioner filed a petition to take his oath of citizenship. The Solicitor General filed a written opposition on two grounds, to wit: (1) that the petitioner had been using several aliases without judicial authority; and (2) that he was not a person of good moral character and irreproachable conduct. In an order dated July 8, 1964, the lower court overruled the opposition of the Solicitor General and granted the petition for oath-taking. In due time, the Solicitor General interposed the instant appeal.

The grounds relied upon by the Solicitor General in this appeal are: (1) that the petitioner had been using various aliases without judicial authority, and did not mention them in the published notice of hearing of his petition; (2) that petitioner has no lucrative income; and (3) that he is not a person of good moral character and irreproachable conduct.

Petitioner admits the first ground. He was baptized "Francisco Yap Uyseco" (Exhibit D-6). In several official documents he used the name "Francisco Yap" only (Exhibits D to D-5, E-1 to E-6, F, G-2 to G-4 and Exhibit L-8). In the "Certificate of Live Birth" of his daughter Joselie Lim Yap he is referred to as "Francisco Sia Yap" (Exhibit K-1), and in his certificate of membership in the Lions Club and in the Philippine Motors Association his name appears to be "Francisco Y. Uyseco" (Exhibits M and N). There being no showing that the use of these various names had been judicially authorized, the same was therefore a violation of the Anti-Alias Law. Consequently,

petitioner has not conducted himself in a proper and irreproachable manner, as required by the Naturalization Law.[1] With reference to the name "Francisco Sia Yap" it was omitted in the petition and hence was not published together with the notice of hearing. Such omission is fatal to the petition.[2]

In connection with the issue of lucrative income it is a settled rule that this qualification is determined as of the date of the filing of the petition, and increases in the earnings thereafter cannot be taken into consideration.[3] Here, the petitioner's income in 1960, the year when the petition was filed, was P6,000.00 per annum. In a previous decision we held that an income of P6,300.00, where applicant was supporting a wife and a child, fell short of the requirement of the law.[4] Petitioner here is in an even less favorable position, since he has a wife and six children dependent upon him.

Appellee contends that the grounds relied upon by the Solicitor General in this appeal should have been raised before the rendition of the judgment and not in the hearing of the petition to take his oath. The contention is without merit. A petition for naturalization involves public interest, and the entire record of the case is open for scrutiny in case of appeal from the main decision or in the proceeding relative to the petition to be allowed to take the oath of citizenship.[5]

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

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

[1] 'Yap vs. Republic, L-20992, May 14, 1966; Chang vs. Republic, L-20715, April 29, 1966; Sogluo vs. Republic, L-20318, May 19, 1966; Dy vs. Republic, L-20814, Nov. 29, 1966; Chua Tek vs. Republic, L-22372, March 31, 1967; Wong Chui vs. Republic, L-23855, 19 SCRA 805; Tan Chua vs. Republic, L-22310, April 24, 1967; OKuPhuan vs. Republic, L-23406, Aug. 31, 1967; Tan Sen vs. Republic L-23181, Oct. 24, 1967; Tan Khe Sing vs. Republic, L-22390, Feb. 29, 1968.

[2] Kwan Kwock How vs. Republic, L-18521, Jan. 30, 1964; Celerino Yu Seco vs. Republic, L-13441, June 30, 1960; Chua Tiong Seng vs. Republic, L-21422, Dec. 8, 1967.

[3] Pessumal Bhrojjraj vs. Republic, L-24023, May 8, 1969; and the cases cited; Sy vs. Republic, L-24857, Feb. 17, 1970; Te Poot vs. Republic, L-20017, March 29, 1969; O Ku Phuan vs. Republic, supra, and the cases cited.

[4] Tan v. Republic, L-16013, March 30, 1963.

[5] Dalmacio Cheng vs. Republic, L-20013, March 30, 1965; Republic vs., Go Bon Lee, L-11499, April 29, 1961; Ong Ching Guan vs. Republic, L-15691, March 27, 1961; Lim Hok Albano, L-10912, October 30, 1958.

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