

**IN THE MATTER OF THE PETITION FOR ADMISSION AS CITIZEN OF
THE PHILIPPINES, JAMES Y. NG, ALIAS JAMES UY,
PETITIONER-APPELLEE, VS. REPUBLIC OF THE PHILIPPINES,
OPPOSITOR-APPELLANT.**

G.R. No. L-26242. October 25, 1968

Ponente: CONCEPCION, C.J.

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CONCEPCION, C.J.:

Appeal from an order of the Court of First Instance of Cebu in this naturalization case.

A decision having been rendered, on March 14, 1963, granting the petition for naturalization of James Y. Ng, alias James Uy, as a citizen of the Philippines, subject to the provisions of Republic Act No. 530, pursuant thereto, he filed, on October 14, 1965, a motion for the "final hearing" preceding the issuance of a certificate of naturalization. On January 5, 1966, said Court issued an order authorizing the petitioner to take his oath of allegiance as a Filipino citizen, and the issuance, thereafter, of the corresponding certificate of naturalization in his favor. Hence, this appeal by the Government.

Upon a review of the records, we are satisfied that the order appealed from is untenable, because:

(1) Petitioner has not filed a declaration of intention.[1] Although born in the Philippines, he is not exempt from the obligation to submit said declaration, having failed to prove that he had received his "primary and secondary education in public schools or those recognized by the Government and not limited to any race or nationality." [2] Indeed, the records show that he had his primary education in the Hope Christian High School, formerly known as Chia-Nan High School, in Manila, and his elementary instruction at the Cebu Chinese High School, Cebu City. In *Sia v. Republic*, [3] involving, also, a student of the Hope Christian High School, formerly Chia-Nan School, we held that petitioner therein was "not exempted from filing his declaration," no competent evidence having been introduced in that case - as none was presented in the case at bar - that said school "was not limited to any race or nationality." Besides, it is now well settled that enrolment in Chinese (or other foreign) schools raises the inference that the applicant is subject to a disqualification, namely, failure to evince "a sincere desire to embrace our customs, traditions and ideals." [4]

(2) Petitioner's former places of residence were not given in his petition, which mentioned no more than his residence at the time of its filing, on September 15, 1959 and August 20, 1960, namely, "435-D Sampaguita Street, Lahug, Cebu City, Philippines." The decision rendered on March 14, 1963 states that he was born in Cagayan, Misamis Oriental, on August 21, 1935; that during the war years, he evacuated to the mountains of Manticao, Cagayan de Oro; and that he resided in Manila from 1947 to 1950. Yet, in his petition, petitioner did not state his place "or places of residence" in Manila during these years, in violation of Section 7 of Commonwealth Act No. 473. Such omission is fatal to his application for naturalization. [5]

(3) In his original petition dated September 15, 1959, petitioner alleged that he was then a salesman, with an

"average annual income of P1,680", or P140 a month. Obviously realizing that this income was insufficient to meet the statutory requirement of possession of a "lucrative" trade or profession,[6] petitioner averred in his amended petition, dated August 20, 1960, that he then had an "average income of P3,000." According to the decision, rendered on March 14, 1963, he had introduced evidence to the effect that he received P200 a month as "representative" of the Southern Insurance Company, and P150 a month as "employee" of Ng Peng Hong Commercial. At the "final hearing", held on November 26, 1965, petitioner testified, however, that the sum received by him from Ng Peng Hong in 1963 was only P1,200, or P100, not P150, a month. Besides, said business establishment belonged to his own father, so that it cannot be relied upon.[7] In fact, had he really had a monthly income of P350, as stated in said decision, petitioner would have averred in his amended petition that his yearly income was P4,200, not P3,000, as alleged therein, especially considering that one of the purposes of said pleading was, evidently, to inflate his earnings to offset the adverse effects of the P1,680 yearly revenue alleged in the original petition.

Petitioner, likewise, tried to establish, at said final hearing, that in 1963 he received from Ng Peng Hong Commercial an annual salary of P1,200, plus P3,600, as commission and transportation and representation expenses, aside from an annual salary of P1,000 from the Cebu Royal Life Trading; that in 1964, he got from said Ng Peng Hong the same salary of P1,200, beside P4,600 as commission he received from Hoc Guam Co. Inc.; and that, since January 1, 1965, he had a monthly salary of P500, as traveling salesman for the Morning Light Trading. This alleged income from 1963 to 1965 is, however, immaterial to the case at bar, which is concerned with his financial status or qualifications on September 15, 1959, and August 20, 1960, when his petition and amended petition for naturalization were filed.[8] Besides, being contingent, speculative, indefinite, unsteady and precarious in nature, such commission and transportation and representation expenses cannot be taken into consideration in determining whether petitioner's trade or profession is lucrative or not.[9]

WHEREFORE, the order appealed from should be, as it is hereby reversed, and another one shall be entered denying petitioner's application for naturalization and dismissing this case, with costs against the petitioner.

IT IS SO ORDERED.

Reyes, J.B.L., Dizon, Makalintal, Sanchez, Castro, Angeles, Fernando, and Capistrano, JJ., concur.
Zaldivar, J., did not take part.

[1] Sections 5 and 6, Commonwealth Act No. 473, as amended.

[2] Section 6 of Commonwealth Act No. 473, as amended by Commonwealth Act No. 535.

[3] L-20290, August 31, 1965.

[4] Lim Yuen v. Republic, L-21218, December 24, 1965; Chan Kiat Huat v. Republic, L-19579, February 28, 1966; Chua Tek v. Republic, L-22372, March 31, 1967; Yap Puey Eng v. Republic, L-24805, May 23, 1968; Chan De v. Republic, L-25551, May 29, 1968.

[5] Keng Giok v. Republic, L-13347, August 31, 1961; Ong Ping Seng v. Republic, L-19575, February 26, 1965; Tan v. Republic, L-19694, March 30, 1965; Cheng v. Republic, L-20013, March 30, 1965; Yu Ti v. Republic, L-19913, June 23, 1965; Tan Nga Kok v. Republic, L-16767, June 30, 1965; Yao Long v. Republic, L-20910, November 27, 1965; Pe v. Republic, L-20375, January 31, 1966; Yu An Kiong v. Republic, L-21333, January 31, 1966; Leoncio Dy v. Republic, L-20152, February 28, 1966; Kao Heng v. Republic, L-21079, February 28, 1966; Wayne Chang v. Republic, L-20713, April 29, 1966; Agueda Go v. Republic, L-21895, April 29, 1966; Antonio

Yu v. Republic, L-19110, July 30, 1966; Republic v. Co Keng, L-19829, July 30, 1966; San v. Republic, L-21128, August 19, 1967; Phuan v. Republic, L-23406, August 31, 1967; Chua Bok v. Republic, L-24286, April 25, 1968.

[6] Ong Ling Chuan v. Republic, L-18550, February 28, 1964; Tan v. Republic, L-19694, March 30, 1965; Yap v. Republic, L-19649, April 30, 1965; Uy v. Republic, L-20208, June 30, 1965; Sia v. Republic, L-20290, August 31, 1965; Uy v. Republic, L-20799, November 29, 1965; Pe v. Republic, L-20375, January 31, 1966; Sy v. Republic, L-19581, April 29, 1966; Tan v. Republic, L-19647, April 29, 1966; Dy v. Republic, L-20709, April 29, 1966; Lim v. Republic, L-20149, September 29, 1966; Chang v. Republic, L-21553, April 17, 1968.

[7] Velasco v. Republic, L-14214, May 25, 1960; Tan v. Republic, L-14861, March 17, 1961; Sy Ang Hoc v. Republic, L-12400, March 29, 1961; Tan v. Republic, L-14860, May 30, 1961; Gui v. Republic, L-16184, September 30, 1961; Cu v. Republic, L-13341, July 21, 1962; Lee v. Republic, L-20148, April 30, 1965; Uy v. Republic, L-20799, November 29, 1965; Dy v. Republic, L-20348, December 24, 1965; Co. v. Republic, L-21078, April 29, 1966; So v. Republic, L-21762, April 29, 1966; Hian v. Republic, L-21778, April 29, 1966; Hua v. Republic L-21400, May 31, 1966.

[8] Ong Tai v. Republic, L-19418, December 23, 1964; Pablo Lee v. Republic, L-20148, April 30, 1965.

[9] Tse v. Republic, L-19642, Nov. 9, 1964; Ong Tai v. Republic, L-19418, Dec. 23, 1964; Tochip v. Republic, L-19637, Feb. 26, 1965; Tan v. Republic, L-19694, March 30, 1965; Ong So v. Republic, L-20145, June 30, 1965; Sia v. Republic, L-20290, Aug. 31, 1965; Ng v. Republic, L-21179, Jan. 22, 1966; Pe v. Republic, L-20375, Jan. 31, 1966; Kong v. Republic, L-20505, Feb. 28, 1966; Lim v. Republic, L-22437, June 21, 1966; King v. Republic, L-19082, Sept. 29, 1966; Phuan v. Republic, L-23406, Aug. 31, 1967; Sam v. Republic, L-20812, Sept. 22, 1967; Chua Bok v. Republic, L-24286, April 25, 1968.

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