

CHIN GUAN GO, PETITIONER AND APPELLEE, VS. REPUBLIC OF THE PHILIPPINES, OPPONENT AND APPELLANT.

G.R. No. L-15794. December 29, 1962

Ponente: PADILLA, J.

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PADILLA, J.:

Appeal by the State from a decree entered by the Court of First Instance of Sulu granting the petition of Chin Guan Go to become a naturalized citizen of the Philippines (case No. 17), on the ground that the applicant had not been a resident of the province of Sulu for at least one year immediately preceding the filing of his petition for naturalization as required by section 8 of Commonwealth Act No. 473, as amended by Republic Act No. 530.

As the issue involved and the only ground relied upon by the State to set aside the decree appealed from is whether the Court of First Instance of Sulu had jurisdiction to hear and determine the case, a restatement of the evidence presented by the appellee in so far as his residence is concerned is necessary.

In his petition filed in the Court of First Instance of Sulu on 1 July 1958 the appellee Chin Guan Go avers that he was born on 9 May 1928 at Walled City, Jolo, Sulu, of Chinese parents Go Ah Chee and Julia Chio Go; that he grew up in said place and since birth had continuously resided in and had never left the Philippines; and that he speaks and writes Tagalog, English, Chavacano and Taosug dialects. His only sister is Connie Go, who is married to Alexander Tandico, a Filipino resident of Jolo, Sulu.

The evidence shows that after his graduation from the Sulu High School on 21 April 1958 (Exhibit W) he went to Manila to work as a salesman in the Young's Hardware Store owned by a naturalized Filipino citizen and located at 1411 Azcarraga street, Santa Cruz, Manila. On 24 May 1953 he married Bonifacia Estrella Tan, a native-born Filipino resident of Jolo (Exhibit R) in a civil ceremony before Judge Ricardo Garcia in Jolo, Sulu. The couple repeated their marital vows in a rite of the Protestant faith solemnized by Reverend de Jesus. Out of the marriage the couple begot three children, namely, Edwin, Eric and Egberto, all surnamed Go and born in Manila on 20 April 1954, 12 July 1955 and 11 March 1959, respectively (Exhibits V and V-1). Every December and May of each year he and his family vacationed regularly in Jolo, Sulu. From 1949 to 1950 he personally filed and paid his income taxes in Manila and from 1951 to 1958 his employer paid a withholding tax to the Government. Vicente Magno, former mayor of Jolo, Engineer Ceferino Burias of the Bureau of Public Highways in Sulu and Velia Carpio, employee in Jolo, testified as his character witnesses.

The only issue raised in this appeal is whether at the time of the filing of his petition for naturalization the appellee Chin Guan Go was a resident of Sulu one year prior to the filing thereof, as required by section 8 of Commonwealth Act No. 473, as amended, which provides that—

The Court of First Instance of the province in which the petitioner has resided at least one year immediately preceding the filing of the petition shall have exclusive original jurisdiction to hear the petition.

In its brief, the appellant accepts as a correct resume of the evidence presented by the appellee the findings of fact

set forth by the trial court in its decree, except the finding that the appellee had resided in the province of Sulu for at least one year immediately preceding the filing of his petition. It contends that the evidence presented during the trial shows that the appellee had been continuously residing in the city of Manila from 1948 when he started to work as a salesman in Young's Hardware store until he filed his petition on 1 July 1958, argues that under the provisions of section 8 of Commonwealth Act No. 473, as amended, the appellee had not been a resident of the province of Sulu for at least one year prior to the filing of his petition for naturalization, and concludes that the trial court erred in granting his petition for naturalization. It claims that the documentary evidence submitted by the appellee himself, to wit: clearance certificate issued on 23 February 1959 by the Court of First Instance of Manila stating that he resides at 1411 Azcarraga street, Manila (Exhibit CC); certificates issued by the Bureau of Immigration of Manila on 11 February 1959 and of Jolo, Sulu, that he is a resident of Manila (Exhibits EE and EE-1); alien certificate of registration of his wife, together with other related papers, where it appears that she is residing at 1855-C Sulu street, Manila (Exhibits S and S-1); appellee's alien certificate of registration No. A-16118 issued in Manila on 11 July 1950 (Exhibit D) in lieu of his former ACR No. 130890-V issued in Jolo, Sulu, on 25 November 1946, where he stated that his residence is 96 Doroteo Jose, Manila, clearly shows that he was no longer a resident of Jolo, Sulu, at least one year immediately preceding the filing of his petition for naturalization.

The State did not set up in its objection to the granting of the petition the fact that the appellee lacks the required residence but just lack of qualification. In ordinary civil cases the failure to object on the ground of venue improperly laid would be deemed a waiver, but in naturalization cases such rule cannot be invoked and applied. The petition alleges such residence and therefore objection for lack of the required residence could not be set up until all the evidence shall have been presented. The evidence shows indubitably that he was not a resident of Jolo, Sulu, at least one year immediately preceding the filing of his petition. The case of Cipriano King vs. Republic of the Philippines, 89 Phil., 4, does not help the appellee, because there the applicant absented himself from his residence and went to Manila "just for the purpose of studying" whereas here the appellee was employed and had a lucrative employment. The requirement of residence in the province at least one year immediately preceding the filing of the application is for the purpose of checking up the applicant's activities as regards the other requirements which could not be done if he stayed in a place other than that where he filed his petition.

Without prejudice to his filing a petition with the competent court, for the appellee appears to be qualified to become a naturalized citizen of the Philippines, the decree appealed from is set aside and appellee's petition dismissed without pronouncement as to costs.

Bengzon, C. J., Bautista Angelo, Concepcion, Reyes, J. B. L., Barrera, Paredes, and Makalintal, JJ., concur.

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