

**IN RE: PETITION FOR NATURALIZATION, GO AY KOC,
PETITIONER-APPELLANT VS. REPUBLIC OF THE PHILIPPINES,
OPPOSITOR-APPELLEE.***G.R. No. L-23652. April 25, 1969*

Ponente: BARREDO, J.

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An appeal from the order of the Court of First Instance of Rizal, Pasay City Branch, in its Naturalization Case No. 102, denying appellant Go Ay Koc's motion to take his oath of allegiance as a Filipino citizen after the lapse of the statutory period of two (2) years from the issuance of the decision grant-ing his petition for naturalization.

It appears that on November 24, 1959, Go Ay Koc filed his petition for naturalization with the court a quo which, after a hearing in which the Government was represented by the Office of the Solicitor General, grant-ed the petition in its decision of July 18, 1961. Pur-portedly pursuant to Republic Act No. 530, after two years from the promulgation of said decision, or more specifically on July 19, 1963, Go Ay Koc filed a motion with the same court, praying that he be allowed to take his oath. This time, the Solicitor General did not only interpose an opposition but further moved that the decision of July 18, 1961 be set aside. After several days of hearing, the trial court set aside the decision of July 18, 1961, and denied petitioner's motion to take his oath, as prayed for by the Solicitor General. A subsequent mo-tion for new trial filed by petitioner on May 5, 1964 was likewise denied by the court in its order of June 24, 1964, hence the instant appeal.

Appellant here contends that the court below erred in so setting aside the decision granting his petition for naturalization, and in denying his motion to take his oath. More specifically, he maintains that the court was not justified in sustaining the Solicitor General's posi-tion that (1) he failed to state in his petition all the places of his previous residence; (2) he has enrolled his children in exclusive Chinese schools; and (3) he failed to show that he has a lucrative income as grounds for the action thus taken by the court.

Appellant's appeal is untenable,

1. By his own testimony during the hearing of his motion to take his oath, appellant disclosed that he had lived in various places, other than his present residence, namely: in Rosales, Pangasinan; San Pedro, Magalang, Pampanga; in Cebu; in many places in Manila (Juan Luna, Al-varado Ext., Barbosa, Camarines, Yakal); and at No. 15, San Luis, Pasay City.[1] And he admitted that he did not set forth in his petition all these past places of residence.[2] This is a clear violation of Section 7 of Commonwealth Act No. 473;[3] and a defect fatal to the jurisdiction of the trial court to hear and grant his petition.[4] Neither his alleged good faith in believing that it was not necessary to make such allegations in his pe-tition, nor his subsequent disclosure of said places during the hearing of his motion can be deemed to have cured such jurisdictional defect,[5] for the stubborn fact still remains that full inquiry as to the irreproachability of appellant's behavior was thereby prevented and the law's intent frustrated.[6]

2. The record also shows that at the time of the hearing of his motion referred to, three (3) of appellant's children

were enrolled at the Chang Kai Shek High School and the Anglo-Chinese School whose principals were Pao Shih Tien and Phi Jun Thoan - circumstances strongly suggesting to the mind of the Court that said schools are run by and for Chinese nationals. Of course, appellant exhibited certificates of said schools to the effect that they are duly recognized by the Government, that Philippine History, Civics and Government are subjects taught therein and that they admit students regardless of race, color or religious creed,[7] but there is no evidence that those schools are regularly attended by a sizable number of Filipino students from whom his children above-mentioned could have imbibed Filipino customs and traditions.[8] This Court has repeatedly held that in such circumstances, there is failure to comply with the requirement of the law that a petitioner for naturalization must evince a sincere desire to embrace Philippine customs, traditions and ideals and to mingle socially with Filipinos.[9]

3. It finally appears that appellant had submitted his income tax returns showing earnings of P16,915.90 and P17,145.50 for the years 1961 and 1962, respectively.[10] It is readily seen, however, that the returns aforesaid reflect a regular monthly salary of only P300.00 - with the rest of the alleged income, quite substantial the, representing "miscellaneous income, Sweepstakes and other winnings." Explaining these items during the hearing, appellant testified that the declared "miscellaneous income" in his income tax returns were commissions earned as purchased agent for his father and brother who separately owned and operated glassware stores in Cebu and Davao; while the "winnings" represent prizes won in the sweepstakes and the Jai Alai.[11] Suffice it to say in this connection that this Court has held in a number of cases,[12] that "commissions" - being generally contingent and speculative - are not considered as income for purposes of petitions for naturalization. Definitely, Sweepstakes and Jai Alai winnings which are obviously more speculative in character cannot be considered in such regard. Commissions, in some instances, may perhaps be approximated with regular income, but such is not true in this case where, other than appellant's own assertion, there is no evidence that he was regularly employed and also regularly paid commissions by his father and brother as a purchasing agent. In fact, appellant admits that he had no papers to prove either the alleged commissions received, or the above-mentioned winnings.[13] What is more, his alleged principals or employers from whom he is supposed to have received commissions were his own father and brother, a circumstance which, to put it mildly, makes his claim regarding the commissions in question suspicious. Eliminating such items from appellant's income, what remains to be considered for the purposes of his petition for naturalization is only his monthly salary of P300.00 - an income clearly insufficient to support a wife and his six (6) children, three (3) of whom were in college and the three (3) others enrolled in the exclusive Chinese schools earlier mentioned at the time of the hearing of his petition. Evidently, appellant does not meet the requirement of lucrative income.

FOR THE FOREGOING CONSIDERATIONS, the instant appeal is dismissed, with costs against appellant.

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

[1] TSN (Hearing of September 10, 1963), p. 19.

[2] TSN (Hearing of September 10, 1963), p. 13.

[3] "Petition for citizenship. - Any person desiring to acquire Philippine citizenship shall file with the competent court, a petition in triplicate, accompanied by two photographs of the petitioner, setting forth his name and surname; his present and former places of residence; his occupation; the place and date of his birth; whether single or married and the father of children; the name, age, birthplace and residence of the wife and each of the children; x x x."

[4] Lo vs. Republic, L-15919, May 19, 1961; Keng Giok vs. Republic, L-13347, August 31, 1961; Kao Gui vs. Republic, L-13717, July 31, 1962; Qua vs. Republic, L-19834, Oct. 27, 1964; Yao Long vs. Republic, L-20910, Nov. 27, 1965; Tan Tian vs. Republic, L-19899, March 18, 1967; Cu King Nan vs. Republic, L-20490, June 29, 1968; Chua Chu vs. Republic, L-24951, July 20, 1968; Sy Suan vs. Republic, L-23470, Feb. 28, 1969; Cf. Choa Hai vs. Republic, L-23515, Feb. 27, 1969.

[5] Lo vs. Republic, *supra*; Qua vs. Republic, *supra*; Yu Ti vs. Republic, L-19913, June 23, 1965; Kao Heng vs. Republic, L-21079, Feb. 28, 1966; O Ku Phuan vs. Republic, L-23406, Aug. 31, 1967; Choa Hai vs. Republic, *supra*.

[6] Republic vs. Cokeng, L-19829, May 4, 1968; Choa, Hai vs. Republic, *supra*.

[7] Folder of Exhibits, pp. 39 & 40.

[8] Cf. Lee Ng Len vs. Republic, L-20151, March 31, 1965; Te Poot vs. Republic, L-20017, March 28, 1969.

[9] Choa Hai vs. Republic, *supra*, citing Uy Ching Ho vs. Republic, L-19582, Mar. 26, 1965; Lee Ng Len vs. Republic, *supra*; Ong Ping Seng vs. Republic, L-19575, Feb. 26, 1965.

[10] Folder of Exhibits, pp. 4 & 10.

[11] TSN (Hearing of Sept. 10, 1963), p. 21 et seq.

[12] See Tan vs. Republic, L-22207, May 30, 1966; Lim vs. Republic, L-22437, June 21, 1966, citing cases; Po Chu King vs. Republic, L-20810, May 16, 1967; Tui Tua Pi vs. Republic, L-20909, May 24, 1967.

[13] TSN (Hearing of Sept. 10, 1963), p. 23; (Hearing of Oct. 3, 1963), p. 23.

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