

IN THE MATTER OF THE PETITION OF AMANDO ONG APACIBLE TO BE ADMITTED A CITIZEN OF THE PHILIPPINES. AMANDO ONG APACIBLE, PETITIONER AND APPELLEE, VS. REPUBLIC OF THE PHILIPPINES,...

G. R. No. L-16987. June 21, 1966

Ponente: DIZON, J.

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DIZON, J.:

On July 18, 1953, Amando Ong Apacible filed a petition for naturalization with the court of First Instance of Rizal (Quezon City). Subsequently, the Office of the Solicitor General filed an opposition thereto and, after due hearing, the court rendered Its decision on March 30, 1960, granting the petition. The Solicitor General thereafter interposed the present appeal raising one single question, namely: That the lower court erred in not declaring that appellee was not exempt from the duty to file the Declaration of Intention required by law, and erred, consequently. In assuming jurisdiction over the case notwithstanding said defect in the proceedings.

The government accepts the following findings of fact made by the trial court:

"From the evidence presented, the following have been fully established: That the petitioner's full name is AMANDO ONG APACIBLE; that his present place of residence is at No. 179 A. Bonifacio St., Quezon City; that he was born in the City of Manila, Philippines, on October 5, 1930, that he has resided in the Philippines continuously since his birth and in Quezon City for more than a year preceding the filing of this petition; that he is married to Irraa Tan with whom he has one child named Araando Ong, Jr., born on Oct. 3, 1958 in the City of Manila, and residing with him in the aforesaid address; that he is exempt from filing a declaration of intention because he was born in this country and has received his primary, secondary and college education in schools recognized by the government; that he is presently the plant superintendent of the Union Metal Manufacturing Company from which he derives an annual salary of P5,400.00; that he believes in the principles underlying the Constitution of the Philippines; that he has. conducted himself in a proper and irreproachable manner during the entire period of his residence in the Philippines in his relations with the constituted government as well as with the community in which he is living; that he has mingled socially with the Filipinos and evinced a sincere desire to learn and embrace the customs, traditions and ideals of the Filipinos; that he has all the qualifications required under Sec. 2, and none of the disqualifications specified under Sec. 4 of the Revised Naturalization law; that he is not opposed to organized government or affiliated with any association or group of persons who uphold and teach doctrines opposing all organized governments; that he is not defending or teaching the necessity or propriety of violence, personal assault or assassination for the success and predominance of men's ideas; that he is neither a polygarist nor a believer in the practice of polygamy; that he has not been convicted of any crime involving moral turpitude; that he is not suffering from any incurable contagious disease or mental alienation; that the nation of which at present he is a citizen is not at war with the Philippines; that it is his intention in good faith to become a citizen of the Philippines and to renounce absolutely and forever all allegiance and fidelity to any foreign prince, potentate, state or sovereignty, and particularly to the Republic of China of which at this time he is a subject; that he will reside continuously in the Philippines from the date of the filing of his petition up to the time of his admission to Philippine

citizenship, that he has not heretofore made any other petition for citizenship with any court, and, that he can speak and write English and Tagalog quite fluently.

"Two credible Filipinos, Mrs. Reraedlos A. Bias and Mr. Marcos Malabanan, Jr., testified in favor of the petitioner, stating that they personally know said petitioner to be a person of good repute and morally irreproachable; that he is attached to the principles underlying the Constitution of the Philippines and in sympathy with and well disposed to the good order and happiness of the Philippines; and, that they have observed in the petitioner a sincere desire to become a citizen of this country and they believe that he will be an asset if his application is granted.

"To substantiate the allegations in his petition, the petitioner presented in evidence all the immigration papers issued to him and to the members of his family; his certificate of employment; his income tax return for 1958; his medical certificate showing that he is not suffering from any contagious incurable disease or mental alienation; the birth certificate of his child; certificates issued by the schools where he finished his primary and secondary education in the Philippines; his tax clearance certificate showing that he has paid all taxes due from him to the government; and clearances from the different government police agencies showing that there is no derogatory information against him. All these documents or exhibits have been admitted without objection on the part of the Solicitor."

Sections 5 and 6 of the Naturalization Law, as amended, provide:

"Sec. 5. Declaration of intention. - One year prior to the filing of his petition for admission to Philippine citizenship, the applicant for Philippine citizenship shall file with the Bureau of Justice (now the Office of the Solicitor General) a declaration under oath that it is bona fide his intention to become a citizen of the Philippines. Such declaration shall set forth the name, age, occupation, personal description, place of birth, last foreign residence and allegiance, the date of arrival, the name of the vessel or aircraft, if any, in which he came to the Philippines, and the place of residence in the Philippines at the time of making the declaration. No declaration shall be valid until lawful entry for permanent residence has been established and a certificate showing the date, place, and manner of his arrival has been issued. The declarant must also state that he has enrolled his minor children, if any, in any of the public schools or private schools recognized by the Office of Private Education of the Philippines, where Philippine history, government, and civics are taught or prescribed as part of the school curriculum, during the entire period of the residence in the Philippines required of him prior to the hearing of his petition for naturalization as Philippine citizen. Each declarant must furnish two photographs of himself."

"Sec. 6. Persons exempt from requirement to make a declaration of intention.-Persons born in the Philippines and have received their primary and secondary education in public schools or those recognized by the Government, and not limited to any race or nationality, and those who have resided continuously in the Philippines for a period of thirty years or more before filing their application, may be naturalized without having to make a declaration of intention upon complying with the other requirements of this Act. To such requirements shall be added that which establishes that the applicant has given primary and secondary education to all his children in the public schools or in private schools recognized by the Government and not limited to any race or nationality. The same shall be understood applicable with respect to the widow and minor children of an alien who has declared his Intention to become a citizen of the Philippines, and dies before he is actually naturalized."

It is therefore clear that, under the law, only aliens born in the Philippines and who have resided in this country for more than thirty years can apply for Philippine citizenship without the necessity of complying with the requirement of filing a Declaration of Intention one year before the filing of such application.

In the present case, appellee admits that he had not filed the required Declaration of Intention but claims that he is exempt from doing so because he was born in the Philippines and he had resided therein for more than thirty

years.

The record discloses, however, that appellee did not produce or was not able to produce his birth certificate because, according to him, when he went to the local civil registrar of Manila he was informed that said certificate had been lost or misplaced. He further claims that, in lieu thereof, he had presented secondary evidence consisting of Exhibit E-a Landing Certificate of Residence issued to him when he returned to the Philippines after a visit to China where his father had taken him for a short stay during his boyhood.

For obvious reasons, the aforesaid Landing Certificate of Residence must be deemed utterly insufficient to prove that appellee was really born in the Philippines. The exemption invoked by appellee must be strictly construed and applied. This being the case, the evidence presented to make the one claiming the benefit of the exemption fall under its provisions must be clear and convincing. To accept Exhibit E as sufficient for such purpose would throw the doors wide open for the commission of irregularities in connection with applications of the nature of the one now before Us.

Having arrived at the above conclusion, We hold that the lower court committed a reversible error in not declaring that appellee was not exempt from the legal requirement of filing a Declaration of Intention.

WHEREFORE, the decision appealed from is reversed, with costs. Concepcion,

C.J., Reyes, Barrera, Regala, Makalintal, Bengzon, Zaldivar and Sanchez, JJ., concur.

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