

**LY HONG ALIAS PIO LEE, PETITIONER AND APPELLANT, VS.
REPUBLIC OF THE PHILIPPINES, OPPOSITOR AND APPELLEE.***G.R. No. L-14630. September 30, 1960*

Ponente: REYES, J.B.L., J.

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Appeal from the decision of the Court of First Instance of Cagayan in Naturalization Case No. 23-A, dismissing the petition by Ly Hong alias Pio Lee, for admission to Philippine citizenship.

In his petition filed on August 12, 1955, Ly Hong averred that he is 46 years of age, having been born in China on January 18, 1909; that he came to the Philippines around the year 1923, having resided first in the City of Manila, thereafter in the municipality of Irosin, Sorsogon up to 1949, and from said year to the present in the municipality of Aparri, Cagayan; that during the whole period of his residence in the Philippines, he has conducted himself in a proper and irreproachable manner, both in his relations with his neighbors and with the duly constituted government; that he is married to one Salvacion Gerona, a Filipina, and a native of Irosin, Sorsogon, with whom he has four (4) children all born in this country, namely: Amelia, 10 years old; Lolita, 7 years; Edna, 5 years; and Evelyn, 2 years, all surnamed Ly; that he is the manager of the Redwood Company, in the municipality of Aparri, with a yearly salary of P7,200, plus commission; that he is a citizen of China, under whose laws, Filipinos may become naturalized citizens or subjects thereof; that he has resided continuously in the Philippines for a period of more than thirty (30) years, to wit, since 1923; that he has enrolled his children of school age at the Aparri Chinese Kete School, which institution is duly recognized by the Philippine Government; that he is able to read and write the English language and, in addition, Tagalog and the Bicol dialect; that he believes in the principles underlying the Philippine Constitution; that he has mingled socially with the Filipinos and has evinced a sincere desire to learn and embrace the customs, traditions and ideals of the Filipino people; and that he has all the qualifications required under Section 2 and none of the disqualifications mentioned in Section 4 of Commonwealth Act No. 473.

Being sufficient in form and substance, the petition was given due course, and the required publications were complied with.

On November 26, 1956, the Assistant Provincial Fiscal of Cagayan, without filing formal opposition to the petition, forwarded to the court a letter of a citizen, Lauro Villados, dated November 8, 1956, addressed to the Solicitor General, opposing the petition of Ly Hong and that of one Ong Ang, on the ground that they have not intermingled socially with Filipinos or evinced a sincere desire to learn and embrace our customs, traditions and ideals; that they have not been paying their employees in accordance with the Minimum Wage Law; that they frequent gambling dens. and play prohibited games; and that their prime motive to become citizens is to acquire the right to exploit our natural resources, especially forest products in the exploitation of which they are actively engaged.

At the trial, which was commenced on August 26, 1958, the petitioner presented his evidence, both oral and

documentary, to substantiate the allegations of his petition. After the petitioner had nested his case, the assistant provincial fiscal sought leave to present Lauro Villados to the witness stand, which the court granted after the fiscal's manifestation that they were adopting the opposition of Villados as that of the government. Villados having testified, the trial was closed.

On September 1, 1958, the court rendered judgment dismissing Ly's petition for naturalization. Said the court:

"While it may be true that the petitioner has shown that he is entitled to be naturalized Filipino citizen in view of the evidence he has presented, still the fact remains that the testimony of Lauro Villados that the petitioner has played the prohibited games of pikiu and paya and that the petition was filed in order that the petitioner can exploit the natural resources of the Philippines has not been denied, refuted or contradicted by the petitioner. Since the evidence of the government that the petitioner has played the prohibited games of pikiu and paya In a gambling club in Aparri has not been disproved, the Court must necessarily accept the same as true and accurate. The failure, therefore, of the petitioner to deny the testimony of Lauro Villados is fatal to his petition.

It having been shown that the petitioner has frequented a gambling club in Aparri for the last two years, the Court finds that he has not conducted himself in a proper and irreproachable manner such that the Court has no alternative except to dismiss his petition for naturalization.

Wherefore the Court dismisses the above entitled petition."

The Solicitor General concurs with the above view of the trial court and argues against the reversal of the judgment as prayed for by Ly Hong in this appeal.

The government's position and that of the court a quo should be upheld. Lauro Villados, state witness, categorically charged petitioner with having operated illegally forest concessions owned by Filipinos in violation of our nationalization laws,[1] and with having often indulged in gambling. Elaborating on the second charge, the witness testified that, on several occasions, he saw Ly play the Chinese games of pikiu and paya (games of cards about two inches long and 11½ centimeters wide) inside a gambling club located at the commercial center of the town and operated by a certain Chinese woman. Gambling, which is a national offense and penalized as a crime against public morals under Art. 195, et seq., of the Revised Penal Code, is not a minor transgression, as petitioner's counsel would imply from his arguments, especially for one who intends one day to become a naturalized citizen. Indeed, in frequenting a known gambling den, petitioner himself has demonstrated that his conduct is not above reproach.

Petitioner's theory that a criminal conviction for gambling is necessary in order that it may be considered a ground for denying his petition for naturalization is unacceptable. The denial of his petition, it is to be noted, did not proceed on account of Section 4(d) of Commonwealth Act No. 473, which disqualifies persons convicted of crimes involving moral turpitude from being naturalized, but by virtue of Section 2 of the same Act, requiring, among other things, that the applicant "must be of good moral character * * * and must have conducted himself in a proper and irreproachable manner during the entire period of his residence in the Philippines," of which he has been shown to be deficient. The case of *Daniel Ng Teng Lin vs. Republic*, 103 Phil., 484; 56 Off. Gaz. (14) 2952 wherein this Court ruled that the filing of criminal charges (physical injuries), without proof of conviction, is no disqualification for an accused to be naturalized, is inapplicable in this instance, since it is there apparent that, except for the fact that the petitioner therein was criminally charged, no independent evidence was introduced by the government why his petition for naturalization should be denied; so that the presumption that a person is presumed innocent unless the contrary is proved was squarely on point. Here, however, independent proof establishing petitioner's lack of qualifications stands on record.

Lastly, petitioner urges that it was error for the lower court to have given credibility to the uncorroborated

testimony of Lauro Villados. Petitioner, however, has not shown any sufficient reason why we should doubt the testimony of said witness, which, in the words of the trial court, "has not been denied, refuted or contradicted" by petitioner. Questions as to the credibility of witnesses, moreover, rest primarily with the trial court, and unless the latter failed to take into account some material fact or circumstance in the case, its findings will not be disturbed on appeal (*Tiu Bon Hui vs. Republic*, G. R. No. L-8730, November 19, 1956).

Finally, we may well restate the general principle that the burden is on the applicant for naturalization to show that he satisfies all the qualifications. and possesses none of the disqualifications provided by law; and if there is a doubt in the mind of the court, the same should be resolved against the grant of citizenship (see 3 C.J.S., sec. 122, pp. 833-834).

Wherefore, the decision appealed from should be, as it is hereby, affirmed. Costs against the petitioner Sy Hong.

Paras, C. J., Bengzon, Bautista Angelo, Labrador, Concepcion, Barrera, Gutierrez David, Paredes, and Dizon, JJ., concur.

[1] See Sec. 1, Article XIII, Constitution of the Philippines; Sec. 1838, Revised Administrative Code; Act No. 3674.

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