

IN THE MATTER OF THE PETITION OF CHAN PENG HIAN TO BE ADMITTED A CITIZEN OF THE PHILIPPINES. CHAN PENG HIAN, PETITIONER AND APPELLANT, VS. REPUBLIC OF THE PHILIPPINES, OPPOSITOR...

G.R. No. L-21778. April 29, 1966

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

Appeal from an order of the Court of First Instance of Manila denying the petition of appellant Chan Peng Hian to be allowed to take his oath as citizen of the Philippines.

On July 8, 1960, decision was rendered in this case by the Court of First Instance of Manila granting appellant's petition for naturalization as citizen of the Philippines. Over two (2) years later, or on October 30, 1962, appellant moved that a date be set for the reception of additional evidence as provided by law, and that, thereafter, he be allowed to take the corresponding oath of allegiance. Upon consideration of the evidence introduced on the date set therefor, the lower court found that appellant has no lucrative occupation, and, accordingly, issued the order appealed from.

The only issue raised in this appeal is whether or not the lower court erred in finding that appellant had failed to prove that he is engaged in a lucrative trade or profession. In this connection, His Honor, the trial Judge, had the following to say:

"The applicant claims that he is employed as a salesman of the Huan Hieng & Co.,—a partnership of which his father is the principal partner, he having the largest contribution to its capital, P46,369.73, as against the P39,414.36 contributed by the third. Under these circumstances, it cannot be said that he has satisfactorily established that he has a lucrative trade or profession. In Civil Case No. 41364 of this Court, entitled *Petition for Naturalization of William Chua Siong Hua*, this Court said: 'It has been uniformly held by the Supreme Court in its more recent decisions that the requirement that the petitioner must have some known lucrative trade, profession or occupation is not satisfied by evidence that he is employed by close relatives, such as his parents, or in establishments wholly or partially owned by them. In the language of the Supreme Court in the case of *Charm vs. Republic of the Philippines*, G. R. No. L-14460, quoted in the opposition of the Solicitor General:

'When the employment of a petitioner for naturalization is by his father and in the business of the latter such evidence of employment is not very convincing, as it is possible that father and son, in the interest of the petition, testify to the alleged employment even though the son may only be living under the protection and at the expense of the father. (*Velasco vs. Republic*, L-14214, May 25, 1960.)

In a more recent case, *Yu vs. Republic of the Philippines*, G. R. No. L-17748, the same Court said:

'* * * Where the applicant for naturalization claims to be employed by either of his parents he must submit more satisfactory proof than has been adduced herein that he is actually employed and worth the salary he is

receiving, in order to eliminate any suspicion that his parents have employed him only as a convenient arrangement to satisfy the statutory requisites for naturalization.'

The same rule has been followed in the cases of Justino O. Cu & Justo Dee vs. Republic, G. R. No. L-13344, July 21, 1962; Que Hoc Gui vs. Republic, G. R. No. L-16884, Sept. 30, 1961; Zacarias Tan vs. Republic, G. R. No. L-14860, May 30, 1961; and Sy Ang Hoc vs. Republic of the Philippines, 58 Off. Gaz. 5628.

"There are other circumstances which prove that the petitioner's employment is more simulated than real. He avers he has been working as a salesman of the Huan Hieng & Co. since April 1956, when he was barely 19 years of age and was an engineering student in Mapua Institute of Technology where he continued to be enrolled until his graduation in 1961. His alleged initial salary was P2,370.00 a year. Touching on the petitioner's claim that he was employed in his father's store when he was 19 years of age and a student in the Mapua Institute of Technology, this Court also said in Civil Case No. 41364: 'It is hard to believe that the owner of a business establishment would employ as his salesman an inexperienced student, occupied in his studies, and give him the liberal salary of P250.00 a month, a compensation which, in all likelihood, he could not match in service or benefit because of his youth, inexperience, and preoccupation with his studies'.

"The Huan Hieng & Co. is a coffee and chocolate factory, and it sells its products only wholesale. Its capital is P105,924.47. It has a manager, and assistant manager, and another salesman. When asked to name its customers, Chan was able to mention only four. His duties, he said, are to attend to the customers by appraising them of the prices, closing the deal if they agree thereto, and issuing the receipt for the purchase made. To do these few simple tasks, it is unnecessary to engage a high-salaried salesman when the company already has a general manager, an assistant manager and a salesman, who, according to the applicant also does his work, even if they have to attend to over four customers a day.

"Chan's compensation likewise reveals the simulated character of his employment. The salary of P2,370.00 per annum for the work he claims he does is manifestly unwarranted. Excessive from the beginning, it still was steadily increased to P3,510.00 in 1959, P3,600.00 in 1960 and P4,800.00 in 1961. Not only was his salary raised but he was also given a bonus of P1,200.00 in 1961 and P4,000.00 in 1962. No reasons whatsoever has been given for the increases. His duties have remained apparently the same. It is true that income from the operation of the company rose from P41,000.00 to P562,000.00 in 1961 and to P970,000.00 in 1962 but there has been no proportionate increase in the net income accruing to the partners. It was P9,321.73 in 1960, P16,304.31 in 1961, and P27,611.60 in 1962. The applicant's bonus of P1,200.00 in 1961 is only a little less than one-half of the share of the income corresponding to the partner with a contribution of P30,000.00 while his bonus of P4,000.00 for the next year is almost twice as much as the same partner's share of profit (P2,435.66) for that year.

"There is reason for the granting of simulated increases. As said in the same case of Petition for Naturalization of William Chua Siong Hua: 'Why simulated increases should be granted is not difficult to divine. Recent pronouncements of the Supreme Court have considerably increased the amount of income necessary to meet the requisite of a lucrative trade or profession. Since the rendition of those decisions, it has been noted that the income or salary of applicants for naturalization has suddenly increased, unaccompanied by any increase in their duties, the volume or profits of the business of their employer. The conclusion cannot be escaped that the increases are not real but merely paper increases, designed to circumvent the ruling of the Supreme Court.'

"A comparison of Chan's remuneration with those of the other employees of the firm similarly reinforces the conclusion that his employment is not real. The manager and assistant manager, its two highest officials, each receives P4,800.00 annually which is equivalent to the petitioner's salary and bonus in 1961 and less than his salary and bonus the succeeding year by P4,000.00. The three Filipino employees of the company, one of whom joined it even before he allegedly became a salesman, receive the minimum compensation of P4.00 a day and it

has never been raised. One of them received a bonus expense of P120.00 and the other P100.00 in the year 1962 and apparently none during the previous years while petitioner, as already said, was paid a bonus of P1,200.00 in 1961 and P4,000.00 in 1962.

"That he filed income tax returns before and after the filing of his application is of no decisive importance. Quoting once more from the case of *Petition for Naturalization of William Chua Siong Hua*: 'The income tax return is not always a reliable evidence of employment or income. No inquiry is made in every case for the purpose of determining whether the person filing it is in truth employed or receives the income he claims he has. The accomplishment of a return by one not employed may be made without much difficulty, especially when the alleged employer is a close relative who has exclusive control of his business, free to juggle its records and funds to simulate the employment of any of his kins or the receipt by him of any compensation that may be deemed necessary'."

The records fully bear out the facts relied upon in the foregoing observations. Moreover, the conclusions drawn by the trial Judge from said facts are patently justified by logic and reason, as well as by previous rulings of this Court. We cannot understand, therefore, why or how, although leaving the matter to our sound discretion, the Office of the Solicitor General could, as it does, in its brief, recommend that petitioner-appellant be allowed to take his oath as a citizen of the Philippines.

Wherefore, the order appealed from is hereby affirmed, with costs against petitioner-appellant. It is so ordered.

Bengzon, C.J., Bautista Angelo, Reyes, J.B.L., Barrera, Dizon, Regala, Makalintal, Bengzon, J.P., Zaldivar, and Sanchez, JJ., concur.

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