

**IN THE MATTER OF THE PETITION FOR ADMISSION AS CITIZEN OF
THE PHILIPPINES. SY SEE, PETITIONER AND APPELLEE, VS.
REPUBLIC OF THE PHILIPPINES, OPPOSITOR AND APPELLANT.**

G. R. No. L-17025. May 30, 1962

Ponente: LABRADOR, J.

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LABRADOR, J.:

This is an appeal from a decision of the Court of First Instance of Cebu, Honorable Jose Rodriguez, presiding, approving the naturalization of petitioner Sy See as a citizen of the Philippines.

The original petition filed by Sy See alleges that Sy See has resided in the Philippines continuously for 33 years, with a permanent place of residence at the City of Cebu; that he is exempt from the requirements of Section 5 of Commonwealth Act 473 for the reason that he has continuously resided in the Philippines for more than thirty three years and enrolled his children of school age in private schools recognized by the Philippine government. In consequence of these allegations he did not file with the Bureau of Justice a declaration under oath that it is his bona fide intention to become a citizen of the Philippines, one year prior to the filing of his petitioner, as required by Section 5 of the Naturalization Act.

At the hearing it was shown that petitioner was born in Ching kang, China on January 27, 1917 and came to the Philippines in May, 1926, establishing a permanent residence in Cebu City. He continuously resided in the Philippines for a period of thirty three years although he went out to China in 1940 to 1941 for five months and again in 1946 for three months. In 1952 he went to Hongkong for two months, in 1956 he made two other trips to Hong Kong, each time staying there for two months. In 1958 he again went to Hong Kong and stayed there for two months; so did he again in 1959, also for two months. He has five children: Sy Un, born on December 26, 1941; Sy Kay, born on October 5, 1947; Sy Bee Bee, born on June 9, 1953; Sy Bee Ley, born on March 31, 1957; and Sy Chuan, born on March 4, 1959. Sy Un was registered in the fourth year of the Cebu Kian Kee High School and Sy Kay in grade three in the month of February, 1960. Sy Un and Sy Kay arrived for the first time in the Philippines on July 10, 1959, as temporary visitors, applicant's wife and the other three children are presently residing in Hong Kong.

The Court of First Instance of Cebu having found that Sy See has the qualifications for naturalization as a Filipino citizen, the Government appealed, claiming that the lower court erred in finding that the petitioner-appellee is exempt from filing a declaration of intention, and in not dismissing the petition for applicant's failure to file such declaration of intention, and further that the applicant has not fulfilled the requirements regarding the education of his children in the Philippines.

With respect to the first assignment of error the record discloses that Sy Un was admitted to the Philippines only on July 10, 1959 and Sy Kay on the same date; Sy Un having been born on December 26, 1941, was more than seventeen years of age at the time of his admission, while Sy Kay was more than twelve years. As they arrived in the Philippines only on July 10, 1959 they must have been immediately registered upon entry, in the Cebu Kian

Kee High School (See certificate Exhibit "J"). From this it is evident that the petitioner has not given "primary and secondary education to all his children in the public schools or in private schools recognized by the government". As Sy Un and Sy Kay entered the Philippines only on July 10, 1959, before that date they must have studied, if they studied at all, in Hong Kong and not in the Philippines. The petitioner, therefore, failed to comply with the additional requirement established in Section 6 of the Naturalization Act as amended by Commonwealth Act No. 53d. Considering that this second requirement of maintaining his children in schools recognized by the Government has not been complied with by the petitioner, he is not entitled to the exemption from filing a notice of intention to become a citizen of the Philippines as required in Section 5 of the Naturalization Act.

Another requirement to exempt an applicant for naturalization from filing the notice of intention to apply for Philippine citizenship, is that the residence of the applicant in the Philippines must be continuous. The petitioner at bar was absent having gone to China on the following years and for go many months; 1941, five months; 1946, three months; 1956, two months; 1958, two months; and 1959, two months. The apparent purpose of the petitioner in going to Hong Kong was to visit his family and children who were living in China or in Hong Kong. An applicant who has left the Philippines so many times and stayed outside for so long periods of time to visit his family outside the Philippines, cannot be considered as having resided in the Philippines continuously as required by Section 5 of the Naturalization Act. The conduct of the petitioner in keeping his family in a neighboring country and continuously visiting them for periods of time extending from two months to five months, and sending his children to schools in a foreign country and not in the Philippines, does not show a sincere desire to establish himself as a Filipino citizen and embrace the customs and traditions of the Filipinos.

There is still another reason why the petitioner is not entitled to admission, and that is the commission by him of a falsehood in his application. In his application he expressly states that he has enrolled his children of school age in institutions recognized by the Philippine government, yet he sent his two elder children Sy Un and Sy Kay in Hong Kong and brought them to the Philippines only in July, 1959. It is, therefore, not true that he has sent or enrolled his children to schools recognized by the Philippine government. Having committed this falsehood in his application, which is a public instrument, petitioner cannot be said to have an irreproachable character essential for his admission as a citizen of the Philippines.

For the foregoing consideration the decision appealed from is hereby set aside and the petition dismissed, with costs against the petitioner.

Padilla, Bautista Angelo, Reyes, J. B. L., Barrera, Paredes, and Dizon, JJ., concur.
Concepcion, J. concurs in the result.

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