

IN RE PETITION FOR NATURALIZATION OF DY TIAN SIONG. DY TIAN SIONG, PETITIONER AND APPELLANT, VS. REPUBLIC OF THE PHILIPPINES, OPPOSITOR AND APPELLEE.

G. R. No. 10200. April 18, 1958

Ponente: LABRADOR, J.

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LABRADOR, J.:

Appeal from a judgment of the Court of First Instance of Manila, denying the petition of Dy Tian Siong for naturalization, on the ground that one of the material witnesses presented by the petitioner had not known the petitioner personally during the period required by the provisions of the Naturalization Law.

The evidence submitted by the petitioner, which Consists mainly of his own testimony, shows the following: The petitioner was born of Chinese parents in the City of Manila on August 22, 1922; he had resided in this country since then, except for three trips abroad; he is a merchant by trade, being a partner of Dy Tian and Co., in which company he acts as cashier; he finished first year high school in the Far Eastern University; he speaks and writes English and Tagalog, he believes in the principles underlying the Constitution; he is not a polygamist; he had conducted himself in a proper and irreproachable manner during his entire period of residence in the Philippines; etc.

In support of the petition affidavits of two witnesses were presented, namely that of Balbino Lim and that of Margarito de la Rosa. In both affidavits the affiants state that "he has personal knowledge that the petitioner is and during all such periods has been a person of good repute and morally irreproachable, * * *, and well disposed to the good order and happiness of the Philippines; * * *".

Both in the affidavit of Margarito de la Rosa as well as in his testimony before the court, he stated that he had come to know the petitioner in 1940 only when the latter was 18 years old. For this reason, the trial court held that as said witness did not have sufficient knowledge for sufficient time of the petitioner, "the Court hesitates to believe that petitioner has complied with the requirements that he has presented two credible witnesses who have known him personally for the period of time required by the Act". The trial court denied the petition, for the reason already stated, and also on the ground that petitioner has been charged with the violation of an ordinance, this case not having been finally disposed of, it having been provisionally dismissed only.

The first assignment of error made on this appeal is as follows:

"The Lower Court, erred in finding that the testimony of witness Margarito de la Rosa is inadequate to sustain the affirmation in his affidavit as to petitioner's qualifications to become a naturalized Filipino citizen."

It is contended in support thereof that even if witness De la Rosa had met the petitioner five times only and that he did not know exactly what the petitioner was doing, nevertheless the requirement of the Naturalization Law has been fully complied with, because under Section 7 of Commonwealth Act 473 the affidavits of the two witnesses must state that they personally know petitioner "for the period of time required by the Act." This argument

overlooks two requirements demanded of a petitioner for naturalization. It will be noted that the affidavit of a witness in support of a petition for naturalization, should contain statement that the affiant personally knows the petitioner to be a resident of the Philippines for a period of time required by the Act, and a person of good repute and morally irreproachable (Sec. 7, Com. Act 473). In this statement two points are embraced or included: first, the fact that affiant must know that the petitioner has been a resident of the Philippines for the period of time required by law; and second, the affiant must know that petitioner is of good repute and morally irreproachable. The affidavit submitted in pursuance of Section 7 of the Revised Naturalization Law may have been sufficient. However, aside from the requirements of an affidavit and as already indicated it is necessary that the petitioner must prove by evidence that he is of good repute and morally irreproachable. This is required expressly under Section 2, par. 3 of the said law:

"He must be of good moral character and believe in the principles underlying the Philippine Constitution, and must have conducted himself in a proper and irreproachable manner during the entire period of his residence in the Philippines in his relation with the constituted government as well as with the community in which he is living." (Commonwealth Act No. 473)

Note that the petitioner must have conducted himself in an irreproachable manner during the entire period of his residence in the Philippines.

As De la Rosa, one of the witnesses presented, had come to know personally the petitioner only in the year 1940, he could not and did not testify that the petitioner conducted himself in a proper and irreproachable manner during his entire stay in the Philippines, which dates from his birth. The testimony of De la Rosa does not show knowledge of such proper and irreproachable conduct during petitioner's stay. Even admitting that De la Rosa could have obtained information or knowledge of the previous conduct of petitioner prior to actually having been acquainted with the latter, the record fails to disclose any testimony by De la Rosa to such effect (that he had known that the petitioner had conducted himself in a proper and irreproachable manner during the entire period of his stay in the Philippines). The trial court, therefore, was correct in concluding that petitioner has not submitted sufficient evidence of his qualifications, especially as required under paragraph 3 of Section 2 of the Revised Naturalization Law.

We note that the petitioner himself had declared that his conduct was proper and irreproachable during his stay in the Philippines; but neither one of his witnesses, whether Lim or De la Rosa, ever expressly testified thereto, notwithstanding statements to that effect contained in their affidavits. It is not enough that a witness states personal knowledge of petitioner's proper and irreproachable conduct and character in his affidavit; such irreproachable character must be proved by evidence before the court and the evidence must be sufficient to satisfy the court as to the existence of such qualifications. True it is that petitioner himself testified thereto in a general manner, but we agree with the trial court that such a testimony is not sufficient to satisfy the requirements of law (Sec. 2, par. 3, CA 473) in that respect:

Wherefore, the decision of the trial court dismissing the petition for naturalization is hereby affirmed, with costs.

Montemayor, Reyes, A., Bautista Angelo, Concepcion, Reyes, J. B. L., Endencia, and Felix, JJ., concur.

Bengzon, J., concurs in the result.

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