

SIMEON TAN LIM, PETITIONER AND APPELLEE, VS. REPUBLIC OF THE PHILIPPINES, OPPOSITOR AND APPELLANT.

G.R. No. 10704. May 23, 1958

Ponente: FELIX, J.

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FELIX, J.:

The Government has appealed to this Court from a decision of the Court of First Instance of Davao, granting the petition for citizenship of Simeon Tan Lim. There is no dispute as to the facts of the case which are summarized by the lower Court as follows:

"In compliance with the Naturalization Law, the petitioner Simeon Tan Lim had filed with the Solicitor General his declaration of intention to become a Filipino citizen on January 22, 1954, one year before he filed this petition on January 25, 1955 (which was published in the Official Gazette and newspaper in accordance with the provisions of law).

During the hearing of this special case and in order to prove his good moral character and his standing in the community, the petitioner presented as his witnesses Dr. Juan Belisario and Dr. Jose Ebro, prominent residents of the City of Davao, who have known the petitioner since his childhood.

From the evidence presented, it has been disclosed that the petitioner Simeon Tan Lim (single) was born in Davao City, Philippines, on June 9, 1926, of Chinese parents. Since his birth he has stayed with his parents in Davao, with the exception of two years, that is 1946 to 1948, when he went to Shanghai in order to accompany his brother there, after which he returned to the Philippines and stayed here continuously up to the present time without leaving the Philippines any more. He studied in the Davao Chinese School for the first two years of his schooling and terminated at the Adamson school where he obtained his degree of Bachelor of Science in Chemistry (Exhibit B). During his student life he associated with Filipinos. He has a good command of the English language and at the same time has a working knowledge in both the Visayan and Tagalog dialects. Petitioner is the manager of Kwong Hoc Plantation Co., Inc., receiving a salary of P200.00 a month and has been a stockholder of the Davao Hardware Company as evidenced by Exhibit C. His capital invested in said company was originally P20,000.00 but said shares of stock were sold to his brother who is indebted to him in the sum of P12,000.00 as unpaid purchase price. His two brothers were already naturalized in accordance with the Naturalization Law. As shown by Exhibits 1 and 1-1 petitioner has no criminal record and has complied with his obligations to the Government as shown by his clearance, Exhibit H.

The Fiscal in his opposition contends that the witnesses for the petitioner are not competent to testify as to the character and conduct of the petitioner, which are questionable according to this opposition.[*] From the testimonies of said witnesses and of the petitioner himself, the Court has found out that the petitioner is a person of good moral character and his conduct is beyond reproach. The petitioner has overemphasized his loyalty to the Philippines, when, in answering to the cross-examination of the Fiscal, he testified that in case of war between Nationalist China and the Philippines, he would side the latter. No evidence was adduced by the Fiscal to disprove the good character and conduct of the petitioner.

This Court after considering the evidence presented has reached the conclusion that the petitioner has all the

qualifications to become a Filipino citizen in accordance with Commonwealth Act No. 473, as amended, by residing here in the Philippines since his birth, he having a good moral character and being a believer in the principles underlying the Philippine Constitution. He has a lucrative profession or occupation, he being the manager of Kwong Hoc Plantation Co., Inc., speaking English fluently, having a working knowledge of Visayan and Tagalog dialects and having none of the disqualifications provided for by Commonwealth Act 473, as amended.

According to the laws of the Nationalist China Filipinos could also be naturalized in that place."

Not satisfied with the decision of the lower Court, the Government filed then a notice of appeal alleging that applicant has not proven at the hearing that he possesses all the qualifications necessary for him to become a Filipino citizen, particularly, because he failed to make a showing that he believes in the principles underlying the Philippine Constitution which he must do before he can qualify as such. In this instance he contends that the lower Court erred:

- In holding that the two character witnesses presented by the petitioner whose respective affidavits are attached to his petition for naturalization were qualified to testify as to said petitioner's good moral character and conduct; and
- In granting petitioner's application for citizenship.

With regard to the first assignment of error the Solicitor General quotes the affidavits of Dr. Juan Belisario and Dr. Jose Ebro to come to the conclusion that they are defective because: (1) they are vague since they do not state the exact numbers of years the affiants therein have known the appellee; (2) the affidavit of Dr. Juan Belisario does not state that he personally knows the petitioner to be a resident of the Philippines for the period of time required by the Naturalization Law (C. A. No. 473, as amended by Act 535) ; and (3) while they state that the petitioner has all the necessary qualifications to become a citizen of the Philippines, they do not say that he is not in any way disqualified under the provisions of said law or that petitioner possesses none of the disqualifications enumerated therein.

It is to be noted, however, that in his affidavit Dr. Juan Belisario declares that "he personally knows Simeon Tan Lim since his boyhood", and as contended by counsel for the petitioner the word "boyhood" has been defined as "the state or condition of being a boy" (Webster New International Dictionary), and that the word "boy" has in turn been defined as "a male child and generally applies to males under 10 or 12 years of age" (1 Words and Phrases, 1st Series, 855). So that if we consider that at the time of the filing of the petition, or at the time the affidavits were executed petitioner was approximately 30 years of age, the inevitable conclusion would be that Dr. Juan Belisario knew the petitioner for over 10 years, or for exactly 18 years, which is more than the period of time required by law.

This fact is further substantiated by the testimony of Dr. Juan Belisario in Court, who said that he knows the parents of the applicant since he arrived (at Davao) in 1924 when he came to be their family physician, until now. It is true that elsewhere in his testimony Dr. Belisario declared that "he is not a native of Davao City" and that "I came to Davao in 1924 and left" (p. 2, t.s.n.), but counsel for petitioner attaches to his brief photostatic copies of 2 affidavits: (1) of Sulpicio de la Victoria, stenographer of the Court of First Instance of Davao, who took the testimony of Dr. Belisario (Annex A), and (2) of Dr. Belisario himself (Annex B) wherein it appears that what was actually asked to and answered by Dr. Belisario in the part of the testimony aforequoted was the following:

Q. Are you a native of Davao City?

A. No, I came to Davao in 1924 and lived here.

Q. Did you ever leave Davao?

A. Yes, during the Japanese occupation, but I returned in 1946.

On page 3 of the transcript of the stenographic notes taken of the testimony of Dr. Belisario, the following appears:

Q. With reference to the applicant, can you state to the Court since when you really knew the applicant for the first time?

A. In 1926, I knew him since he was born.

As to the affidavit of Dr. Ebro wherein he asserts that he "personally knows Simeon Tan Lim of Davao City to be a resident of the Philippines since birth", and upon considering this averment in conjunction with his testimony in Court to the effect that he knew the petitioner since he was a child, We have to conclude that they meet the requirement of Section 7 of Commonwealth Act 473 relative to the period of time that affiant must have known the petitioner.

Dr. Ebro's failure to state in his affidavit that the petitioner is not in any way disqualified under the provisions of the Naturalization Law, does not render said affidavit defective because the sweeping allegation that petitioner had all the necessary qualifications to be a Filipino citizen, necessarily carried with it the assertion that petitioner is not in any way disqualified under the provisions of the law.

Wherefore, and finding that the lower Court has not committed any of the errors attributed to it, the decision appealed from is hereby affirmed, without pronouncement as to costs.

It is so ordered.

Paras, C.J., Bengzon, Montemayor, Bautista Angelo, Labrador and Endencia, JJ., concur.

[*]The written opposition of the Provincial Fiscal also states that Simeon Tan Lim has not presented any declaration of intention to apply for Philippine citizenship with the Solicitor General previous to the filing of his application in accordance with the provisions of Article 5 of the Revised Naturalization Law. This is not so as found by the trial Judge although he did not need to file said declaration of intention, having been born in the Philippines and having received his primary and secondary education in schools recognized by the government and not limited to any race or nationality (Section 6 of Commonwealth Act No. 473, as amended by Commonwealth Act No. 535).

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