

IN RE: PETITION FOR ADMISSION TO BE A CITIZEN OF THE PHILIPPINES. ANANDRAM VALIRAM DARGANI, PETITIONER AND APPELLANT, VS. REPUBLIC OF THE PHILIPPINES, RESPONDENT AND APPELLEE.

G. R. No. 11525. December 24, 1959

Ponente: LABRADOR, J.

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LABRADOR, J.:

Appeal from a decision of the Court of First Instance of Baguio City, Hon. Jesus de Veyra, presiding, denying the petition for naturalization of Anandram Dargani, a citizen of India.

The record discloses the following: Petitioner came to the Philippines in June 1936 and left for India in 1941. In 1940, he started as a salesman of his uncle's company, the Toloram Maljimar & Co., and was obviously still employed in that capacity when he left for India in 1941.

When petitioner was in India he married an Indian citizen, and three of his four children were born there. In 1947 he returned to the Philippines. On July 13, 1952 he filed his declaration of intention to become a citizen of the Philippines and on July 15, 1955 he filed his application for naturalization. Petitioner alleges in his petition that he returned to the Philippines in 1947 soon after the resumption of the maritime transportation between the Philippines and India, and he states in his brief that he was unable to return to the Philippines from 1941 to 1947, because of the outbreak of the World War II. Witnesses Josefina Floresca and Antonio Rillera testified that they have personally known the petitioner as a student since 1936 and since his return to the Philippines.

There is no question about the qualifications of applicant for admission except the continuity of his residence, which is denied by the Government, and the competency of his witnesses as to his character and other qualifications.

The trial court gave two reasons for denying the application, namely: that petitioner has not continuously resided in the Philippines for the period of 10 years required by Section 2 of Commonwealth Act No. 473 (otherwise known as Naturalization Law), and that petitioner's witnesses have not personally known him during the same period of time.

Appellant claims that the phrase "continuous residence" does not mean actual physical presence without interruption. He argues that absence for a short time does not destroy the continuity of his residence, citing several American cases, *In re Conis*, D. C. N. Y., 35 ed. 960, 961; *U. S. vs. Cantini*, Pa., 212, F. 925, 926, 129, C. C. A. 445; *In re Schneider*, 164, F. 335, 336, and Philippine case, *Ramon Ting alias Tian Yu vs. Republic*, etc., 101 Phil., 1038; 54 Off. Gaz. (11), 3496. While these authorities cited by appellant affirm that absolute continuity without absence for short periods is not required, not one of them asserts that absence for six out of the ten years required does not disqualify an applicant. On the other hand, the Solicitor General claims that continuous physical presence is required, and this may be implied from the ruling of the Supreme Court in the case of *Domingo Dy*

alias William Dy Cinco vs. Republic, 92 Phil., 278, 48 Off. Gaz. (11), 4813 and Wilfred Yu vs. Republic, 95 Phil., 890; 50 Off. Gaz., (10), 4781.

Petitioner's claim that actual physical presence is not required everyday of the statutory period is correct. Not every absence is fatal to continuous residence. There may be a temporary absence which may not be considered as breaking the continuity of the applicant's residence, where there is "animus revertendi". It is unreasonable to interpret the phrase "continuous residence" strictly and literally. Congress could not have intended absurd interpretation of the provisions of the Naturalization Law. Thus, this Court in the case of Ramon Ting alias Ting Yu, *supra* ruled:

"The Government, however, claims that the petitioner failed to comply with the naturalization law requiring the filing of a declaration of intention to become a citizen because although he may have come to the Philippines in 1920, nevertheless, he absented himself by going back to China in 1925, and although he returned to the Philippines after six months, the continuous residence of thirty years required by law for exemption from the duty or filing the aforementioned declaration should be computed from that year, 1925, in which case, when he filed his petition for naturalization on December 15, 1950, his continuous residence was only about twenty-five years. We do not believe that a short absence from the Philippines, such as the visit made by the petitioner to China for a period of six months in 1925, should be held to interrupt his residence begun in 1920. In the case of Leon Miranda Tio Liok vs. Republic of the Philippines, G. R. No. L-4545, prom. October 29, 1952, we held that absence of short duration from the Philippines did not interrupt or affect continuous residence of thirty years required by law for exemption from the duty to file a declaration of intention." (pp. 64-65, Philippine Citizenship and Naturalization, Velayo).

Whether in the case at bar the petitioner intended to come back to the Philippines is not disclosed in the record. But his absence of six years from the Philippines is not of a short duration. Petitioner during that period got married in India and raised his children there. There is no evidence that he left properties or was engaged personally in business in the Philippines when he left for India in 1941. He was only a salesman in the company of his uncle. His purpose of leaving the country is not known and there is no evidence that when he left he had the positive intention to return. We hold that under the above circumstances his absence for six years from the country has broken the continuity of his residence. Consequently, the petition should be denied because petitioner does not have the 10-year continuous residence required by law.

Our conclusion on the first question make a consideration of the other ground of denying the petition unnecessary.

The decision appealed from is hereby affirmed, with costs against appellant.

Paras, C. J., Bengzon, Padilla, Montemayor, Bautista Angelo, Concepcio, Endencia, Barrera, and Gutierrez David, JJ., concur.

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