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

G.R. No. 11803. September 23, 1959

Ponente: GUTIERREZ DAVID, J.

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GUTIERREZ DAVID, J.:

This is an appeal taken by the Government from a decree granting appellee's petition for admission to Philippine citizenship.

The record discloses that on April 2, 1955, a Chinese named Chan Lai filed with the Court of First Instance of Manila a petition for naturalization. After the first hearing, the Solicitor General moved for the dismissal of the case, alleging that petitioner had not filed a declaration of intention and, therefore, the court had no jurisdiction to entertain the petition. Later, however, the motion to dismiss was denied, and the petitioner was ordered to continue with the presentation of his evidence.

Petitioner was able to establish that he immigrated to the Philippines in 1923; that since then he has been continuously residing in this country, except for some visits to China in 1927, 1931, 1934 and 1946; that he speaks and writes English and Tagalog; that he is engaged in the shoe business and has an annual net income of about P5,000; that he believes in the principles underlying the Philippine Constitution and has conducted himself in a proper and irreproachable manner during the entire period of his residence in the Philippines in his relations with the constituted Government as well as with the community in which he lives; that he has mingled socially with the Filipinos and has evinced a sincere desire to learn and embrace the customs, traditions and ideals of the Filipinos; that he is not opposed to organized government or affiliated with any association or group of persons who uphold and teach doctrines opposed to organized government; that he is not defending or teaching the necessity or propriety of violence, personal assault and assassination for the success and predominance of men's ideas; and that he is not a believer in the practice of polygamy and has never been convicted of any crime involving moral turpitude.

It appears that during his first visit to China, petitioner married a Chinese woman named Yao Dian Ty, with whom he has five children, namely, Siok Lou, Kim Tong, Siok Kim, Eng Kong and Eng Kiong, all of whom were born in China in the years 1932, 1934, 1935, 1936 and 1947, respectively. In December, 1954, petitioner's wife and youngest child came to the Philippines as temporary visitors. During their stay, petitioner enrolled his child in an Anglo-Chinese School, but the schooling did not last long, for after a year, both wife and child were ordered by the immigration authorities to leave the islands. During the trial of the case, however, they were here again on a temporary visa.

Finding the said Chan Lai qualified to become a Filipino citizen, the lower court, after, trial, granted his petition for naturalization.

The Solicitor General has appealed praying for the dismissal of the petition for the reason that petitioner had not filed a declaration of intention and that he had not sent his minor children to our local schools.

The Revised Naturalization Law (sec. 5, Com. Act 473) requires as a condition precedent to the consideration of any petition for naturalization that petitioner file a declaration of intention with the Solicitor General at least one year prior to the institution of the proceedings. The requirement is dispensed with, however, where" the applicant has resided continuously in the Philippines for at least 30 years before the filing of the application, provided that the applicant has given primary and secondary education to all his children in the public schools or in private schools recognized by the Government and not limited to any race or nationality (sec. 6, Com. Act 473, as amended by Com. Act 535). The same law also provides:

> "SEC. 2. Qualifications.—Subject to section four of this Act, any person having the following qualifications may become a citizen of the Philippines by naturalization:

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> "Sixth. He must have enrolled his minor children of school age, in any of the public schools or private schools recognized by the Office of Private Education of the Philippines, where Philippine history, government and civics are taught or prescribed as part of the school curriculum, during the entire period of the residence in the Philippines required of him prior to the hearing of his petition for naturalization as Philippine citizen."

It is clear from the above that the children's schooling requirement is prescribed not only for petitioner's exemption from filing a declaration of intention but also as one of the qualifications to become a citizen. In the case at bar, it would appear that four of appellee's children have always resided in China and, therefore, never went to school in the Philippines. Obviously, petitioner-appellee failed to comply with the said requirement.

The petitioner-appellee claims to be exempt from compliance with the requirement because, according to him, it has been impossible. He declared that he had long wanted to bring his family to the Philippines but could not do so due to financial difficulties; and that as soon as he was capable of supporting his family he tried to bring it here but was prevented by the last war and the immigration authorities. This explanation given by petitioner-appellee is not satisfactory. It should be remembered that the quota system of the Bureau of of Immigration became effective only in 1940 and before that time— during which petitioner-appellee made some trips to China —he could have easily secured entrance of his family to this country. What appears is that it was only since 1952 that he had tried to do so. In fact, the only tangible proof of his efforts to comply with the requirement is a letter to the Secretary of Foreign Affairs dated January 11, 1956, that is, about a year after he instituted these proceedings, requesting entrance of his wife and children as temporary visitors. The request, apparently, was not granted as to the four elder children. The lower court's statement that the immigration authorities denied petitioner-appellee's application for his family's entry to the Philippines "for no valid reason" should be rejected, for there is always the presumption that official duties have been regularly performed.

There is nothing to petitioner-appellee's pretense that in earlier years he could not afford to bring his family here. First of all, this is belied by his own testimony that in 1937 he was already a store owner. Furthermore, in the case of Tan Hi vs. Republic, 88 Phil, 117, this Court did not consider as valid excuse for non-compliance with the children's education requirement the fact that applicant could not finance the return of his minor children to the Philippines in addition to the strictness of the Philippine Immigration authorities.

As to the claim that the requirement applies only to children who are minors and of school age at the time of naturalization so that it would no longer apply to petitioner-appellee since his four children who were left in China are now of majority age, married and emancipated, the provision of law clearly and expressly requires the applicant to enroll his minor children of school age in our recognized local schools "during the entire period of

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residence required of him" (Dy Chan Tiao vs. Republic, 95 Phil., 709; Quing Ku Chay vs. Republic 94 Phil., 736; Ng Sin vs. Republic, G. R. No. L-7590, September 20, 1955). Indeed, it could not be denied that within the period of residence in the Philippines required of petitioner-appellee, all his children have been minors and of school age but that only the youngest was given education in the Philippines.

It has been held time and again that compliance with the requirement above referred to is mandatory and that non-compliance therewith is fatal to the petition for naturalization (Chua vs. Republic, 94 Phil., 700; Quing Ku Chay vs. Republic, supra: Tan vs. Republic, 94 Phil., 882; Manzano Dy Chan Tiao vs. Republic, supra: Chua Kang vs. Republic, G. R. No. L-8875, July 31, 1956; Yu Hiang vs. Republic, G. R. No. L-8387, March 23, 1956; Lim vs. Republic, G. R. No. Lr-9999, Dec. 24, 1957).

In view of the foregoing, the decision appealed from is reversed and the petition for naturalization denied. Without costs.

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

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