

JESUS LIM CHING TIAN, PETITIONER AND APPELLEE, VS. REPUBLIC OF THE PHILIPPINES, OPPOSITOR AND APPELLANT.

G.R. No. 12001. February 28, 1961

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

This is a petition for naturalization filed, by Jesus Lim Ching Tian before the Court of First Instance of Cebu. The petition is supported by a joint affidavit signed by Manuel R. Valenzuela and Vicente D. Flores who testified in court to substantiate the same. After the reception of the evidence, the court rendered judgment granting the petition. The government has appealed.

Petitioner is a citizen of Nationalist China who was born on January 24, 1933, in Amoy, China. He is the legitimate son of Lim Kim So and Too Ty also Chinese citizens who likewise owe allegiance to Nationalist China. He came to the Philippines sometime in January, 1936. He is married to Patricia Uy, a Chinese citizen, who was born in Bohol on August 25, 1929. He has been residing continuously in the Philippines since then, particularly in the City of Cebu, for a period of 20 years.

He is a businessman by profession, being the assistant manager of the business of his father established in Cebu City. He derives an income of P2,400.00 per annum, plus bonus and free board and lodging. He finished his primary and secondary education in the Philippines, having graduated with the degree of Bachelor of Science in Commerce from the University of San Carlos in 1953. He is familiar with the functions of our government and believe in the principles underlying our Constitution. He conducted himself in a proper and irreproachable manner, and was never charged with any offense, nor convicted of any crime involving moral turpitude. He knows English and speaks and writes the Cebu dialect. In short, he has allegedly all the qualifications required to become a Filipino citizen and one of the disqualifications to acquire such citizenship.

The only ground on which the government predicates this appeal is the claim that Vicente D. Flores is incompetent to act as a vouching witness of petitioner not only because he has not known him for the period required by law but also because his association with him is not sufficient to enable him to attest to his qualification to become a Filipino citizen.

There is merit in this contention. It appears that Flores met petitioner only in 1939, when he began to go to school, and again in 1940, even if his association with his family was only casual. Then he stopped seeing him because of the war that intervened. In 1947, he met him again in Cebu City when he noticed that he was working in the store of his father as assistant. He began to know him only intimately in 1950 when he used to frequent the store where he was working, but thereafter, his knowledge of him was merely intermittent and casual. All this he stated in his direct examination from which one can infer that his association with petitioner, besides not being continuous, is short of the period required by law.

That this witness is not very well acquainted with petitioner was also clearly revealed during his cross-examination. Thus, when asked how well he knew petitioner, Flores said that he did not even know how old

was he when he met him for the first time in 1939. In fact he stated that petitioner was already 15 or 16 years old at that time, and yet it appears that petitioner was born only on January 24, 1933, which means that he was only 6 years old then. Again, Flores declared that petitioner began working in the business of his father as salesman since 1950, but according to petitioner himself, the latter began working for his father in his business only from 1953 as shown by Exhibit F.

The law requires that a vouching witness should have actually known an applicant for whom he testifies for the requisite period prescribed therein to give him the necessary competence to act as such.[1] The reason behind this requirement is that a vouching witness is in a way an insurer of the character of petitioner because on his testimony the court is of necessity compelled to rely in deciding the merits of his petition.[2] It is, therefore, imperative that he be competent and reliable. And he is only competent to testify on his conduct, character and moral fitness if he has had the opportunity to observe him personally, if not intimately, during the period he has allegedly known him. Such knowledge Flores did not possess. He is, therefore, disqualified to act as character witness.

Wherefore, the decision appealed from is reversed, without pronouncement as to costs.

Bengzon, Acting C. J., Padilla, Concepcion, Reyes, J. B. L., Barrera, Paredes, and Dizon, JJ., concur.

[1] Section 7, Commonwealth Act 473, as amended.

[2] *In re Kornstein* 278 F, 182; *Cu vs. Republic*, 89 Phil., 473. See also *Singh vs. Republic*, 97 Phil., 622; 51 Off. Gaz., No. 10, 5172; *Dy Suat Hong vs. Republic*, 101 Phil., 635; 54 Off. Gaz., 2160.

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