

ROMULO QUA, PETITIONER AND APPELLANT, VS. REPUBLIC OF THE PHILIPPINES, OPPOSITOR AND APPELLEE.

G.R. No. 12279. June 30, 1959

Ponente: MONTEMAYOR, J.

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MONTEMAYOR, J.:

This is an appeal by petitioner Romulo Qua, an applicant for naturalization, from the decision of the Court of First Instance of Manila, denying his application. The Order is quite short and we are reproducing it, as follows:

"ORDER

This is a petition for naturalization of Romulo Qua, a citizen of the Nationalist Republic of China, under whose laws Filipinos may become naturalized Chinese citizens.

He was allegedly born in Manila on May 28, 1917, and has resided continuously in the Philippines since his birth and in the City of Manila at least one year prior to the filing of this petition. He is single and has been employed since 1955 and a salary of P300.00 per month in the Chua Po Choo & Co., which is a firm engaged in the textile business. He has had no formal education and acquired his knowledge of English thru private tutoring.

The petitioner has no birth certificate to prove that he was born in the Philippines. In lieu thereof he presented a certificate of the Local Civil Registrar (Exhibit C) stating that the record of births of his office does not contain the name of Romulo Qua alleged to have been born on May 28, 1917. This document is not sufficient proof of his alleged birth in this country. Aside from this, there is a strong objection of the Philippine Army Headquarters to the petitioner's application for admission as citizen of the Philippines on the ground that 'in the interest of National Security' he should not be given G-2 clearance because of an unfavorable information about him existing in the files of the General Headquarters of the Armed Forces of the Philippines (Exhibit 4). He is suspected of subversive activities. Furthermore, the evidence shows that in the course of the hearing of his application for 6-2 clearance he offered P5.00 to the investigating officer to expedite the proceeding.

Premises considered the petition for naturalization is hereby denied.

SO ORDERED.

Manila, February 15, 1957.

(Sgd.) Rafael Amparo

T. Rafael Amparo

Judge:"

According to the unrefuted testimony of the petitioner, he was born in Manila on May 28, 1917 of a Chinese father and a Filipino mother; that he has resided in the Philippines all the time up to the filing of his application for naturalization; that he had studied under a private tutor in English and attained the equivalent of second year high school; that he is a duly registered alien, being a citizen of the Republic of Nationalist China; that he is a

salesman in the Qua Po Chooh and Company, receiving a salary of P300.00 a month; that he knows the underlying principles of the Philippine Constitution; that he has mingled socially with the Filipinos and has adopted their customs, traditions and practices; that he does not believe in the practice of polygamy or in the use of force for the predominance of man's ideas; and that it is his intention in good faith to become a Filipino citizen.

The petitioner, through his counsel, tried to establish his birth in Manila by his own testimony, his Alien Certificate of Registration, his Native Born Certificate of Residence, and the testimony of Juliana Panganiban, a witness to his birth. The trial court, however, cut short her testimony, for the reason that, according to the said court, the best evidence is the record of birth.

In the case of *Chua Guan Tan vs. Republic*, 101 Phil., 164, 53 Off. Gaz., (18) 6107, thru Mr. Justice Endencia, we held that the fact of birth of petitioner was sufficiently proven, even in the absence of his certificate of birth, by the testimony of the petitioner himself, corroborated by an unsworn certificate of the doctor who purportedly attended the delivery. And in the case of *Victoriano Yap Subieng vs. Republic*, 102 Phil., 892; 56 Off. Gaz., (14) 2940, thru Mr. Justice Bautista Angelo, we again said that:

"Petitioner it is true did not file such declaration of intention, but this is because he claims to have been born in the Philippines, and this he has established not only by his own testimony and that of his father but by sufficient documentary evidence. Thus, he presented his Alien Certificate of Residence No. 40086 and his Native Born Certificate of Residence No. 57370, wherein it appears that he was born in Manila on May 5, 1923. There are official documents which were issued in due course by the immigration authorities and unless their genuineness is assailed, which was not, we have to give them due probative value. It is not therefore correct to say that the evidence of the petitioner on this point is not supported by documentary evidence."

On the basis of the two above-cited cases, it is clear that the trial court erred in ruling that in the absence of a certificate of record of birth, the birth of petitioner in Manila could not be established by any other evidence. Moreover, it has also been shown that the petitioner has resided continuously in the Philippines for more than 30 years, thereby exempting him from the requirement of filing a declaration of intention.

The main objection of the trial court to the granting of petitioner's application for naturalization was the refusal of the Philippine Army G-2 Department to give him a clearance on the ground that he was suspected by two officers of the Philippine Army of subversive activities. A G-2 agent of the Philippine Army and Manuel Maravilla, a captain of the Armed Forces of the Philippines, testified as to the supposed subversive activities of the petitioner; but both witnesses refused to specify and reveal what those supposed subversive activities were on the ground that it was confidential and also for security reasons. They even refused to name the organization or entity supposedly communistic to which the petitioner was said to belong. We can not refuse or deny a petition for naturalization on mere suspicion from the Armed Forces of the Philippines, supposed to investigate alleged subversive activities. If those suspicions are based on and supported by facts they should be placed on record so that petitioner may have an opportunity to examine them and, if possible, refute them.

On the other hand, the evidence presented on behalf of the petitioner is quite impressive. Besides the testimony of his two character witnesses, Primitivo S. Concepcion and Simeon C. Raymundo, petitioner has established the fact that he has been getting Certificates of Residence "A" and "W" for several years; that he has been paying his income taxes; that he is a Catholic and has been regularly attending church services in Binondo and Quiapo; that he has obtained a Tax Clearance certificate for Naturalization (Exhibit K); that he is a member of the Philippine Veterans Legion (Exhibit N); that he has at clearance certificate from the Manila Police Department, from the Office of the City Fiscal of Manila, from the Philippine Constabulary, from the Bureau of Immigration, from the Deportation Board, from the Court of First Instance of Manila, from the Committee on Anti-Filipino Activities, House of Representatives, from the Land Registration Commission, from the Anti-Dummy Board of the

Department of Justice, from the Central Bank of the Philippines, from the Bureau of Prisons, and from the National Intelligence Coordinating Agency. All these clearances in the form of exhibits were presented and admitted in evidence by the court without objection on the part of the Government. When he was questioned about his knowledge of the Government of, the Philippines and its high officials, his answers were more than satisfactory.

Then there is the incident that when petitioner was being investigated by the G-2 of the Philippine Army, he gave the sum of five pesos to the G-2 Agent, Fortunato P. Jose, which the latter official considered to be a sort of bribe to cut short the investigation, but which the petitioner stoutly denied claiming that he gave the money to buy food for him (petitioner) because he had not taken any breakfast in his hurry to attend the investigation at seven o'clock in the morning. This incident was investigated by the Armed Forces, but no positive step was taken toward prosecuting petitioner for the supposed attempted bribe. On the other hand, all that the Army could present in evidence is the statement made by petitioner before them (Exhibit 2) for the Government, wherein he admitted having delivered the sum of five pesos to Mr. Jose, but at the same time claimed that it was only to buy food for him because he was already feeling hungry not having had breakfast and the investigation lasted until three o'clock in the afternoon and the investigator refusing to let him go out to eat.

After the trial court had denied his application for naturalization, petitioner filed a motion for new trial on the ground of newly discovered evidence. Although said evidence may have been available during the hearing, petitioner, however, did not expect that his application would be turned down on the ground of supposedly communistic activities. Naturally, he saw no reason or necessity for presenting further evidence. He desires to be given that opportunity to present the testimonies of John E. Curtin, attorney, a U. S. citizen and a resident of Manila; and Lt. Col. Amadeo M. Cabe, Inf., P.C. whose affidavits we reproduce below to the effect that the petitioner could not possibly be or have been engaged in communist activities because he was a member of the Guerrilla during the war, that he took an important part therein. and that he also served in the U. S. Government:

"REPUBLIC OF THE PHILIPPINES
CITY OF MANILA

AFFIDAVIT

I. JOHN E. CURTIN, an attorney and United States citizen of legal age, presently residing at No. 1967 Azcarraga St., Manila, Philippine Republic, after having been duly sworn in accordance to law hereby depose and say:

That I have known ROMULO QUA, a Chinese National, residing at 209 San Vicente St., Manila, P.I. since July 1945, when I was a C.I.D. Agent for the U. S. Army.

That after a most careful background investigation particularly into any possible Communistic affiliations or connections, I had the C.I.D. employ ROMULO QUA, and had him enrolled in late 1945, as a member of the Manila Police Department. The character and background investigation of ROMULO QUA, made at that time, showed! him to be a former legitimate guerrilla of the COWHM group, and showed furthermore that he had fought in the hills for several months against the, Japanese armed forces. He was moreover &. rabid anti-communist.

ROMULO QUA worked directly under me for several months in 1945, and for two months in 1946, mainly gathering and furnishing information of the activities of the Communist Wha Chi and Kung Fan groups. His life was endangered by these groups on at least two occasions that I know of while he worked for me.

That I have known him intimately since that time for he has called on me repeatedly over and past ten years. In our conversations during these visits Qua has frequently shown his continued anti-communist feelings.

Any information that the Philippine Army's G-2 or M.I.S. sections possesses that Romulo Qua has ever participated in any subversive activity against the Philippine Government, could only have come from a most unreliable source and is totally untrue. There are few if any Chinese citizens in the Philippines who have served the Philippine government, without remuneration, more loyally than Qua. Moreover he is a man of the highest moral principles and honor, and would be an asset to the Philippines as a citizen of the Republic. In witness whereof, I have hereunto set my signature this 5th day of March, 1957, at Manila.

(Sgd.) JOHN E. CURTIN
Affiant

SUBSCRIBED AND SWORN to before me this 5th day of March, 1957, affiant exhibiting his Res. Cert. A-0884337, issued on January 11, 1957, at Kulambugan, Lanao, P.I.

(Sgd.) Joss L. Uy
(T.) Jose L. Uy
Notary Public
Until Dec. 31, 1957

Doc. No. 29;
Page No. 25;
Book No. 1
Series of 1957."

"REPUBLIC OF THE PHILIPPINES
QUEZON CITY

AFFIDAVIT

I, AMADEO M. CABA, 51 years of age, married, Lt. Colonel, Inf, PC, presently residing at 106 South 9th St., Quezon City, after having duly sworn to in accordance to law depose and say:

That I have known Romulo Qua, a Chinese National, residing at 209 San Vicente St., Manila for the last twelve years.

That I have been detailed with the Manila Police Dept. from 1945 to 1949 as Chief of its Criminal Investigation Laboratory;

That the said Romulo Qua has been employed and rendered services to the MPD and CIS of the US Army after having undergone a rigid screening of his personal background particularly with possible communistic connection;

That since the time that I have known ROMULO QUA up to the present, I have found him a loyal subject of the Nationalist government of China, a law abiding person and of good moral character;

That this affidavit is being executed to manifest the fact that ROMULO QUA has the proper qualification as a citizen of the Republic of the Philippines.

Further Affiant Sayeth Not.

(Sgd.) AMADEO M. CABA
(T.) AMADEO M. CABA

Subscribed and Sworn to before me this 6th day of March, 1957, affiant exhibiting his Res. Cert. A-4638805 issued on Jan. 11, 1957 at Quezon City, P. I.

(Sgd.) JOSE L. UY
(T.) JOSE L. UY
Notary Public
Until Dec. 31, 1957

Doc. No. 30;
Page No. 25;
Book No. 1
Series of 1957."

There is also a claim that petitioner's Filipino mother and Chinese father were never legally married which, if true, would lead to his following the Filipino citizenship of his mother, but which evidence was not presented, perhaps, because of the attitude taken by, the trial court during the hearing.

In view of the foregoing, the Order appealed from is hereby set aside and the case is remanded to the trial court for new trial so as to give petitioner as well as the Government an opportunity to present further evidence in support of or against the application for naturalization.

No costs.

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

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