

**REPUBLIC OF THE PHILIPPINES, OPPOSITOR AND APPELLANT, VS.
TAN BEE CHIU, ALIAS ALFONSO TAN, PETITIONER AND APPELLEE.***G.R. No. 12409. April 01, 1959*

Ponente: BENGZON, J.

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Challenging the Leyte court's decision, which allows Tan Bee Chiu alias Alfonso Tan to be naturalized, the Solicitor-General submits three objections, to wit:

- Lack of jurisdiction, because Tan Bee did not reside in Leyte but lived in Cebu; 2. His witnesses who lived in Leyte, could not possibly speak of his good conduct and morality; 3. No proof that Tan Bee Chiu was a citizen of Nationalist China and, therefore, eligible to Philippine citizenship.[1]

We have examined the record, and we found no good ground to sustain the first two objections. As to the first, the oppositor itself admits that petitioner was born in Hindang, Leyte, that therein he finished the elementary and secondary courses, that he worked in his father's store in the locality until he left for Cebu in 1954—one year before he filed this application—to be employed as cashier at P300.00 a month and that thereafter, he spent his weekend vacations with his parents in Hindang. This shows his legal residence in Leyte. His work in Cebu as a cashier did not, by itself, Republic of the Philippines vs. Tan Bee Chiu change his residence, where his conduct and his declarations evinced no intention to abandon it, considering specially that he returned to Hindang whenever his occupation permitted. Many doing business in Manila have preserved their residence in their respective native towns. There is no doubt that one person may actually live and work in one place, and yet continue to have his legal residence in his place of birth.[2]

This Court has ruled that residence of applicants for naturalization, means legal residence or domicile—not necessarily physical presence, actual continuous stay in one town or province.[3]

In connection with Tan Bee's stay in Cebu since 1954, the competency of his character witnesses is put in issue. Being residents of Leyte, how could they, it is asked, ascertain his conduct and activities in Cebu? It must be remembered that these witnesses knew the applicant in Leyte since 1940 and 1942 and had plenty of time to inform themselves as to his behaviour and habits. They further declared before the court that after Tan Bee had gone to Cebu they saw him on week-ends when he came back home on furloughs from that city. To qualify, the witnesses need not have seen the applicant every day and every week.

"* * * The fact that witness had not actually seen petitioner on other occasions does not mean that he cannot testify as to the moral conduct of petitioner. If the petitioner had really been unworthy, his unworthiness would have come home to the knowledge of the witness, not from observations of the petitioner himself but from other persons who could have called the attention of the witness as to such unworthiness. It is not those who have actually and continuously seen a person alone that can testify as to his good conduct and behaviour. In a community the conduct and behaviour of a person becomes known more from his reputation than from actual observation. * * *" (Yu Tong Su vs. Republic, 101 Phil., 169; 53 Off. Gaz. [15] 4825.)

"* * * one does not need to personally know another from the moment of the latter's birth or age of reason, to qualify as witness to his proper and law-abiding behaviour. Existing records, common reputation and) mutual friends and acquaintances are available sources of information. * * *" (Lay Lock vs. Republic, 102 Phil., 657; 54 Offi. Gaz. [16] 4713.)

The Pong case [4] invoked in the Republic's printed brief is different in one material aspect: There the applicant's supporting witnesses did not meet him for several years.

The third objection, however, carries weight. Except his own statements, there is no proof of applicant's pretended allegiance to Nationalist China. In the light of our views in *Cabrales Cu vs. Republic*, 97 Phil., 746; 51 Off. Gaz. (11) 5625, they seem to be insufficient, specially because he himself admitted he was not listed in the local Embassy of such Republic. Note furthermore, that his written application states he is a citizen of China, without specifying.[5] The doubt must be resolved against him[6] since he has the burden of proof.

Accordingly, the decision of the court a quo will be reversed and the application denied, with costs against appellee.

Paras, C. J., Padilla, Bautista Angela, Labrador, and Endencia, JJ., concur.

[1] Citizens of Nationalist China may be naturalized here. *Loch Ben Ping vs. Republic*, 84 Phil., 217; 47 Off. Gaz. 176 cited in *Velayo, Citizenship and Naturalization* p. 61.

[2] *Su vs. Ranillo*, 39 Off. Gaz. 1388.

[3] *King vs. Republic of the Philippines*, 89 Phil., 4.

[4] *Pong vs. Republic*, G. R. No. L-9153, May 17, 1947.

[5] If he is a subject of Communist China, it is not shown that the laws of such country admit Filipino citizenship.

[6] *U. S. vs. Manzi*, 276, U. S. 463, 467; *U. S. vs. Macintosh*, 283, U. S. 605.

CONCURRING

REYES, J. B.L. J., :

I concur, but reserve my vote on the question of the competency of the Leyte witnesses.

CONCURRING AND DISSENTING

MONTEMAYOR, J.,

If I remember correctly, during the discussion of this case, my colleagues were agreed that petitioner-appellee may file another application for naturalization wherein he may present evidence that he is a citizen of Nationalist China, the only element lacking to his becoming a Filipino citizen as decreed by the trial court. If that be the case, and in order to avoid loss of time in the filing of the corresponding new application, the publication thereof and hearing wherein all the evidence already received in this case will again be submitted in court, this case should be remanded to the trial court for further proceedings, namely for the petitioner-appellee to present evidence, if he can, that he is a citizen of Nationalist China and owes allegiance thereto, and also to explain why he was not listed in the local Embassy of the Republic of China. Judgment reversed.

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