

RAFAEL YAP ALIAS YAP HON ENG, PETITIONER AND APPELLEE, VS. REPUBLIC OF THE PHILIPPINES, OPPOSITOR AND APPELLANT.*G.R. No. 12938. July 31, 1961*

Ponente: NATIVIDAD, J.

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The petitioner, Rafael Yap alias Yap Hon Eng, filed on September 17, 1955, in the Court of First Instance of Davao a petition for naturalization as a citizen of the Philippines. The Republic of the Philippines opposed the application. After trial, the lower court rendered judgment granting petitioner's application. From this judgment, the oppositor appealed to this Court.

The facts are in the main not disputed. It appears that petitioner, Rafael Yap alias Yap Hon Eng, was born in Mati, Davao, on July 15, 1927, and is at present a citizen of the Republic of China; that his father and grandfather were old residents in the country and had voted in elections held prior to the outbreak of the Pacific War; that he has never left the Philippines since he was born; that he studied and completed in the public schools of Mati, Davao, the primary course and fifth grade of the intermediate; that he is married to Margarita Sabido, a native of San Miguel, Iloilo; that he has two children with said Margarita Sabido, the elder three years of age and the younger one year old; that he is a merchant by profession, and his average gross income from his business was P25,000.00 a year, with net earnings of from P200.00 to P250.00 a month; that he speaks and writes the English language and the Visayan dialect; that he has been associating with the Filipinos during the entire period of his residence in this country; that he has never been accused or convicted of any crime; that he believes in the principles underlying the Philippine Constitution; that he does not defend or advocate the necessity of the use of violence for the predominance of one's ideas; that he is willing to embrace the Filipino customs, traditions and ideals; that he is not afflicted with any contagious or communicable diseases; and that he owes no debts to the government.

There seems to be no question that the petitioner possesses all the qualifications prescribed in Section 2 of the Revised Naturalization Law, Commonwealth Act No. 473, and that he does not fall under any of the disqualifications enumerated in Section 4 of said Act. It is equally not disputed that he has the necessary moral, educational and economic qualifications to become a Filipino citizen, and that he desires to become one. The Solicitor-General, however, contends that the lower court committed error in granting petitioner's application. It is alleged that the latter failed to comply with the requirement of the law respecting the filing of a declaration of intention to become a citizen of the Philippines, or to make a showing that he was exempt from complying with such requirement.

We find the Solicitor-General's position well taken. Sections 5 and 6 of the Revised Naturalization Law, Commonwealth Act No. 473 provide:

"SEC. 5. Declaration of intention.—One year prior to the filing of his petition for admission to Philippine citizenship, the applicant for Philippine citizenship shall file with the Bureau of Justice (now Office of the Solicitor-General) a declaration under oath that it is bona fide his intention to become a citizen of the Philippines, Such declaration shall set forth the name, age, occupation, personal description, place of birth, last

foreign residence and allegiance, the date of arrival, the name of the vessel or aircraft, if any, in which he came to the Philippines at the time of making the declaration. No declaration shall be valid until lawful entry for permanent residence has been established and a certificate showing the date, place, and manner of his arrival has been issued. The declarant must also state that he has enrolled his minor children, if any, 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 the petition for naturalization as Philippine citizen. Each declarant must furnish two photographs of himself:

"SEC. 6. Persons exempt from requirement to make a declaration of intention.—Persons born in the Philippines and have received their primary and secondary education in public schools or those recognized by the Government and not limited to any race or nationality, and those who have resided continuously in the Philippines for a period of thirty years or more before filing their application, may be naturalized without having to make a declaration of intention upon complying with the other requirements of this Act. To such requirements shall be added that which establishes 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. The same shall be understood applicable with respect to the widow and minor children of an alien who has declared his intention to become a citizen of the Philippines and dies before he is actually naturalized (As amended by Commonwealth Act No. 535)."

This Court, interpreting the above-quoted provisions in previous cases, has held that the requirement as to the filing of declaration of intention to become a citizen of the Philippines referred to in the law is mandatory and an absolute pre-requisite to naturalization, and that failure to file the same, unless exempted under Section 6 of the law, is fatal to the application for naturalization. *Uy Yap vs. Republic*, L-4270, May 8, 1952; *Yu vs. Republic* 92 Phil., 804; *Tan vs. Republic* L-5063, April 30, 1954; *Ong Khan vs. Republic*, 109 Phil., 857; 61 Off. Gas., (3) 279; *Dy vs. Republic*, 92 Phil., 782; 48 Off. Gaz., 4813.

As we analyze the evidence, the petitioner has failed to make sufficient showing that he has complied with the requirements of the law as to the filing of a declaration of intention to become a citizen of the Philippines, or that he is exempted from complying with said requirement. The only evidence he presented on this point consists of a copy of a letter dated October 8, 1953, Exhibit, J, addressed by his counsel to the Secretary of Justice, which purports to enclose a declaration subscribed by the petitioner of his intention to become a citizen of the Philippines, and the stub of a postal money order for the sum of five pesos to cover the necessary fees. There is no showing, however, that this letter was received by the Secretary of Justice, or that the petitioner or his counsel has ever made any effort to verify said fact. The mere sending of said letter with its enclosures alone is clearly insufficient to establish compliance with the requirements of the law.

It is equally clear that the petitioner is not exempt from said requirement. When the application at bar was filed on September 17, 1955, the petitioner was only 28 years of age. He could not have had therefore 30 years continuous residence in the country before said application was filed. It is true that he was born in this country, and that he finished the primary course and the fifth grade of the intermediate in the public schools of Mati, Davao; but such fact and accomplishment fall far short of compliance with the requirement of Section 6 of Commonwealth Act No. 473, which provides that the native born, to be entitled to the exemption from filing an intention to become a citizen of the Philippines, must have finished primary and secondary education in public schools, or private schools recognized by the Government admission to which is not limited to any race or nationality. These requirements have also been held to be mandatory and an absolute pre-requisite to naturalization. *Uy Boco vs. Republic*, 85 Phil., 320; *Son vs. Republic*, 87 Phil., 666; *de la Cruz vs. Republic*, 92 Phil., 714; 49 Off. Gaz. 958; *Dy vs. Republic*, 92 Phil., 782; 49 Off. Gaz., 939.

Upon the facts, therefore, we find that the petitioner has failed to make sufficient showing to entitle him to become a citizen of the Philippines. Consequently, the judgment appealed from not being in accordance with law, the same is reversed and another is hereby entered dismissing the present proceeding, with the costs taxed against the petitioner. It is so ordered.

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

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