

ANG BUN PHEK ALIAS KUN PUE GUAN, PETITIONER AND APPELLANT, VS. REPUBLIC OF THE PHILIPPINES, OPPOSITOR AND APPELLEE.

G. R. No. 13303. December 10, 1959

Ponente: MONTEMAYOR, J.

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MONTEMAYOR, J.:

This is an appeal by petitioner Ang Bun Phek, alias Kun Pue Guan, an applicant for naturalization, from the decision of the Court of First Instance of Manila, denying his application. After the hearing where the Solicitor General appeared on behalf of the Republic of the Philippines, the trial court made the following findings of fact to which the Solicitor General in his brief agrees:

"Petitioner Ang Bun Phek was born in Ang Chu, Amoy, China, on August 5, 1928. He came to the Philippines on board the S/S TJISATANE in July, 1937, with his mother Tan Cho Kim alias Luy Ni, as son of merchant, Ang Chay Hok, already dead; and has resided continuously in the Philippines already for at least ten years, and has never left the Philippines. In 1938, he began to use the alias name of Kun Pue Guan. He is a salesman at Hua Hing Trading Co., Manila, with a salary of P250.00 a month. He is married to Constancia Lee, a Chinese, born in Manila on August 29, 1930 (Exh. D), with whom he has three daughters, named Virginia Kun, born February 5, 1955, Manila; Vivian Lee Kun, born February 4, 1956, Manila, and Veronica L. Kun, born February 9, 1957, (Exhs. K, K-1 and K-2). Petitioner and his wife and child ren are all provided with corresponding alien certificates of registration (Exhs. M, Q, R, R-1 and R-2.) Besides the Chinese language, petitioner can speak and write English and Tagalog (Exhs. S). He filed income tax returns for 1954, 1955 and 1956 and has no outstanding internal revenue tax obligation (Exhs. E, E-1, E-2 and G). He is of good moral character, and has not been prosecuted or convicted of any offense (Exhs. H, H-1, 0, 0-1 and 0-13), except for violation of ordinance in 1947, for placing garbage can early on sidewalk. During the entire period of his residence in the Philippines, he has conducted himself in a proper and irreproachable manner in his relation with the constituted authorities as well as with the community wherein he lives. (Exhs. 0, 0-1, to 0-13). He believes in the principles underlying the Philippine Constitution, and is not opposed to organized government, or affiliated with any organization which upholds and teaches doctrines opposing all organized governments, or which advocates or defends the necessity or propriety of violence, personal assault, or assassination for the success and predominance of men's ideas. He is not a polygamist or a believer in the practice of polygamy. He is not suffering from mental alienation or incurable contagious disease (Exh. P). He has always mingled socially with Filipinos, and has shown a sincere desire to learn and embrace the customs, traditions and ideals of the Filipinos. He is a subject of Nationalist China (Exhs. H and H-1) with which the Philippines is not at war, and the laws of which grant Filipinos the right to become naturalized citizens thereof."

The main reason of the trial court in denying the application is contained in the portion of its decision which we reproduce below:

"Despite all the facts abovementioned, the Court does not feel free to act favorably upon the herein petition for the reason that the petitioner has not satisfactorily established lawful entry for permanent residence in the Philippines, as required by Section 6 of the Revised Naturalization Law (C.A. No. 473). His bare testimony

that upon his arrival in Manila in July, 1937, he was issued a Landing Certificate of Residence in the name of "Ang Bun Phek", and that said document was lost in 1942 during the Japanese occupation is not only not reliable but doubtful. Petitioner declared that he came to the Islands with the mother Tan Cho Kun alias Luy Ni, in July, 1937, at the age of 9 years, but he did not present his said mother to corroborate his testimony notwithstanding the fact that he was given opportunity to do so."

The record, however, in our opinion, sufficiently establishes applicant's lawful entry for permanent residence here. In connection with said lawful entry of petitioner for permanent residence in the Philippines as required in Section 6 of the Revised Naturalization Law, the Solicitor General on page 5 of his brief, says the following:

"* * *. To establish his lawful entry, petitioner presented in evidence immigration Certificate of Residence No. 3104, dated March 23, 1946 (Exh. 'M-I', p. 21, Folder of Exhibits), the Certificate of Arrival, dated June 10, 1954 (Exh. 'L' p. 19, Folder of Exhibits), the Alien Certificate of Registration dated July 14, 1950 (Exh. 'M', p. 20, Folder of Exhibits), and the Certificate of the Bureau of Immigration to the effect that in the 1941 Master List of registered aliens on file in said office, the name of Ang Bun Phek appears

The above described documents satisfy the requirements of the law as to entry and residence. In the case of Maxwell Tong vs. Republic of the Philippines, G. R. No. L-9728, promulgated January 21, 1958, where the trial court denied the petition for naturalization, this Tribunal, through Mr. Justice Bengzon, said:

"We think the denial was erroneous. The dubious certificate (Certificate of the Deputy Commissioner, Bureau of Immigration to the effect that according to the records, the petitioner was lawfully admitted into the Philippines) was only one of the several certificates submitted by petitioner. The Immigrant Certificate of Residence introduced at the hearing as Exhibit L-5 is quite conclusive. Dated March 11, 1956, and signed by Alfredo Catolico, First Deputy Commissioner of Immigration, it certifies that herein applicant, then 27 years old, 'was admitted as an immigrant at the port of Manila and is lawfully entitled to remain in the Philippines. Surely, no better testimonial could have been produced on his right to stay here.' (P. 2, Decision on the Petition for Naturalization of Maxwell Tong.)

Even the Solicitor General representing the Government apparently agrees to our opinion as to petitioner-appellant's having established his lawful entry for permanent residence. After copying the same portion of our decision in the Maxwell Tong case (*supra*), as we have above-reproduced, said Solicitor General says on pp. 6-7 of his brief:

"* * *In view thereof the objection relied upon by the trial court on this point loses weight especially when we consider that in the Maxwell Tong case the 'records referred to is a so-called master list of aliens which was started to be prepared in 1941, and the entry with respect to petitioner was made in 1946 and the data were taken from petitioner's application dated March 1, 1946 for the issuance of an immigrant certificate of residence', while in the case under consideration, petitioner's name and corresponding data appear in the master list of 1941. * * *"

Again, in the case of Victoriano Yap Subieng vs. Republic of the Philippines, 102 Phil., 892 where petitioner Subieng presented in evidence his Alien Certificate of Residence No. A—40086 and his Native Certificate of Residence No. 57370, wherein it appears that he was born in Manila on May 5, 1923, this Tribunal, referring to said documents, through Mr. Justice Bautista Angelo, said:

"* * * These 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 petitioner on this point is not supported by documentary evidence."

In view of the foregoing, the appealed decision is hereby reversed. The application for naturalization should be granted. No costs.

Paras, C. J., Bengzon, Padilla, Bautista Angelo, Labrador, Endencia, Barrera, and Gutierrez David, JJ., concur.

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