

IN THE MATTER OF THE PETITION OF DY SHUI SHENG TO BE ADMITTED A CITIZEN OF THE PHILIPPINES. DY SHUI SHENG, PETITIONER AND APPELLEE, VS. REPUBLIC OF THE PHILIPPINES, OPPOSITOR AN...

G.R. No. 13496. April 27, 1960

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

The Solicitor General has brought this case before us on appeal from a decision of the Court of First Instance of Cebu granting the petition of Dy Shui Sheng for naturalization as a citizen of the Philippines. Appellant maintains that:

- "The lower court erred in not finding that the two character witnesses in this case have not known the petitioner for a continuous period of ten years required by law prior to the filing of the petition and are therefore incompetent.
- "The lower court erred in not finding that the evidence adduced by the petitioner is insufficient to sustain the petition.
- "The lower court erred in granting the petition. "

Section 2 of our Revised Naturalization Law requires—subject to exceptions therein specified, under which petitioner does not claim to fall—that the applicant for naturalization, be a resident of the Philippines "for a continuous period of not less than ten (10) years" prior to the filing of the application, which, in this case, took place on August 2, 1956. Moreover, section 7 of said law provides that the petition must "be supported by the affidavit of at least to (2) credible persons stating," among other things, that they "personally know the petitioner to be a resident of the Philippines for the period of time required" by said Act. Again, in *Dy Tian Siong vs. Republic*, (103 Phil., 363; 55 Off. Gaz., [3] 420) and *Alfredo Ong vs. Republic*, (103 Phil., 964; 55 Off. Gaz., [18] 3290) we held that the contents of said affidavit must be substantiated by the affiants at the hearing of the case.

The issue under the first assignment of error is whether the testimony of the affiants in the case at bar, Luciano Atillo and Raymundo A. Crystal, has borne out the contents of their respective affidavits, in so far, at least, as the requisite qualification of residence of the applicant herein.

In this connection, it appears that the latter was born in Amoy, China, on October 8, 1927. He came to the Philippines on July 30, 1937, when he was less than ten years of age. Luciano Atillo, declared on July 13, 1957, that he was 31 years of age and that he came to know. petitioner in 1937 because his (petitioner's) father then introduced him (petitioner) to said witness. This testimony is inherently incredible, for petitioner was then barely ten (10) years of age, whereas Atillo was eleven (11) years old, and it is not customary for Chinese to introduce children of such age. Besides, Atillo admitted that he lost track of petitioner from 1941 to 1948, and never saw him and knew not his whereabouts or activities during that period of time. At best, therefore, he knew the

petitioner to be a resident of the Philippines from 1937 to 1941, or 4 years, and from 1948 to 1956 (when this proceeding was instituted) or 8 years. In other words, he was not in a position to say, and did not aver, that petitioner had been a resident of the Philippines "for a continuous period of not less than ten years," prior to the filing of the petition for naturalization.

Upon the other hand, Raymundo A. Crystal, a lawyer by profession, 43 years of age, stated on July 20, 1957, in the course of his examination in chief:

"Q.—

Since when did you know the petitioner in this case?

A.—

Since 1940 when the Alien Registration Law was passed. the father of the petitioner, Dy Hu, was registered as an alien. But even before this, sometime in 1936 or 1937, this Dy Hu, father of the petitioner, was already known to me, and at that time the petitioner was still a child.

Q.—

So that it was therefore in 1936 or 1937 that you first knew the petitioner?

A.—

Yes, sir, and then in 1940, after the passage of the Alien Registration Law, I had occasion to register the father of the petitioner as an alien. I was then, working in the office of the City Treasurer of the City of Cebu as Assistant Administrative Deputy Treasurer in charge of the registration of aliens.

Q.—

While acting in such capacity in the registration of aliens, did you have occasion to register the petitioner in this case?

A.—

I remember that the petitioner was yet a minor at that time and according to law, the father will register his minor children, and so it was only the father, Dy Hu, who registered the petitioner, although I had occasion to see the child because it was required by the registering officer to personally see the minor.

Q.—

Do you know where the petitioner has been residing since 1937 until the present?

A.—

In 1937 I believe the petitioner was residing in Cebu City, although there was a break when he went to Manila.

Q.—

Can you remember the year when he went to Manila?

A.—

I believe that was sometime in 1946.

Q.—

Are you personally acquainted with the petitioner?

A.—

Yes, sir.

Q.—

In your opinion, is his character morally irreproachable?

A.—

So far, I think so." (T.s.n., pp. 3-6, session of July 20, 1957.)

The statement to the effect that petitioner had been known to Crystal since 1936 (which is impossible, for petitioner was then in China) or 1937, was placed in the mouth of the witness by a leading question propounded by counsel for petitioner. It is, also, apparent that although he may have known of the existence of Dy Hu since 1936 or 1937, they were not acquainted with each other until 1940, when Dy Hu had to register himself in the Office of Crystal in compliance with the Alien Registration Act, and that, in connection therewith, he may have seen petitioner, whose presence in said office, for purposes of said registration, was required, since 1940 only. It is inconceivable that an "Assistant Administrative Deputy Treasurer"—as Crystal called himself—would, in 1937, have any interest in, or pay any attention on a Chinese "child" barely 10 years of age that petitioner was at that time.

Again, Crystal merely expressed the belief that petitioner was residing in Cebu in 1937 and that he went to Manila in 1945. In other words, this was an opinion of Crystal, for, evidently, he had no personal knowledge about it. Being a member of the bar, the witness was cautious in his language. In fact, he was not a disinterested witness. He was counsel for petitioner, according to the latter, although Crystal did not enter his appearance as such counsel in the present case. Crystal admitted, however, that petitioner's declaration of intention was notarized before him, and that it was he who filed it with the Department of Justice in Manila, thereby making a trip therefor from Cebu. In fact, he—an employee in the office of the City Treasurer of Cebu—claimed to have gone several times to the house of petitioner's father, Dy Hu, to deliver licenses issued presumably in his favor by said

office.

At any rate, from 1945 to 1948, Crystal did not see the petitioner herein. So that, even if we gave full faith and credence to his testimony—and, in the light of the foregoing facts and the other circumstances disclosed by the records, we find it difficult to do so—he could not legally vouch for petitioner's residence in the Philippines except from 1937 to 1945 and from 1948 to 1956—not for a "continuous period of not less than ten years."

As regards the second assignment of error, the testimony of Atillo, regarding the possession by petitioner of the other qualifications provided by law, was: "I think the petitioner has a respectable conduct. I am sure he can be an asset to the country, if admitted as a Philippine citizen rather than a liability," whereas, Crystal limited himself to stating, "I believe the petitioner is qualified to become a Filipino citizen." In other words, both made a general statement of their opinion on the subject. Neither gave the facts establishing the assertion in their affidavit relative to the possession by petitioner herein of the qualifications and none of the disqualifications to become a citizen of the Philippines. In the aforementioned naturalization case of Alfredo Ong, we held:

"* * * when the law ordains that certain specified statements be made in said, affidavits, it follows, as an inevitable corollary, that those statements must be established, on the witness stand, by the testimony of the affiants themselves. In other words, petitioner must prove by the testimony of, at least, two (2) credible persons, whose affidavits are attached to the petition:

- That they are citizens of the Philippines;
- That they are 'credible persons';
- That they personally know the petitioner;
- That they personally know him to be a resident of the Philippines for the period of time required by law;
- That they personally know him to be a person of good repute;
- That they personally know him to be morally irreproachable;
- That he has, in their opinion, all the qualifications necessary to become a citizen of the Philippines; and
- That he is not in any way disqualified under the provisions of the Naturalization Law." (Alfredo Ong vs. Republic, G. R. No. L-10642, May 30, 1958.)

This has not been, done in the case at bar.

Lastly, the Revised Naturalization Law requires that the petition for naturalization be supported by the affidavit of two (2) "credible persons". In said case of Alfredo Ong we, likewise, stated:

"* * * Within the purview of the Naturalization Law, a 'credible' person is, to our mind, not only an individual who has not been previously convicted of a crime; who is not a police character and has no police record; who has not perjured in the past; or whose 'affidavit' or testimony is not incredible. What must be 'credible' is not the declaration made, but the person making it. This implies that such person must have a good standing in the community; that he is known to be honest and upright; that he is reputed to be trust-worthy and reliable; and that his word may be taken on its face value, as a good warranty of the worthiness of the petitioner. Thus, in Cu vs. Republic, G. R. No. L-3018 (decided on July 18, 1951), we declared that said affiants 'are in a way insurers of the character of the candidate concerned.' Indeed, by their affidavits, they do not merely make the statements herein contained. They also vouch for the applicant, attest to the merits of his petition and sort of underwrite the same." (Ong vs. Republic, supra.)

In the case before us there is no evidence that petitioner's witnesses "have a good standing in the community," or

that they are "known to be honest and upright" or "reputed to be trustworthy or reliable."

Wherefore, the decision appealed from is reversed and the petition for naturalization herein hereby denied, with costs against the petitioner.

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

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