

IN THE MATTER OF THE PETITION OF ONG CHING GUAN TO BE ADMITTED A CITIZEN OF THE PHILIPPINES. ONG CHING GUAN, PETITIONER AND APPELLANT, VS. REPUBLIC OF THE PHILIPPINES, OPPOSITOR...

G.R. No. 15691. March 27, 1961

Ponente: LABRADOR, J.

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LABRADOR, J.:

Appeal from an order dated May 14, 1959 of the Court of First Instance of Manila, Hon. Carmelino G. Alvendia presiding, denying, upon motion for reconsideration, the petition to take oath of allegiance as Filipino citizen filed by Ong Ching Guan, a Chinese national. The order is however, without prejudice to the filing of another petition after the lapse of two years from the date of said order.

Ong Ching Guan filed on September 11, 1954, a petition for naturalization in the Court of First Instance of Manila (docketed as Civil Case No. 23989), alleging therein, among others, as follows: "At present my children are not yet of school age and I hereby bind to enroll them in schools and colleges duly recognized by the Republic of the Philippines when they become of school age" (par. 10-Petition). After trial the court below rendered a decision on September 29, 1956, declaring petitioner qualified for citizenship. In the decision, the court found the following facts:

"* * * The children of the petitioner being still below school age during the trial are not enrolled in any school. However, during his testimony, the petitioner promised that as soon as his children reach school age, he shall enroll them in school duly recognized by the Republic of the Philippines, where such subjects as History of the Philippines, Government and Civics are taught and where most of the students are Filipino citizens." (p. 9, Record on Appeal)

Two years thereafter, and more particularly on September 24, 1958, petitioner filed a petition to take the oath of allegiance. After trial the court below denied the petition to take oath, so petitioner filed on November 20, 1958, a motion for reconsideration. This was also denied because there is no assurance that once petitioner is allowed to take oath he will not transfer his children of school age again to a Chinese school. However, petitioner was given a chance to refile the petition after the lapse of two years, for the purpose of enabling the court and other government agencies to observe once more his conduct. This appeal is against this court order.

The Solicitor General filed a motion to be excused from filing a brief, for no reason that:

"* * * after careful going over the records of the case, it is believed that there is no legal basis to support the order of the court denying the petition to take oath of allegiance." (par. 3, motion)

The only question for determination involves the correctness of the order appealed from.

Under the provisions of Republic Act No. 530, a decision granting an application for naturalization shall not become executory, until after two years from the promulgation of the decision, and after another hearing is

conducted to determine whether or not the applicant has complied, with the requirements of Section 1 thereof. During the hearing on the petition to take oath, any question affecting the qualifications of the applicant may be invoked (*Lim Hok Albano vs. Republic*, 104 Phil., 795;). We can, therefore, inquire in this appeal whether or not applicant is not disqualified for naturalization.

The evidence shows that before petitioner's children were enrolled in St. Stephen's High School, and that Johnny Ong, one of petitioner's children of school age, finished Grade I in the latter school. The court below refused to allow petitioner to take oath because he failed to establish that St. Stephen's High School is not exclusively established for Chinese citizens.

We have reviewed the evidence presented at the hearing of the motion for reconsideration, and we find that the said St. Stephen's High School, in which applicant's children were enrolled, is an exclusive school for Chinese, the only non-Chinese students being children of teachers of the school. In our opinion, the act of the applicant in enrolling his children in this exclusive Chinese school, inspite of the injunction contained in the original decision that he will enroll his children in school duly recognized by the Republic of the Philippines, evinces a tendency or desire on his part to segregate his children from Filipino school children. One of the essential requisites for naturalization is the actual desire and overt acts on the part of the applicant for naturalization to mingle and associate with Filipinos. The purpose of this policy is to permit gradual assimilation of naturalized citizens. It would be violative of this policy to admit aliens who evince a desire to preserve their identity as aliens. We find, therefore that the applicant for naturalization has not proved his intention to have himself and his children associate with or be assimilated into the Philippine citizenry. Consequently to this finding, we declare that the applicant herein does not possess the qualifications requisite for naturalization.

Wherefore, the decision admitting petitioner for naturalization is hereby set aside and his petition, dismissed. With costs.

Bengzon, Acting C. J., Padilla, Bautista Angelo, Concepcion, Reyes, J. B. L. Barrera, Paredes, and Dizon, JJ., concur.

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