

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. KERRY LAO ONG, RESPONDENT.

G.R. No. 175430. June 18, 2012

Ponente: DEL CASTILLO, J.

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DEL CASTILLO, J.:

Naturalization laws are strictly construed in the government's favor and against the applicant.[1] The applicant carries the burden of proving his full compliance with the requirements of law.[2]

Before the Court is the Republic's appeal of the appellate court's Decision[3] dated May 13, 2006 in CA-G.R. CV No. 74794, which affirmed the trial court's grant of citizenship to respondent Kerry Lao Ong (Ong). The Court of Appeals (CA) held:

With all the foregoing, We find no cogent reason to reverse the decision of the court a quo.

WHEREFORE, the decision of the Regional Trial Court of Cebu City, 7th Judicial Region, Branch 9 in its Decision dated November 23, 2001, is AFFIRMED in toto and the instant appeal is DISMISSED.

SO ORDERED.[4]

Factual Antecedents

On November 26, 1996, respondent Ong, then 38 years old,[5] filed a Petition for Naturalization.[6] The case was docketed as Nat. Case No. 930 and assigned to Branch 9 of the Regional Trial Court of Cebu City. As decreed by Commonwealth Act No. 473, as amended by Republic Act No. 530, known as the Revised Naturalization Law,[7] the petition was published in the Official Gazette[8] and a newspaper of general circulation,[9] and posted in a public place for three consecutive weeks,[10] six months before the initial hearing.[11] The Office of the Solicitor General entered its appearance and authorized[12] the city prosecutor to appear on its behalf.[13] Accordingly, Fiscals Ester Veloso and Perla Centino participated in the proceedings below.

Respondent Ong was born at the Cebu General Hospital in Cebu City to Chinese citizens Siao Hwa Uy Ong and Flora Ong on March 4, 1958.[14] He is registered as a resident alien and possesses an alien certificate of registration[15] and a native-born certificate of residence[16] from the Bureau of Immigration. He has been continuously and permanently residing[17] in the Philippines from birth up to the present.[18] Ong can speak[19] and write in Tagalog, English, Cebuano, and Amoy.[20] He took his elementary[21] and high school[22] studies at the Sacred Heart School for Boys in Cebu City, where social studies, Pilipino, religion, and the Philippine Constitution are taught. He then obtained a degree in Bachelor of Science in Management from the Ateneo De Manila University on March 18, 1978.[23]

On February 1, 1981, he married Griselda S. Yap, also a Chinese citizen.[24] They have four children,[25] namely, Kerri Gail (born on April 15, 1983),[26] Kimberley Grace (born on May 15, 1984),[27] Kyle Gervin (born on November 4, 1986),[28] and Kevin Griffith (born on August 21, 1993),[29] who were all born and

raised in the Philippines. The children of school age were enrolled[30] at the Sacred Heart School for Boys[31] and Sacred Heart School for Girls.[32] At the time of the filing of the petition, Ong, his wife, and children were living at No. 55 Eagle Street, Sto. Niño Village, Banilad, Cebu City.

Ong has lived at the following addresses:[33]

- Manalili Street, Cebu City (when Ong was in Grade 2)[34]
- Crystal Compound Guadalupe, Cebu City (until 1970)[35]
- No. 671 A.S. Fortuna Street, Cebu City (until 1992)[36]
- No. 55 Eagle Street, Sto. Niño Village, Banilad, Cebu City (until 1998);[37] and
- No. 50 Roselle Street, North Town Homes, Nasipit, Talamban, Cebu City (present).[38]

Ong alleged in his petition that he has been a “businessman/business manager” since 1989, earning an average annual income of P150,000.00.[39] When he testified, however, he said that he has been a businessman since he graduated from college in 1978.[40] Moreover, Ong did not specify or describe the nature of his business. [41]

As proof of his income, Ong presented four tax returns for the years 1994 to 1997.[42] Based on these returns, Ong’s gross annual income was P60,000.00 for 1994; P118,000.00 for 1995; P118,000.00 for 1996; and P128,000.00 for 1997.

Respondent further testified that he socializes[43] with Filipinos; celebrates the Sinulog, fiestas, birthdays, and Christmas.[44] He is a member of the Alert/ React VII Communications Group and the Masonic organization.[45]

Respondent Ong presented a health certificate to prove[46] that he is of sound physical and mental health.[47] As shown by the clearances from the National Bureau of Investigation,[48] the Philippine National Police,[49] the trial courts,[50] and the barangay,[51] he has no criminal record or pending criminal charges.[52]

Respondent presented Rudy Carvajal (Carvajal) and Bernard Sepulveda (Sepulveda) as his character witnesses. At that time, Sepulveda was the vice-mayor of Borbon, Cebu.[53] He has known Ong since 1970 because Ong is the close friend of Sepulveda’s brother.[54] He testified that Ong is very helpful in the community and adopts the Filipino culture.[55] Meanwhile, Carvajal testified that he has known Ong since the 1970s because they were high school classmates.[56] He testified that Ong is morally irreproachable and possesses all the qualifications to be a good citizen of the Philippines.[57] Carvajal is a businessman engaged in leasing office spaces.[58]

On November 23, 2001, the trial court granted Ong’s petition. Among other things, the trial court held that:

x x x x

By the testimonial and documentary evidence adduced by the [respondent], the following facts had been established.[59]

x x x x

x x x [Respondent] is a businessman/business manager engaged in lawful trade and business since 1989 from which he derives an average annual income of more than One Hundred Fifty Thousand Pesos (Exhibit U, V, W, and X with sub-markings); x x x[60]

The dispositive portion of the trial court’s Decision reads:

From the evidence presented by [respondent], this Court believes and so holds that [respondent] possesses all the qualifications and none of the disqualifications provided for by law to become a citizen of the Philippines.

WHEREFORE, premises considered, the petition is hereby GRANTED. Accordingly, [respondent] KERRY LAO ONG is hereby admitted as citizen of the Republic of the Philippines.

SO ORDERED.[61]

Republic's Appeal

On January 31, 2003, the Republic, through the Solicitor General, appealed

to the CA. The Republic faulted the trial court for granting Ong's petition despite his failure to prove that he possesses a known lucrative trade, profession or lawful occupation as required under Section 2, fourth paragraph of the Revised Naturalization Law.[62]

The Republic posited that, contrary to the trial court's finding, respondent Ong did not prove his allegation that he is a businessman/business manager earning an average income of P150,000.00 since 1989. His income tax returns belie the value of his income. Moreover, he failed to present evidence on the nature of his profession or trade, which is the source of his income. Considering that he has four minor children (all attending exclusive private schools), he has declared no other property and/or bank deposits, and he has not declared owning a family home, his alleged income cannot be considered lucrative. Under the circumstances, the Republic maintained that respondent Ong is not qualified as he does not possess a definite and existing business or trade.[63]

Respondent Ong conceded that the Supreme Court has adopted a higher standard of income for applicants for naturalization.[64] He likewise conceded that the legal definition of lucrative income is the existence of an appreciable margin of his income over his expenses.[65] It is his position that his income, together with that of his wife, created an appreciable margin over their expenses.[66] Moreover, the steady increase in his income, as evidenced in his tax returns, proved that he is gainfully employed.[67]

The appellate court dismissed the Republic's appeal. It explained:

In the case at bar, the [respondent] chose to present [pieces of evidence] which relates [sic] to his lucrative trade, profession or lawful occupation. Judging from the present standard of living and the personal circumstances of the [respondent] using the present time as the index for the income stated by the [respondent], it may appear that the [respondent] has no lucrative employment. However, We must be mindful that the petition for naturalization was filed in 1996, which is already ten years ago. It is of judicial notice that the value of the peso has taken a considerable plunge in value since that time up to the present. Nonetheless, if We consider the income earned at that time, the ages of the children of the [respondent], the employment of his wife, We can say that there is an appreciable margin of his income over his expenses as to be able to provide for an adequate support.[68]

The appellate court denied the Republic's motion for reconsideration[69] in its Resolution dated November 7, 2006.[70]

Issue

Whether respondent Ong has proved that he has some known lucrative trade, profession or lawful occupation in accordance with Section 2, fourth paragraph of the Revised Naturalization Law.

Petitioner's Arguments

Petitioner assigns as error the appellate court's ruling that "there is an appreciable margin of (respondent's) income over his expenses as to be able to provide for an adequate support." [71] The Republic contends that the CA's conclusion is not supported by the evidence on record and by the prevailing law.[72]

The only pieces of evidence presented by Ong to prove that he qualifies under Section 2, fourth paragraph of the

Revised Naturalization Law, are his tax returns for the years 1994 to 1997, which show that Ong earns from P60,000.00 to P128,000.00 annually. This declared income is far from the legal requirement of lucrative income. It is not sufficient to provide for the needs of a family of six, with four children of school age.[73]

Moreover, none of these tax returns describes the source of Ong's income, much less can they describe the lawful nature thereof.[74] The Republic also noted that Ong did not even attempt to describe what business he is engaged in. Thus, the trial and appellate courts' shared conclusion that Ong is a businessman is grounded entirely on speculation, surmises or conjectures.[75]

The Republic thus prays for the reversal of the appellate court's Decision and the denial of Ong's petition for naturalization.[76]

Respondent's Arguments

Respondent asks for the denial of the petition as it seeks a review of factual findings, which review is improper in a Rule 45 petition.[77] He further submits that his tax returns support the conclusion that he is engaged in lucrative trade.[78]

Our Ruling

The courts must always be mindful that naturalization proceedings are imbued with the highest public interest.[79] Naturalization laws should be rigidly enforced and strictly construed in favor of the government and against the applicant.[80] The burden of proof rests upon the applicant to show full and

complete compliance with the requirements of law.[81]

In the case at bar, the controversy revolves around respondent Ong's compliance with the qualification found in Section 2, fourth paragraph of the Revised Naturalization Law, which provides:

SECTION 2. Qualifications. – Subject to section four of this Act, any person having the following qualifications may become a citizen of the Philippines by naturalization:

x x x x

Fourth. He must own real estate in the Philippines worth not less than five thousand pesos, Philippine currency, or must have some known lucrative trade, profession, or lawful occupation;

x x x x[82]

Based on jurisprudence, the qualification of "some known lucrative trade, profession, or lawful occupation" means "not only that the person having the employment gets enough for his ordinary necessities in life. It must be shown that the employment gives one an income such that there is an appreciable margin of his income over his expenses as to be able to provide for an adequate support in the event of unemployment, sickness, or disability to work and thus avoid one's becoming the object of charity or a public charge." [83] His income should permit "him and the members of his family to live with reasonable comfort, in accordance with the prevailing standard of living, and consistently with the demands of human dignity, at this stage of our civilization." [84]

Moreover, it has been held that in determining the existence of a lucrative

income, the courts should consider only the applicant's income; his or her spouse's income should not be included in the assessment. The spouse's additional income is immaterial "for under the law the petitioner should be the one to possess 'some known lucrative trade, profession or lawful occupation' to qualify him to become a Filipino citizen." [85] Lastly, the Court has consistently held that the applicant's qualifications must be

determined as of the time of the filing of his petition.[86]

Going over the decisions of the courts below, the Court finds that the foregoing guidelines have not been observed. To recall, respondent Ong and his witnesses testified that Ong is a businessman but none of them identified Ong's business or described its nature. The Court finds it suspect that Ong did not even testify as to the nature of his business, whereas his witness Carvajal did with respect to his own (leasing of office space). A comparison of their respective testimonies is reproduced below:

Carvajal's testimony

Q: You said earlier that you are a businessman?

A: Yes, Sir.

Q: How long have you been a businessman?

A: Since 1980.

Q: And what is the business you are engaged in?

A: I am into leasing of office spaces.[87]

Kerry Lao Ong's testimony

Q: What is your present occupation, Mr. Ong?

A: Businessman.

Q: Since when have you engaged in that occupation?

A: After graduation from college.[88]

The dearth of documentary evidence compounds the inadequacy of the testimonial evidence. The applicant provided no documentary evidence, like business permits, registration, official receipts, or other business records to demonstrate his proprietorship or participation in a business. Instead, Ong relied on his general assertions to prove his possession of "some known lucrative trade, profession or lawful occupation." Bare, general assertions cannot discharge the burden of proof that is required of an applicant for naturalization.

The paucity of evidence is unmistakable upon a reading of the trial court's decision. The trial court held that respondent Ong "is a businessman engaged in lawful trade and business since 1989"[89] but did not cite the evidence, which supports such finding. After poring over the records, the Court finds that the reason for the lack of citation is the absence of evidence to support such conclusion. The trial court's conclusion that Ong has been a businessman since 1989 is only an assertion found in Ong's petition for naturalization.[90] But, on the witness stand, Ong did not affirm this assertion. Instead, he testified that he had been a businessman since he graduated from college, which was in 1978.[91]

Further, the trial court, citing Exhibits U, V, W, and X (which are Ong's tax returns), mistakenly found that Ong "derives an average annual income of more than One Hundred Fifty Thousand Pesos." [92] This conclusion is not supported by the evidence. The cited tax returns show that Ong's gross annual income for the years 1994 to 1997 were P60,000.00, P118,000.00, P118,000.00, and P128,000.00, respectively. The average annual income from these tax returns is P106,000.00 only, not P150,000.00 as the trial court held. It appears that the trial court again derived its conclusion from an assertion in Ong's petition,[93] but not from the evidence.

As for the CA, it no longer ruled on the question whether Ong has a known business or trade. Instead, it ruled on the issue whether Ong's income, as evidenced by his tax returns, can be considered lucrative in 1996. In determining this issue, the CA considered the ages of Ong's children, the income that he earned in 1996, and the fact that Ong's wife was also employed at that time. It then concluded that there is an appreciable margin of

Ong's income over his expenses.[94]

The Court finds the appellate court's decision erroneous. First, it should not have included the spouse's income in its assessment of Ong's lucrative income.[95] Second, it failed to consider the following circumstances which have a bearing on Ong's expenses vis-à-vis his income: (a) that Ong does not own real property; (b) that his proven average gross annual income around the time of his application, which was only P106,000.00, had to provide for the education of his four minor children; and (c) that Ong's children were all studying in exclusive private schools in Cebu City. Third, the CA did not explain how it arrived at the conclusion that Ong's income had an appreciable margin over his known expenses.

Ong's gross income might have been sufficient to meet his family's basic needs, but there is simply no sufficient proof that it was enough to create an appreciable margin of income over expenses. Without an appreciable margin of his income over his family's expenses, his income cannot be expected to provide him and his family "with adequate support in the event of unemployment, sickness, or disability to work." [96]

Clearly, therefore, respondent Ong failed to prove that he possesses the qualification of a known lucrative trade provided in Section 2, fourth paragraph, of the Revised Naturalization Law.[97]

The Court finds no merit in respondent's submission that a Rule 45 petition precludes a review of the factual findings of the courts below.[98] In the first place, the trial court and appellate court's decisions contain conclusions that are bereft of evidentiary support or factual basis, which is a known exception[99] to the general rule that only questions of law may be entertained in a Rule 45 petition.

Moreover, a review of the decisions involving petitions for naturalization shows that the Court is not precluded from reviewing the factual existence of the applicant's qualifications. In fact, jurisprudence holds that the entire records of the naturalization case are open for consideration in an appeal to this Court.[100] Indeed, "[a] naturalization proceeding is so infused with public interest that it has been differently categorized and given special treatment. x x x [U]nlike in ordinary judicial contest, the granting of a petition for naturalization does not preclude the reopening of that case and giving the government another opportunity to present new evidence. A decision or order granting citizenship will not even constitute *res judicata* to any matter or reason supporting a subsequent judgment cancelling the certification of naturalization already granted, on the ground that it had been illegally or fraudulently procured. For the same reason, issues even if not raised in the lower court may be entertained on appeal. As the matters brought to the attention of this Court x x x involve facts contained in the disputed decision of the lower court and admitted by the parties in their pleadings, the present proceeding may be considered adequate for the purpose of determining the correctness or incorrectness of said decision, in the light of the law and extant jurisprudence." [101] In the case at bar, there is even no need to present new evidence. A careful review of the extant records suffices to hold that respondent Ong has not proven his possession of a "known lucrative trade, profession or lawful occupation" to qualify for naturalization.

WHEREFORE, premises considered, the petition of the Republic of the Philippines is GRANTED. The Decision dated May 13, 2006 of the Court of Appeals in CA-G.R. CV No. 74794 is REVERSED and SET ASIDE. The Petition for Naturalization of Kerry Lao Ong is DENIED for failure to comply with Section 2, fourth paragraph, of Commonwealth Act No. 473, as amended.

SO ORDERED.

Leonardo-De Castro,[*] (Acting Chairperson), Bersamin, Villarama, Jr., and Perlas-Bernabe,**] JJ., concur.

[*] Per Special Order No. 1226 dated May 30, 2012.

[**] Per Special Order No. 1227 dated May 30, 2012.

[1] Republic v. Hong, 520 Phil. 276, 285 (2006); Ong Chia v. Republic, 385 Phil. 487, 498 (2000).

[2] Republic v. Hong, 520 Phil. 276, 285 (2006); Tiu v. Republic, 158 Phil. 1137, 1138 (1974); Que Tiac v. Republic, 150 Phil. 68, 86 (1972).

[3] Rollo, pp. 28-34.

[4] CA Decision, p. 7; id. at 33; penned by Associate Justice Enrico A. Lanzas and concurred in by Associate Justices Pampio A. Abarintos and Apolinario D. Bruselas, Jr.

[5] SECTION 2. Qualifications. – Subject to section four of this Act, any person having the following qualifications may become a citizen of the Philippines by naturalization:

First. He must be not less than twenty-one years of age on the day of the hearing of the petition;

x x x x (COMMONWEALTH ACT No. 473, as amended)

[6] Records, pp. 1-9.

[7] ENTITLED AN ACT TO PROVIDE FOR THE ACQUISITION OF PHILIPPINE CITIZENSHIP BY NATURALIZATION, AND TO REPEAL ACTS NUMBERED TWENTY-NINE HUNDRED AND TWENTY-SEVEN AND THIRTY-FOUR HUNDRED AND FORTY-EIGHT, as amended.

[8] Records, p. 18-A (Exhibit “H”), pp. 65-68, 262-264, 461-464.

[9] Id. at 19 (Exhibit “I”), pp. 20-22.

[10] Id. at 16 (Exhibit “F”).

[11] Section 9. Notification and Appearance. – Immediately upon the filing of a petition, it shall be the duty of the clerk of the court to publish the same at petitioner’s expense, once a week for three consecutive weeks, in the Official Gazette, and in one of the newspapers of general circulation in the province where the petitioner resides, and to have copies of said petition and a general notice of the hearing posted in a public and conspicuous place in his office or in the building where said office is located, setting forth in such notice the name, birthplace and residence of the petitioner, the date and place of his arrival in the Philippines, the names of the witnesses whom the petitioner proposes to introduce in support of his petition, and the date of the hearing of the petition, which hearing shall not be held within ninety days from the date of the last publication of the notice. x x x (COMMONWEALTH ACT No. 473, as amended)

[12] Records, pp. 25-26.

[13] Section 10. Hearing of the Petition. – x x x The hearing shall be public, and the Solicitor-General, either himself or through his delegate or the provincial fiscal concerned, shall appear on behalf of the Commonwealth of the Philippines at all the proceedings and at the hearing. x x x (COMMONWEALTH ACT No. 473, as amended).

[14] Respondent’s Certificate of Live Birth (Records, p. 530).

[15] Records, p. 531 (Exhibit “N”).

[16] Id. at 532 (Exhibit “N-1”).

[17] Section 2. Qualifications. – x x x

x x x x

Second. He must have resided in the Philippines for a continuous period of not less than ten years;

x x x x (COMMONWEALTH ACT No. 473, as amended)

[18] Kerry Lao Ong's direct examination, TSN dated November 26, 1998, pp. 5-6.

[19] Section 2. Qualifications. – x x x

x x x x

Fifth. He must be able to speak and write English or Spanish and any of the principal Philippine languages;

x x x x (COMMONWEALTH ACT No. 473, as amended)

[20] Kerry Lao Ong's direct examination, TSN dated November 26, 1998, p. 12.

[21] Records, p. 526 (Exhibit "J").

[22] Id. at 527 (Exhibit "K").

[23] Id. at 528-529 (Exhibits "L" and "L-1").

[24] Id. at 534 (Exhibit "O").

[25] Section 7. Petition for Citizenship. – Any person desiring to acquire Philippine citizenship shall file with the competent court, a petition in triplicate, accompanied by two photographs of the petitioner, setting forth x x x whether single or married and if the father of children, the name, age, birthplace and residence of the wife and of each of the children; x x x (COMMONWEALTH ACT No. 473, as amended)

[26] Records, p. 536-A (Exhibit "Q").

[27] Id. at 536 (Exhibit "R").

[28] Id. at 537 (Exhibit "S").

[29] Id. at 538 (Exhibit "T").

[30] Section 2. Qualifications. – x x x

x x x x

Sixth. He must have enrolled his minor children of school age, 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 his petition for naturalization as Philippine citizen. (COMMONWEALTH ACT No. 473, as amended)

[31] Records, p. 559 (Exhibit "FF").

[32] Id. at 560 (Exhibit "GG").

[33] Section 7. Petition for Citizenship. – Any person desiring to acquire Philippine citizenship shall file with the competent court, a petition in triplicate, accompanied by two photographs of the petitioner, setting forth x x x his present and former places of residence x x x (COMMONWEALTH ACT No. 473, as amended)

[34] Kerry Lao Ong's direct examination, TSN dated November 26, 1998, p. 5.

[35] Id.

[36] Id.

[37] Id. at 6.

[38] Id. at 2.

[39] Records, p. 3.

[40] Id. at 528-529 (Exhibits “L” and “L-1”).

[41] Kerry Lao Ong’s direct testimony, TSN dated November 26, 1998, p. 11.

[42] Records, pp. 539-545 (Exhibits “U-X”).

[43] Section 4. Who are disqualified. The following can not be naturalized as Philippine citizens:

x x x x

(f) Persons who, during the period of their residence in the Philippines, have not mingled socially with the Filipinos, or who have not evinced a sincere desire to learn and embrace the customs, traditions, and ideals of the Filipinos;

x x x x (COMMONWEALTH ACT No. 473, as amended)

[44] Kerry Lao Ong’s direct examination, TSN dated November 26, 1998, p. 15.

[45] Id. at 16.

[46] Records, p. 556 (Exhibit CC).

[47] Section 4. Who are disqualified. The following can not be naturalized as Philippine citizens:

x x x x

(e) Persons suffering from mental alienation or incurable contagious diseases;

x x x x (COMMONWEALTH ACT No. 473, as amended)

[48] Records, p. 548 (Exhibit “Y”).

[49] Id. at 549 (Exhibit “Z”).

[50] Id. at 550-551 (Exhibits “AA” and “BB”).

[51] Id. at 557 (Exhibit “DD”).

[52] Section 4. WHO ARE DISQUALIFIED. The following can not be naturalized as Philippine citizens:

x x x x

(d) Persons convicted of crimes involving moral turpitude;

x x x x (COMMONWEALTH ACT No. 473, as amended)

[53] Bernard Sepulveda’s direct examination, TSN dated February 11, 1999, p. 7.

[54] Id.

[55] Id. at 9.

[56] Rudy Carvajal's direct examination, TSN dated February 11, 1999, p. 3.

[57] Id. at 4-5.

[58] Id. at 4.

[59] RTC Decision, p. 2; rollo, p. 52; penned by Judge Benigno G. Gaviola.

[60] Id. at 3; id. at 53.

[61] Id. at 4-5; id. at 54-55.

[62] SECTION 2. Qualifications. – Subject to section four of this Act, any person having the following qualifications may become a citizen of the Philippines by naturalization:

x x x x

Fourth. He must own real estate in the Philippines worth not less than five thousand pesos, Philippine currency, or must have some known lucrative trade, profession, or lawful occupation;

x x x x (COMMONWEALTH ACT No. 473, as amended; emphasis supplied.)

[63] Appellant's Brief, pp. 11-13; CA rollo, pp. 24-26.

[64] Appellee's Brief, p. 5; id. at 52.

[65] Id. at 7; id. at 54.

[66] Id. at 6-7; id. at 53-54.

[67] Id. at 6; id. at 53.

[68] CA Decision, p. 7; rollo, p. 33.

[69] CA rollo, pp. 74-82.

[70] Rollo, p. 35; penned by Associate Justice Pampio A. Abarintos and concurred in by Associate Justices Agustin S. Dizon and Priscilla Baltazar-Padilla.

[71] CA Decision, p. 7; rollo, p. 33.

[72] Petitioner's Memorandum, p. 11; id. at 146.

[73] Id. at 15-17; id. at 152-154.

[74] Id. at 12-13; id. at 149-150.

[75] Id. at 11-12; id. at 148-149.

[76] Id. at 18-19; id. at 155-156.

[77] Respondent's Memorandum, pp. 9-12; id. at 127-130.

[78] Id. at 13-16; id. at 131-134.

[79] Republic v. Hong, supra note 1.

[80] Ong Chia v. Republic, supra note 1; Republic v. Hong, supra note 1.

[81] Republic v. Hong, supra note 1; Que Tiac v. Republic, supra note 2; Tiu v. Republic, supra note 2.

[82] COMMONWEALTH ACT NO. 473, as amended.

[83] In the Matter of the Petition of Ban Uan, 154 Phil. 552, 554 (1974); In the Matter of the Petition of Tiong v. Republic, 157 Phil. 107, 108-109 (1974); Tan v. Republic, 121 Phil. 643, 647 (1965) (Emphasis supplied.).

[84] Chua Kian Lai v. Republic, 158 Phil. 44, 48 (1974); In the Matter of the Petition of Tiong v. Republic, supra at 109; In the Matter of the Petition of Ban Uan, supra at 555; Chiao v. Republic, 154 Phil. 8, 13 (1974); Watt v. Republic, 150-B Phil. 610, 632 (1972) (Emphasis supplied.)

[85] Li Tong Pek v. Republic, 122 Phil. 828, 832 (1965). See also Uy v. Republic, 120 Phil. 973, 976 (1964).

[86] Chiu Bok v. Republic, 245 Phil. 144, 146 (1988); Teh San v. Republic, 132 Phil. 221, 222 (1968); Lim Uy v. Republic, 121 Phil. 1181, 1190 (1965); Ong Tai v. Republic, 120 Phil. 1345, 1348-1349 (1964).

[87] Rudy Carvajal's direct testimony, TSN dated February 11, 1999, p. 4.

[88] Kerry Lao Ong's direct testimony, TSN dated November 26, 1998, p. 11.

[89] RTC Decision, p. 3; rollo, p. 53.

[90] Records, p. 3.

[91] Kerry Lao Ong's direct testimony, TSN dated November 26, 1998, p. 11.

[92] Records, p. 3; rollo, p. 53.

[93] Id.

[94] CA Decision, p. 7; rollo, p. 33.

[95] Li Tong Pek v. Republic, supra note 85. See also Uy v. Republic, supra note 85.

[96] In the Matter of the Petition of Tiong v. Republic, supra note 83; In the Matter of the Petition of Ban Uan, supra note 83; Tan v. Republic, supra note 83 (Emphasis supplied.)

[97] Chiu Bok v. Republic, supra note 86 at 146-147 (1988); Chua Kian Lai v. Republic, supra note 84 at 48-49 (1974); In the Matter of the Petition of Tiong v. Republic, supra note 83 at 109; Ong v. Republic, 156 Phil. 690, 692 (1974); In the Matter of the Petition of Ban Uan, supra note 83 at 554-555; Que Tiac v. Republic, supra note 2 at 100; Uy v. Republic, 147 Phil. 230, 233-234 (1971); Li Tong Pek v. Republic, supra note 85 at 831-832; Uy Ching Ho v. Republic, 121 Phil. 402, 406-407 (1965); Keng Giok v. Republic, 112 Phil. 986, 991-992 (1961).

[98] Respondent's Memorandum, pp. 9-12; rollo, pp. 127-130.

[99] As a rule, findings of fact of the CA are binding and conclusive upon this Court, and will not be reviewed or disturbed on appeal unless the case falls under any of the following recognized exceptions: "(1) when the inference made is manifestly mistaken, absurd or impossible; (2) when there is a grave abuse of discretion; (3) when the finding is grounded entirely on speculations, surmises or conjectures; (4) when the judgment of the CA is based on a misapprehension of facts; (5) when the findings of facts are conflicting; (6) when the CA, in making its findings, went beyond the issues of the case, and those findings are contrary to the admissions of both appellant and appellee; (7) when the findings of the CA are contrary to those of the trial court; (8) when the findings of fact are conclusions without citation of specific evidence on which they are based; (9) when the CA manifestly overlooked certain relevant facts not disputed by the parties and which, if properly considered, would justify a different conclusion; and, (10) when the findings of fact of the CA are premised on the absence of

evidence and are contradicted by the evidence on record.” (Bank of the Philippine Islands v. Reyes, G.R. No. 157177, February 11, 2008, 544 SCRA 206, 215). Emphasis supplied.

[100] Go Im Ty v. Republic, 124 Phil. 187, 196 (1966); Tio Tek Chai v. Republic, 120 Phil. 1010, 1013 (1964).

[101] Republic v. Reyes, 122 Phil. 931, 934 (1965).

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