

BENJAMIN CHUA, PETITIONER AND APPELLANT, VS. REPUBLIC OF THE PHILIPPINES, OPPOSITOR AND APPELLEE.

G.R. No. 19776. September 29, 1964

Ponente: REYES, J.B.L., J.

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REYES, J.B.L., J.:

Appeal taken from a decision rendered on 3 March 1962 by the Court of First Instance of Negros Occidental, in its Civil Case No. 6022, denying the petition of appellant Benjamin Chua to be admitted to naturalization as a citizen of the Republic of the Philippines.

The denial of naturalization was predicated by the trial court upon the finding that (1) it was not satisfactorily proved that during the applicant's residence in the Philippines he had mingled socially with the Filipinos or evinced a sincere desire to learn and embrace the customs, traditions and ideals of the Filipinos; (2) nor had he shown that the laws of his country permit Filipinos to be naturalized therein as citizens; and (3) that the applicant failed to produce any certificate showing the date, place, and manner of his arrival in the Philippines.

Appellant challenges such findings of the trial court. With regard to the first ground of denial, appellant points to this receipts for contributions given to the Red Cross (Exhibit "U"), to the expenses of public school players of Saravia, Negros Occidental (Exhibit "V"), to the Pueri-culture Center of Saravia (Exhibit "W"), to the Saravia Police Force Christmas Fund (Exhibit "X"), as well as his membership in the Social Security System (Exhibit "BB"). None of these exhibits, in our opinion, establishes that appellant has mingled socially with Filipinos, since charitable contributions can be made without any significant social intercourse. To mingle socially, an applicant must deal with and receive Filipinos in his home, and visit Filipino homes in a spirit of friendliness and equality without any discrimination.

It is likewise pointed out that applicant testified:

"Q. Have you mingled with Filipinos?

A. Yes sir."

while the witness Jochico attested in court the following:

"Q. Do you know if the petitioner mingles with the Filipinos?

Q. Does he go to parties with Filipinos?

A. Yes sir."

As correctly observed by the lower court, this evidence is insufficient to establish the requirements of law. Testimony that appellant "mingles" with Filipinos is too general, and is pure opinion that cannot bind the court. The law requires that an applicant should "mingle socially" with Filipinos as a fact, and is not content with personal beliefs to that effect. The burden laid on an applicant to affirmatively show that he maintains social

delations with Filipinos must be shown by concrete instances (with dates, places and names) that will satisfy a court that the disqualification established by Section 4(f) of the Naturalization Law does not exist. Similarly, that the applicant should go to parties with Filipinos is too general a statement, lacking in any details as to how he deals with or treats the Filipinos he goes with, and whether the going to parties is habitual or not. Finally, it is to be noted that the law demands that the "social mingling" take place during the entire period of the applicant's residence in the Philippines (he claims to have been here since 1934) in order to preclude any temporary sporadic social intercourse set up only for naturalization purposes.

Upon the other hand, the fact that after twenty-seven (27) years' residence in the Islands applicant could only recall Rizal and Mabini among Filipino national heroes strongly supports the lower court's view that applicant has not really mingled with Filipinos in society, nor desired to learn and embrace their ideals and traditions.

Anent his failure to prove that the laws of his nation (Chinese Republic) grant Filipinos the reciprocal right to become citizens by naturalization, appellant pleads that prior decisions of this Court in 1948 (Yap vs. Solicitor General, 81 Phil., 468, 46 Off. Gaz., Supp. No. 1, p. 250) have recognized that Chinese law grant such right to Filipinos. What this argument overlooks is that the law in 1948 was not necessarily the law in 1961, when applicant's case was tried. Laws are not irrepealable, and it behooved this applicant to fully establish that his nation granted reciprocal rights to our citizens at the time his application is heard. The burden of proof in this regard lay on this applicant, not on the Government, since the lack of mutuality is a disqualification for him, and under the Philippine naturalization law the applicant must show not only that he possesses the requisite qualifications but also that he has none of the disqualifications specified by the statute.

Appellant also assigns as error that the lower court held against him that he did not attach to his petition his certificate of arrival in the Philippines. He avers that the pre-war records of the Bureau of Immigration were lost during the last Pacific war, and that he so informed the Solicitor General's Office. But as observed by the latter under section 7 of the Naturalization Law, it is mandatory for the applicant to attach to his petition for naturalization a copy of his certificate of arrival, or without it or other proof of lawful admission his residence is presumptively unlawful (Chan vs. Republic, 108, Phil., 882; Sy Hong vs. Comm. of Immigration, L-10224, May 11, 1957); and if the certificate had been lost, the least that applicant should have done was to aver such loss and submit secondary proof of the existence and contents of the lost certificate.

It is unnecessary to determine whether this applicant can be said to hold a lucrative position or profession, considering that his salary is only P325.00 a month, and with it he has to support a wife and three children, besides himself.

Finding that the court a quo did not commit any of the errors assigned, and that the appeal is without merit, the decision appealed from is affirmed, with costs against appellant.

Bengzon, C.J., Bautista Angelo, Concepcion, Paredes, Dizon, Regala, Makalintal, Bengzon, J.P., and Zaldivar, JJ., concur.

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