

**IN THE MATTER OF THE PETITION TO BE ADMITTED A CITIZEN OF
THE PHILIP-PINES. HO NGO, PETITIONER-APPELLANT, VS.
REPUBLIC OF THE PHILIPPINES, OPPOSITOR-APPELLEE.**

G.R. No. 24335. November 18, 1967

Ponente: CASTRO, J.

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CASTRO, J.:

On June 22, 1960 the Court of First Instance of Manila in civil case 4208,[1] rendered judgment granting the petition for naturalization of Ho Ngo. On June 27, 1963 Ho filed a motion to be allowed to take oath as a Filipino citizen. After a hearing on the motion, the Republic of the Philippines filed an "opposition end motion to dismiss petition". The court denied Ho's motion in its order of December 15, 1964.

Hence this appeal.

The order of December 15, 1964 is unassailable.

1. Ho's petition for naturalization is fatally defective.[2] It does not state his previous places of resident, namely, Alabat, Tayabas (now Quezon), no. 13 9 de Febrero, Mandaluyong Rizal, and 1240 Rizal Avenue, Caloocan, Rizal. This defect, affecting as it does the very jurisdiction of the lower court,[3] may be raised in issue at any stage of the proceedings - at the hearing on the petition for naturalization or at the hearing on the motion to be allowed to take oath as a Filipino citizen.

2. In the publication of the petition, Ho's aliases, "Wong Sing" and "Cheng", which he was using without judicial authority in violation of the Anti-Alias Law, were omitted. This omission adversely affects the validity of the naturalization proceedings, constitutes a serious impediment to the grant of naturalization,[4] and impairs the jurisdiction of the lower court.[5]

3. The petitioner does not have a lucrative or gainful employment. His income tax returns for 1960-1963, a period of four years, show a total income of P36,235. Deductible therefrom, not forming part of lucrative income, is the amount of P4,200 which he received as bonus.[6] This, leaves a balance of P32,035.00. He had, therefore, an average annual income of P8,008.00, or an average monthly income of about P667. With a wife and eight children to support, six of the latter in school, five of them enrolled in the Holy Child Catholic School in Tondo, Manila, the petitioner's income can meet only the bare necessities of life. For an employment to be considered lucrative or gainful, 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 or 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.”[7]
(emphasis supplied)

The petitioner is the sole breadwinner of the family and works at the Great Eastern Hotel and at the Holsum Foods Inc. at an average of 15 hours a day, with scarcely enough time for rest and sleep. Should he fall ill because of

de-terioration of his health, he, his wife and children could become public charges or the objects of charity.

The preceding disquisition makes it unnecessary for us to pass upon the other errors imputed to the lower court.

ACCORDINGLY, the order a quo of December 15, 1964 is affirmed, at petitioner's cost.

Concepcion, C.J., Reyes, Dizon, Makalintal, Bengzon, Zaldivar, Sanchez, Angeles and Fernando, JJ., concur.

[1] "Ho Ngo, petitioner vs. Republic of the Philippines, Government-oppositor."

[2] Dalmacio Cheng vs. Republic, L-20013, March 30, 1965; Tai vs. Republic, L-19418, Dec. 23, 1964.

[3] Ao San vs. Republic, L-21128, Aug. 19, 1967, and the cases therein cited.

[4] Celerino Yu Seco vs. Republic, L-13441, June 30, 1960.

[5] Ang Tee Yee vs. Republic, L-20305, March 31, 1965.

[6] Bonus does not come up to the category of lucrative income, being purely contingent, accidental or incidental; it springs from the purely voluntary actuations of an employer; it is conditioned to the circumstance that the latter was making profit. (Yu Kian Chie vs. Republic, L-20169, Feb. 26, 1965).

[7] Felix Tan vs. Republic, L-19580, April 30, 1965.

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