

IN THE MATTER OF THE PETITION OF SIA PAW ALIAS SIA FOW ALIAS GASPAR SIA TO BE ADMITTED A CITIZEN OF THE PHILIPPINES. SIA PAW ALIAS SIA FOW ALIAS GASPAR SIA, PETITIONER-APPELLEE...

G.R. No. 24782. November 17, 1967

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BENGZON, J.P., J:

Sia Faw alias Sia Fow alias Gaspar Sia, a citizen of the Republic of China, filed on September 15, 1961 a petition for naturalization in the Court of First Instance of Leyte. Alleged, among other things, in his petition were the following: Petitioner was born in Canton, China on November 29, 1935; he came to the Philippines on January 27, 1939; he resided continuously in Mabini St., Ormoc City; he finished Bachelor of Science in Mechanical Engineering; and he is single and is employed in Walter Johnson & Co., with a salary of P250.00 a month, free board and lodging.

After trial with the Republic thru the City Fiscal filing its opposition, the petition was granted by the court on June 14, 1962. Appeal from the decision by the Fiscal was denied for having been filed out of time.

Petitioner, after two years, on August 3, 1964, filed in said case a motion to declare the judgment final and executory, praying that he be allowed to take his oath and be issued his certificate of naturalization. The motion was set for hearing on September 1, 1964. After said hearing, in which the Fiscal appeared for the Solicitor General, the court issued on the same day an order declaring its decision final and executory and ruling that petitioner be admitted as a Filipino citizen after taking oath as soon as said order itself becomes final and executory.

Subsequently, on September 7, 1964, the Solicitor General filed an opposition to the oath-taking; on September 10, 1964, the Fiscal moved for a rehearing based on the Solicitor General's objections raising lack of good moral character and lucrative income. Acting thereon and on petitioner's opposition, the court denied the motion for rehearing. The Solicitor General appealed to Us from the order of September 1, 1964, granting the motion to take oath.

Petitioner's qualifications may still be questioned at this stage. In *Lim Chiao Cun v. Republic*,^[1] reiterating previous rulings, We held that the State may not only interpose an appeal from a decision granting the petition for naturalization, but it is not even precluded from objecting to petitioner's qualifications at the time when he petitions to take oath.

At issue, therefore, is whether petitioner has the qualifications of good moral character and of a lucrative trade, profession or lawful occupation.

The rule is: Financial capacity is determined as of the time of the filing of the petition for naturalization.^[2] Petitioner admits in his brief (p. 4) that in the year 1961 his income did not exceed the statutory minimum (P1,800.00 for the year), for which reason he did not file an income tax return corresponding to that year. This

would therefore amount to only P150.00 a month plus free board and lodging. In previous cases, We ruled that even for an unmarried applicant, P200.00 a month, with free board and lodging, is not a lucrative income.[3]

Assuming that petitioner's income was, as alleged in his petition, P250.00 a month, free board and lodging, the same would only come up to around P300.00 a month, allowing P50.00 for said board and lodging. And P300.00 a month, likewise, is not lucrative even for an applicant who is single.[4]

The foregoing renders it unnecessary to pass upon the other points raised by appellant regarding the requisite of good moral character.

WHEREFORE, the appealed order is hereby reversed, the petition to take oath is hereby denied and the petition for naturalization is therefore denied. No costs.

SO ORDERED.

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

[1] L-21952, May 19, 1966.

[2] Ong Tai v. Republic, L-19418, December 23, 1964.

[3] Yap v. Republic, L-20372, May 14, 1966; Chan v. Republic, L-22352, June 30, 1966.

[4] Kock Tee Yap v. Republic, L-20992, May 14, 1966.

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