

**CLAUDIO LUCIO (ALIAS TAN CAUCO), PETITIONER AND APPELLEE,
VS. THE GOVERNMENT OF THE PHILIPPINE ISLANDS, RESPONDENT
AND APPELLANT.**

G.R. No. 27240, February 25, 1928

Ponente: VILLAMOR, J.

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VILLAMOR, J.:

On July 29, 1925, Claudio Lucio alias Tan Cauco filed an application for Philippine citizenship in the Court of First Instance of Palawan, alleging:

That he is a merchant, married, 61 years of age and a resident of the municipality of Puerto Princesa, Province of Palawan, Philippine Islands;

That he is a native of Ankee, Emuy, China, having come to the Philippine Islands in September, 1881, disembarking at the port of Manila;

That he has resided in the Philippine Islands from September, 1881, with the exception of the years 1885, 1891, 1899, 1905 and 1914 when he went to visit his relatives in China, and from 1914 up to the present time he has continuously, and without interruption, resided in the Philippine Islands;

That he is legally married to Siy Jon, a native of, and at present residing in Ankee, Emuy, China and has had four children by her named Tan Kimchong, Tan Geok Poey, Tan Geok Thian and Tan Yong Bey, age 36, 31, 11 and 10 years respectively, all of whom were born in Ankee, Emuy, China, the first two being residents of Puerto Princesa, Province of Palawan, Philippine Islands, and the other two of Ankee, Emuy, China;

That he possesses the qualification required by Act No. 2927 in order to become a Philippine citizen, namely that he has had five years continuous residence in the Philippine Islands; has conducted himself in an irreproachable manner during said period without having committed any crime or misdemeanor; possesses real estate valued at fifteen thousand pesos more or less, and can speak and write Spanish and cuyunu (a local native dialect);

That he possesses none of the disqualifications to become a Philippine citizen under the provisions of said Act No 2927;

That by virtue of the foregoing, the petitioner desires to make application to become a Philippine citizen for the purpose of obtaining the rights and privileges of a Philippine citizen, at the same time renouncing his citizenship as a Chinese subject under the Government of China;

That for the purposes of this petition there are attached thereto affidavits of two persons of good reputation; citizens of the Philippine Islands, who are acquainted with the petitioner;

That at the trial of the case the testimony of Anastasio Manalo and Pedro O. Borja, residents of Puerto Princesa, Province of Palawan, as witnesses will be submitted;

Therefore, he prays the court to grant his petition to become a Philippine citizen, conceding him all the rights and privileges that the court may deem just and proper.

Said petition was published in the Official Gazette once a week for three consecutive weeks, and a copy of the notification was also posted in a public and conspicuous place in the office of the clerk of the court.

On April 24, 1926, after the evidence had been introduced, the court rendered a decision declaring that the petitioner Claudio Lucio alias Tan Cauco was entitled to become a Philippine citizen and ordered the clerk of the court to issue the proper certificate of Philippine citizenship to the petitioner after the decision became final.

On June 5, 1926, the provincial fiscal, on behalf of the Attorney-General, moved for a new trial on the ground that the decision rendered is manifestly contrary to law.

The provincial fiscal's motion was heard and on December 13, 1926, the court denied the motion upon the ground that neither the Attorney-General nor the provincial fiscal had filed their appearance in the case and for the reason, furthermore, that the petitioner was duly notified of the decision rendered in this case on April 28, 1926 and therefore said decision became final and subject to execution. The provincial fiscal excepted to this ruling and with permission of the court perfected his appeal, filing the proper bill of exceptions.

The Attorney-General alleges that the lower court erred: (1) In holding that a native of Emuy, China, can be naturalized, and (2) in denying the motion for a new trial. The Act of Congress of March 23, 1912 amending section 4 of the Act of July 1, 1902, entitled "An Act temporarily to provide for the administration of the affairs of civil government in the Philippine Islands, and for other purposes," is as follows:

"SEC. 4. That all inhabitants of the Philippine Islands continuing to reside therein who were Spanish subjects on the eleventh day of April, eighteen hundred and ninety-nine, and then resided in said Islands, and their children born subsequent thereto, shall be deemed and held to be citizens of the Philippine Islands and as such entitled to the protection of the United States, except such as shall have elected to preserve their allegiance to the Crown of Spain in accordance with the provisions of the treaty of peace between the United States and Spain signed at Paris December tenth, eighteen hundred and ninety-eight: Provided, That the Philippine Legislature is hereby authorized to provide by law for the acquisition of Philippine citizenship by those natives of the Philippine Islands who do not come within the foregoing provisions, the natives of other insular possessions of the United States, and such other persons residing in the Philippine Islands who could become citizens of the United States under the laws of the United States if residing therein."

Consequently, the Philippine Legislature passed Act No. 2927, section 1 of which provides:

"Philippine citizenship may be acquired by: (a) Natives of the Philippines who are not citizens thereof under the Jones Law; (b) natives of the other Insular possessions of the United States; (c) citizens of the United States, or foreigners who under the laws of the United States may become citizens of said country if residing therein."

According to the terms of the petition above quoted, the petitioner does not come under subsections (a) and (b) of section 1 of said Act No. 2927. Neither does he come under section (c), because, according to its proper interpretation, he is a foreigner who, under the laws of the United States, cannot become a citizen of that country.

"A person of the Mongolian race, either Chinese, Japanese, or Burmese, cannot be naturalized, even in view of honorable service in the army or navy." (2 C. J., p. 1114.)

"That hereafter no State court or court of the United States shall admit Chinese to citizenship; and all laws in conflict with this act are hereby repealed." (Sec. 14, Act of Congress, May 6, 1882; 2 Fed. Stat. Ann., p. 79.)

Under the second assignment of error the Attorney General contends that he or his deputy or the provincial fiscal can appear on behalf of the Government in all proceedings of this kind, and for that reason the notification of the petitioner published in the Official Gazette is addressed to the Attorney-General. In accordance with section 8 of Act No. 2927, the trial court committed an error in denying the motion for a new trial, being obliged to grant the same in order to hear counsel for the government.

Under the allegations of the petition and by virtue of the Act of Congress of the United States of March 23, 1912 before cited, and Act No. 2927 the petition for naturalization presented in this proceeding can in no way be granted. Therefore, the judgment appealed from is reversed and the petition for Philippine citizenship of Claudio Lucio alias Tan Cauco must be, as it is hereby, denied, without any special pronouncement as to costs. So ordered.

Johnson, Malcolm, Ostrand, Johns, Romualdez, and Villa-Real, JJ., concur.

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