

FIRST DIVISION

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

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

DECISION

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]

1. Manalili Street, Cebu City (when Ong was in Grade 2)^[34]
2. Crystal Compound Guadalupe, Cebu City (until 1970)^[35]
3. No. 671 A.S. Fortuna Street, Cebu City (until 1992)^[36]
4. No. 55 Eagle Street, Sto. Niño Village, Banilad, Cebu City (until 1998);^[37] and
5. 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;***