

## SECOND DIVISION

[ G.R. No. 127240, March 27, 2000 ]

### ONG CHIA, PETITIONER, VS. REPUBLIC OF THE PHILIPPINES AND THE COURT OF APPEALS, RESPONDENTS.

#### DECISION

##### MENDOZA, J.:

This is a petition for review of the decision<sup>[1]</sup> of the Court of Appeals reversing the decision of the Regional Trial Court, Branch 24, Koronadal, South Cotabato<sup>[2]</sup> admitting petitioner Ong Chia to Philippines citizenship.

The facts are as follows:

Petitioner was born on January 1, 1923 in Amoy, China. In 1932, as a nine-year old boy, he arrived at the port of Manila on board the vessel "Angking." Since then, he has stayed in the Philippines where he found employment and eventually started his own business, married a Filipina, with whom he had four children. On July 4, 1989, at the age of 66, he filed a verified petition to be admitted as a Filipino citizen under C.A. No. 473, otherwise known as the Revised Naturalization Law, as amended. Petitioner, after stating his qualifications as required in §2, and lack of the disqualifications enumerated in §3 of the law, stated -

17. That he has heretofore made (a) petition for citizenship under the provisions of Letter of Instruction No.270 with the Special Committee on Naturalization, Office of the Solicitor General, Manila, docketed as SCN Case No.031776, but the same was not acted upon owing to the fact that the said Special Committee on Naturalization was not reconstituted after the February, 1986 revolution such that processing of petitions for naturalization by administrative process was suspended;

During the hearings, petitioner testified as to his qualifications and presented three witnesses to corroborate his testimony. So impressed was Prosecutor Isaac Alvero V. Moran with the testimony of petitioner that, upon being asked by the court whether the State intended to present any witness against him, he remarked:

Actually, Your Honor, with the testimony of the petitioner himself which is rather surprising, in the sense that he seems to be well-versed with the major portion of the history of the Philippines, so, on our part, we are convinced, Your Honor Please, that petitioner really deserves to be admitted as a citizen of the Philippines. And for this reason, we do not wish to present any evidence to counteract or refute the testimony of the witnesses for the petitioner, as well as the petitioner himself.<sup>[3]</sup>

Accordingly, on August 25, 1999, the trial court granted the petition and admitted petitioner to Philippine citizenship. The State, however, through the Office of the Solicitor General, appealed contending that petitioner: (1) failed to state all the names by which he is or had been known; (2) failed to state all his former places of residence in violation of C.A. No. 473, §7; (3) failed to conduct himself in a proper and irreproachable manner during his entire stay in the Philippines, in violation of §2; (4) has no known lucrative trade or occupation and his previous incomes have been insufficient or misdeclared, also in contravention of §2; and (5) failed to support his petition with the appropriate documentary evidence.<sup>[4]</sup>

Annexed to the State's appellant's brief was a copy of a 1977 petition for naturalization filed by petitioner with the Special Committee on Naturalization in SCN Case No. 031767,<sup>[5]</sup> in which petitioner stated that in addition to his name of "Ong Chia," he had likewise been known since childhood as "Loreto Chia Ong." As petitioner, however, failed to state this other name in his 1989 petition for naturalization, it was contended that his petition must fail.<sup>[6]</sup> The state also annexed income tax returns<sup>[7]</sup> allegedly filed by petitioner from 1973 to 1977 to show that his net income could hardly support himself and his family. To prove that petitioner failed to conduct himself in a proper and irreproachable manner during his stay in the Philippines, the State contended that, although petitioner claimed that he and Ramona Villaruel had been married twice, once before a judge in 1953, and then again in church in 1977, petitioner actually lived with his wife without the benefit of marriage from 1953 until they were married in 1977. It was alleged that petitioner failed to present his 1953 marriage contract, if there be any. The State also annexed a copy of petitioner's 1977 marriage contract<sup>[8]</sup> and a Joint-Affidavit<sup>[9]</sup> executed by petitioner and his wife. These documents show that when petitioner married Ramona Villaruel on February 23, 1977, no marriage license had been required in accordance with Art.76 of the Civil Code because petitioner and Ramona Villaruel had been living together as husband and wife since 1953 without the benefit of marriage. This, according to the State, belies his claim that when he started living with his wife in 1953, they had already been married.

The State also argued that, as shown by petitioner's Immigrant Certificate of Residence,<sup>[10]</sup> petitioner resided at "J.M. Basa Street, Iloilo," but he did not include said address in his petition.

On November 15, 1996, the Court of Appeals rendered its decision which, as already noted, reversed the trial court and denied petitioner's application for naturalization. It ruled that due to the importance of naturalization cases, the State is not precluded from raising questions not presented in the lower court and brought up for the first time on appeal.<sup>[11]</sup> The appellate court held:

As correctly observed by the Office of the Solicitor General, petitioner Ong Chia failed to state in this present petition for naturalization his other name, "LORETO CHIA ONG," which name appeared in his previous application under Letter of Instruction No.270. Names and pseudonyms must be stated in the petition for naturalization and failure to include the same militates against a decision in his favor...This is a mandatory requirement to allow those persons who know (petitioner) by those other

names to come forward and inform the authorities of any legal objection which might adversely affect his application for citizenship.

Furthermore, Ong Chia failed to disclose in his petition for naturalization that he formerly resided in "J.M. Basa St., Iloilo" and "Alimodian, Iloilo." Section 7 of the Revised Naturalization Law requires the applicant to state in his petition "his present and former places of residence." This requirement is mandatory and failure of the petitioner to comply with it is fatal to the petition. As explained by the Court, the reason for the provision is to give the public, as well as the investigating agencies of the government, upon the publication of the petition, an opportunity to be informed thereof and voice their objections against the petitioner. By failing to comply with this provision, the petitioner is depriving the public and said agencies of such opportunity, thus defeating the purpose of the law...

Ong Chia had not also conducted himself in a proper and irreproachable manner when he lived-in with his wife for several years, and sired four children out of wedlock. It has been the consistent ruling that the "applicant's 8-year cohabitation with his wife without the benefit of clergy and begetting by her three children out of wedlock is a conduct far from being proper and irreproachable as required by the Revised Naturalization Law", and therefore disqualifies him from becoming a citizen of the Philippines by naturalization...

Lastly, petitioner Ong Chia's alleged annual income in 1961 of P5,000.00, exclusive of bonuses, commissions and allowances, is not lucrative income. His failure to file an income tax return "because he is not liable for income tax yet" confirms that his income is low. . ."It is not only that the person having the employment gets enough for his ordinary necessities in life. It must be shown that the employment gives one an income such that there is an appreciable margin of his income over expenses as to be able to provide for an adequate support in the event of unemployment, sickness, or disability to work and thus avoid one's becoming the object of charity or public charge." ...Now that they are in their old age, petitioner Ong Chia and his wife are living on the allowance given to them by their children. The monthly pension given by the elder children of the applicant cannot be added to his income to make it lucrative because like bonuses, commissions and allowances, said pensions are contingent, speculative and precarious...

Hence, this petition based on the following assignment of errors:

- I. THE COURT OF APPEALS GRAVELY ABUSED ITS DISCRETION IN RULING THAT IN NATURALIZATION CASES, THE APPELLATE COURT CAN DENY AN APPLCATION FOR PHILIPPINE CITIZENSHIP ON THE BASIS OF DOCUMENTS NOT PRESENTED BEFORE THE TRIAL COURT AND NOT FORMING PART OF THE RECORDS OF THE CASE.