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Reyes, J.B.L., Acting C.J., Dizon, Makalintal, Zaldivar, Sanchez, Fernando and *Barredo, JJ.*, concur.

Reyes, J.B.L., Acting C.J.: I hereby certify that the Chief Justice voted in favor of this opinion before going on official leave.

Ruiz Castro and *Capistrano, JJ.*, took no part.

Judgment reversed.

[G.R. No. L-23652. April 25, 1969]

IN RE: PETITION FOR NATURALIZATION, GO AY KOC, petitioner-appellant, *vs.* REPUBLIC OF THE PHILIPPINES, oppositor-appellee.

SYLLABUS

1. POLITICAL LAW; NATURALIZATION; REQUIREMENTS; REQUIREMENT TO STATE IN PETITION ALL FORMER PLACES OF RESIDENCES; FAILURE TO ALLEGE SUCH STATEMENT IS FATAL.— By his own testimony during the hearing of his motion to take his oath, appellant disclosed that he had lived in various places, other than his present residence, namely: in Rosales, Pangasinan; San Pedro, Magalang, Pampanga; in Cebu; in many places in Manila (Juan Luna, Alvarado Ext., Barbosa, Camarines, Yakal); and at No. 15 San Luis, Pasay City. And he admitted that he did not set forth in his petition all these past places of residence. This is a clear violation of Section 7 of Com. Act No. 473; and a defect fatal to the jurisdiction of the trial court to hear and grant his petition. Neither his alleged good faith in believing that it was not necessary to make such allegations in his petition, nor his subsequent disclosure of said places during the hearing of his motion, can be deemed to have cured such jurisdictional defect, for the stubborn fact still remains that full inquiry as to the irreproachability of appellant's behavior was thereby prevented and the law's intent frustrated.

2. ID.; ID.; ID.; ENROLLMENT OF CHILDREN IN CHINESE SCHOOL NEGATES SINCERITY OF PETITIONER TO EMBRACE PHILIPPINE CUSTOMS, TRADITIONS AND IDEALS.— The

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record shows that at the time of the hearing of his motion referred to, three (3) of appellant's children were enrolled at the Chang Kai Shek High School and the Anglo-Chinese school whose principals were Pao Shih Tien and Phi Hun Thoan—circumstances strongly suggesting to the mind of the Court that said schools are run by and for Chinese nationals. Of course, appellant exhibited certificates of said schools to the effect that they are duly recognized by the Government, that Philippine History, Civics and Government are subjects taught therein and that they admit students regardless of race, color or religious creed, but there is no evidence that those schools are regularly attended by a sizable number of Filipino students from whom his children above-mentioned could have imbibed Filipino customs and traditions. This Court has repeatedly held that in such circumstances, there is failure to comply with the requirement of the law that a petitioner for naturalization must evince a sincere desire to embrace Philippine customs, traditions and ideals and to mingle socially with Filipinos.

3. ID.; ID.; ID.; LUCRATIVE TRADE; COMMISSIONS AND WINNINGS IN JAI-ALAI AND SWEEPSTAKES CANNOT BE CONSIDERED AS PART OF INCOME.— This Court has held in a number of cases that "commissions"—being generally contingent and speculative—are not considered as income for purposes of petitions for naturalization. Definitely, Sweepstakes and Jai-Alai winnings which are obviously more speculative in character cannot be considered in such regard. Commissions, in some instances, may perhaps be approximated with regular income, but such is not true in this case where, other than appellant's own assertion, there is no evidence that he was regularly employed and also regularly paid commissions by his father and brother as a purchasing agent. In fact, appellant admits that he had no papers to prove either the alleged commissions received, or the above-mentioned winnings. What is more, his alleged principals or employers from whom he is supposed to have received commissions were his own father and brother, a circumstance which, to put it mildly, makes his claim regarding the commissions in question suspicious. Eliminating such items from appellant's income, what remains to be considered for the purposes of his petition for naturalization is only his monthly salary of ₱300.00—an income clearly insufficient to support a wife and his six (6) children, three (3) of whom were in college and the three (3) others enrolled in the exclusive Chinese schools earlier mentioned at the time of the hearing of his petition. Evidently, appellant does not meet the requirement of lucrative income.

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APPEARANCES OF COUNSEL

Pastor M. Endencia and *Lino M. Patajo* for petitioner-appellant.

Assistant Solicitor General Antonio G. Ibarra and *Solicitor Celso P. Ylagan* for oppositor-appellee.

DECISION

BARREDO, *J.*:

An appeal from the order of the Court of First Instance of Rizal, Pasay City Branch, in its Naturalization Case No. 102, denying appellant Go Ay Koc's motion to take his oath of allegiance as a Filipino citizen after the lapse of the statutory period of two (2) years from the issuance of the decision of granting his petition for naturalization.

It appears that on November 24, 1959, Go Ay Koc filed his petition for naturalization with the court *a quo* which, after a hearing in which the Government was represented by the Office of the Solicitor General, granted the petition in its decision of July 18, 1961. Purportedly pursuant to Republic Act No. 530, after two years from the promulgation of said decision, or more specifically on July 19, 1963, Go Ay Koc filed a motion with the same court, praying that he be allowed to take his oath. This time, the Solicitor General did not only interpose an opposition but further moved that the decision of July 18, 1961 be set aside. After several days of hearing, the trial court set aside the decision of July 18, 1961, and denied petitioner's motion to take his oath, as prayed for by the Solicitor General. A subsequent motion for new trial filed by petitioner on May 5, 1964 was likewise denied by the court in its order of June 24, 1964, hence the instant appeal.

Appellant here contends that the court below erred in so setting aside the decision granting his petition for naturalization, and in denying his motion to take his oath. More specifically, he maintains that the court was not justified in sustaining the Solicitor General's position that (1) he failed to state in his petition all the places of his previous residence; (2) he has enrolled his children in exclusive Chinese schools; and (3) he failed to show that he

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has a lucrative income as grounds for the action thus taken by the court.

Appellant's appeal is untenable.

1. By his own testimony during the hearing of his motion to take his oath, appellant disclosed that he had lived in various places, other than his present residence, namely: in Rosales, Pangasinan; San Pedro, Magalang, Pampanga; in Cebu; in many places in Manila (Juan Luna, Alvarado Ext., Barbosa, Camarines, Yakal); and at No. 15, San Luis, Pasay City.[1] And he admitted that he did not set forth in his petition all these past places of residence.[2] This is a clear violation of Section 7 of Commonwealth Act No. 473;[3] and a defect fatal to the jurisdiction of the trial court to hear and grant his petition.[4] Neither his alleged good faith in believing that it was not necessary to make such allegations in his petition, nor his subsequent disclosure of said places during the hearing of his motion, can be deemed to have cured such jurisdictional defect,[5] for the stubborn fact still remains that full inquiry as to the irreproachability of appellant's behavior was thereby prevented and the law's intent frustrated.[6]

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[1] TSN (Hearing of September 10, 1963), p. 19.

[2] TSN (Hearing of September 10, 1963), p. 13.

[3] "Petition for citizenship.— Any person desiring to acquire Philippine citizenship shall file with the competent court, a petition in triplicate, accompanied by two photographs of the petitioner, setting forth his name and surname; his *present and former places of residence;* his occupation; the place and date of his birth; whether single or married and the father of children; the name, age, birthplace and residence of the wife and each of the children; . . .."

[4] Lo *vs.* Republic, L-15919, May 19, 1961; Keng Giok *vs.* Republic, L-13347, August 31, 1961; Kao Gui *vs.* Republic, L-13717, July 31, 1962; Qua *vs.* Republic, L-19834, Oct. 27, 1964; Yao Long *vs.* Republic, L-20910, Nov. 27, 1965; Tan Tian *vs.* Republic, L-19899, March 18, 1967, Cu King Nan *vs.* Republic, L-20490, June 29, 1968; Chua Chu *vs.* Republic, L-24951, July 20, 1968; Sy Suan *vs.* Republic, L-23470, Feb. 28, 1969; Cf. Choa Hai *vs.* Republic, L-23515, Feb. 27, 1969.

[5] Lo *vs.* Republic, *supra*: Qua *vs.* Republic, *supra*: Yu Ti *vs.* Republic, L-19913, June 23, 1965; Kao Heng *vs.* Republic, L-21079, Feb. 28, 1966; O Ku Phuan *vs.* Republic, L-23406, Aug. 31, 1967; Choa Hai *vs.* Republic, *supra.*

[6] Republic *vs.* Cokeng, L-19829, May 4, 1968; Choa Hai *vs.* Republic, *supra.*

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2. The record also shows that at the time of the hearing of his motion referred to, three (3) of appellant's children were enrolled at the Chang Kai Shek High School and the Anglo-Chinese School whose principals were Pao Shih Tien and Phi Hun Thoan—circumstances strongly suggesting to the mind of the Court that said schools are run by and for Chinese nationals. Of course, appellant exhibited certificates of said schools to the effect that they are duly recognized by the Government, that Philippine History, Civics and Government are subjects taught therein and that they admit students regardless of race, color or religious creed,[7] but there is no evidence that those schools are regularly attended by a sizable number of Filipino students from whom his children above-mentioned could have imbibed Filipino customs and traditions.[8] This Court has repeatedly held that in such circumstances, there is failure to comply with the requirement of the law that a petitioner for naturalization must evince a sincere desire to embrace Philippine customs, traditions and ideals and to mingle socially with Filipinos.[9]

3. It finally appears that appellant had submitted his income tax returns showing earnings of ₱16,915.90 and ₱17,145.50 for the years 1961 and 1962, respectively.[10] It is readily seen, however, that the returns aforesaid reflect a regular monthly salary of only ₱300.00—with the rest of the alleged income, quite substantial though, representing "miscellaneous income, Sweepstakes and other winnings." Explaining these items during the hearing, appellant testified that the declared "miscellaneous income" in his income tax returns were *commissions earned as purchasing agent for his father and brother* who separately owned and operated glassware stores in Cebu and Davao; while the

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[7] Folder of Exhibits, pp. 39 & 40.

[8] Cf. Lee Ng Len *vs.* Republic, L-20151, March 31, 1965; Te Poot *vs.* Republic, L-20017, March 28, 1969.

[9] Choa Hai *vs.* Republic, *supra,* citing Uy Ching Ho *vs.* Republic, L-19582, Mar. 26, 1965; Lee Ng Len *vs.* Republic, *supra*; Ong Ping Seng *vs.* Republic, L-19575, Feb. 26, 1965.

[10] Folder of Exhibits, pp. 4 & 10.

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"winnings" represent *prizes won in the Sweepstakes and the Jai Alai.*[11] Suffice it to say in this connection that this Court has held in a number of cases,[12] that "commissions"—being generally contingent and speculative—are not considered as income for purposes of petitions for naturalization. Definitely, Sweepstakes and Jai Alai winnings which are obviously more speculative in character cannot be considered in such regard. Commissions, in some instances, may perhaps be approximated with regular income, but such is not true in this case where, other than appellant's own assertion, there is no evidence that he was regularly employed and also regularly paid commissions by his father and brother as a purchasing agent. In fact, appellant admits that he had no papers to prove either the alleged commissions received, or the above-mentioned winnings.[13] What is more, his alleged principals or employers from whom he is supposed to have received commissions were his own father and brother, a circumstance which, to put it mildly, makes his claim regarding the commissions in question suspicious. Eliminating such items from appellant's income, what remains to be considered for the purposes of his petition for naturalization is only his monthly salary of ₱300.00—an income clearly insufficient to support a wife and his six (6) children, three (3) of whom were in college and the three (3) others enrolled in the exclusive Chinese schools earlier mentioned at the time of the hearing of his petition. Evidently, appellant does not meet the requirement of lucrative income.

FOR THE FOREGOING CONSIDERATIONS, the instant appeal is dismissed, with costs against appellant.

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[11] TSN (Hearing of Sept. 10, 1963) p. 21 et seq.

[12] See Tan *vs.* Republic, L-22207, May 30, 1966; Lim *vs.* Republic, L-22437, June 21, 1966, citing cases; Po Chu King *vs.* Republic, L-20810, May 16, 1967; Tui Tua Pi *vs.* Republic, L-20909, May 24, 1967.

[13] TSN (Hearing of Sept. 10, 1963) p. 23; (Hearing of Oct. 3, 1963), p. 23.

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Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Sanchez, Fernando and *Teehankee; JJ.*, concur.

Ruiz Castro and *Capistrano, JJ.*, did not take part.

Appeal dismissed.

[G.R. No. L-24166. April 25, 1969]

FIREMAN'S FUND INSURANCE COMPANY, plaintiff-appellee, *vs.* MANILA RAILROAD COMPANY and its subsidiary MANILA PORT SERVICE, defendants-appellants.

SYLLABUS

1. COMMERCIAL LAW; ARRASTRE; MANAGEMENT CONTRACT; PROVISIONAL CLAIM WHICH DID NOT SPECIFY THE VALUE OF THE LOSS OF THE GOODS; EFFECT ON RIGHT TO RECOVER LOSS.— It is definitely settled by this Court that upon facts parallel to the present an action commenced by appellee Fireman's Fund Insurance Company against appellants in the court *a quo* to recover the loss of 15 bales of crude natural rubber which appellants failed to deliver to the consignee thereof, the so-called "provisional claim" without any statement of the marks, number of packages, contents, nor their value, is a sufficient compliance with the provisions of Section 15 of the Management Contract.

2. ID.; ID.; ID.; ID.; FORM OF PROVISIONAL CLAIM IN INSTANT CASE SUFFICIENT.— It is not pretended by appellants (arrastre operators) that in the form the provisional claim was presented said claim did not contain sufficient information to permit them to identify the goods involved and to determine the facts relative to said claim. Very aptly, the trial court pointed out that the said provisional claim "is a sufficient notice or warning to the arrastre operators, and affords him the opportunity to check up the claim for loss. To require the consignee to state in detail the description, nature, and value of the goods missing, or short delivered, would require consignee to do the impossible as it is a matter of public knowledge that before the goods are released by the Bureau of Customs, more than 15 days elapsed from the time that they are delivered to the arrastre service."