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ACCORDINGLY, we affirm the judgment of conviction of August 25, 1962 *en toto*. We are constrained nevertheless to remand this case to the court *a quo* in order that it may order the reception of evidence as to the present legal capability of the appellants to fulfill what the said court ordered to be done. The lower court is likewise directed to order the inclusion of the incumbent new members of the municipal council of Oroquieta, plus the municipal mayor and the municipal treasurer, with due notice to the provincial fiscal, as party-respondents, in order that the said officials may be adequately afforded a reasonable opportunity to effectuate with deliberate speed the lower court's decision of January 30, 1957 in the mandamus case (Civil Case No. 1865). No pronouncement as to costs.

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

Barredo, J., reserves his vote.

[G.R. No. L-20866. January 30, 1971]

IN THE MATTER OF THE PETITION OF LORETO LEE ONG TO BE ADMITTED A CITIZEN OF THE PHILIPPINES. LORETO LEE ONG, *petitioner-appellant, vs.* REPUBLIC OF THE PHILIPPINES, *oppositor-appellee.*

SYLLABUS

CONSTITUTIONAL LAW; CITIZENSHIP; NATURALIZATION; P200.00 MONTHLY SALARY, NOT LUCRATIVE.— But even on the assumption that Ong was really employed by his brother in the latter's business, it seems clear that his income therefrom does not constitute what, according to the standard set by this Court, is an income derived from a lucrative employment, because his own evidence shows that he was receiving no more than P200.00 as a monthly salary. On the basis of this amount, we

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cannot accept Ong's claim that he was employed in a gainful or lucrative occupation even in the light of the standard of living prevailing in the year 1960 when he filed his petition for naturalization.

APPEARANCES OF COUNSEL

Reyes and *Dy-Liacco* for petitioner-appellant.

Solicitor General Arturo A. Alafriz, Assistant Solicitor Frine C. Zaballero and *Solicitor Jaime M. Lantin* for oppositor-appellee.

DECISION

DIZON, *J.:*

On April 11, 1960, Loreto Lee Ong, hereinafter referred to only as Ong, filed a petition for naturalization with the Court of First Instance of Camarines Sur. After the required publication and hearing in connection therewith, said court rendered a decision denying the petition on March 5, 1962. Ong's motion for reconsideration filed subsequently having been denied, he interposed the present appeal.

The evidence shows that Ong, a Chinese citizen, was born on December 10, 1923 in Naga City, Camarines Sur, Philippines; an Alien Certificate of Registration and a Native Born Certificate of Residence was issued to him by the Bureau of Immigration; since his birth he had not gone abroad and had continuously resided in Naga City except for a brief period during the Japanese occupation when he and members of his family evacuated to the hinterland; he has two brothers and three sisters, and his mother is still alive.

Ong presented evidence to show that he was the Assistant Manager and Paymaster of the Venancio Hardware owned by his brother, Venancio, with a monthly salary of P200.00. For reasons stated hereinafter, we do not consider this evidence as convincing.

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His evidence further shows that he had filed his Income Tax Returns with net income ranging from P1,885.84 to P4,148.60 from the years 1952 to 1960; that he owns a building on a piece of land owned by a Chinese Commercial Company, having paid the real estate taxes due thereon; that he is able to speak and write English and the local dialect and is a believer in the principles underlying the Philippine Constitution; that he is not opposed to organized government, nor is he defending or teaching the necessity or propriety of violence, personal assault or assassination for the success and predominance of men's ideas; that he is not a polygamist nor does he believe in the practice of polygamy; that he is free from any incurable diseases and, in general, has conducted himself in an irreproachable manner in relation to the government and the community in which he lives.

In support of his appeal, he claims that the trial court committed the following errors:

"I.

THE LOWER COURT ERRED IN HOLDING THAT THE TWO CLAIMS FOR EXEMPTION IN PETITIONER-APPELLANT'S INCOME TAX RETURN FOR 1952 AND 1955 ARE FRAUDULENT AND ILLEGAL.

II.

THE LOWER COURT ERRED IN HOLDING THAT THE PETITIONER-APPELLANT FALSELY AND ILLEGALLY REPRESENTED IN HIS INCOME TAX RETURN FOR THE YEAR 1954 (EXHIBIT S-2) AS WELL AS IN HIS RETURN FOR THE YEAR 1955 (EXHIBIT S-3) THAT HIS TWO SISTERS, ANASTACIA AND SALVACION WERE HIS DEPENDENTS FOR WHOM HE COULD CLAIM EXEMPTIONS.

III.

THE LOWER COURT ERRED IN HOLDING THAT PETITIONER-APPELLANT'S INCOME TAX RETURNS FOR THE YEARS 1958, 1959 AND 1960 (EXHIBITS G, G-1, G-2) REVEAL OTHER FRAUDULENT MISREPRESENTATIONS AND OMISSIONS COMMITTED TO REDUCE HIS INCOME TAX LIABILITY.

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IV.

THE LOWER COURT ERRED IN APPLYING THE CASE OF LIM SIONG V. REPUBLIC OF THE PHILIPPINES, 56 OFF. GAZ. 5041 AND THE CASE LAO LIAN SU, G.R. NO. L-15543.

V.

THE LOWER COURT ERRED IN DENYING PETITIONER-APPELLANT'S MOTION FOR RECONSIDERATION AND NEW TRIAL.

VI.

THE LOWER COURT SHOULD HAVE GRANTED THE PETITION FOR NATURALIZATION."

The briefs submitted by both parties contain an extensive discussion of their respective points of view in relation to the assignments of error bearing on the question of whether or not Ong had falsely and illegally misrepresented facts in his Income Tax Returns for the years 1954-1955, and 1958-1960. We believe, however, that to decide this appeal it is not really necessary to resolve said issue.

After a careful consideration of the pertinent parts of the record, we have come to the conclusion that Ong's evidence on his alleged employment as Assistant Manager and Paymaster of the Venancio Hardware, which is a business owned and controlled by his brother Venancio, is not convincing. This particular kind of evidence is frequently resorted to by persons applying for letters of citizenship because it seems to be an easy way of proving alleged lucrative employment. For this reason, unless the evidence presented to prove it as a fact is entirely free from doubt, we are not inclined to give it full credence.

But even on the assumption that Ong was really employed by his brother in the latter's business, it seems clear that his income therefrom does not constitute what, according to the standard set by this Court, is an income derived from a lucrative employment, because his own evidence shows that he was receiving no more than P200.00 as a monthly salary. On the basis of this amount,

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we cannot accept Ong's claim that he was employed in a gainful or lucrative occupation even in the light of the standard of living prevailing in the year 1960 when he filed his petition for naturalization.

Another circumstance that makes Ong's case doubtful is his contention that he had a net income ranging from P1,885.84 to P4,148.60 from the year 1952 to the year 1960, in spite of the fact that he was only earning P200.00 monthly. On the other hand, there is no evidence of record showing that, aside from this monthly salary, he had other sources of income.

WHEREFORE, the appealed decision being in accordance with the facts and the law, the same is hereby affirmed, with costs.

Concepcion, C.J., Reyes, J.B.L., Makalintal, Zaldivar, Ruiz Castro, Fernando, Teehankee, Barredo, Villamor and *Makasiar, JJ.*, concur.

[G.R. No. L-21144. January 30, 1971]

AMADO A. YATCO, *petitioner, vs.* THE COURT OF APPEALS, *respondent.*

SYLLABUS

REMEDIAL LAW; SPECIAL CIVIL ACTION; CONTEMPT; INDIRECT CONTEMPT; WRITTEN CHARGE, REQUIRED; SUBSTANTIAL COMPLIANCE THEREWITH IN CASE AT BAR.— We agree with the appellant that the charge against him and of which he was found guilty is one for indirect contempt which, according to Section 3, Rule 64 of the Rules of Court, may be punished only after a written charge has been filed against the contemner and only after the latter has been heard. (Rivera *vs.* Arellano, 88 Phil. 744, Francisco *vs.* Enrique, G.R. No. L-7058, March 20, 1954 and L-10074, April 30, 1959). We are of the opinion, however, that upon the undisputed facts before us there