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Cabangbangs' genuine desire to retain the custody of Betty Chua Sy or Grace Cabangbang.

III.

Sec. 1, Rule 102 of the Rules of Court provides that "Except as otherwise expressly provided by law, the writ of *habeas corpus* shall extend to all cases of illegal confinement or detention by which any person is deprived of his liberty, or by which the rightful custody of any person is withheld from the person entitled thereto." The petitioner has not proven that she is entitled to the rightful custody of Betty Chua Sy or Grace Cabangbang. Upon the contrary, by wantonly and completely shunting aside her legal and moral obligations toward her child, she must be deemed as having forfeited all legitimate legal and moral claim to her custody. The lower court acted correctly in dismissing her petition.

ACCORDINGLY, the judgment *a quo* is affirmed. No pronouncement as to costs.

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

Judgment affirmed.

[G.R. No. L-23591. March 28, 1969]

LEONCIO YU LIM, petitioner-appellee, *vs.* REPUBLIC OF THE PHILIPPINES, oppositor-appellant.

SYLLABUS

1. POLITICAL LAW; NATURALIZATION; REQUIREMENTS; BELIEF IN THE PRINCIPLES OF THE CONSTITUTION; NO ADEQUATE PROOF THEREOF IN INSTANT CASE.— Mere naked statements of belief, without facts in support thereof, are neither competent nor adequate proof that the petitioner does in truth believe in the principles of the Philippine Constitution; nor is such belief established by the simple absence of derogatory information.

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The burden of duly proving the truth of the allegations in the petition lies on the petitioner.

2. ID.; ID.; ID.; LUCRATIVE TRADE OR OCCUPATION; SUCH REQUIREMENT WAS NOT SATISFIED IN INSTANT CASE.— An income amounting to an average of ₱172.00 a month does not satisfy the requirement of the naturalization law that the applicant should have a lucrative trade or occupation.

3. ID.; ID.; ID.; ID.; PROOF OF PETITIONER'S INCOME INSUFFICIENT.— A perusal of the record discloses that the alleged salary of ₱120.00 a month from the Pan Pacific Remnant Industry rests solely on the petitioner's testimony as a witness in his own behalf. No other witness corroborated this testimony nor was any document presented to prove the alleged salary. Hence, said salary cannot be considered in the determination of his income (Yap *vs.* Republic, L-19832, August 23, 1966, 17 SCRA 956).

4. ID.; ID.; ID.; ID.; ₱1,800.00 IS NOT ADDITIONAL INCOME.— The sum of ₱1,800.00 claimed by petitioner for being single is not additional income or earning of the taxpayer, and not at his disposal, but an exemption deductible from the net income for determining the amount of taxable income.

5. ID.; ID.; USE OF ALIAS BY PETITIONER; EFFECT UPON PETITION OF UNAUTHORIZED USE OF ALIAS.— Where the documents which are official certificates secured from various government agencies and offices indicate the name "Dodong" *as an alias* of the petitioner, not as his nickname, and no evidence has been adduced that his use of the alias has been legally authorized, nor was the alias mentioned in the petition for naturalization, the appealed decision granting the said petition should be reversed, and the petition dismissed.

APPEARANCES OF COUNSEL

Felix V. Barbers for petitioner-appellee.

Solicitor General Antonio P. Barredo, Assistant Solicitor General Antonio G. Ibarra and *Solicitor Celso P. Ylagan* for oppositor-appellant.

DECISION

REYES, J.B.L., *J.*:

In this appeal from a grant of citizenship by the Court of First Instance of Surigao del Norte, in its Naturalization Case No. 41,

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unto the petitioner Leoncio Yu Lim, the oppositor-appellant, Republic of the Philippines, seeks a reversal of the trial court's decision on the grounds of insufficient income of, and unauthorized use of alias by; the said petitioner and the absence of evidence of his belief in the principles underlying the Constitution. We sustain the oppositor-appellant on all grounds.

The petitioner-appellee filed his petition for naturalization with the court *a quo*, on 29 January 1963, alleging, *inter alia*, that he is single and was born on 23 October 1931 in Surigao, Surigao del Norte; that he is a general merchant and the proprietor of Southern Bazar in the said municipality from which he derives an average annual income of ₱3,398.03; and that he is a "co-owner" and assistant manager of Pan Pacific Remnant Industry, a partnership with offices and factory in Quezon City and from which he derives as annual salary of ₱1,440.00.

At the trial, the government appeared and cross-examined the witnesses for the petitioner, but presented no evidence. On 5 March 1964, the court rendered judgment granting the petitioner's application for naturalization. The oppositor government appealed.

In its decision, the trial court found that the applicant, Leoncio Yu Lim, earns a total of ₱4,833.00 a year, which amount is about the same as that alleged in the petition, which is ₱4,838.03. The court went on to state that in the year 1962 he earned ₱6,633.00 because he is allowed an exemption of ₱1,800.00 in his income tax, for being single, and this latter sum is at his disposal, and concluded that the petitioner's income more than meets the requirements of the naturalization law.

A perusal of the record discloses that the alleged salary of ₱120.00 a month (or ₱1,440.00 a year) from the Pan Pacific Remnant Industry rests solely on the petitioner's testimony as a witness in his own behalf. No other witness corroborated this testimony nor was any document presented to prove the alleged salary. Hence, said salary cannot be considered in the determination of his income (Yap *v.* Republic, L-19832, 23 August

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1966, 17 SCRA 956), more so because the partnership, Pan Pacific Remnant Industry, was registered with the Securities and Exchange Commission only on 13 July 1962 (Exhibit "1-2") and has not declared any dividend (Decision, Record on Appeal, page 15). Furthermore, the said partnership has its offices in Quezon City, while the alleged assistant manager, petitioner herein, is domiciled in Surigao, Surigao del Norte, a plain inconsistency that has been left unexplained.

With the alleged salary as assistant manager not proved, the computation of the oppositor government of the petitioner's average annual income to be only ₱2,043.59 is correct: ₱1,006.76 for 1958, ₱846.51 for 1959, ₱2,923.07 for 1960 and ₱3,398.03 for 1962 (no income tax return for 1961 was shown). Such income, amounting to an average of ₱172.00 a month, does not satisfy the requirement of the naturalization law that the applicant should have a lucrative trade or occupation. In Dy *v.* Republic, L-20348, 24 December 1965; Uy *v.* Republic, L-20208, 30 June 1965; and Kock Tee Yap *v.* Republic, L-20992, 14 May 1966, 17 SCRA, 16, this Court has already ruled that an income of ₱300.00 a month is inadequate, even if the applicant were unmarried.

The computation by the trial court of the petitioner's alleged income in 1962, as amounting to ₱6,633.00, is erroneous. This figure was arrived at by adding the exemption of ₱1,800.00, for being single, plus the unproved salary of ₱1,440.00, to the net income of ₱3,398.00. The sum of ₱1,800.00 is *not additional income or earning* of the taxpayer, and not at his disposal, as the trial court entertained it to be, but an *exemption* deductible from the net income (from Schedule K in the tax return) for determining the amount of taxable income.

The petitioner-appellee disclaims the use of the alias "Dodong", claiming the same to be only his nickname; but his disclaimer is belied by the very documents that he adduced. These documents plainly indicate the name "Dodong" *as an alias* of the petitioner, not as his nickname, and are official certificates secured from various government agencies and offices (Exhibits "N", "O", "S", "S-2", "S-4", "S-6", "S-8", "S-10" and "T-3"). No

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evidence has been adduced that his use of the alias had been legally authorized, nor was the alias mentioned in the petition for naturalization.

Finally, the applicant and his witness simply asserted in court that the former "believes in the principles of the Constitution" without giving any particulars nor specifying the basis for the conclusion. We deem that mere naked statements of belief, without facts in support thereof, are neither competent nor adequate proof that the petitioner does in truth believe in the principles of the Philippine Constitution; nor is such belief established by the simple absence of derogatory information. The burden of duly proving the truth of the allegations in the petition lies on the petitioner.

WHEREFORE, the appealed decision is hereby reversed, and the petition for naturalization ordered dismissed. Costs against petitioner.

Concepcion, C.J., Dizon, Makalintal, Zaldivar, Sanchez, Ruiz Castro, Fernando, Capistrano and *Teehankee, JJ.*, concur.

Barredo, J., did not take part.

Decision reversed and petition dismissed.

[G.R. No. L-23654. March 28, 1969]

THE PEOPLE OF THE PHILIPPINES, plaintiff-appellant, *vs.* VICENTE MARQUEZ, defendant-appellee.

SYLLABUS

1. CRIMINAL PROCEDURE; COMMENCEMENT OF CRIMINAL ACTIONS; COMPLAINT; ISSUE OF VALIDITY OF COMPLAINT IN INSTANT CASE ACADEMIC.— Where the accused did not attack the complaint signed by the mother of the offended party while the case was still in the justice of the peace court, but on the contrary, waived the preliminary investigation proper, allowing the case to be remanded to the court of first instance and not objecting to his being arraigned on the information filed by the