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[G.R. No. 77028. November 8, 1988]

REPUBLIC OF THE PHILIPPINES, *petitioner, vs.* **THE HONORABLE COURT OF APPEALS AND LUCINA Y. CHUA,** *respondents.*

SYLLABUS

POLITICAL LAW; NATURALIZATION LAW; ECONOMIC QUALIFICATION; LUCRATIVE INCOME REQUIREMENT; STUDENT WITH A GAINFUL EMPLOYMENT NO LONGER A NOVELTY.— The fact that one is a student does not necessarily mean that one cannot at the same time have a gainful occupation. It is very common in this day and age for students in this country as in other countries to work gainfully outside school hours. Respondent applicant here testified that she worked "during her free time, before and after school," at the Neusican Bazar, owned by her brother Romeo Y. Chua, himself a naturalized Philippine citizen. In *Lim v. Republic*, Mr. Justice J.B.L. Reyes, in affirming a decision of the Court of First Instance of Manila granting the application of one Mateo Lim for Philippine citizenship.

APPEARANCES OF COUNSEL

The Solicitor General for petitioner.

Rafael M. Iriarte for private respondent.

DECISION

FELICIANO, *J.*:

The Republic of the Philippines appeals from the decision of the Court of Appeals in CA-G.R. SP No. 10832, promulgated on 5 January 1987, affirming the judgment of the Regional Trial Court, Branch 7, Eighth Judicial Region, Government Center, Palo, Leyte, in Naturalization Case No. 164, granting the application of Lucina Y. Chua for naturalization as citizen of the Philippines.

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Respondent Lucina Y. Chua is a Chinese national. She was born on 8 September 1956, in Abuyog, Leyte, and has resided in Leyte since birth. She was baptized as a Roman Catholic in the St. Francis Xavier Parish Church in Abuyog on 26 December 1956. Lucina began her primary education (Grades I to III) at the Abuyog Central School, Leyte, and completed it at the Leyte Chinese High School where she also finished her secondary education. On 7 March 1976, she obtained the degree of Bachelor of Science from the Divine Word University of Tacloban City. In 1980, she finished the two-year Medical Technology course of studies also at the Divine Word University. Soon after, she studied Medicine at the Remedios T. Romualdez (RTM) Foundation School of Medicine in Leyte, and finished said course on 5 April 1984. In December 1985, she passed the Medical Board Examinations given in June of that year by the Professional Regulation Commission. She was, however, not allowed to take her oath pending the final outcome of this appeal.

In her Petition for Naturalization filed on 28 August 1984, respondent Lucina Y. Chua alleged, among other things, that she was a student by profession; that she could speak and write in both English and Visayan; that she had conducted herself in a proper and irreproachable manner during her entire period of residence in the Philippines and had mingled socially with the Filipinos in her desire to embrace Filipino customs, traditions and ideals; that she was not opposed to organized government and had not defended nor taught the necessity or propriety of violence, assault or assassination for the success and predominance of ideas nor had she believed in the practice of polygamy; that she was never convicted of any crime involving moral turpitude; and that she did not suffer nor had she suffered from any incurable disease. The petition was supported by affidavits of Aurora Villaflor, a government employee, and Roberto Nebasa, a licensed and registered real estate broker, who both testified, among other things, on the residence and the reputation and good moral character of respondent.

On 29 July 1985, respondent offered, as additional evidence, an affidavit of lucrative trade, profession or lawful occupation stating that she was an employee of the Neusican Bazar with a

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monthly income of ₱2,000.00 plus free board and lodging. She also testified in court confirming the contents of her sworn statement.

On 7 August 1985, the court *a quo* rendered a decision granting respondent Lucina Y. Chua's Petition for Naturalization, subject to the provisions of Republic Act No. 530.[1]

The Solicitor General, on behalf of the Government, appealed to this Court, the appeal being docketed as G.R. No. 72295. The Court referred the appeal to the Court of Appeals by a Resolution dated 10 November 1986 for "proper decision and determination pursuant to Section 9 of B.P. Blg. 129."

Before the Court of Appeals, the Solicitor General assailed the court *a quo's* decision and opposed respondent Lucina Y. Chua's admission to Philippine citizenship, on two grounds: [a] she did not have a known lucrative trade, profession or lawful occupation as required in Section 2, paragraph 4, of the Revised Naturalization Law at the time she filed her petition for naturalization; and [b] the qualifications of the character witnesses who had testified on respondent's conduct and good moral character had not been duly proven.

On 5 January 1987, the Court of Appeals affirmed the appealed judgment, and after dealing with the arguments of the Solicitor General, agreed with the findings of the trial court that respondent Lucina Y. Chua has all the qualifications and none of the disqualifications specified in the Revised Naturalization Law for admission to Philippine citizenship.

From the above decision, the Solicitor General interposed the present Petition for Review.

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[1] The Act, approved on 16 June 1950, provides that a decision granting application for naturalization shall not become executory until after two (2) years from its promulgation and after the court, on proper hearing, with the attendance of the Solicitor General or his representative, is satisfied and so finds, that during the intervening time the applicant has (1) not left the Philippines, (2) has dedicated herself continuously to a lawful calling or profession, (3) has not been convicted of any offense or violation of government promulgated rules, (4) or committed any act prejudicial to the interest of the nation or contrary to any Government announced policies.

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The Solicitor General questions the Court of Appeals' affirmance of the trial court's decision on the very same grounds he had previously raised before the appellate court, *i.e.*, respondent's lack of known lucrative trade, profession or calling and incompetence of her character witnesses to act as such. These are the only issues raised in the Petition at bar.

The Solicitor General argues that respondent Lucina Y. Chua, being merely a student at medical school at the time she filed her Petition for Naturalization, could not have had a lucrative income, trade or profession as required by the law. It is also argued that since "lucrative implies gainful employment or tangible receipts,"[2] a *student* cannot be regarded as having a lucrative trade, profession or occupation.

The above argument does not persuade. The fact that one is a student does not necessarily mean that one cannot at the same time have a gainful occupation. It is very common in this day and age for students in this country as in other countries to work gainfully outside school hours. Respondent applicant here testified that she worked "during her free time, before and after school,"[3] at the Neusican Bazar, owned by her brother Romeo Y. Chua, himself a naturalized Philippine citizen. In *Lim v. Republic*,[4] Mr. Justice J.B.L. Reyes, in affirming a decision of the Court of First Instance of Manila granting the application of one Mateo Lim for Philippine citizenship, had occasion to refer to students working while at school:

"It would be idle to deny that being employed in a business firm with a salary of *₱80 a month and with free board and lodging* does constitute a lawful and lucrative occupation. *And while the Solicitor General chooses not to believe that applicant is really so employed just because he is a student and attends his classes during the day, nevertheless we are with the trial court in holding that the uncontradicted evidence presented by applicant on that point is convincing and satisfactory.* Well known is the fact that *there are in this country as in other parts of the world hundreds*

[2] *Lim v. Republic*, 90 Phil. 387 (1951).

[3] TSN, July 29, 1985, p. 3.

[4] 92 Phil. 522 (1953).

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of students who work their way through school. And in the present case, notice must be taken of the fact that applicant's work as an employee of an importing firm consists merely in supervising delivery of goods to his firm at the Manila customhouse whenever there is shipment to be received. *The job does not necessarily conflict with his classes* which, according to him, are held 'sometimes in the morning and sometimes in the afternoon.'

In the case of *Republic of the Philippines vs. Rafael Lim*, G.R. No. L-3030, decided January 31 , 1951 , Philippine Citizenship was granted to a Chinese who did not own any property but was a law graduate *employed as legal adviser to his brother-in-law at a monthly salary of ₱250 but without free meals and quarters.* In the present case the salary in cash is smaller, but it is in addition to free board and lodging. *It does not at all seem likely that a person in applicant's circumstances will ever become a public charge.*"[4a] (Italics supplied)

The Solicitor General urges that the respondent's subsequent passing of the Board Examinations of 1985 for Doctors of Medicine, could not by itself be equated with "gainful employment or tangible receipts." We think this is too literal and restrictive a view of the statutory requirement of "some known lucrative trade, profession or lawful occupation," found in Section 2, paragraph 4 of the Revised Naturalization Law. In *Uy v. Republic*,[5] the public policy underlying the lucrative income requirement was explained in the following terms:

"[T]he Court must be satisfied that there is reasonable assurance not only that the applicant will not be a social burden or liability but that he is a potential asset to the country he seeks to adopt for himself and quite literally for his children and his children's children.";[6] (Italics supplied)

The economic qualification for naturalization may be seen to embody the objective of ensuring that the petitioner would not become a public charge or an economic burden upon society.

[4a] 92 Phil. at 524.

[5] 12 SCRA 182 (1964).

[6] 12 SCRA at 184.

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The requirement relates, in other words, not simply to the time of execution of the petition for naturalization but also to the probable future of the applicant for naturalization. In the case at bar, the Solicitor General does not dispute that respondent applicant, then a student, was earning ₱2,000.00 a month, with free board and lodging, at the time she filed her Petition in August 1984. While this amount was not, even in 1984, exactly a princely sum, she was not then a public charge and the respondent applicant having passed the qualifying medical board examinations, can scarcely be regarded as likely to become a public charge in the future should she be admitted as a citizen of this Republic. Respondent is certainly in a position to earn substantial income if allowed to exercise her profession. Being a Doctor of Medicine, she is also clearly a "potential asset to the country."

The Solicitor General also makes an issue out of respondent's failure to present in the trial court an income tax return or evidence of income tax payments. It is contended by the Solicitor General that even if respondent was so employed by the Neusican Bazar at the time she filed her application for naturalization, her failure to present any proof of tax payments on her income reflects adversely on her conduct, which under the statute must be "proper and irreproachable." It is true that Lucina Y. Chua, after submitting her affidavit of lucrative income, trade or occupation and after testifying on and confirming in open court her statements in her affidavit, did not submit any income tax return. We should, however, note that before the trial court respondent was not asked by the fiscal who represented the Solicitor General whether she had filed income tax returns. When this point was raised for the first time by the Solicitor General before the Court of Appeals, respondent attached to her appellee's brief a photocopy of her income tax return for the year 1985 as filed with the Bureau of Internal Revenue, in March, 1986.

In her appellee's brief, respondent was also candid enough to make the following statement:

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"Regarding the Income Tax Return, this is an honest mistake, for being a student she was unaware of this obligation, but is now complying with this requirement after knowing her obligation."[7]

This appears to be an admission that no income tax return was filed by Lucina Y. Chua for the year 1984 nor for the year 1983 (when she first started working at the Neusican Bazar).

Ordinarily, failure to file an income tax return where such return must be filed under applicable law and regulation, would reflect adversely on the character and conduct of an applicant for naturalization. In the present case, however, we think it proper to take into account that Lucina Y. Chua was not a businessman, who may be expected to be familiar with the requirements, legal and commercial, for carrying out business operations. She was a young student at medical school and, though working outside school hours, was primarily concerned with passing her courses including internship and preparing for the board examinations. As soon as she became aware of her obligation. There is no suggestion in the record that she failed to file income tax returns for the years after 1985. We do not, therefore, believe that this one lapse should be regarded as having so blackened her character as to disqualify her from naturalization as a Philippine citizen.

We come to the other argument of the Solicitor General that the character witnesses of respondent Lucina Y. Chua were not duly qualified to act as such. The argument is anchored upon the fact that:

"Mrs. Villaflor identified herself merely as a government employee, a Mr. Nebasa, a realtor. Beyond these, the record is silent whether either one 'x x x has not been previously convicted of a crime; x x x is not a police character and has no police record; x x x has not perjured in the past x x x.' (*Ong v. Republic*, 103 Phil. 964 [1958]). Consequently, they cannot be relied upon as character witnesses. x x x."[8]

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[7] *Rollo*, p. 103.

[8] Petition for Review, p. 11; *Rollo*, p. 43.

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The statutory requirement is that the character witnesses must be "credible persons."[9] The terse requirement of being a "credible person" was amplified in *Ong v. Republic*,[9A] as noted by the Solicitor General, as not having certain negative qualifications: no previous conviction of a crime; not being a "police character" and having no "police character" and having no "police record"; and not having committed perjury.

The first character witness, Mrs. Aurora Villaflor, had been in the government service for 29 years and was currently employed, in a non-teaching position, at the University of the Philippines College at Tacloban City. The respondent applicant did not submit, in respect of Mrs. Villaflor and Mr. Nebasa, the same clearances that respondent submitted in respect of herself (Police, NBI, Provincial Fiscal, Constabulary, *etc.*). The record before the Court of Appeals, however, does include a General Information Sheet (Form 212) executed by Mrs. Villaflor, a Form that all government employees are required to execute upon appointment or promotion. The Court of Appeals said on this point,

" — a government employee is made to file almost as many times as she is appointed/promoted, information sheets (Form 212) at the back of which are the following questions:

1. Have you ever been convicted for violating any law, decree, ordinance, or regulations by any court or tribunal?

2. Have you ever been convicted for any breach of infraction by a military, naval, or constabulary tribunal or authority, or found guilty of an administrative offense?

3. Have you ever been retired, dismissed or forced to resign from any employment for reasons other than lack of funds?

Copy of her Form 212, which is attached to the appellees brief shows that all the aforementioned questions were answered by

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[9] Section 7, Commonwealth Act No. 473, as amended (Revised Naturalization Law).

[9A] 103 Phil. 964 (1958).

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Mrs. Villaflor in the negative (Annex 9, appellees brief). On the basis thereof she is a competent witness."[10] (Italics supplied).

The second character witness was Mr. Roberto Nebasa, a registered real estate broker. In respect of Mr. Nebasa, the Court of Appeals said:

"Mr. Roberto Nebasa is a duly licensed real estate broker. Attached to the appellee's brief are:

1. Copy of Manila Times clippings (Annex 6) showing that he passed the real estate broker's examination thereby making him a licensed broker.

2. Real Estate Broker Certificate (Annex 7) - showing he is a licensed broker.

3. Certification of Registration (Annex 8) - showing he is registered licensed broker.

An applicant for a government examination must submit a police clearance and all the several other clearances to prove that he has not been previously convicted of a crime nor is a police character nor has a police record, nor perjured in the past. In order to be granted a license to practice a profession, again there is need for the submission of the set of police clearance, CFI clearance, NBI clearance and several other clearances.

Considering the foregoing qualifications of Mrs. Aurora Villaflor and Mr. Roberto Nebasa, *both are competent character witnesses to support the application for naturalization of the appellee.*

xxx xxx xxx."[11]

(Italics supplied.

We believe that the circumstances pointed to by the Court of Appeals may and should be taken into account in appraising the qualifications of Mrs. Villaflor and Mr. Nebasa as character witnesses for respondent Lucina Y. Chua. Those circumstances, when taken together with the fact that the record does *not* include any suggestion however slight that either Mrs. Villaflor or

[10] *Rollo*, p. 78.

[11] *Id.*, pp. 78-79.

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Mr. Nebasa has in fact been convicted of some crime, or is a "police character," or has a "police record," or has committed perjury in the past, may be regarded as having produced substantially the same effect as formal clearances from the police, the NBI, the City or Provincial Fiscal's Office and the courts. We agree with the Court of Appeals that Mrs. Villaflor and Mr. Nebasa are competent character witnesses for purposes of respondent's application for naturalization.

It is also suggested by the Solicitor General that the statements made by Mrs. Villaflor and Mr. Nebasa were "sketchy" and were "mere generalities," and that the two (2) witnesses had "failed to state whether or not she possessed the disqualifications provided by the law."[12] It may be noted, however, that in their affidavits which were filed along with the Petition for Naturalization, both Mrs. Villaflor and Mr. Nebasa stated expressly that —

> "In [their] opinion the petitioner has all the qualifications necessary to become a citizen of the Philippines and is not in anyway disqualified under the provisions of Commonwealth Act No. 473, as amended by Commonwealth Act No. 535."[13]

Mrs. Villaflor testified that she had known respondent Lucina Y. Chua for fifteen (15) years; that she came to know Lucina Y. Chua in 1969 when the latter was still in secondary school; that they (Mrs. Villaflor and Lucina Y. Chua) were neighbors in Rizal Avenue, Tacloban City; that she knew the parents of Lucina Y. Chua and named her father (Suan Chua); that during all the time that they were neighbors in Rizal Avenue, Tacloban City, Lucina Y. Chua enjoyed "a good reputation and conduct" and that she "mingle[d]" with Filipinos.[14] For his part, Mr. Nebasa testified that he had known Lucina Y. Chua since 1969; that he first met her when he was invited by his close friend, Lucina's brother-in-law, to a birthday party at Lucina's family residence at Rizal Avenue, Tacloban City; that Lucina was at that time

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[12] Petition, p. 12; *Rollo*, p. 44.

[13] Court of Appeals' *Rollo*, pp. 54-55.

[14] TSN, June 21, 1985, pp. 11-12.

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around thirteen (13) years old; that he has known Lucina for about fifteen (15) years; that he (Mr. Nebasa) was boarding at Mr. Tomanda's residence in Burgos St., Tacloban City, very near the residence of Lucina's brother-in-law at Rizal Avenue, Tacloban City; that during the fifteen (15) years that he had known Lucina Y. Chua, she "has a good moral character;" that she was "not known to be unruly and it has been publicly known that she also abides [by] the laws of the country;" that he believed her to be qualified to be a Philippine citizen "because, aside from [being] a natural born (*sic*), she was reared in the Philippines, she finished her education in the schools duly recognized by the Philippine government, she abides [by] the rules, laws and principles underlying the Philippine Constitution. She mingled with the Filipinos and have evince (*sic*) a sincere desire to learn and embrace the customs, traditions and ideals of the Filipinos; and have (*sic*) a harmonious relations (*sic*) with Filipinos."[15]

It appears to the Court that the statements made by Mrs. Villaflor and Mr. Nebasa while perhaps somewhat sketchy and general in character, may be regarded as adequate so far as the essential requirements are concerned which relate to the reality and length of Lucina Y. Chua's residence in the Philippines, her reputation as a person of good moral character and their opinion that Lucina Y. Chua has "all the qualifications necessary to become a citizen of the Philippines and is not in anyway disqualified under the provisions of the statute."[16]

The doctrine that an applicant for naturalization has the burden of proving that he has all the qualifications and none of the disqualifications for naturalization as a citizen,[17] was not intended to relieve the government, with all the agencies at its command,

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[15] TSN, June 21, 1985, pp. 13-17.

[16] Section 7, Revised Naturalization Act.

[17] *Yu Lim v. Republic*, 27 SCRA 804 (1969); *Chua Eng Hok v. Republic*, 15 SCRA 170 (1965); *Uy Eng Hiok v. Republic*, 12 SCRA 366 (1964); *Hao Su Siong v. Republic*, 5 SCRA 628 (1962); *Kho Eng Poe v. Republic*, 5 SCRA 609 (1962); and *Pe v. Republic*, 3 SCRA 573 (1961).

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from the duty of carrying out its own inquiry into the qualifications and possible disqualifications of the applicant and the competency of the character witnesses. Courts must assume that the government did carry out such an inquiry with reasonable diligence before and during the hearing of the petition for naturalization and did place itself in a position intelligently to assess the testimony and other evidence submitted by the applicant and his witnesses and to object or oppose' seasonably where objection or opposition is necessary or proper.

It remains to point out, with the Court of Appeals that:

"[t]he fact that [Lucina Y. Chua] possesses none of the disqualifications provided in the law has been amply supported by the favorable clearances issued [to her] by the National Bureau of Investigation, Manila; National Bureau of Investigation, Eastern Visayas Regional Branch, Tacloban City; Office of the Provincial Fiscal of Palo, Leyte; Office of the City Fiscal, Tacloban City; Regional Trial Court, Palo, Leyte; Leyte Integrated National Police Command; Leyte Constabulary/INP Command, Tacloban City; Office of the City Mayor, Tacloban [City]; and Municipal Trial Court, Tacloban City." [18]

WHEREFORE, the Petition for Review is DENIED and the Decision of the Court of Appeals dated 5 January 1987 is AFFIRMED. No pronouncement as to costs.

SO ORDERED.

Fernan, C.J., Narvasa, Melencio-Herrera, Gutierrez, Jr., Cruz, Gancayco, Padilla, Bidin, Sarmiento, Cortes, Griño-Aquino, Medialdea, and *Regalado, JJ.*, concur.

Paras, J., no part. Wife penned the CA decision.

[18] *Rollo*, p. 39.