

## EN BANC

[ G.R. No. 109564, July 22, 1998 ]

### REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. THE COURT OF APPEALS AND LOH KHUAN FATT, RESPONDENT.

#### DECISION

##### NARVASA, C.J.:

On January 12, 1989, Loh Kuan Fatt filed with the Regional Trial Court of Makati a petition to be admitted as citizen of the Philippines.<sup>[1]</sup> After due proceedings, the Court rendered judgment on February 28, 1990, granting the petition. On behalf of the Republic of the Philippines, the Solicitor General appealed that decision to the Court of Appeals, but without success, the latter affirming the Trial Court's decision by judgment promulgated on March 23, 1993.

The Solicitor General is now before this Court praying that both decisions be overturned as being contrary to law and applicable precedents.

Loh Kuan Fatt's petition before the Makati Regional Trial Court<sup>[2]</sup> contained the usual allegations of initiatory pleadings of that nature.<sup>[3]</sup> It stated --

\*\*\* that his full name is Loh Khuan Fatt, and he is also known a Loh Khuan Fatt Peter and Peter Loh; that he is 37 years old, married and a dentist; that prior to residing at his present address at 11 East 4th St., Angela Village, Talon Las Piñas, Metro Manila, he had resided in an apartment located at 76 West Riverside, San Francisco del Monte, Quezon City; that he was born on May 15, 1952 in Perak, Malaysia, under whose laws, Filipinos may become naturalized citizens of subjects thereof, that he graduated from the CEU in Manila; that he was married on November 13, 1982 to Dr. Monina Mondejar, a Filipino citizen, 32 years old, with whom he has three (3) children, namely: Stephanie Jean, born on June 19, 1984 in Minchen, West Germany, John Peter, born on April 10, 1986 in Manila, and Samantha Jean, born on October 14, 1987 in Manila; that he arrived in the Philippines from Bangkok on June 6, 1977, and continuously resided in the Philippines for more than ten (10) years immediately preceding the filing of the petition; that he left the Philippines with his wife on January 31, 1983 to pursue a scholarship grant in orthopedics in the Federal Republic of Germany; that since his return to the Philippines on October 29, 1985 he has been residing thereat continuously up to the present; that he has been living in his present address since 1977 up to the present; that he speaks and writes English and Tagalog; that although a dentist by profession, he cannot yet practice due to lack of license from the PRC; that he has been engaged in private tutoring since 1988; that as such private tutor he derives an annual income of about P120,000.00; that if given a license to practice

his dental profession he could earn P400,000.00 annually; that Stephanie Jean, a minor child of school age is enrolled at the Benedictine Abbey School, where Philippine history, government and civics are taught as part of the school curriculum; that he is of good moral character and has conducted himself in a proper and irreproachable manner during the entire period of his residence in the Philippines in his relations with the constituted government, as well as with the community in which he lives; that he has filed his bona-fide intention to become a Filipino citizen with the Office of the Solicitor General; that it is his intention in good faith to become a Filipino citizen and to renounce absolutely forever all allegiance and fidelity to any foreign state or sovereignty; that he will reside continuously in the Philippines from the filing of his petition up to the time of his admission as a Filipino citizen; that Dr. Adelfa Rivera and Maricar T. Mondejar, both Filipino citizens, will appear and testify as witnesses at the hearing of the petition; that attached to his petition are: a) the affidavit of his character witnesses; b) his declaration of intention; c) his certificate of arrival; d) his two photographs; e) his Alien Certificate of Registration; and f) his Certificate of Residence; that he believes in the Philippines Constitution; that he can recite the Bill of Rights and State Policy, Education and Sports stated in the Constitution; that he commingles with the people in the community where he lives; that there are no complaints against him in the same community; that he embraces Filipino customs and traditions like friendliness, hospitality, courtesy and respect and closeness among family members; that he is in favor of the present government; that he was at EDSA during the 1986 revolution; and that he is not a member of any organization opposed to the present government; that he is not a polygamist; that he has not been convicted of any offense involving moral turpitude; that he has not been convicted of any crime as evidenced by the clearances obtained from the police, immigration, courts, fiscals and NBI; that he is not mentally ill; that he is not afflicted with any contagious diseases; that if his petition is granted he will renounce absolutely and forever all allegiance and fidelity to the State of Malaysia; that up to and until his petition is granted he will continue residing in the Philippines; that he has not filed any petition for citizenship in any court."

At the scheduled hearing of petition, neither the Solicitor General nor anyone else appeared in behalf of the Republic of the Philippines. The Trial Court then proceeded to receive Loh Kuan Fatt's proofs in support of his application for naturalization.<sup>[4]</sup>

Loh gave testimony as follows:

"1. Besides his present place of residence, he has also resided at 123 F. Roman St., San Juan, Metro Manila and at No. 76 West Riverside, San Francisco del Monte, Quezon City;<sup>[5]</sup>

"2. He earns about P45,000.00 a year from his private tutorial job, as he could not practice his profession as a dentist;<sup>[6]</sup>

"3. He owns \*\* real estate worth about P500,000.00 located at Muntinlupa, Metro Manila, \*\* registered in the name of his wife;<sup>[7]</sup>

"4. He also owns dental equipment insured for P500,000.00,<sup>[8]</sup> \*\* being used by his wife in her dental clinic;<sup>[9]</sup>

"5. He likewise owns a car that is registered in the name of his wife with a market value of about P160,000.00.<sup>[10]</sup>

Loh's character witnesses -- Maricar T. Mondejar, his sister-in-law, and Adelfa Rivera, a fellow professional -- also gave evidence, both asserting that they had known him since 1980 and 1978, respectively.<sup>[11]</sup>

Rivera's testimony is in substance as follows:

She is 29 years of age, a dentist, Filipina, and residing at 88 D. Tuason, Quezon City; petitioner and his wife were her classmates at the College of Dentistry, Centro Escolar University; she graduated at the same time with petitioner; they are all members of the Philippine Dental Association; she often consults petitioner and refers to him cases involving orthodontics; to family affairs and other special occasions she is often invited by petitioner and his wife; petitioner does not charge her for the dental cases referred to him; being helpful to his classmates, petitioner is well-liked by fellow dentists; he is loyal to his wife and is a devoted husband and father; petitioner is sociable, believes in the democratic principles underlying the Constitution, and is not a member of any organization that is opposed to the government.<sup>[12]</sup>

For her part, the other character witness, Mondejar, testified essentially as follows:

She is 43 years old, single, businesswoman and resident of Mayamot, Antipolo, Rizal; petitioner is her brother-in-law she being the eldest sister of his wife; she came to know petitioner for the first time in 1978 when he had some printing jobs done at her printing shop; he is a loving husband and a good provider for his family; witness is not aware of any complaint filed against petitioner; and he is not a member of any association that advocates violence against or is opposed to the government."<sup>[13]</sup>

On January 3, 1990, the trial court issued an order which: "1) admitted petitioner's formal offer of exhibits; \*\* 2) (directed) the Solicitor General's Office to manifest within 72 hours from notice whether it desires to present any evidence; and 3) in the absence of said manifestation, to consider the petition submitted for decision after the lapse of said period."<sup>[14]</sup> To this order -- copy of which it received on January 17, 1990 -- the Solicitor General's Office made no response whatever; it did not avail of the opportunity to present evidence or submit a pleading or document of any kind for the Government.

The Trial Court thus deemed the case submitted for decision,<sup>[15]</sup> and thereafter, as already stated, rendered judgment granting Loh's petition.

In his appeal to the Court of Appeals, the Solicitor General advanced several

grounds for the reversal of the Trial Court's verdict. He argued, for one, that the petition was mortally flawed because it deliberately omitted to state one of Loh's former residences,<sup>[16]</sup> i.e., No. 123 F. Roman St., San Juan, Metro Manila.<sup>[17]</sup> The Appellate Court rejected that argument, saying:<sup>[18]</sup>

"The fact that \*\* (Loh) submitted four (4) police clearances in the respective places he has resided in, including his residence in San Juan which was inadvertently missed in his application, belies the \*\* claim that \*\* (Loh) deliberately failed to include the said residence to limit his character witnesses to persons who could attest to his moral character only from the time he resided in Quezon City. Also, his testimony during the hearing wherein he enumerated all his former residences including the one missed in his application is a clear indication that \*\* (Loh) was not impelled by any sinister motive to hide the truth but that the failure was at most due to inadvertence of \*\* (his) counsel. At any rate, the inclusion of the 'missed residence' in the police clearances he submitted and the mention of the same during his direct testimony, in effect, cured the alluded infirmity."

The Solicitor General also contended that Loh's character witnesses (who testified in the Trial Court in 1989) had not known him for the entire period of his residence in the Philippines<sup>[19]</sup> -- i.e., since 1977 -- because admittedly, Dr. Rivera had known him only since 1980 and Ms. Mondejar, only since 1978. This contention was likewise rejected:

"The (Solicitor General's) interpretation \*\* of the phrase, 'during the entire period of residence in the Phils.,' is to Our mind too literal and constricted. The import of said phrase should not be taken literally as to mean that character witnesses should have known the applicant \*\* from day one (1) that he has set foot on our ground. We are of the considered opinion that it is enough that character witnesses shall have known \*\* (applicant) for a substantial period of his residence in the Phils. so much so that they can fairly calibrate \*\* (his) conduct and manner. Moreover, the three (3) year difference in the case of witness Dr. Adelfa Rivera and the one (1) year difference in the case of witness Maricar Mondejar of knowing petitioner \*\* cannot be considered such a gap of time and does not make them less qualified to testify on \*\* (the latter's) character during his period of residence in the Phils."<sup>[20]</sup>

A third point sought to be made by the Solicitor General -- that the discrepancy between Loh's estimate of his income in his application and that declared by him during his direct testimony indicated an intention to evade payment of taxes -- was dismissed by the Appellate Tribunal "as a mere supposition if not an outright speculation, \*\* \*\* (the discrepancy having been) magnified to a fault \*\*."<sup>[21]</sup>

" \*\* This Court can not discern any untrustworthy motive behind the discrepancy \*\* because his declared income in his income tax return for 1988 and his testimony regarding the same in the hearing of September 29, 1989 was undeviating. His declaration of his expected income while preparing his petition is only a rough estimate and being a rough estimate We can not expect it to be a definitive statement of his income, hence the discrepancy should not be taken against him."