

Date: 19980525

Docket: T-2842-96

**IN THE MATTER OF THE *CITIZENSHIP ACT*
R.S.C., 1985, c. C-29**

**AND IN THE MATTER OF an appeal from the
decision of a Citizenship Judge**

**AND IN THE MATTER OF
THE MINISTER OF CITIZENSHIP
AND IMMIGRATION,**

Appellant,

FAI ALEX CHAN

Respondent.

REASONS FOR JUDGMENT

ROTHSTEIN, J.:

[1] This is an appeal by the Minister from a decision of the Citizenship Court to grant Canadian citizenship to the appellant. The issue is residency.

[2] Counsel for both parties agreed that for purposes of this case, the relevant criteria are those set forth in *Re Koo*, [1993] 1 F.C. 286. As in most cases, the respondent here satisfies some of the criteria set forth in *Re Koo* and does not satisfy other. The test, as Reed J. has put it in *Re Koo* is whether

Canada is the place where the respondent "regularly, normally or customarily lives"; where the respondent has centralized his mode of existence.

[3] The fact that an appellant continues to work outside of Canada is not determinative against him in all cases. Here, over the relevant time, the respondent returned to Canada frequently from his numerous business trips abroad. His business trips were to a number of Asian countries as well as to Hong Kong. He sold all of his properties abroad. He incorporated a Canadian company which, although it has not been profitable, is an operating company. He has declared his foreign income on his Canadian income tax return.

[4] In all the circumstances, the appellant has not satisfied me that the learned Citizenship Court Judge erred in approving the respondent's application for citizenship. The appeal is dismissed.

(Sgd.) "Marshall E. Rothstein"

Judge

Vancouver, B.C.
May 25, 1998

FEDERAL COURT TRIAL DIVISION

NAMES OF COUNSEL AND SOLICITORS OF RECORD

HEARING DATED: **May 19, 1998**

COURT NO.: **T-2842-96**

STYLE OF CAUSE: ***Citizenship Act***

v.

Fai Alex Chan

PLACE OF HEARING: **Toronto, ON**

REASONS FOR JUDGMENT OF ROTHSTEIN, J.

dated May 25, 1998

APPEARANCES:

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Mr. J. Norris Ormston for Respondent

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