

**Title:** Tan Tong Alias Cheoña v. The Deportation Board

**Facts:**

- Initial Charges:** Tan Tong was initially charged by the Bureau of Immigration for being a communist and engaging in smuggling activities.
- Board Recommendations:** The Board of Commissioners recommended deportation to China and referred the smuggling charges to the Office of the President under section 69 of the Revised Administrative Code.
- Additional Charges:** On November 7, 1952, Special Prosecutor Emilio L. Galang charged Tan Tong before the Deportation Board with affiliation to the communist party and unlawful importation of merchandise, particularly American cigarettes.
- Motion to Quash:** Tan Tong moved to quash the proceedings, arguing that: (a) the charges had already been investigated by the Bureau of Immigration, and (b) there was no jurisdiction for smuggling without a prior conviction by a competent court, per section 2702 of the Revised Administrative Code.
- Court of First Instance Decision:** The motion was denied, leading Tan Tong to seek a writ of prohibition from the Court of First Instance of Cebu, which upheld the Deportation Board's jurisdiction.
- Appeal to Supreme Court:** Tan Tong appealed to the Supreme Court, arguing solely that the Deportation Board could not proceed without a court conviction for unlawful importation.

**Issues:**

- Whether the Deportation Board can subject Tan Tong to deportation for unlawful importation without a preceding court conviction for the offense.

**Court's Decision:**

- **Resolution of Issue:**

- Nature of Deportation Power:** The Supreme Court clarified that the power to deport aliens is vested in the President of the Republic as an act of state, subject to the regulations outlined in section 69 of the Revised Administrative Code and any relevant legislation.
- Section 69 Requirements:** Section 69 provides the procedural requirements for deportation, ensuring due process but does not limit the Executive's power to deport.
- Interpretation of Section 2702:** The Court interpreted Section 2702 of the Revised Administrative Code as adding a layer of liability for deportation if a competent court finds an alien guilty of unlawful importation. However, it did not preclude the Deportation Board from investigating and recommending deportation in the absence of such a conviction.

4. **Final Adjudication Authority:** The factual adjudication for deportation resides with the Chief Executive. The Deportation Board's role in investigating charges does not equate to requiring a prior court conviction.

5. **Legislative Intent:** The addition of the clause "he may be subject to deportation" in section 2702 does not imply excluding the Deportation Board's investigative powers when no court conviction exists.

**Doctrine:**

- **Executive Discretion in Deportation:** The power to deport lies with the President and involves executive discretion.
- **Procedural Safeguards:** Section 69 outlines procedural requirements to ensure due process in deportation but does not restrict the Executive's broader discretionary power.
- **Independent Board Investigation:** The Deportation Board can investigate and recommend deportation independently of court convictions under relevant sections of the Revised Administrative Code.

**Class Notes:**

- **Power to Deport aliens:** Vested in the President, requiring procedural due process.
- **Section 69, Revised Administrative Code:** Prescribes procedural safeguards for deportation.
- **Section 2702, Revised Administrative Code:** Adds deportation liability post-conviction without mandating it as the sole basis for investigation or deportation.
- **Key Case Citations:**
- *In re McCulloch Dick*, 38 Phil., 41: Emphasizes the finality and executory nature of the President's deportation decisions.

**Historical Background:**

- **Context:** The case highlights the Philippine government's efforts to address national security concerns during a period of heightened vigilance against communism and illegal activities such as smuggling, underscoring the Executive's broad discretion in matters affecting national welfare and security.