

ANG KOO LIONG, PETITIONER AND APPELLEE VS. THE BOARD OF COMMISSIONERS OF THE BUREAU OF IMMIGRATION, RESPONDENT AND APPELLANT.

G.R. No. L-8789. May 18, 1956

Ponente: REYES, J.B.L., J.

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

On October 5, 1954, Ang Koo Liong filed in the Court of First Instance of Manila a petition for certiorari with preliminary injunction claiming that the Board of Commissioners of the Bureau of Immigration acted with grave abuse of discretion and contrary to law in ordering him to leave the Philippines within a specified period of time, or else be subject to deportation proceedings. Two days later, on October 7, 1954, the trial court issued a writ of preliminary injunction restraining the respondent from causing the arrest and deportation of petitioner. Instead of going to trial, the parties entered into the following stimulation of facts:

"1. That on July 18, 1949, acting on the petition filed by the Chinese Chamber of Commerce Elementary School, otherwise known as the Chun Hua School in Daet, Camarines Norte, in behalf of the petitioner who, as pre-arranged, was to teach in said school, and pursuant to the provisions of section 20 (a) of the Philippine Immigration Act of 1940, the respondent authorized the issuance to the petitioner of a visa as a non-quota immigrant under section 13 (a) of the same Act, subject' to the following conditions among others contained in its Order:

"(1) He shall remain in the Philippines only during the period of his employment, which period shall, however, not be beyond two (2) years after arrival;

(2) He shall notify this office of any change of address within twenty-four (24) hours before such change of address; and

(3) Failure to comply with conditions (1) and (2) will subject him to deportation in accordance with law."

2. That the Philippine Consulate at Hongkong was duly informed of said Order in a radiogram sent to it on September 17, 1949 by the Department of Foreign Affairs;

3. That the petitioner Ang Koo Liong arrived in the Philippines on September 6, 1950, from Hongkong and Immediately thereafter he was investigated by a Board of Special Inquiry;

4. That on September 12, 1950, said Board of Special Inquiry promulgated its decision admitting the petitioner into the Philippines a nonquota immigrant under section 9(g) of the Philippine Immigration Act of 1940, as amended;

5. That on June 16, 1952, petitioner thru counsel, sought permission to leave his place of employment, the Daet Chung Hua School, and to transfer to the Dumaguete-Chinese School, which request was granted by the Commissioner of Immigration. Copy of said letter was attached as Annex "B" of the respondent's Answer;

6. That on June 18, 1954, petitioner through counsel filed with the respondent Board of Commissioners a petition for an, extension of stay in this country for another two years;
7. That said petition was denied by the respondent Board of Commissioners in its Order dated July 31, 1954, and therein the respondent served notice to the petitioner that he leave voluntarily the country within fifteen (15) days from receipt of the Order, otherwise Ms removal will be Effected in accordance with law. A copy of said Order was attached to the Answer of the respondent as Annex "C";
8. That a copy of said Order of the respondent was furnished the petitioner on August 4, 1954, and a follow-up letter was sent to the petitioner on August 31, 1954;
9. That on September 27, 1954, the petitioner thru counsel requested the Commissioner of Immigration for the revocation of said Order of the respondent Board of Commissioners and the correction of the status of the petitioner;
10. That on September 30, 1954, the First Deputy Commissioner of Immigration informed petitioner of the denial of his petition; and
11. That the instant proceedings for certiorari with preliminary injunction was filed with this Court on October 5, 1954."

and submitted the case for decision. The trial court held that petitioner having been admitted into this country as a "non-quota immigrant", he is entitled to permanent residence here; and rendered judgment setting aside respondent's order for petitioner to leave the country and making permanent its writ of preliminary injunction of October 7, 1954. From this decision, the respondent Board of Commissioners of the Bureau of Immigration appealed to this Court.

We find the appeal meritorious. The characterization of petitioner as a "non-quota immigrant" by the Board of Inquiry does not necessarily imply that he was admitted for permanent residence, for the authority granted to our Hongkong Consulate for issuance of his visa specified that he was to be admitted under section 13 (a) of the 1940 Immigration Act, and stipulated expressly that he was not to remain in the Philippines beyond two (2) years after arrival (Stipulation of Facts, paragraph 1). Having taken advantage of a visa issued to him under such authorization, petitioner is deemed to have agreed and accepted its conditions, and is therefore in estoppel to claim that he is entitled to permanent stay.

A case on all fours with the one before us is that of *Chang Yung Fa vs. Gianzon and De la Cruz*, (97 Phil., 914), decided on November 25, 1955, where we ruled that the power granted to the Commissioner of Immigration under section 20 of the 1940 Immigration Act (Commonwealth Act No. 613) was broad enough to validly authorize him to impose a limitation to the duration of the stay of an immigrant admitted on pre-arranged employment, like the petitioner now before us. That ruling is therefore conclusive on the present case.

The court below seems to have confused petitioner's status with that of "non-quota immigrant" under Article VI of the 1946 Treaty between the Philippines and the United States, but that class is lknited to returning American citizens only. Besides, it should have been apparent that if petitioner's admission was based on his pre-arranged employment contract to teach at the Chung Hua School of Daet, Camarines Norte, his stay must necessarily be temporary and not permanent, since a hiring for life is void under our law (Civil Code of 1889, Article 1583).

The mere fact that the respondent Commissioners of Immigration did not choose. to enforce the limitation on petitioner's stay immediately upon the expiration of the period given, did not confer upon petitioner a right to stay longer in these Islands. The petitioner so understood his situation to be, as shown by the circumstance that in

1954, he applied to the Immigration officers for an extension of his stay (Stipulation of Facts, paragraph 6), but his petition was denied.

The judgment appealed from is reversed, the proceedings dismissed, and the writ of preliminary injunction annulled and set aside. Costs against the petitioner. So ordered.

Paras, C. J., Bengzon, Padilla, Montemayor, Reyes, A., Jugo, Bautista Angelo, Labrador, Concepcion, and Endencia, JJ., concur,

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