

**CHANG YUNG FA, ET AL., PETITIONERS AND APPELLANTS, VS.
HONORABLE ROBERTO A. GIANZON, IN HIS CAPACITY AS ACTING
SECRETARY OF JUSTICE AND HONORABLE VICENTE DE LA CRUZ,
AS COMMISSI...**

G.R. No. L-7785. November 25, 1955

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

This is a petition for declaratory judgment filed in the Court of First Instance of Manila wherein petitioners prayed that the court declare if the Commissioner of Immigration has a right to limit their period of stay in the Philippines as immigrants and if Opinion No. 314, series of 1952, of the Secretary of Justice on the same subject matter is valid and constitutional.

The Government in its answer set up as special defense that petitioners were admitted to the Philippines under Section 13 of Commonwealth Act No. 613 with the express condition that their stay shall be not more than two years; that this condition is not violative of the law merely because under section 13 (a) of said Act they could have come under the category of non-quota immigrants who may be admitted for permanent residence in the Philippines; and that by having consented to their admission to this country with such limitation petitioners are now estopped from claiming that they are entitled to stay permanently.

After due trial, and after counsel had submitted memoranda in support of their respective contentions, the court in an order entered on March 4, 1954 found "that the herein petitioners have no right to stay any longer in the Philippines and they should be deported, in accordance with our laws, to their country where they have come from." Accordingly, the court dismissed the petition for lack of merit. Petitioners interposed the present appeal.

On November 11, 1949, petitioners were admitted to the Philippines on pre-arranged employment as immigrants under section 13 (a) of the Philippine Immigration Act of 1940, known as Commonwealth Act No. 613, with the express condition that their stay shall be limited to two years. On June 12, 1950, the Immigration Act was amended by Republic Act No. 503 introducing therein certain amendments among them that which changes the classification of pre-arranged employees from immigrants to non-immigrants.

On November 21, 1952, upon proper request, the Secretary of Justice rendered an opinion (Opinion No. 314, series of 1952) holding in effect that the condition imposed for the admission of petitioners to this country whereby their stay shall be for not more than two years was valid intimating therein that, should they fail to comply with said condition after the expiration of that period, they shall be subject to deportation. Petitioners moved for the reconsideration of this petition, and having failed to obtain a favorable reply, instituted the present action for declaratory judgment.

Appellants contend that having been classified as "non-quota immigrants" under section 13 of Commonwealth Act No. 613, they should have been admitted for permanent residence in this country because the word

"immigrant" is defined to be a person who comes into a country for permanent residence, and, therefore, the imposition of the condition limiting their stay to not more than two years by the Commissioner of Immigration is in violation of law.

While the term "immigrant" under its ordinary definition denotes one who comes for permanent residence, there is nothing in the law which would preclude the view that that term may also refer to an alien who comes to this country either to reside permanently or for a limited duration. The only definition given by our law to the term "immigrant" is what is stated in section 50(j) of Commonwealth Act No. 613, to wit, "any alien departing from any place outside the Philippines destined for the Philippines, other than a nonimmigrant." The law, on the other hand, gives no definition to the term "nonimmigrant" from which we may imply that the term "immigrant" is merely intended to include any alien coming to this country for permanent residence as now contended by appellants. Indeed, a careful review of the whole law would disclose no such intention or meaning, which silence denotes an apparent implication that the purpose of the law is to give broad power and discretion to the Commissioner of Immigration on matters which pertain to the admission of immigrants into the Philippines. The only classification of immigrants we find in the law is that of "quota immigrants" and "non-quota immigrants", but such qualification has reference merely to the number of aliens who may be allowed to enter and not to the duration of their residence (section 13, Commonwealth Act No. 613).

Our interpretation of the meaning and scope of the term "immigrant" finds support in the case of *Karnuth vs. U. S.* 279 XL S. 231, 242-243, wherein it was held:

"In construing section 3 (2) of the Immigration Act, we are not concerned with the ordinary definition of the word 'immigrant', as one who comes for permanent residence. The act makes its own definition, which is that 'the term 'immigrant' means any alien departing from any place outside the United States destined for the United States.' The term thus includes every alien coming to this country either to reside permanently or for temporary purposes, unless he can bring himself within one of the exceptions."

Viewed, therefore, in the light of the meaning of the term "immigrant" as above interpreted which includes aliens coming both for permanent or temporary purposes, it cannot be correctly pretended that the limitation imposed upon petitioners as regards their stay in the Philippines by the Commissioner of Immigration does violence to the law since it does not clearly appear therein that such class of aliens can only be admitted with the status of permanent residence. On the contrary, the power of the Commissioner of Immigration under section 20 of Commonwealth Act No. 613 would appear to be broad enough to include the authority to impose such limitation, for if the Commissioner has the power to deny completely the admission of an alien who seeks to enter this country on a pre-arranged employment by withholding the issuance of an immigration visa on the ground of public interest, with more reason can he impose a condition which is less onerous such as limiting the duration of his stay in the country.

Counsel for appellants invokes the explanatory note of House Bill No. 1044, which later became Republic Act No. 503, wherein mention is made of the apparent purpose of the amendment which is to change the classification of aliens coming with pre-arranged employment from temporary to permanent, in support of his proposition that the intentment of the original law in allowing the admission of immigrants is to classify them as aliens who are allowed to enter for permanent stay in contrast to non-immigrants who by statutory provision are allowed to come merely for temporary purposes. Apparently, the explanatory note above referred to gives the impression that the term "immigrant" as classified under section 13 of Commonwealth Act No. 613 refers only to aliens who are supposed to be admitted into the Philippines for permanent residence, but such meaning does not appear, nor is reflected, in the very language of the statute. That interpretation may be of some value to clarify doubtful or ambiguous provisions in the amendatory Republic Act No. 503 but cannot certainly be of any aid as regards the

interpretation of Commonwealth Act No. 613 which was adopted by a different legislative body. In this respect, we find cogent and tenable the opinion given by the Secretary of Justice to the effect that "the most that can be deduced from said Explanatory Note is that the legislative body which passed Republic Act No. 503 was of the impression, unfounded or otherwise that immigrants who were admitted under section 13 of Commonwealth Act No. 613 were entitled to or may be allowed permanent residence in the Philippines. Being of this impression, they found it necessary to remedy the situation by amending the law so that thence forth it would no longer be possible for aliens who came to pre-arranged employment in the Philippines to stay permanently." (Annex C)

In any event, it appearing that petitioners were admitted to the Philippines subject to the express condition that their stay would only be for two years and they consented to their admission under such condition, they cannot now be heard to complain that the Commissioner of Immigration acted in excess of his power in imposing that limitation. They are now estopped from disputing such power even if when they entered they were not disqualified for admission as permanent residents because of their failure to ask for the cancellation of such limitation. They have perhaps labored under the impression that if they had asked for their unconditional admission the immigration authorities would have denied altogether their entry into this country. And such apprehension is well within the realm of possibility considering the broad power granted by law to the Commissioner of Immigration with regard to the entrance of aliens into the Philippines.

Premises considered, we find no justifiable reason to disturb the decision reached by the lower court, and so we affirm the same, with costs against appellants.

Paras, C. J., Bengzon, Padilla, Montemayor, Reyes, A., Jugo, Labrador, Concepcion, and Reyes, J. B. L., JJ., concur.

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