

**JESUS CONTEMPRATE ALIAS CO CHII KIAT,
PETITIONER-APPELLANT, VS. THE ACTING COMMISSIONER OF
IMMIGRATION, THE BOARD OF COMMISSIONERS OF THE BUREAU
OF IMMIGRATION, THE MEMBERS OF T...**

G.R. No. L-28604. October 30, 1970

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

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

Appeal from the decision of the Court of First Instance of Manila (in Civil Case No. 60384), dismissing the petition filed therein by Jesus Contemprate alias Co Chii Kiat, directed primarily against the cancellation of his certificate of identification and his arrest and detention since 6 March 1964, upon orders of the respondent Acting Commissioner of Immigration.

It appears from the record and the stipulation of facts entered into by the parties that petitioner, the "son of Co Cue, a Chinese citizen", arrived at the port of Manila on 8 November 1921 from Amoy, China. He was issued lending Certificate of Residence No. 38898, approved by the Bureau of Customs on 17 June 1921. Upon later application, petitioner was also issued Alien Registration Certificate on 6 March 1948, wherein his name appeared as Co Chii Kiat, born on 30 April 1908 in Amoy, China, and married to Luisa Chua. On 13 June 1960, however, petitioner requested the immigration authorities to cancel his certificate of residence and alien certificate of registration on the ground that he is a Philippine citizen. The Citizenship Evaluation Board of the Bureau of Customs thereupon conducted an investigation of the case during which petitioner's alleged parents, Juan Contemprate and Prisca Corres, Natividad Tiosen, and petitioner himself testified, and certain documentary evidence were presented. On 30 August 1960, Associate Commissioner Felix Talabis issued an order declaring petitioner as "the legitimate child of Filipino parents", and consequently directed the cancellation of his alien registry and the issuance to him of appropriate identification certificate showing his correct status.

On 10 and 11 August 1961, four persons, allegedly named Carlos, Domingo, Gregorio, and Paquito Contemprate,[1] claiming to be children of petitioner, arrived in Manila. During the investigation of said persons conducted by the Board of Special Inquiry of the Immigration Bureau, petitioner affirmed under oath that the former were his children. Immigration Officer Lamberto Almeda, however, having noted discrepancies in the record which allegedly were not duly considered by the Citizenship Evaluation Board, recommended to the Commissioner of Immigration the reinvestigation of petitioner's case. On 18 August 1961, the Commissioner ordered such reinvestigation. Upon the other hand, on the basis of the evidence submitted by claimants Carlos, Domingo, Gregorio and Paquito Contemprate, the Board of Special Inquiry, on 20 September 1961, allowed their admission into the country under the status claimed.

On 3 June 1962, Immigration Officers Lamberto Almeda and Gavino M. Yapchiongco, Jr., submitted to the Commissioner of Immigration an ex-parte report to the effect that fraud and an impostor"; that he is not the Jesus Contemprate referred to and described as the legitimate son a Juan Contemprate and Prisca Corres in the

baptismal certification issued by the parish priest of San Fernando, Masbate; that the real Jesus Contemprate was then actually living in Bobok, Mountain Province; that petitioner Go Chit Kiat merely assumed the identity of the real Jesus Contemprate, whose birth and parentage he must have learned only from his common-law wife, Natividad Tiosen.

Acting upon said report, the Board of Commissioners reviewed *motu proprio* the decision of the Special Board of Inquiry in the cases of Carlos, Paquito, Domingo and Gregorio Contemprate (I. C. Nos. 61-2966-C, 61-2967-C, 61-2974-C, and 61-2965-C), and on 20 June 1962 ruled for the exclusion of the latter on the grounds (1) that the alleged filiation of applicants to Jesus Contemprate alias Co Chii Kiat had not been satisfactorily established, and (2) that even assuming that the applicants were his children, they cannot derive Philippine citizenship from Co Chii Kiat, who claimed to be born as Jesus Contemprate, the latter having been found to be a fraud and an impostor. The Commissioner of Immigration likewise revoked the 30 August 1960 order of Associate Commissioner Talabis declaring Co Chii Kiat, alias Jesus Contemprate, a citizen of the Philippines, and directed the cancellation of the identification certificate issued to the latter on 7 September 1960, and for his registration under the Alien Registration Act. On the same day, 20 June 1962, the Commissioner of Immigration issued a warrant for the arrest of Co Chii Kiat, alias Jesus Contemprate, to answer deportation charges, for having knowingly misrepresented himself as a Filipino citizen born of Filipino parents in 1911 in San Fernando, Masbate, during the investigation of the admission cases of Carlos, Paquito, Domingo and Gregorio Contemprate, such false statements and misrepresentation resulting in his alleged sons being admitted and documented as Filipino citizens. The Commissioner of Immigration similarly issued a warrant for the exclusion of Carlos, Paquito, Domingo and Gregorio Contemprate.

On 29 March 1965, Jesus Contemprate, alias Co Chii Kiat, commenced in the Court of First Instance of Manila a certiorari proceeding (Civil Case No. 60384) to nullify the aforementioned orders of the Commissioner and to restrain the hearing of the exclusion or deportation charges against him. On 3 March 1966, the lower court rendered decision dismissing the petition and sustaining the disputed orders of the Immigration Commissioner, upon the finding that the petitioner (appellant herein) is a fraud and an impostor, who had misrepresented himself as Jesus Contemprate, when the real person by that name is actually living and may be found in Baguio (Mountain Province). It was also ruled that a writ of certiorari is not the proper remedy in the case, a habeas corpus proceeding or recourse to administrative officials being more appropriate.

Coming to this Court by way of the present appeal,[2] petitioner-appellant now contends that for the court *a quo* to find that he is a fraud and an impostor, based merely on the *ex-parte* report of certain immigration officers and rendered without notice and hearing on him, constitutes a deprivation of his liberty without due process of law.

There is no merit in this contention of appellant. For aside from the report adverted to, the records of the case which the trial judge must have duly considered in reaching the disputed judgment, contain other evidence supporting the same. Thus, attached to the records is a sworn statement of one Jesus Contemprate an employee of a mining company in Mountain Province, given to immigration officers Almeda and Yapchiongco, Jr., on 31 May 1962, to the effect that he is the son of Juan Contemprate and Prisca Corres, born in 1911 at San Fernando, Masbate; that his parents have no other son named Jesus but he; that he had previously met appellant (whose picture was shown to him), who was introduced to him by his former common-law wife, Natividad Tiosen, as Miguel Co.[3] There is also the statement under oath of Marcelino Contemprate, a businessman of Baguio City, that his parents are Juan Contemprate and Prisca Corres of Buenavista, San Fernando, Masbate; that he has a brother named Jesus who was then working as a policeman in the Benguet Consolidated Mines in Mountain Province. Shown a picture of appellant, this declarant denied that the person pictured is his brother Jesus; that there could be no other Jesus Contemprate, son of Juan Contemprate and Prisca Corres of San Fernando, Masbate,

than his abovementioned brother.[4] Besides these positive and un rebutted declarations that appellant is not the Jesus Contemprate that he represents himself to be, there are certain discrepancies in the record that justify the denial of appellant's petition in the court below. First, during the investigation of appellant's claim conducted by the Citizenship Evaluation Board on 27 July 1960, appellant declared that he was recognized by, and got reunited with, his "real" parents (meaning the Contemprates) in 1951[5], changing it later to 1950[6]; whereas witness Juan Contemprate stated that he and his wife met the appellant in 1956, or just 4 years before that hearing.[7] Again, appellant alleged that it was in 1949, in China, when he was informed for the first time by his Chinese foster mother that his parents were Juan Contemprate and Prisca Corres who were still alive and residing at Buenavista, San Fernando, Masbate, in the Philippines.[8] And yet, according to Juan Contemprate and Prisca Corres, they had never communicated with nor heard from appellant's father, Co Cue, or from appellant himself, ever since the latter, at age four months, was allegedly brought to China by said Co Cue.[9] These discrepancies we consider significant, because appellant's recital of the supposed circumstances surrounding his assumption of the name Jesus Contemprate appears to be founded on a phenomenal series of coincidences. Thus, he would like us to believe that in 1950, upon being informed by his Chinese parents that his real parentage is Filipino, without prior verification thereof, he had stopped renewing his alien registration because he considered himself already a Filipino. But what is noteworthy is that it was also in 1950 when appellant met Natividad Tiosen,[10] who "happened" to know the alleged parents of appellant, Juan Contemprate and Prisca Corres. It was Tiosen who accompanied appellant to meet the couple in Masbate. The web of circumstances thus worked out is much too coincidental to be true and is rendered vulnerable by the fact that Natividad Tiose had cohabited for about seven years with, and had two children by, the man who bears the name of Jesus Contemprate, and is the son of Juan Contemprate and Prisca Corres, and who, in 1965, was working for a mining company in Mountain Province.

Another point that deserves notice is the improper attitude appellant has towards Philippine laws and authorities. For example, although the duly constituted government of the Philippines restarted functioning in 1945, it was only in 1946 that appellant registered as an alien and was issued an alien registration certificate.[11] Then, without proper order from government authorities, and allegedly only upon being informed by his Chinese mother that his real parents were Filipinos, he just stopped renewing his alien registration in 1950. Yet he did not take any steps to secure recognition of his alleged Philippine citizenship until ten years later, on 13 June 1960, when he requested the Immigration Commissioner to cancel his alien certificate of registration. In other words, if he were to be believed, appellant, for a period of 10 years, was passing himself off as a Filipino even without previous appropriate verification of his citizenship. To cap it all, this appellant admitted in his 1964 sworn statement (Annex 9 of the Respondent's answer below) that the four persons he had claimed under oath at the 1961 proceedings before the Immigration Board of Inquiry to be his children, and who were admitted as a result of his claim, were not really his children (Annex 9, page 3, Record, page 8). Appellant thereby admitted his perjury and utterly destroyed his own credibility.

Petitioner argues that the order of 30 August 1960, whereby Associate Commissioner Talabis ordered the cancellation of his alien registration, and the correction of his status as a child of Filipino parents, is already final and unreviewable. This claim is unmeritorious, because the reinvestigation of appellant's case was ordered as early as 18 August 1961, within one year from the Talabis resolution, so that the latter did not acquire finality. Furthermore, the Talabis order was obtained by fraud and misrepresentation, for which reason it was ultimately revoked.

Petitioner also complains that in the revocation of the Talabis order, cancelling his alien registration, the respondent Commissioner took into account the affidavits of Jesus and Marcelino Contemprate which were given ex parte and without notice to him. In the first place, he has not shown that the testimony of said witnesses is untrue; nor had he asked from the Immigration authorities an opportunity to examine them. In the second place,

even without such testimony, as we have shown, there are on record sufficient circumstances unfavorable to this petitioner to justify respondent's conclusion that he is not what he pretends to be, and that the order this petitioner complains of had the support of substantial evidence. Anyway, petitioner will still have opportunity to rebut the evidence against him at the hearings on whether he should be deported or not.

However, we must sustain appellant's plea against the correctness and propriety of the warrant of arrest issued in this case, to secure the presence of said appellant in the hearing of the charges against him for alleged violation of Section 37 (a) (9) in relation to Section 45(f) of the Philippine Immigration Act. The rule now established in this jurisdiction circumscribes the authority to issue the same only to judges, where the purpose of the warrant is merely the determination of the existence of probable cause in a given case,[12] with the power of the Immigration Commissioner to issue similar warrants being confined to those necessary for the execution of a final deportation order.[13] The Immigration authorities, on the other hand, cannot protest that the ruling renders them helpless or ineffective in securing attendance before them of person charged of violation of the laws on immigration. For their recourse has been amply provided when this Court said:

"We see no reason why the cautionary bond requirement of the 1947 Executive Order No. 69 of President Roxas should not apply to deportation proceedings initiated by the Immigration Commissioners, considering the Identity of ends sought to be served. Such notice and bonds should suffice to ensure the subject's appearance at the hearings, without prejudice to more drastic measures in case of recalcitrant respondents. But as long as the illegal entry or offense of the respondents Calacdays has not yet been established and their expulsion finally decided upon, their arrest upon administrative warrants violates the provisions of our Bill of Rights. The constitutional guarantees of individual liberty must be liberally construed and applied if we are to enjoy the blessings of a regime of justice, liberty and democracy that the Philippines Constitution sought to secure and consolidate." [14]

FOR THE FOREGOING CONSIDERATIONS, the decision of the court a quo is hereby modified, being reversed insofar as it denies issuance of a writ of certiorari against the warrant for the arrest of appellant, issued by the appellee Commissioner of Immigration, which is declared null and void. This shall be without prejudice to petitioner's being required to furnish such reasonable bond as the Commissioner of Immigration may fix, to guarantee this appellant's appearance at the hearings for his deportation, and at all other administrative proceedings wherein his right to stay in the Philippines is to be passed upon. In all other respects, the appealed judgment is affirmed. No costs.

Concepcion, C.J., Dizon, Makalintal, Zaldivar, Ruiz Castro, Fernando, Teehankee, and Barredo, JJ., concur.
Villamor and Makasiar, JJ., no part.

[1] Carlos was said to have been born on 20 November 1934; Domingo, on 2 January 1936; and Paquito and Gregorio allegedly were twins, born on 2 October 1949 (page 30, CFI Record).

[2] The appeal was originally filed in the Court of Appeals, but said tribunal, in its resolution of 12 January 1968, certified the same to us for proper determination, on the ground that only questions of law are involved herein.

[3] Pages 37-39, CFI, Record.

[4] Pages 33-35, id.

[5] Pages 45, 86-87, CFI Record.

[6] Page 91, id.

[7] Page 82, id.

[8] Page 86, id.

[9] Pages 83, 84, id.

[10] Page 90, id.

[11] Stipulation, Nos. 3 and 5, page 132, CFI Record.

[12] *Vivo vs. Montesa*, L-24576, 29 July 1968, 24 SCRA155, citing *Qua Chee Gan vs. Deportation Board*, L-20290, 30 Sept. 1963, 9 SCRA 27.

[13] *Morano vs. Vivo*, L-22196, 30 June 1967, 20 SCRA 562.

[14] *Vivo vs. Montesa*, *supra*.

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