

CARPIO PHUA, TAN SIN TEE, PUA CHING TOO AND PUA SHING SHING, THE LAST TWO REPRESENTED BY CARPIO PHUA, PETITIONERS-APPELLEES, VS. BOARD OF COMMISSIONERS OF THE BUREAU OF IMMIGRAT...

G.R. No. L-26969. December 19, 1984

Ponente: AQUINO, J.

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AQUINO, J.:

This case is about the exclusion from this country of Tan Sin Tee and her two minor children, Pua Ching Too and Pua Shing Shing, on the ground that they were not properly documented.

The three arrived in the Philippines from Hongkong on November 7, 1961 documented as Filipino citizens and holders of certificates of registration and identity issued on November 2, 1961 by the Philippine Consulate. It should be noted that the signature of the Secretary of Foreign Affairs on the cablegram authorizing their documentation as Filipino citizens was a forgery.

Upon their arrival, their admission was referred to a board of special inquiry of the Bureau of Immigration. After due investigation, the board rendered a decision admitting Tan Sin Tee and her children as Filipino citizens. Tan Sin Tee was alleged to be the wife of Carpio Phua, a supposed Filipino, with the two minors as their legitimate children. The minors were born on May 2, 1955 and January 24, 1956 or within an interval of less than nine months.

The decision of the board of special inquiry was referred individually to the Board of Immigration Commissioners. Commissioner Emilio Galang wrote the word "Exclude" above his signature while Commissioners Francisco de la Rosa and Felix Talabis wrote the word "Noted" on the face of the decision which means affirmance of the decision of the board of special inquiry. The Commissioners did not meet as a body and did not deliberate on the said decision. As a result, Tan Sin Tee and her children were issued on December 13, 1961 identification certificates as Filipino citizens.

On January 24, 1962 the Secretary of Justice issued Memorandum Order No. 9, directing the Board of Commissioners to review all decisions of the board of special inquiry admitting entry of aliens into this country particularly those where entry had been permitted on the ground that the entrant is a Filipino citizen.

Immigration Commissioners Martiniano P. Vivo, Virgilio N. Gaston and Marcial Rañola motu proprio rendered a decision dated November 14, 1962, excluding Tan Sin Tee and her children. The Commission said:

"There is doubt as to the alleged Philippine citizenship of Carpio Phua and his relationship therein to the applicants. Carpio's birth certificate was not presented. There is only a certification by the Director of the Archives Division that there is no record of his birth without giving any reason for such lack of record. No effort was made to secure his birth certificate from Lauan, Samar, his birthplace.

"It has also been noted that the births of the two applicant children occurred within nine (9) months, a physical

impossibility for which no explanation was offered. There was blood test of the applicants but such blood test is not conclusive proof of filiation.

"Even assuming the validity of the marriage between Carpio and Tan Sin Tee although performed only according to old Chinese customs, there appears no evidence of their legal capacity to marry.

"In view of the foregoing, applicants failed to establish their claim that they are the wife and children, respectively, of a Philippine citizen."

The Commissioners ordered that Tan Sin Tee and her alleged minor children be ordered excluded pursuant to section 29(a) (17) of the Immigration Law. Before the warrant of exclusion could be carried out, Carpio Phua and his alleged wife and children filed an action for prohibition with preliminary injunction.

The Court of First Instance of Manila in 1966 declared as void the decision of the Immigration Commissioners, set aside the warrant of exclusion and made permanent the preliminary injunction against the execution of said warrant. The Commissioners appealed. The appellees did not file any brief.

We hold that the trial court erred in holding that the petitioners were denied due process of law. The Immigration Law does not require notice and hearing for the review by the Board of Commissioners of the decision of the board of special inquiry. The petitioners were already heard before the board of special inquiry. That hearing was a sufficient compliance with the requirements of due process. (Caoile vs. Vivo, L-27602, October 15, 1983, 125 SCRA 85, 98; Arocha vs. Vivo, 128 Phil. 566. See Go Yu Tak Wai vs. Vivo, L-22257, May 25, 1977, 77 SCRA 55.)

WHEREFORE, the lower court's decision is reversed and set aside. The petition is dismissed. The preliminary injunction is dissolved. Costs against the petitioners.

SO ORDERED.

Makasiar (Chairman), Concepcion, Jr., Abad Santos, Escolin, and Cuevas, JJ., concur.

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