

COMMISSIONER OF IMMIGRATION, PETITIONER, VS. HON. F. FERNANDEZ, J. RODRIGUEZ, A. CANIZARES, AS ASSOCIATE JUSTICES OF THE COURT OF APPEALS, THE COURT OF APPEALS, JUAN GARCIA TEBA...*G.R. No. L-22696. May 29, 1964*

Ponente: PAREDES, J.

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On June 7, 1961, Teban Caoili and his three (3) brothers, Vicente, Santos and Felipe, arrived from Hongkong on board a CPA plane. All of them were provided with certificate of registration and identity, issued by the Philippine Consulate General at Hongkong. They came to join their father, Antonio Caoili, whom they claim to be a Filipino citizen. Their application for admission as Philippine citizens were docketed as IC No. 61-1881-C to 61-1884-C, and were considered by the Bureau of Immigration Board of Special Inquiry No. 1. On June 23, 1961, the said Board of Special Inquiry rendered a decision admitting them as Filipino citizens, by birth. Under date of July 7, 1961, the then Board of Commissioners composed of Commissioner Galang and Deputy Commissioners de la Rosa and Talabis, affirmed the decision of the Board of Special Inquiry, with Commissioners de la Rosa and Talabis voting for the admission of the Caoilis, while, Commissioner Galang voted for their Exclusion. According to existing rules of procedure in the Bureau, a majority vote was sufficient to sustain or reverse a ruling or decision of the Board of Special Inquiry. After the Board of Commissioners affirmed the decision of the Board of Special Inquiry, Teban Caoili was issued Identification Certificate No. 15648 on July 10, 1961, worded as follows

TO WHOM IT MAY CONCERN:

THIS IS TO CERTIFY that TEBAN CAOILI x x male, x x 28 years old, x x single whose picture and finger print are affixed hereto and partially covered by the seal of this Office who was born in Amoy, Fukien, China on 4 November 1932, ex CPA plane on 7 June 1961, was ADMITTED as citizen of the Philippines as per DECISION OF THE BOARD OF SPECIAL INQUIRY DATED 23 JUNE 1961, DULY AFFIRMED BY THE MAJORITY MEMBERS OF THE BOARD OF COMMISSIONERS, I.C. No. 1881-C.

* * * * *

Thereafter, Teban Caoili exercised the rights and prerogatives appurtenant to Philippine citizenship; he registered as a voter, was issued a Philippine Passport, paid his residence taxes (A & B), filed his corresponding Income Tax Returns, he was employed with the AVESCO, with offices at downtown Manila, and became a member of the Social Security System.

On June 23, 1962, however, a new Board of Commissioners which replaced the old Board, due to the change of Administration, allegedly reviewed *motu proprio*, pursuant to the provision of Sec. 27(b) of the Immigration Act of 1940, as amended, the decision of the Board of Special Inquiry, notwithstanding the fact that the same had been already affirmed by the old Board. By a unanimous decision, the new Board of Commissioners, composed of

Mesrrs. Martiniano P. Vivo, Marcial O. Raflola and Virgilio N. Gaston, voted to exclude Teban Caoili and his three brothers, as aliens not properly documented, for admission in accordance with the provisions of Sec. 29(a) (17) of the Philippine Immigration Act of 1940, as amended, and ordered them returned to the port whence they came or to the country of which they were nationals. On the same date, the Commissioner (respondent herein issued a Warrant of Exclusion, the pertinent portions of which read –

"AND WHEREAS, the said Decision of the Board of Commissioners ordering the deportation of TEBAN CAOILI, VICENTE CAOILI, SANTOS CAOILI and FELIPE CAOILI is final and now executory;

WHEREFORE, by virtue of the authority vested in the undersigned by law, you are hereby commanded to carry out the exclusion of the above named alien son the first available transportation to the port whence they came or to the port of the country of which they are nationals."

After the issuance of the above Warrant of Exclusion, the Office of the Secretary of Justice conducted an investigation regarding the status of Teban Caoili and his brothers, and on January 25, 1963, the investigator rendered a report, the pertinent portions of which are reproduced below –

"FACTS OF THE CASE:

On 21 January 1963 this office received an information which states that TEBAN CAOILI, SANTOS CAOILI and JOSE CAOILI are not Filipino citizens. They came to the Philippines from Hongkong last 1961 for the first time and that the trio could not even speak a single word of any of our dialect. The father of the trio is one ANTONIO CAOILI resident of 139 Mayon, Q.C.

FINDINGS:

On 24 Jan. 1963, Agent Nacu interviewed ANTONIO CAOILI, ANTONIO CAOILI stated that he is a Filipino born at Urdaneta, Pangasinan the son of MARIA CAOILI, Filipina the common-law wife of SOTE, Chinese. That in 1931 he went to China and married ONG SUI TY, Chinese now deceased. And that TEBAN CAOILI, SANTOS CAOILI and JOSE CAOILI are their sons all born in Chinkiang, Fukien, China. ANTONIO CAOILI returned to the Philippines in 1937 leaving his family In Chinkiang, Fukien, China. In 1961 ANTONIO CAOILI was able to bring TEBAN CAOILI, SANTOS CAOILI and JOSE CAOILI to the Philippines from Hongkong. TEBAN CAOILI, SANTOS CAOILI and JOSE CAOILI were all declared Filipino citizens and they were issued with corresponding Identification of Registry.

RECOMMENDATION:

Considering the statement given by ANTONIO CAOILI as the truth, then this Office recommends that no case should be filed against TEBAN CAOILI, SANTOS CAOILI and JOSE CAOILI for they are the legitimate sons of a Filipino father, x x x.

More than one (1) year after the issuance of the Warrant of Exclusion and the report of the Investigator of the Department of Justice, or on March 10, 1964, noon time, Teban Caoil was arrested, by virtue of the Warrant of Exclusion, by Capt. Delfin Macalinao and two CIS agents. Teban Caoili was detained at the CIS, PC compound, Camp Crame.

Under date of March 13, 1964, Juan Garcia, a relative of Teban Caoili, presented with the CFI of Quezon City, a petition Habeas Corpus, alleging:

"10. That TEBAN CAOILI is not being detained by virtue of any process, judgment or order of any court of record and his continued detention upon orders of the respondent HON. MARTINIANO VIVO, is illegal, unjustified and an abuse of authority for the reason that TEBAN CAOILI is a citizen of the Philippines and the respondent HON. MARTINIANO VIVO, as Commissioner of Immigration, has no right, power or authority

over him, he not being an alien or foreigner who falls within the jurisdiction of the Honorable Commissioner of Immigration."

In the Return presented by the Solicitor General on March 13, 1964, the Commissioner of Immigration admitted the jurisdictional facts, but claimed no knowledge of information sufficient to form a belief as to the truth of paragraph 10 of the petition. On March 14, 1964, counsel for Teban Caoili moved for his provisional release, on an offer of a cash bond of P500.00. An opposition to the release was registered by the Solicitor General, based upon the case of Republic vs. Cloribel, L-20458, promulgated on Oct. 31, 1963. A reply to the opposition was also presented by the counsel of Teban Caoili, calling the attention of the Court to the non-applicability of the same to the case. On March 24, 1964, the lower court issued an Order denying the motion for provisional release and rendered judgment based on "stipulation of facts", which already appear in this discussion as part of our findings of fact. In its decision, the lower court said –

"The decision of the Board of Special Inquiry admitting Teban Caoili as a Filipino citizen by birth is dated 23 June 1961 (Annex A Petition). The decision of the Board of Commissioners reversing the decision of the Board of Commissioners reversing the decision of the Board of Special Inquiry is dated 23 June 1962. Therefore, the review and consequent reversal made by the Board of Commissioners took place within one (1) year from the date of the promulgation of the Board of Special Inquiry. Sec. 27(b), C.A. No. 613, as amended by R.A. No. 503, provides, among other things:

"* * The decision of any of the two members of the board shall prevail and shall be final unless reversed by the Board of Commissioners after a review by it, motu proprio of the entire proceedings within one year from the promulgation of said decision. * * * " (Italics, supplied.)

Viewed on the basis of the foregoing provision of law it is easily discernible that the Board of Commissioners in making the decision reversing the decision of the Board of Special Inquiry and in issuing the Warrant of Exclusion as a consequence, was acting within the purview of the law. Needless to say, therefore, the detention of **TEBAN CAOILI** which is admittedly made by virtue of the warrant of exclusion and the decision referred to, is valid and legal.

Regarding the second issue raised, the respondent Commissioner Vivo was frank enough to admit that when the Board of Commissioners conducted a review of the proceedings had before the Board of Special Inquiry, **TEBAN CAOILI** was not notified nor present. However, he explained that it was the intention of the Board to notify him but he was nowhere to be found and his whereabouts cannot be ascertained. Petitioner did not bother to rebut this testimony of Mr. Vivo. Besides, the records show that while the warrant was issued 23 June 1962, the detainee Teban Gaoili was arrested only on March 10, 1964. Petitioner cannot bewail the fact that he was not notified of the proceedings had before the Board of Special Inquiry.

In recapitulation, the Court believes that the Board of Commissioners and consequently the respondent Commissioner of Immigration did not exceed his authority nor act in excess of jurisdiction when they issued the decision dated 23 June 1962 and warrant of exclusion of the same date, respectively. On the same vein the detention of Teban Caoili by the other respondents is, therefore, legal and valid.

WHEREFORE, the petition for habeas corpus filed by the petitioner in behalf of Teban Caoili in this case is hereby ordered **DISMISSED**."

The above decision and the order denying the motion to bail were appealed to the Court of Appeals (CA.G.R. NO.33826-R) on both questions of law and facts. Upon perfection of the appeal, counsel presented on April 1, 1964, with the said Court and "Urgent Motion for Release on Detained Person, Teban Caoili, Under Bail", alleging, inter alia-

"7. That the case of TEBAN CAOILI for HABEAS CORPUS is an extraordinary remedy availed of by a citizen of the Philippines who has been unduly deprived of his liberty thru the abuse and misuse of power of respondent-appellee, Hon.Martiniano Vivo who, without giving said TEBAN CAOILI ANY BENEFIT OF HEARING FOR THE CANCELLATION OF HIS CITIZENSHIP papers, issued on June 23,1962 an alleged Decision of Exclusion, purportedly reversing all of the previous findings of the Board of Special Inquiry of the Bureau of Immigration and that of the Board of Commissioners of same Office, as mentioned herein above."

The Solicitor General opposed, invoking the Cloribel case (*supra*), cited by the Court below, and arguing that the proceedings before the Board of Commissioners, being purely administrative in nature, the right to notice and hearing are not essential to due process. On April 7, 1964, the Court or Appeals ordered the release of Teban Caoili upon bond.

Claiming that the Court of Appeals was without jurisdiction to entertain the appeal, because the issues involved are purely legal, and that even assuming the Court of Appeals had jurisdiction over the appeal, the respondent Associate Justices of said Court acted with great abuse of discretion, amounting to excess of jurisdiction, in ordering the release on bail of Teban Caoili, pending the appeal the Solicitor General presented the instant petition for Certiorari and Prohibition with Preliminary Injunction, asking, that respondents herein, be restrained.

"* * * from enforcing or implementing the resolution dated April 7, 1964, and the 'Order of Release Upon Bond', dated April 8, 1964 in CA-G.R. No. 33826-R of the Court of Appeals entitled Juan Garcia, petitioner-appellant vs. Hon. Martiniano Vivo, etc., et al., respondents-appellees," and from otherwise taking cognizance of or in any manner assuming jurisdiction or further proceedings ,over said case, until further orders from the Supreme Court;"

The petition was given due course and the preliminary injunctive writ prayed for was issued. Respondents were required to answer. After the oral argument, on May 15, 1964, this court issued a minute resolution, dismissing the petition, without prejudice of writing a more extensive opinion.

We find that the respondent Court of Appeals had jurisdiction to take cognizance of the appeal interposed by Juan Garcia and Teban Caoili in the habeas corpus case, and consequently said court had the power and authority to issue the order of release on Bond. The notice of appeal plainly averred that questions of law and facts will be raised. The appellee was bereft of right to limit the issues on appeal, not being the one making the appeal. A cursory reading of the pleading revealed that questions of facts are involved which are for the Court of appeals to resolve. The propriety and/or regularity of the reversing order of the new Board of Commissioners, is a factual issue. It is not denied that on July 7, 1961, the decision of the Board of Special Inquiry had already been affirmed by the old Board of Commissioners, a fact which was not even disclosed or mentioned in the present petition. The present Board of Commissioners, however, maintain that the law gives it the prerogative to review *motu proprio* the decisions of the Board of Special Inquiry. With the affirmance of the decision of said Board of Special Inquiry by the old Board of Commissioners, virtually it is not the decision of the Board of Special Inquiry that the new Board reviewed *motu proprio* on June 23, 1962, but that of the old Board of Commissioners. The law does not authorize the new board to review that of its predecessor board, but only that of the Board of Special Inquiry. At any event, the view, if authorized, should be made in accordance with the processes established by law, with a view to protecting the rights of individuals.

Whether the claim of petitioner Commissioner of Immigration that failure to notify Teban Caoili of the hearing and bring him to the jurisdiction of the new Board Commissioners was due to his elusiveness, is another question of fact. It was admitted that no notice of the exclusion proceedings was given to Teban Caoili because he allegedly went into hiding and his whereabouts were unknown to the Commissioner. In the face of the disclosure that Teban Caoili had been all along working in the Avenue Electrical Supply Co. (Avesco), located at No. 653

Rizal Avenue, Manila, until his arrest, and the documentary evidence showing that he has been issued a Philippine Passport; had regularly paid his Residence Tax Certificates (A & B), and filed Income Tax Returns, a finding of fact is necessary whether the Commissioner really had intended to notify Teban Caoili of the exclusion proceedings of Board had conducted in his absence. While it may be true that the proceedings is purely administrative in nature, such a circumstance did not excuse the serving of notice. There are cardinal primary rights which must be respected even in proceedings of administrative character, the first of which is the right to a hearing, which includes the right of the party interested or affected to present his own case and submit evidence in support thereof (*Ang Tibay vs. CIR*, 69 Phil. 635). The right of Teban Caoili to Philippine citizenship had already been passed upon by a Board of equally and duly constituted Commissioners. Petitioner at least could have notified Teban Caoili or exerted efforts to cause his presence, by or through the instrumentalities and agencies that the Government has at its command. Except mere bare statements there is nothing which would indicate that even the ordinary effort was employed within two years, to locate him. There was unusual hurry in the disposition of the case by the new Board of Commissioners. The review took place on June 23, 1962, a decision was rendered and a Warrant of Exclusion was issued on the same date. Since the proceedings affected Caoili's status and liberty, notice should have been given. And in the light of the actuations of the new Board of Commissioners, there is now a necessity of determining whether the findings of the Board of Special Inquiry and the old Board of Commissioners are correct or not. This calls for examination of the evidence, and, the law on the matter.

Obviously, therefore, the Court of Appeals has appellate jurisdiction to entertain the appeal and to issue the Order complained of. Considering all the facts before them, respondents Associate Justices were of the opinion that release on bail was proper. This is not abuse, much less grave abuse of discretion correctible by certiorari. Even if we grant for purposes of argument, that respondents made an erroneous conclusion of fact or law, still their actuations cannot be the subject of certiorari or prohibition. The appeal was one on a decision denying a petition for Habeas Corpus, presented by a person who had been already a Filipino citizen, not an ordinary person who is an alien applying for admission for Philippine citizenship. This being the case, we leave the resolution of the applicability of the *Cloribel* case (*supra*), in the case at bar, to the respondent court.

The actuation of the new Board of Commissioners in reviewing a decision already passed upon by its predecessor Board, may breed chaos in the Bureau of Immigration. If sanctioned, without any legal and plausible grounds, it may lead to an insecurity of status already established by a previous Board. If by a whimsical stroke of fate, two or three Boards of Commissioners are constituted within the span of one year, and each wanted to exercise the right to review already deliberated and decided cases, where will persons similarly situated, as Teban Caoili be? Let us ponder. An arbitrary, abusive and indiscriminate exercise of the right to review, even if granted by law, will obliterate the right of an individual to due process a destructive blow to the rule of law.

WHEREFORE, as we have decreed in our resolution of May 15, 1964, the petition is hereby DISMISSED, for being without merit. The writ of preliminary injunction earlier issued is hereby dissolved. No costs.

Bengzon, C.J., Bautista Angelo, Concepcion, Reyes, J.B.L., Barrera, Regala, and Makalintal, JJ., concur.

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