

SHIU SHUN MAN, ALIAS LOO BON, ALIAS LOO SON BON, PETITIONER AND APPELLEE, VS. EMILIO L. GALANG, COMMISSIONER OF IMMIGRATION, RESPONDENT AND APPELLANT.*G.R. No. L-16486. December 30, 1961*

Ponente: DE LEON, J.

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This is an appeal from an order of the Court of First Instance of Manila enjoining the Commissioner of Immigration from carrying out the warrant of deportation dated July 1, 1957 against the herein petitioner-appellee, and declaring unlawful and illegal the confiscation of his bond.

A Chinese citizen named Shiu Shun Man, alias Loo Bon, alias Loo Son Bon (hereinafter referred to as Loo Bon, for short), arrived in the Philippines on July 23, 1955 and was admitted as temporary visitor upon the filing of a cash bond of P10,000 posted by his father Loo Tek. His admission status as temporary visitor, however, was, upon application, subsequently changed to that of pre-arranged employee, and he was authorized to stay as such until April 30, 1957.

It appears that on April 4, 1957, the Commissioner of Immigration issued a decision ordering the deportation of Loo Bon and Loo Tek under section 37 (a) (9) of the Philippine Immigration Act of 1940, as amended. It was found by the Commission that in the investigation by the Board of Special Inquiry on July 28, 1955, Loo Bon deliberately and willfully declared under oath, and represented himself, that he was single; that on August 26, 1955, in his sworn application for Alien Certificate of Registration, he again stated that he was single and did not have children; but that after he secured a change in category from temporary visitor to pre-arranged employee, he applied for correction of his civil status from "single" to "married", and it was proved upon investigation that he was really married in China in 1948 and has three children with his wife Ng He Chiok. Loo Tek, on the other hand, was also charged for deportation for having stated in the sworn application for pre-arranged employment of his son Loo Bon, and for having testified in the investigation in connection therewith, that the latter was single and had no child, when as a matter of fact his son was already married and had three children.

The decision of April 4, 1957 having become final and executory, a warrant of deportation against the two aliens. Loo Tek and Loo Bon, was issued on July 1, 1957. Upon re-hearing, the Commissioner dismissed the deportation charge against Loo Tek.

On July 8, 1957, the said Commissioner sent a letter to Loo Bon ordering him to leave the Philippines within three days from receipt thereof, in view of the deportation warrant issued on July 1, and of the fact that his authorized stay expired on April 30, 1957. The said alien was therein warned that upon his failure to leave, the cash bond of P10,000 filed by his father for his temporary admission would be ordered confiscated.

On July 15, 1957, the Commissioner finally wrote Loo Tek advising him that due to violation of the pertinent conditions of the cash bond filed by him for his son, the whole of said bond was forfeited in favor of the Government.

Loo Bon instituted the present proceedings with a petition for prohibition with preliminary injunction filed with the Court of First Instance of Manila, praying that the respondent Commissioner of Immigration be enjoined from deporting him from the country and from ordering the confiscation of the cash bond of P10,000 posted in his favor.

After the filing of the usual responsive pleadings, the case was called for trial but inasmuch as the evidence of both parties are all documentary, they agreed on a joint manifestation to submit the case for decision based on the pleadings and available records of the Bureau of Immigration.

On November 27, 1959, the trial court rendered a decision declaring null and void the warrant of deportation dated July 1, 1957 and the order for the confiscation of the bond filed by Loo Tek. Not satisfied, the Commissioner of Immigration has appealed.

After going over the record, We find the appeal to be meritorious.

Section 45 (f) of Commonwealth Act No. 613, as amended, provides that any individual who in any immigration matter shall knowingly make under oath any false statement or representations shall be guilty of an offense, and upon conviction thereof, shall be fined not more than one thousand pesos, and imprisoned for not more than two years, and deported if he is an alien.

The record of the case clearly establishes the fact that while petitioner is a married man with three children, he stated under oath before the immigration authorities that he is single. According to him, his reason for having made that statement was that he had been led to believe that his marriage in China is not recognized in this country. This was not, however, a good reason for petitioner to state that he was single. The proper thing for him would have been to give his true civil status, as it is, in the light of Chinese laws and leave the Philippine authorities to determine what his civil status would be in the light of our laws. At any rate, there is evidence to show that petitioner's purpose in declaring before the Philippine Consulate in Hongkong that he was single was to simplify his application to come to the Philippines. So that he cannot now claim that he made the said statement in good faith or without malice of any kind. Having, therefore, knowingly made this false statement, he is liable for deportation under the aforecited section of the Immigration Law.

We agree with the Solicitor-General, representing the respondent-appellant, that the civil status of an alien applicant for admission into the Philippines as temporary visitor is a matter that could influence the exercise of discretion on the part of the immigration authorities, considering the possibility of a future change of category of said alien to permanent resident or pre-arranged employee. The immigration authorities would be less inclined to allow the entrance of married persons because there would always be the natural tendency of such aliens, if they succeed in changing their category or status, to bring their families to the Philippines or to send money abroad for their support, thereby aggravating our increasing population problem and also inviting danger of violation of our control measures on foreign exchange.

Coming now to the question on the admission bond filed by Loo Tek in petitioner's behalf, it is Our opinion that it was only proper for the Commissioner of Immigration to have ordered its confiscation, it appearing that petitioner has violated the conditions thereof in that he has extended his stay in this country beyond the authorized period. This, considering that the principle behind the requirement of such bond is "to control and regulate the admission into, and departure from, the Philippines of aliens applying for temporary admission" (Sec. 40(a), Commonwealth Act 613, as amended). The change of status of Loo Bon from temporary visitor to pre-arranged employee is beside the point because it did not alter the nature of his stay here as temporary. For even as pre-arranged, employee, he was supposed to leave the country not later than April 30, 1957.

Premises considered, the decision appealed from is hereby reversed and set aside. Let the writ of prohibition issued by the court below ordered dissolved, with costs against the herein petitioner-appellee.

Bengzon, C.J., Bautista Angelo, Labrador, Concepción, Reyes, J.B.L., Barrera, Paredes, and Dizon, JJ., concur.

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