

**IRINEO DEL ROSARIO, PLAINTIFF AND APPELLANT, VS. THE
INSULAR COLLECTOR OF CUSTOMS, DEFENDANT AND APPELLEE.***G. R. No. 10503. October 20, 1915*

Ponente: JOHNSON, J.

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On the 3d day of June, 1914, the plaintiff and appellant arrived at the port of Manila, together with one hundred and seventy other aliens, and asked permission to enter the Philippine Islands. The plaintiff and appellant alleged that he was born in the Philippine Islands, on the 28th of June, 1896; that his father was a Chinaman; that his mother was a Filipina woman; that when he was four years of age he went to China and remained there fourteen years; that he was eighteen years of age. A baptismal certificate was presented which showed that on the 12th of July, 1896, there was baptized in the Santa Cruz church, in the city of Manila, a child born on the 28th of June, 1896, which child was given the name of Irineo del Rosario, alleged to be the natural child of Benedicta del Rosario, a Filipina woman, unmarried, a native and resident of the district of Santa Cruz, and of father unknown.

The foregoing facts, together with others, were presented to the board of special inquiry, which board found that "the testimony offered as to the identity of the detained is very unsatisfactory, so far as the board is concerned; that the most serious obstacle to his landing is his appearance; the detained is not eighteen years of age; he is a boy ranging from twelve to fourteen years of age, and accordingly is refused landing."

An appeal from that decision was taken to the Collector of Customs, where the same was affirmed.

During the hearing before the board of special inquiry, a Chinese doctor, Tee Han Kee, was called and was questioned concerning the age of the plaintiff. This witness testified that he believed the applicant, the plaintiff-appellant, was not over fourteen years of age. The board of special inquiry, after a personal inspection and examination of the plaintiff, arrived at the conclusion that he was a boy ranging from twelve to fourteen years of age. The Collector of Customs, upon the foregoing facts, refused the boy the right to enter the Philippine Islands.

Later a petition for the writ of habeas corpus was presented in the Court of First Instance of the city of Manila. The defendant duly answered, setting up as a part of his answer the entire record made during the examination for admission, in the department of customs.

After hearing the respective parties, the Honorable Simplicio del Rosario, judge; reached the conclusion that the department of customs had ample proof to support its conclusions, and that there had been no abuse of authority, and refused to issue the writ of habeas corpus.

From that decision the plaintiff appealed to this court. It has been decided so frequently, that it seems unnecessary to cite authorities, that the decision of the Collector of Customs in cases like the present is final unless there has been an abuse of authority or a misinterpretation of the law. If the party has been given a free, fair, and open hearing, and there is some proof to support the conclusions of the Collector of Customs, the courts will not disturb

his decision. (Tan Chin Hin vs. Collector of Customs, 27 Phil. Rep., 521; Tan Beko vs. Collector of Customs, 26 Phil. Rep., 254.)

With reference to the age of the boy, the Honorable Simplicio del Rosario said: "Nevertheless, judging by the appearance, stature, and physical development of the pretended Irineo del Rosario, he is not even 14 years of age."

After a careful examination of the record and the law applicable to the facts therein, we find no reason for modifying the conclusions of the lower court. The same are therefore hereby affirmed, with costs. So ordered.

Arellano, C. J., Torres, Carson, and Araullo, JJ., concur.

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