

AMADO SING JING TALENTO, PLAINTIFF AND APPELLANT, VS. THE INSULAR COLLECTOR OF CUSTOMS, DEFENDANT AND APPELLEE.

G. R. No. 10815. October 26, 1915

Ponente: JOHNSON, J.

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JOHNSON, J.:

This is a petition for the writ of habeas corpus. Its purpose was to secure the liberty of the plaintiff and appellant from the alleged illegal detention of the Collector of Customs.

From the record it appears that on the 25th of September, 1914, the plaintiff, with sixty-seven aliens, arrived at the port of Manila on the steamship Taisang. The plaintiff was taken before the board of special inquiry for the purpose of determining or ascertaining his right to enter the Philippine Islands. A number of witnesses were examined. The board of special inquiry, after hearing the witnesses presented by the plaintiff, reached the conclusion that the plaintiff is not the person whom he claims to be; that he is a Chinese person, coming to the Philippine Islands without the certificate required by law. An appeal was taken from that decision to the Collector of Customs and by him affirmed.

Later a petition for the writ of habeas corpus was presented in the Court of First Instance. After hearing the respective parties, the Honorable George R. Harvey, judge, in a carefully prepared opinion, reached the conclusion that there had been no abuse of discretion on the part of the immigration authorities, and denied the writ.

From that decision the plaintiff appeals to this court and attempts to show that the customs authorities had abused their power and discretion. The plaintiff claims that he is 27 years of age; that he was born at Hagonoy, in the Philippine Islands; that his mother was a Filipina woman; that his father was a Chinaman; that he left the Philippine Islands when he was 8 years old, and remained in China until the time of his return, on the 25th of September, 1914. There are many contradictions in the testimony of the witnesses presented by the appellant. In one case the plaintiff himself testified that he had never been in the Philippine Islands before. He later corrected that statement. There are also many contradictions with reference to other matters. There are also contradictions with reference to certain facts, which could not have occurred had the plaintiff been the person whom he claims to be. His alleged father and mother also contradicted each other with reference to certain facts. His alleged father and mother had other children; the customs authorities found that a comparison between his alleged brothers and sisters shows no resemblance whatever. They found that he resembled a full-blooded Chinaman, while his alleged brothers and sisters show clearly that they are mestizos.

The customs authorities, in passing upon the question of the right of Chinese aliens to enter territory of the United States, act more or less as a jury in determining the facts in the first instance. They have an opportunity to see the witnesses and are under no obligation to believe the declarations of the witnesses, if their manner or conduct during the examination is such as to cause them to disbelieve them, even though their declarations are not disproved by any other witnesses. (*Tan Chin Hin vs. Collector of Customs*, 27 Phil. Rep., 521; *Jao Igco vs.*

Shuster, 10 Phil. Rep., 448.)

The mere fact that the immigration officers did not accept certain sworn statements presented by the petitioner as true would not of itself justify the court in taking jurisdiction of the cause upon the ground that that was an abuse of authority. The immigration officers are not required to accept as true all statements, even though they be sworn to, presented to them. (*Chin Woy vs. U. S.*, 28 Supreme Court Reporter, 201.)

The mere fact that the Collector of Customs refused to believe the witnesses presented by the plaintiff and appellant is not of itself an abuse of authority. (*Gñilo vs. Collector of Customs*, p. 100, post.) If there is some proof to support the findings of the department of customs, its conclusions will be sustained. (*Tan Chin Hin vs. Collector of Customs*, 27 Phil. Rep., 521.)

The plaintiff claims to have been born in the Philippine Islands. The Collector of Customs found that he was a Chinaman; that he was not born in the Philippine Islands. A Chinese person, claiming to have been born in territory of the United States, has the burden of proof to establish such fact by affirmative proof. (*Gñilo vs. Collector of Customs*, *supra*, and cases cited.) Neither can a Chinese alien avoid that burden by merely stating to the officers of the department of customs, even under oath, that he was born in territory of the United States. (*Gñilo vs. Collector of Customs*, *supra*.)

After a careful examination of the record brought to this court, we find no reason for modifying the decision of the Collector of Customs or of the lower court. The decision of the Collector of Customs and of the lower court is therefore hereby affirmed, with costs. So ordered.

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

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