

LIM PUE, PETITIONER AND APPELLEE, VS. THE INSULAR COLLECTOR OF CUSTOMS, RESPONDENT AND APPELLANT

G.R. No. 11048. February 11, 1916

Ponente: MORELAND, J.

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MORELAND, J.:

This is an appeal by the respondent from a judgment of the Court of First Instance of Manila reversing a decision of the Insular Collector of Customs and discharging the petitioner from custody.

The petitioner is the lawful wife of one Tin Singa, a Chinese resident of Parang, Mindanao, Philippine Islands. She arrived at the port of Manila on or about the 24th day of April, 1915, seeking entrance into the Philippine Islands as said wife, alleging, as a right to entry, that her husband was a merchant legally domiciled in the Philippine Islands. She was refused admission by the immigration inspector of the Bureau of Customs who boarded the boat on which she arrived at the port of Manila and was by them held for investigation by a board of special inquiry.

The petitioner was given two hearings by the board, one on May 6 and the other on May 17, 1915. At the termination of the first hearing the board rendered a decision in which it made the following review of the evidence with the findings therein contained:

"Lim Pue arrived here April 26, 1915, on the steamship Linan, claiming to be the legitimate wife of Tin Singa, a resident Chinese merchant.

"Sworn statements of Felipe Lim Pue and Lim Hao See are produced, and the board decides that Lim Pue is the legitimate wife of Tin Singa. But the board does not believe that Tin Singa is a merchant according to the rules and regulations governing the admission of Chinese. It appears that he owned one-half interest in a tienda at Parang until about October, 1914. He has produced no license for the present year and no statement of taxes for the last quarter of 1914. The first witness has not been in his Store since August, 1914. The second witness claims he visited the store in April of this year. These men both live in Manila, are officers of the Neil Macleod, and claim to have visited the store only when their boat stopped at Parang. The board does not believe that they know much about his place. From the amount of taxes paid the board is of the opinion that Tin Singa was a shopkeeper, and even if he still owns an interest in this business the board believes that the profit are not sufficient to support himself and family without engaging in manual labor."

At the close of the second hearing the board rendered another decision in which it made the following comment with respect to the additional testimony presented on that hearing:

"At this rehearing two additional witnesses were presented. Cleto Palacios, a Spaniard, employed by the Manila Lumber Company, states that Tin Singa is employed on a salary by the Mindanao Lumber Company, and spends most of his time working for this company, and that he has no interest in the lumber company. The other witness, Sergio Domingo, admits that he knows nothing about Tin Singa, as he met him only once or twice in Parang.

"The board decides that Tin Singa is a Chinese laborer and not a merchant. His wife, Lim Pue, is therefore refused landing."

The petitioner thereupon made application to the Court of First Instance of the city of Manila for a writ of habeas corpus. An order to show cause was issued by that court directed to the Insular Collector of Customs requiring him to show the cause of the detention of petitioner and why she should not be discharged from custody. On the return to the order to show cause a hearing was had on which evidence was taken by the court relative to the right of petitioner to enter the Philippine Islands. The court found on the evidence presented to it that, although the husband of petitioner was, prior to the year 1914, a domiciled merchant within the definition of the law and was entitled to remain in the Philippine Islands as such, he ceased to be a merchant about the year 1914, and became and continued thereafter to be a laborer within the definition of the Chinese Exclusion Acts. Although the court found that the husband of the petitioner was a Chinese person or person of Chinese descent and that he was a laborer, it nevertheless held that the petitioner was entitled to enter the Philippine Islands and enjoy the society and companionship of her husband on the ground that the wife of a Chinese laborer entitled to remain in the Philippine Islands has the right to enter, she being entitled to enjoy the same rights as he.

The Government appealed from the decision of the court and contends that it was in error when it held that the wife of a Chinese laborer domiciled in the Philippine Islands is entitled to enter the Philippine Islands under the Chinese Exclusion Acts, the contention of counsel for the Government being that the wife of a Chinese laborer seeking to enter the Philippine Islands enjoys the same status which the husband would enjoy if he himself were at the border seeking to enter; and that, inasmuch as the husband would be excluded from the Philippine Islands under such circumstances, the wife must also be excluded.

We think it unnecessary to go into that question here. The case may be decided on different grounds and the judgment appealed from fully supported. The first that we see of Tin Singa in the record he was a merchant within the definition of the law and was engaged in business as such about the year 1907. There is no claim here that Tin Singa is not entitled to be and remain in the Philippine Islands, but, on the contrary, it is conceded by both parties that he is legally in the Philippine Islands and entitled to remain therein although now a laborer in fact and without the certificate required by Act No. 702. In other words, so far as the record and the admissions and attitudes of the parties are concerned, Tin Singa came to the Philippine Islands as a merchant, continued to be such until about 1914, and, under decisions of this court, is entitled to remain although now a laborer, inasmuch as he still enjoys the privileges of the status which he had when he entered the Philippine Islands as a merchant. In other words, although Tin Singa has become a laborer he still retains the privileges attached to the status of merchant. To put it in another way, while he is a laborer in fact he is a merchant in law. We are of the opinion that, inasmuch as Tin Singa is still in the full enjoyment and within the full protection of the privileges which attach to a Chinese merchant properly in the Philippine Islands, his status cannot be said to be in law that of a laborer who offers himself at the border as a candidate for entrance for the first time; and, that being the case, the entry of the petitioner into the Philippine Islands could not be denied on the ground that, inasmuch as her husband is now in fact a Chinese laborer, she must be considered to have the same status as he. We believe that she should be regarded rather as having the status, the privileges attaching to which protect her husband in the Philippine Islands and guard his right to remain therein although he is in fact a laborer. Such being the case, if she enters the Philippine Islands at all it must be on the ground that she, as the wife of Tin Singa, participates in the privileges which he enjoys derived from the fact that he entered the Philippine Islands and lived therein for years as a Chinese merchant. In other words, she must be deemed to enjoy the status of a wife of a Chinese merchant rather than of a wife of a Chinese laborer. From such viewpoint there is no question that she has the right to enter the Philippine Islands. (U. S. vs. Mrs. Gue Lim, 176 U. S., 459; Ang Qua Shi vs. Collector of Customs, R. G. No. 8805, Mar. 25, 1914, not published; Chua Shun vs. Collector of Customs, 28 Phil. Rep., 175.)

Something should perhaps be said to distinguish this case from the cases in which we have held that, on habeas corpus instituted by Chinese persons seeking to enter the Philippine Islands after an adverse decision by the customs authorities, the Court of First Instance acquires no jurisdiction to take evidence or to consider the case on the merits until the petitioner established to the satisfaction of the court that the customs authorities abused their discretion or acted in violation of law. In the case at bar while the customs authorities found all the facts which as a matter of law permitted the entry of the petitioner into the Philippine Islands, they nevertheless denied her that right and thereby acted in violation of law to such an extent that the Court of First Instance was justified in the action it took.

The judgment appealed from is affirmed, with costs de officio. So ordered.

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

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