

YAP TIAN UN (SUN), PLAINTIFF AND APPELLEE, VS. THE INSULAR COLLECTOR OF CUSTOMS, DEFENDANT AND APPELLANT.

G.R. No. 11077. December 09, 1915

Ponente: JOHNSON, J.

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JOHNSON, J.:

From the record the following facts appear:

First. That on the 3d of May, 1915, the said Yap Tian Un (Sun) arrived at the port of Manila, together with 74 other aliens, on the steamship Taisang, and asked permission to enter the Philippine Islands.

Second. That the said Yap Tian Un alleged that he was a minor of 17 years of age; that his father and mother were both Chinese persons; that he was born in China; that he had never been in the Philippine Islands before; that his father had died eleven years before the examination in the present case took place; that he did not have the "section six certificate;" that his mother still lived in China, together with his other brothers and sisters.

Upon the foregoing facts the board of special inquiry refused the said Yap Tian Un (Sun) the right to enter the Philippine Islands and ordered him returned to China.

An appeal was taken from that decision to the Collector of Customs and there affirmed. Later a petition for the writ of habeas corpus was presented in the Court of First Instance of the city of Manila.

After a consideration of the facts, the judge of the Court of First Instance found that the Insular Collector of Customs had committed an error of law in denying the plaintiff the right to enter the Philippine Islands. The court held that inasmuch as the plaintiff was the minor son of a Chinaman who had been a merchant in the Philippine Islands, he was entitled to enter, even though his father was dead, and even though he himself had never been in the Philippine Islands before, and revoked the decision of the Collector of Customs and ordered the plaintiff discharged from custody.

From that decision the Attorney-General appealed to this court and made the following assignments of error here: "First. The court erred in finding that the minor child of a deceased resident Chinese merchant has a right to enter the Philippine Islands, solely upon the ground of that relationship ; and Second. The court erred in reversing the decision of the Insular Collector of Customs in granting the petitioner his liberty."

These two assignments of error present but one question, to wit: May the minor son (a Chinaman) of a resident Chinese merchant, enter the territory of the United States after the death of his father? That question has been decided by this Court in a number of cases. In the case of Tan Lin Jo vs. Collector of Customs (p. 78, ante) we held that a minor, the son of a Chinaman, who had never resided in the Philippine Islands, will not be permitted to enter the territory of the United States, after the death of his father, without the "section six certificate." The same doctrine was announced in the case of Lee Jua vs. Collector of Customs (p. 24, ante). In the latter case we decided: That the wife and minor children (who had never been in the Philippine Islands) of a resident Chinese merchant were not permitted to enter the Philippine Islands, after the death of the husband and father. The same

doctrine has been followed in the case of *Gang Kai Guan vs. Collector of Customs* (p. 102, ante); and in the case of *Ex parte Chan Fooi* (217 Fed. Rep., 308).

After a careful examination of the record in the present case and the arguments of the respective counsels, we find no reason for changing or modifying the doctrine heretofore announced.

In the present case, the brief filed by the attorney for the appellee contains the following statement only: "This case is submitted on the brief and argument for the appellee, in the case of *Du Eng Hoa vs. The Insular Collector of Customs*, No. 11122, the issues of law being identical."

A brief of that character lends but little assistance to the court. The brief in the case to which reference is made is not attached to the record in the present case. The appellee had no assurance that at the time the present case was submitted the other case would be before the court. The present brief not only requires the court to refer to the brief in the other case, but also to examine the record and the facts in the other case, in order to be sure that the cases are analogous in fact and in law, for the purpose of giving any value whatever to the brief in the present case. The brief in the present case should be stricken from the files, for the reason that it is not, in fact, a brief. It renders no assistance whatever to the court in deciding the present case.

Without a further discussion of the facts in the present case, and for the reasons above stated, the judgment of the lower court is hereby revoked, and it is hereby ordered and decreed that the record in the present case be returned to the court whence it came, with direction that an order be entered there revoking the judgment of that court in the present case, and affirming the order of deportation made by the Collector of Customs, and that the writ of habeas corpus be denied, and that the petitioner be returned to the Collector of Customs for deportation, and without any finding as to costs, it is so ordered.

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

Judgment reversed.

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