

DU ENG HOA, PLAINTIFF AND APPELLEE, VS. THE INSULAR COLLECTOR OF CUSTOMS, DEFENDANT AND APPELLANT.

G.R. No. 11122. December 09, 1915

Ponente: JOHNSON, J.

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JOHNSON, J.:

From the record, the following facts pertinent to the issues in the present case, appear undisputed:

First. That the plaintiff is a Chinaman; that he arrived at the port of Manila, on the steamship Linan, on the 11th of January, 1915, together with 81 other aliens and asked permission to enter the Philippine Islands.

Second. That he was born in China; that he was 22 years of age; that his father and mother were Chinese persons; that his father had been a merchant in the Philippine Islands ; that his father died several months before the plaintiff arrived in the Philippine Islands.

Upon a consideration of the foregoing facts, the board of special inquiry denied the plaintiff the right to enter the Philippine Islands. From that decision an appeal was taken 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, and in answer to the order to show cause, the record which was made in the department of customs was presented. Upon a consideration of that record, the judge of the Court of First Instance found that the Collector of Customs had misapplied the law to said facts and therefore reversed the decision of the Collector of Customs and ordered the discharge of the plaintiff from the custody of the law.

From that decision, the Attorney-General appealed to this court. The record presents but one question and that is a question of law. There is no dispute about the facts. The question of law is whether or not a minor child (who had never been in territory of the United States) of a deceased resident Chinese merchant can enter territory of the United States. That question has been answered in the negative, by this court, in the following cases: *Tan Lin Jo vs. Collector of Customs* (p. 78, ante) ; *Lee Jua vs. Collector of Customs* (p. 24, ante); *Cang Kai Guan vs. Collector of Customs* (p. 102, ante) ; and *Ex parte Chan Fooi* (217 Fed. Rep., 308); *Yap Tian Un (Sun) vs. Collector of Customs* (R, G. No. 11077, p. 487, ante).

Upon a consideration of the facts in the present case, and the foregoing decisions, we find that the judgment of the lower court must be 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 the 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. Petitioner ordered deported.

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