

TY BUAN, PLAINTIFF AND APPELLEE, VS. THE INSULAR COLLECTOR OF CUSTOMS, DEFENDANT AND APPELLANT.

G.R. No. 11335. September 18, 1916

Ponente: JOHNSON, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-11335/>

JOHNSON, J.:

The only question presented by this appeal is whether or not the mother-in-law of a resident Chinese merchant in the Philippine Islands is entitled to enter territory of the United States, without the "section six certificate."

That question was presented to the department of customs by the petitioner and said department held that, under the Chinese Exclusion Law, she was not entitled to enter the Philippine Islands without the "section six certificate."

After that ruling by the department of customs a petition for the writ of habeas corpus was presented to the Court of First Instance of the city of Manila which, after a consideration of the question, decided that the mother-in-law of a resident Chinese merchant was entitled to enter the Philippine Islands, without the "section six certificate." From that decision the Attorney-General appeal to this court and alleges that the lower court committed the following errors:

"First That the court erred in holding that 'when the fact is established to the satisfaction of the customs authorities that an applicant for admission into the Philippine Islands is, in fact, the mother-in-law of a resident Chinese merchant lawfully doing business in the Philippine Islands (or other class referred to in the Act as entitled to enter), and that such mother-in-law is, in good faith, a member of the family of such resident Chinese merchant and is without other relatives upon whom she may depend for support, care, protection and maintenance then she is entitled to admission without the certificate'; second, that the court erred in holding that 'in refusing the petitioner Ty Buan permission to land there was abuse of discretion, power, and authority vested in the immigration authorities'; third, the court erred in ordering the respondent to release the petitioner from custody; fourth, the court erred in admitting evidence not tending to prove abuse of authority."

The only facts presented to the department of customs upon which the petitioner was refused admission are as follows:

That the petitioner Ty Buan was a Chinese woman 58 years of age; that she was a house-keeper in China; that she was the mother-in-law of Sy Lioc Suy; that Sy Lioc Suy had married her daughter Dy Siok Hian; that Sy Lioc Suy was a resident Chinese merchant; that Ty Buan was coming to the Philippine Islands because she did not desire to be separated from her daughter Dy Siok Hian. No other facts were presented to the department of customs. The only question presented under said facts was a question of law—whether or not the mother-in-law of a resident Chinese merchant has a right to enter the Philippine Islands without the "section six certificate." Upon that question the board of special inquiry decided that she was not entitled to enter without the "section six certificate." While the petitioner for the writ of habeas corpus presented in the lower court alleges that an appeal was taken from the decision of the board of special inquiry to the Collector of Customs, the decision of said Collector does not appear of record.

With reference to the 4th assignment of error, to wit, that the court erred in admitting evidence not tending to prove an abuse of authority, it may be said that the courts have decided in decisions without number that the judicial department of the Government has no jurisdiction or authority to consider the question of the right of Chinese aliens under the Chinese Exclusion Law to enter territory of the United States, until and after it has been shown that the department of customs, to which that power has been expressly referred, has abused its power, discretion, and authority in refusing such aliens the right to enter territory of the United States. That being the rule, the very first question which the courts must decide in a petition for the writ of habeas corpus, in cases like the present, is whether or not there has been an abuse of power, discretion, or authority. Until that question is decided in the affirmative the courts are without jurisdiction to hear any proof whatever upon the question of the right of Chinese aliens to enter territory of the United States. (*Chieng Ah Sui vs. Collector of Customs*, 22 Phil. Rep., 361; *Tin Lio vs. Collector of Customs*, 32 Phil. Rep., 32 ; *Que Quay vs. Collector of Customs*, 33 Phil. Rep., 128; *Lee Ching vs. Collector of Customs*, 33 Phil. Rep., 329; *Flores Tan vs. Collector of Customs*, 33 Phil. Rep., 205.) The courts have no right or authority to take proof upon the right of a Chinese alien to enter territory of the United States, after his right to enter has been denied by the department of customs, until it is clearly shown that said department has abused its power, authority, or discretion. That fact can only be shown by the record. The burden is upon the petitioner to show that the department of customs abused its authority. (*Flores Tan vs. Collector of Customs*, supra; *Chua Yeng vs. Collector of Customs*, 28 Phil. Rep., 591.) The judicial department of the Government has no authority or right to intervene, except and until it has been proven and shown clearly that the executive department of the government has abused its authority. The decision of the Executive Department of the Government is final, unless it is shown that it has abused its power, authority or discretion. If there was some proof presented to the department of customs supporting its conclusions in denying a Chinese alien the right to enter territory of the United States, there has been no abuse of authority. (*Chua Yeng vs. Collector of Customs*, 28 Phil. Rep., 591; *Loo Sing vs. Collector of Customs*, 27 Phil. Rep., 491; *Tan Chin Hin vs. Collector of Customs* 27 Phil. Rep., 521.)

Upon the foregoing authority the proof taken by the lower court for the purpose of ascertaining whether or not the petitioner was entitled to enter the Philippine Islands must be disregarded until we determine whether or not the department of customs abused its power, authority or discretion. The conclusion of the lower court that the department of customs had abused its power, discretion or authority was not based upon the proof taken in that department, but upon the proof which it took during the hearing upon the question whether the writ of habeas corpus should issue or not.

Upon an examination of the record made by the department of customs, we find that there is no dispute concerning the facts. They are admitted. They may be summarized as follows: First, that the petitioner is a Chinese alien; second, that she is the mother-in-law of a resident Chinese merchant; third, that she does not present the "section six certificate."

The lower court found as a fact, from the evidence which it heard during the hearing of the cause upon the petition for the writ of habeas corpus, that:

"The petitioner is an elderly Chinese woman who is evidently not a Chinese laborer. The testimony shows that she has been living in China as a member of the immediate family of Sy Lioc Suy who is a resident Chinese merchant in the city of Manila. When the wife and daughter of said resident Chinese merchant came to Manila to reside with him, the wife's mother came with them and seeks admission into the Philippine Islands as a member of the family."

No such facts were presented to the customs authorities. The proof upon which that finding is based must therefore be disregarded for the present.

The question presented to the department of customs was purely one of law. There was no dispute as to the facts. The facts were admitted.

Under the Chinese Exclusion Law and the treaties between the United States and China, no Chinese aliens, except returning Chinese residents in the United States, are permitted to enter territory of the United States, except those who present the "section six certificate." That express provision of law has, by judicial interpretation, been extended so as to include the wife and minor children of Chinamen residing within territory of the United States. (U. S. vs. Gue Lim, 176 U. S., 459; Ang Eng Chong vs. Collector of Customs, 23 Phil. Rep., 614; U. S. vs. Yu Kiao, 20 Phil. Rep., 307; Lee Jua vs. Collector of Customs, 32 Phil. Rep., 24.) The lower court has extended that judicial legislation upon the theory of the case of United States vs. Gue Lin (*supra*) so as to include mothers-in-law, in addition to the wife and minor children. If the rule may be extended to mothers-in-law of the husband, there is no reason why it should not be extended to mothers-in-law of the wife. For precisely the same reason the law may be extended to dependent fathers-in-law, or other dependent members of that branch of the family. And then, if they should be included, why should not the law be extended so as to include the dependent brothers and sisters of the spouses? If the law is to be interpreted by the courts in that way, there would seem to be no limit to the number of persons who would be included.

While we followed the rule laid down by the Supreme Court of the United States in the case of United States vs. Gue Lim (*supra*) we do not believe that the reasoning in that case justifies us, by judicial interpretation, in extending the law so as to include the class of persons to which the petitioner herein belongs.

For the foregoing reasons, we are of the opinion and so decide that the judgment of the lower court permitting the petitioner to enter territory of the United States is not authorized by law and should be revoked, without any finding as to costs. Therefore let a decree be entered revoking the judgment of the lower court by which the petitioner was permitted to enter the Philippine Islands; that the writ of habeas corpus be denied; and that the petitioner be returned to the custody of the collector of customs in order that his order of deportation may be carried into effect. So ordered.

Torres, Trent, and Araullo, JJ., concur.

Moreland, J., concurs in the result.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.