

**MANUEL CEMBRANO CHAN GUANCO, ON BEHALF OF WAT KI HING,
PLAINTIFF AND APPELLEE, VS. THE INSULAR COLLECTOR OF
CUSTOMS, DEFENDANT AND APPELLANT.**

G.R. No. 11711. August 18, 1916

Ponente: JOHNSON, J.

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JOHNSON, J.:

The only question presented by this appeal is whether or not a resident Chinese merchant of the Philippine Islands may bring into the Islands, as servants, Chinamen who are not citizens of the Philippine Islands, who are laborers and belong to the prohibited class, and who have never been in the Philippine Islands before.

It appears from the record that on or about the 28th of January, 1916, one Wat Ki Hing, a Chinese female servant, arrived at the port of Manila on the steamship Taming, together with her employer, Go E. Non, who was a Chinese woman, the wife of Choy Fu Say. It is admitted that Choy Fu Say was the husband of Go E. Non, both being Chinese persons or persons of the Chinese race and that said husband was a resident merchant of the Philippine Islands.

It is further admitted that the said Wat Ki Hing was a Chinese woman; that she was a laborer and a servant of the family of Choy Fu Say.

It is further admitted that Wat Ki Hing had never been in the Philippine Islands before; that she was coming here for the first time.

The question of the right of Wat Ki Hing to enter the Philippine Islands was submitted to a board of special inquiry, which found that she was the servant of a Chinese woman; that she had been such servant for a period of five years, and that she intended to remain as such servant; that she had never been in the Philippine Islands before; that she presented none of the certificates required by law for the admission of Chinese. Upon said facts the board refused her the right to land in the Philippine Islands.

From that decision of the board of special inquiry an appeal was taken to the Collector of Customs, who, after considering all of the facts and circumstances of the case and after a careful examination of the testimony offered on behalf of the applicant, sustained and affirmed the decision of the board of special inquiry and ordered the said Wat Ki Hing to be deported on the next sailing of the vessel that brought her to the Philippine Islands or some other vessel of the same line.

Later a petition for the writ of habeas corpus was presented in the Court of First Instance and due answer made thereto. After a consideration of the record made by the board of special inquiry, the lower court found that by virtue of paragraph 2 of the treaty of 1880 between the United States and China, Chinese merchants coming to and entering territory of the United States had a right to bring with them their domestic servants and therefore revoked the order of the Collector of Customs and entered a judgment admitting Wat Ki Hing into the Philippine Islands.

From that judgment the Attorney-General appealed to this court and presents a brief here in which he attempts to show that the conclusion of the lower court was erroneous. The appellee presents no brief, expressly renouncing his right so to do.

It is true that the treaty of 1880 between the United States and China permits Chinese subjects who are teachers, students, or merchants to enter the United States under certain conditions, and to bring with them their body or household servants, etc. While that is true, we do not believe that it was the intention of the contracting parties to permit Chinese teachers, students, or merchants, residing within the territory of the United States, to return to their native land and bring back with them, into the United States, upon their return, their domestic servants. To permit that interpretation of the law would, in our judgment, destroy one of the fundamental purposes of the Chinese Exclusion Law. If they are residing within territory of the United States, they are not supposed to have household servants in China. Only when they are residing in China and are entering the United States may they bring with them their domestic servants. If the rule were otherwise the country might be crowded with Chinese laborers who were brought in under the guise of being domestic servants. If that were permitted by the Government the courts would be called upon to determine how many domestic servants were necessary. We are of the opinion that the treaty or the Act of Congress made in lieu thereof did not contemplate that the permission to Chinese subjects to bring into the United States their domestic servants should apply to Chinese teachers, students, or merchants who had already become residents in territory of the United States.

We are of the opinion, therefore, that the judgment of the lower court should be revoked, and that Wat Ki Hing should be returned to the Collector of Customs and that the order of the Collector of Customs should be affirmed and that she should be deported in accordance with the provisions thereof.

Our attention, however, has been called to the fact that the said Wat Ki Hing did, on or about the 20th of May, 1916, voluntarily, and at her own expense, return to China. It is further alleged that during the pendency of the appeal she gave a cash bond in the sum of P500 for her liberty. Inasmuch, therefore, as she has voluntarily complied with the order of the Collector of Customs, it is hereby ordered and directed that the cash bond be returned to her, or to her representative. So ordered.

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

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