

TAN PUY, PLAINTIFF AND APPELLANT, VS. THE INSULAR COLLECTOR OF CUSTOMS, DEFENDANT AND APPELLEE.*G.R. No. 12590. September 25, 1917*

Ponente: JOHNSON, J.

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This was a petition for the writ of habeas corpus presented in the Court of First Instance of the city of Manila. The writ was denied and the plaintiff appealed to this Court.

From the record it appears that on the 18th day of September, 1916, four Chinese boys, Tan Un, Tan Tek, Tan Lay, and Tan Bo, of the ages of 19, 12, 17, and 15 years respectively, arrived at the port of Manila on the steamship Taisang, and, pretending to be the sons of a resident Chinese merchant of the Philippine Islands, asked permission to enter the Philippine Islands as such children. The question of their right to enter was submitted to a board of special inquiry which; after hearing the evidence presented, reached the conclusion that the said children were not the legitimate minor sons of Tan Puy (said resident Chinese merchant) as claimed, but that they were Chinese persons, subjects of the Republic of China, and did not present the section six certificate as provided for by law, and, therefore, denied them the right to enter. From that conclusion of the board of special inquiry an appeal was had to the Insular Collector of Customs, who, after reviewing the evidence adduced before said board, reversed the decision of the board and found that the said Tan Lay and Tan Bo were the legitimate children of Tan Puy, a resident Chinese merchant of the Philippine Islands, and admitted them; but confirmed the decision of the board of special inquiry denying the admission of the said Tan Un and Tan Tek. Later, the present petition for the writ of habeas corpus was presented in the Court of First Instance, where the record made before the board of special inquiry was presented as proof on the hearing upon said petition. After a consideration of said record and after hearing the respective parties, the Honorable George R. Harvey, in a very carefully prepared opinion, denied the petition for the writ of habeas corpus upon the ground that there had been no abuse of authority on the part of the department of customs and ordered the said Tan Tek and Tan Un to be remanded to the custody of the Insular Collector of Customs, with costs. From that judgment the plaintiff appealed to this court.

The appellant alleged that the lower court committed an error in not finding that the Insular Collector of Customs, as well as the board of special inquiry, had abused the discretion, power, and authority in them reposed. The lower court expressly found that there had been no abuse of authority. While much of the proof adduced before the board of special inquiry tends to show that the applicants are the legitimate minor children of the petitioner, Tan Puy, the board of special inquiry did not believe the witnesses. The board of special inquiry had the applicants before it and considered their personal appearance in connection with the testimony in passing upon the question of the credibility of the witnesses. It has been repeatedly held that the immigration officials are not required to accept, as true, statements made to them by applicants for admission into the territory of the United States, nor the witnesses presented in their behalf, even though such testimony should be given under oath. (*Chin Yow vs. United States*, 28 Sup. Ct. Rep., 201; *Jao Igco vs. Shuster*, 10 Phil. Rep., 448.)

Of course, if the record shows that the witnesses were disbelieved arbitrarily and capriciously and without just

cause or reason, then the court might be justified in reviewing the evidence for the purpose of ascertaining whether such arbitrary and capricious acts were an abuse of authority. But the courts are not permitted to reverse the judgment of the department of customs merely because the courts might have reached a different conclusion from the evidence adduced. (*Chin Sing Quon vs. United States*, 231 Fed. Rep., 948.)

An examination of the evidence in the present case shows many contradictory statements of the witnesses presented concerning facts which, if they had been the persons whom they claimed themselves to be, should not have been made. For example, one of the witnesses declared that the four brothers left their home town in China together, when they went to Amoy for the purpose of coming to Manila, accompanied by one called Kiam, while another states that the person who accompanied them was called Chok. A further contradiction appears in the fact that one of the brothers testified that they all went together from their home town to Amoy, while another of the brothers stated that one of them was left behind. The said Tan Un declared that he did not go to Amoy with the other brothers. A further conflict appears in the fact that one of the brothers testified that Tan Bo quit attending school immediately before they started from their home town to Amoy, while Tan Bo himself testified that he quit attending school three years before they started for Manila. The board of special inquiry, from a personal inspection of the said Tan Un made the statement that "his personal appearance was that of a laborer; that his hands are hard and calloused and he appears to have been working in the fields."

In view of the conflicts and contradictions in the testimony, the officials of the department of customs were entirely justified in their conclusions that they did not believe the declaration of the witnesses. There is nothing in the record that shows that their conclusions were arbitrary or capricious. If there is some evidence in the record to support the conclusion of the department of customs the court will not modify said conclusion. (*Tan Chin Hin vs. Collector of Customs*, 27 Phil. Rep., 521.)

The customs authorities act more or less as a jury in determining the facts in the first instance; they have an opportunity to see the witnesses, and they are under no obligation to believe the declaration of a witness if his manner or conduct during the examination is such as to cause the authorities to disbelieve him, even though his declarations are not disproved by any other witness. (*Tan Chin Hin vs. Collector of Customs*, *supra*.)

A mere refusal by the proper authorities to allow an alien to enter the territory of the United States is not an abuse of authority. The law imposes upon the customs authorities the duty to examine into the right of alien applicants to enter the territory of the United States. They are required to hear the testimony and to decide upon the same, and to determine whether or not the applicant is entitled to enter. The authority to examine into the facts relating to the right of the applicant to enter the territory of the United States implies the discretion to decide upon the evidence, and unless it is clearly proved that such discretion and power is abused, the courts will refuse to take jurisdiction for the purpose of determining the question of the right of the alien to enter. (*Tan Chin Hin vs. Collector of Customs*, *supra*.)

The mere refusal to permit an alien to enter the territory of the United States is not, of itself, an error. The burden of proof is upon the alien who seeks admission into the territory of the United States. If there is some evidence supporting the conclusion of the department of customs, the courts will not modify the same.

There having been no abuse of power or discretion on the part of the department of customs, the judgment appealed from is hereby affirmed, with costs. So ordered.

Arellano, C. J., Carson, Araullo, Street, and Malcolm, JJ., concur.

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