

EMILIO GALANG, AS COMMISSIONER OF IMMIGRATION, PETITIONER, VS. THE HON. COURT OF APPEALS AND TEE HOOK CHUN, RESPONDENTS.

G.R. No. 15569, May 30, 1961

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

Original motion for a writ of certiorari to set aside a decision of, as well as a bail bond granted by, the Court of Appeals. The facts are set forth in said decision, from which we quote:

"El peticionario Tee Hook Chun llego al puerto de la ciudad de Manila el dia 12 de mayo de 1958 abordo de un barco procedente del puerto de Hongkong con la intención de entrar en este paiz, alegando ser ciudadano filipino con pasaporte filipino numero 5189 expedido en la ciudad de Manila el dia 12 de noviembre de 1954. Después de la investigacion preliminar llevada a cabo por los inspectores de inmigración, el Comisionado de Inmigración con fecha mayo 21 de 1958 ordenó la exclusion del referido Eutemio Rayel por ser un extranjero cuyo nombre verdadero es Tee Hook Chun sin derecho a usar un pasaporte filipino (Anexo 'A', Petición). No se dió efectividad inmediata a esta orden de exclusión y a petición del Departamento de Asuntos Extranjeros el fiscal de la ciudad de Manila presentó una acción criminal contra el peticionario Tee Hook Chun por infracción del parrafó (e) de la sección 45 de la ley del Commonwealth numero 613 tal como esta enmendado por la ley de la Republica, numero 144, que castiga a todo extranjero que falsamente represente ser un filipino para evadir la ley de inmigración.

"En diciembre 10, 1958 el Juzgado de Primera Instancia de Manila encontró al peticionario culpable del delito querellado imponiéndole la pena de un (1) año de prisión, a pagar una multa de P1,000.00, con la prision subsidiaria correspondiente en caso de insolvencia, y al pago de las costas del juicio. La sentencia ordena, ademas, la deportación del recurrente al puerto de Hongkong después de servida la condena de prisión. La deportación segun la sentencia, sera llevada a cabo por el Comisionado de Inmigración.

"El dia 26 de diciembre de 1958 el peticionario presentó su apelación ante este Tribunal y estando el expediente aun en el Juzgado inferior; el apelante presentó una fianza para su libertad provisional que fué aprobada por el Juzgado a quo. En la misma fecha indicada el Juzgado a quo dictó una orden instruyendo al Comisionado de Inmigración que pusiera en libertad al recurrente Tee Hook Chun pendiente su apelación por haber prestado una fianza de P2,000.00. El Comisionado de Inmigración rehusó dar libertad al peticionario por el fundamento de que el mismo ha expedido la orden de exclusión arriba aludida."

Upon the foregoing facts, respondent Court found that a petition, filed by respondent Tee Hook Chun, for a writ of habeas corpus was well taken and, accordingly, rendered the aforementioned decision, the dispositive part of which reads:

"POR TANTO, mediante la prestación de una fianza en la cantidad de P10,000.00 en la causa criminal numero 45205 del Juzgado de Primera Instancia de Manila, y una vez aprobada la misma por este tribunal, se ordena al Comisionado de Inmigración que ponga en libertad al recurrente, Tee Hook Chun. Sin costas".

A reconsideration of such decision having been denied, petitioner herein instituted this special civil action for a writ of certiorari, upon the ground that respondent Court had acted without jurisdiction and with grave abuse of discretion, amounting to lack or excess of jurisdiction, in promulgating its aforementioned decision, in allowing Tee Hook Chun to bail, and in denying petitioner's motion for reconsideration. The conclusion reached in said decision is predicated upon the theory that the warrant of exclusion and the judgment of conviction of Tee Hook Chun are based upon the same facts; that the administrative proceeding for his exclusion is incompatible with his criminal prosecution in our courts of justice; that the institution of the criminal action implied a waiver of the authority to exclude him by administrative proceeding; and that the warrant of exclusion, issued by petitioner on May 21, 1958, became ineffective upon the filing of the criminal case above referred to.

At the outset, it should be noted that, although both proceedings arose from the same facts, each proceeding sought to deal with a violation of a provision of the Philippine Immigration Act of 1940 which is entirely different and distinct from that dealt with in the other proceeding. Thus, the warrant of exclusion was based on section 29(a) (17) of said Act, providing that:

"(a) The following classes of aliens shall be excluded from entry into the Philippines:

* * * * *

"(17) Persons not properly documented for admission as may be required under the provisions of this Act".
Whereas the charge in the criminal case was for an offense punishable under section 45(e) of said Act, reading:
"any individual who—

* * * * *

"(e) being an alien, shall for any fraudulent purpose represent himself to be a Philippine citizen in order to evade any requirement of the immigration laws.

* * * * *

shall be guilty of an offense, and upon conviction thereof, shall be fined not more than one thousand pesos, and imprisoned for not more than two years, and deported if he is an alien".

The difference between this criminal offense and that of breach of said section 29(a) (17) becomes apparent when we bear in mind that the latter may be violated by an alien who, without claiming to be a Filipino, seeks entry, either (1) in his true name, as an alien, but without the documents necessary therefor, or (2) by impersonating another alien, and with no more documents than those authorizing the latter's entry. In neither case may he be prosecuted criminally under the aforementioned section 45(e). In other words, we are faced with a situation analogous to that obtaining when the same act constitutes two (2) or more different offenses not covered by Article 48 of the Revised Penal Code, except that, in the case at bar, one offense is punishable as a felony or crime, and the other is to be dealt with administratively. The one is not legally inconsistent with the other, and the prosecution for the former does not entail a waiver of the action due for the latter.

Secondly, the authority to order the release on bail of one accused of a crime before a court of justice springs from the jurisdiction of the latter (1) over the accused, acquired by virtue of his arrest, and (2) over the party detaining him, by authority of the warrant of arrest issued by said court, and, consequently, as agent of the latter. When the detaining officer holds the accused in pursuance of a warrant issued by another court, in connection with another case, whether the latter be criminal or civil—as, for instance, in proceedings for civil contempt of court or of Congress—said detaining officer is not bound to release said accused by order of the court first mentioned, and defendant's continued deprivation of liberty, despite such order, upon the authority of the warrant issued by the latter or by Congress, will not be illegal and would not justify the issuance of a writ of habeas corpus.

More akin to the situation confronting us would be that which would exist if a person dealt with for contempt of a House of Congress—and held under custody in compliance with a writ issued therefor by said House—were prosecuted criminally before a court of justice, for the same contempt of Congress. If the court should grant him bail in said criminal case and order therein his release, would a writ of habeas corpus issue to compel his aforementioned custodian to release him, despite the warrant of arrest or order of commitment issued by said House? Would it be proper to hold that the institution of the criminal action amounted to a renunciation of the power of the legislative department to punish him for his act of contempt and rendered ineffective and unenforceable its warrant of arrest or order of commitment? The answer to both questions must, obviously, be in the negative.

In its carefully prepared and well considered decision, respondent Court appears to have been impressed by the fact that the proceedings for exclusion are meant or expected to be summary; that once accused before a court of justice, Tee Hook Chun may no longer be deported from the Philippines with the speed and dispatch contemplated by the laws governing exclusive proceedings, but, petitioner will have to wait for the rendition of a final judgment in the criminal case, as well as for the completion of the service of the penalty imposed upon Tee Hook Chun, if convicted, in said case; and that only then may Tee Hook Chun be deported, although this will have to be done in compliance with the sentence rendered in said case, pursuant to section 45(e) of our Immigration Act of 1940, not by virtue of an administrative order of exclusion, under section 29(a) (17) of the same Act.

With the analysis, in the decision of respondent Court, of the pertinent provisions of said Act and the observations made in connection therewith—which readily reflect mature deliberation and judicious reflection worthy of the highest traditions of the bench—we are mostly in agreement. However, we find ourselves unable to agree with the conclusions drawn therefrom, namely: that the two (2) proceedings are incompatible with each other; that the institution of the court action amounted to a renunciation of the administrative proceeding; and that, upon the filing of the criminal case, the warrant of exclusion became ineffective and unenforceable.

The alleged conflict between said proceedings is, at best, purely physical, if we may use the expression, not legal, in the sense that the one does not nullify or set aside the other. It is not different, physically and legally, from the conflict that may exist when a person is party in several cases, before different courts. When he is tried in one case it may be impossible for him to appear at the hearing of another case, which may have to be scheduled on or postponed to another date. So too, if convicted in several cases, the sentences therein may have to be served, not simultaneously—unless the nature of the penalties permit it—but, successively (Article 70, Revised Penal Code). In other words, the conflicts affect mainly the time and place at which certain things will have to be done. For this reason some, it is true, will have to yield to the others, but only in point of priority or order of execution or performance. But, neither will nullify or set aside the other, or imply a renunciation of the latter.

Thus, for instance, in the example of one charged before a court with contempt of a House of Congress, while being detained pursuant to a warrant of arrest or a writ of commitment issued by the latter, he will remain in custody under such warrant or writ, despite the bail given in the criminal case, and service of the penalty imposed in the latter may have to be deferred—depending upon the circumstances—until after the conclusion of the legislative proceedings for contempt. So too, petitioner herein may have to postpone the actual exclusion of Tee Hook Chun, until after he has served such penalty as may eventually be imposed upon him in the criminal case above mentioned, and, if the sentence therein should include—as it should, pursuant to the aforementioned section 45(e)—an order for his deportation, petitioner shall then deport him. In such event, Tee Hook Chun would be "deported", not "excluded" from the Philippines, not because petitioner's authority to order the exclusion of said respondent has been extinguished, nullified or waived in consequence of the filing of said criminal action, but, because, it would be unnecessary to exercise it, in view of the deportation of said respondent. Indeed, if the

judgment of conviction in the criminal case should erroneously fail to include an order of deportation, there can be no doubt that petitioner could legally order the exclusion of Tee Hook Chun. It is thus clear that the power of exclusion under section 29(a) (17) is not set aside, waived or lost upon institution of the criminal case.

Again, the violation of section 45(e) of our Immigration Act of 1940, of which Tee Hook Chun is accused in the criminal case, is, also, a ground for his arrest and deportation under section 37(a) (9) of said Act. What is more, this section 37(a) (9) provides that the administrative proceeding for deportation shall be "independent of the criminal action" for violation of said section 45. Hence, an order of release in the criminal action, upon the filing therein of the corresponding bail bond, would not affect the legality of the detention under a warrant of arrest or deportation issued by the Commissioner of Immigration under said section 37. Similarly, the acquittal of the accused in said criminal action would not bar his deportation, under the same provision, by the Commissioner of Immigration.

Respondent Court felt that the exclusion proceeding under section 29 of said Act would be nullified or affected by the criminal action brought under section 45 thereof, because there is no express legal provision stating that the former shall be independent of the latter. This premise does not necessarily lead, however, to the aforementioned conclusion, apart from the fact that the latter is untenable for the reasons heretofore stated.

Lastly, let us consider the consequences flowing from said conclusion. Section 37 refers to aliens not yet admitted, who, in the cases therein provided, "shall be excluded from entry into the Philippines", whereas the aliens alluded to in section 37 are those already admitted into the Philippines, who, for the causes specified therein, have become subject to deportation. Pursuant to the view taken by respondent Court, an alien accused criminally of a violation of section 45, would not be entitled to a writ of habeas corpus to secure his release from custody under a warrant of arrest or deportation issued pursuant to section 37, but said writ of habeas corpus would be available to him if he were subject to exclusion proceedings under section 29. In other words, one already admitted into the Philippines would have less rights than one who has not as yet gained admission into this country. Obviously, the lawmakers could not have intended to so discriminate against the former. There was no reason whatsoever therefor.

Indeed, the imposition of a penalty for violations of section 45, in addition to deportation, in cases falling under section 37, or exclusion, in cases covered by section 29, has no other justification than the need to effectively discourage said violations of section 45, which may not be sufficiently deterred by mere deportation or exclusion as the case may be. If the party accused in the criminal case were entitled to release, despite the warrant of exclusion, as held by respondent Court, the effect of said criminal action as a deterrent would be considerably impaired. In fact, under certain conditions, one bent on being in the Philippines at all cost, even if only for a couple of years, would welcome his prosecution in court, for it would afford him a sure means—were we to accept the view of respondent Court—to beat the proceedings for his exclusion, gain entry into the Philippines and be free to roam therein on bail, until the judgment rendered in the criminal case shall have become executory.

Wherefore, the aforementioned decision of respondent Court is hereby set aside, with costs against respondent Tee Hook Chun. It is so ordered.

Bengzon, C.J., Padilla, Bautista Angelo, Reyes, J.B.L., Paredes, Dizon, De Leon, and Natividad, JJ., concur.

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