

**DAULATRAM NAROOMALL AND MITOMALL NAROOMALL,
PETITIONERS AND APPELLANTS, VS. MARCELO MENDOZA, ACTING
COLLECTOR OF CUSTOMS FOR THE PORT OF ZAMBOANGA,
RESPONDENT AND APPELLEE.**

G. R. No. 16058. September 04, 1920

Ponente: JOHNSON, J.

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JOHNSON, J.:

From the record it appears that the petitioners and appellants arrived at the port of Zamboanga on the steamship Selangor on the 27th day of July, 1919, and asked to be permitted to enter the Philippine Islands. Some question arose concerning their, right to enter. The board of special inquiry made an investigation of that question and reached the conclusion that in its opinion the appellants were coming into the Philippine Islands "under false pretense with the unique intention of living with their eldest brother, Utoomall Naroomall," and that they did not belong to any of the privileged classes as provided for in the Act of Congress of February 5, 1917; that they were natives of Hyderabad Sind, India, and were not entitled to enter into any territory or possession of the United States.

From that decision an appeal was taken to the Insular Collector of Customs, and by him affirmed. Thereupon, the petitioners presented a petition for the writ of habeas corpus in the Court of First Instance of the Department of Mindanao and Sulu, at Zamboanga. After a consideration of the evidence adduced before the board of special inquiry, which had been considered by the Insular Collector of Customs, the Honorable Antonio Horrilleno, judge, in a carefully prepared opinion, reached the conclusion that the appellants "had come to the Philippine Islands with the false pretension that they were students," and confirmed the decision of the department of customs and ordered the appellants returned to the custody of the Collector of Customs, to be deported in accordance with the provisions of the law, and to pay the costs. From that judgment they appealed to this court.

In this court the appellants allege that the lower court committed an error in failing to pass upon the question of law raised by the pleadings, namely, that the board of special inquiry had exceeded its authority in holding that the word "student" as used in the Immigration Law is so limited in its meaning as to signify only one who is coming to pursue certain studies not afforded in his own country; that the lower court erred in considering as evidence the circumstance that they presented no proof at the hearing of the fact that they had matriculated or attempted to matriculate in any school subsequent to their arrival in the Philippines; and that no proof had been presented sufficient to show their status as students.

The appellants came to the Philippine Islands from Hyderabad Sind, India, pretending that they were students. The only proof adduced in favor of that pretension was their own declaration supported by that of their alleged brother, Utoomall Naroomall.

Commencing with an Act of Congress in the year 1882, the United States Government has regulated the admission of certain aliens into the territory of the United States. That Act of Congress (of May 6, 1882, 22 U. S.

St. at Large, 58) has been amended, modified, and extended by various subsequent Acts, notably those of July 5, 1884, 23 U. S. St. at Large, 115; March 3, 1891, 26 U. S. St. at Large, 1084; March 3, 1903, 32 U. S. St. at Large, Part I, p. 1213; February 20, 1907, 34 U. S. St. at Large, Part I, p. 898; March 26, 1910,, 36 U. S. St. at Large, Part I, p. 263; and February 5, 1917, 39 U. S. St. at Large, Part I, p. 874; Vol. 12, Pub. Laws, P. I., p. 276.

The said Act of Congress of February 5, 1917, in its section 3, in great detail specifies the classes of aliens who may not be admitted into the territory of the United States. Generally speaking, the classes of aliens who are not admitted into the territory of the United States are excluded for moral, mental, and physical conditions. In addition, however, to the aliens who are not permitted to enter the United States by virtue of said section on account of moral, mental, or physical conditions, said section further provides that "unless otherwise provided for by existing treaties, persons who are natives of islands not possessed by the United States adjacent to the Continent of Asia, situate south of the twentieth parallel latitude north, west of the one hundred and sixtieth meridian of longitude east from Greenwich, and north of the tenth parallel of latitude south, or who are natives of any country, province, or dependency situate on the Continent of Asia west of the one hundred and tenth meridian of longitude east from Greenwich and east of the fiftieth meridian of longitude east from Greenwich and south of the fiftieth parallel of latitude north, except that portion of said territory situate between the fiftieth and the sixty-fourth meridian of longitude east from Greenwich and the twenty-fourth and thirty-eighth parallels of latitude north, and no alien now in any way excluded from, or prevented from entering, the United States shall be admitted to the United States."

Said section 3 from which the foregoing quotation is taken contains the further provision that it "shall not apply to persons of the following status or occupations: Government officers, ministers or religious teachers, missionaries, lawyers, physicians, chemists, civil engineers, teachers, students, authors, artists, merchants, and travelers for curiosity or pleasure, nor to their legal wives or their children under sixteen years of age who shall accompany them or who subsequently may apply for admission to the United States, but such persons or their legal wives or foreign-born children who fail to maintain in the United States a status or occupation placing them within the excepted classes shall be deemed to be in the United States contrary to law, and shall be subject to deportation as provided in section nineteen of this Act."

The appellants, through their attorney, admit that they came from Hyderabad Sind, India, and that said municipality or province is within the zone from which aliens are not permitted to enter the United States. They allege, however, that inasmuch as they are students they come within the exception of said section 3 above quoted.

The appellants have evidently overlooked the requirement of the law concerning the method by which aliens are permitted to prove that they belong to the special classes, above-mentioned, who are permitted to enter the territory of the United States. Section 6 of the Act of Congress of May 6, 1882, contains provisions by virtue of which certain excluded class of aliens who are not permitted to enter the territory of the United States may prove their right to enter. Said section specifies the kind of proof necessary in order to gain admission into the territory of the United States. Said section 6 (Act of Congress of 1882) was amended by section 6 of the Act of Congress of July 5, 1884. Said section 6 of the Act of Congress of 1884 is still in force and is applicable to the class of exempted aliens mentioned in the Act of Congress of February 5, 1917. Said section 6 gives the exempted alien a method by which he may prove that he belongs to the particular exempted class and thereby gain admission into the territory of the United States. Said section 6 provides that the particular class of exempted aliens shall:

(a) Present a certificate issued by his Government, which certificate shall be in the English language and shall show such permission, with the name of the permitted person in his or her proper signature, and which certificate shall state the individual, family and tribal name in full, title or official rank, if any, the age, height, and also

physical peculiarities, former and present occupation or profession, when and where and how long pursued, the place of residence of the person to whom the certificate is issued, and that such person is entitled, by this Act, to come within the United States;

(b) That the said certificate and the identity of the person named therein shall, before such person goes on board any vessel to proceed to the United States, be vised by the indorsement of the diplomatic representative of the United States in the foreign country from which said certificate issues, or of the consular representative of the United States at the port of place from which the person named in the certificate is about to depart; and such diplomatic representative or consular representative whose indorsement is so required is hereby empowered, and it shall be his duty, before indorsing such certificate as aforesaid, to examine into the truth of the statements set forth in said certificate, and if he shall find upon examination that said or any of the statements therein contained are untrue it shall be his duty to refuse to indorse the same;

(c) Such certificate, vised as aforesaid, shall be prima facie evidence of the facts set forth therein, and shall be produced to the Collector of Customs of the port in the district in the United States at which the person named therein shall arrive; and

(d) Said certificate shall be the sole evidence permissible on the part of the person so producing the same to establish a right of entry into the United States.

The certificate mentioned in said section 6 has, for years, been known as the "section-six certificate," and the Federal authorities, supported by many decisions of the Supreme Court of the United States, have held that said certificate "shall be the sole evidence permissible on the part of the person so producing it to establish his right of entry into the United States." (Wan Shing vs. U. S., 140 U. S., 424, 428.)

The said "section-six certificate" gives the alien, who claims to belong to the exempted class, an opportunity, in his own country, among his own friends and acquaintances, to establish his status, and, by said certificate, to show that he has a right to enter the territory of the United States. Not having provided themselves with the "sole evidence permissible" to show their right to enter, the appellants themselves are at fault. The customs officials are governed by the law.

Aside from the failure of the appellants to present the "section-six certificate," it may be said that the customs authorities are not obliged to believe the statements made by alien applicants. If the customs authorities did not believe the statements of the appellants, and if they acted honestly and not capriciously, the courts are without authority to reverse or modify their conclusions. Before the courts can change, alter, or modify the decisions of the department of customs in cases like the present, it must be shown that said department has abused its power, authority, or discretion. (Sing Jing Talento vs. Collector of Customs, 32 Phil., 82;

Gñilo vs. Collector of Customs, 32 Phil., 100; Lim Yiong vs. Collector of Customs, 36 Phil., 424; Lau Ow Bew vs. U. S., 141 U. S., 583; Li Sing vs. U. S., 180 U. S., 486; U. S. vs. Sing Tuck, 194 U. S., 161; Chin Low vs. U. S., 208 U. S., 8.)

The appellants not having presented the "sole evidence permissible" to show their right to enter the territory of the United States as members of the exempted class of aliens, the judgment of the lower court confirming the order of deportation of the department of customs should be, and is hereby, affirmed, with costs. So ordered.

Mapa, C. J., Araullo, Malcolm, Avanceña and Moir, JJ., concur.

Carson, J., did not take part.

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